BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/SM/DD/2022-23/17237]

UNDER SECTION 15-I OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 1995 AND UNDER SECTION 23-I OF SECURITIES CONTRACTS (REGULATION) ACT, 1956 READ WITH RULE 5 OF SECURITIES CONTRACTS (REGULATION) (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 2005

In respect of

M/s. FRR Shares and Securities Limited

(SEBI Registration Number: INZ000279232)

In the matter of M/s. FRR Shares and Securities Limited

BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI'**), BSE Limited (herein after referred to as '**BSE'**), National Stock Exchange of India Ltd. (herein after referred to as '**NSE')(both BSE and NSE collectively being referred to as 'Exchange')** and Central Depository Services (India) Limited (hereinafter referred to as '**CDSL'**) conducted a comprehensive joint inspection of **M/s. FRR Shares and Securities Limited** (hereinafter referred to as '**FRR Shares/ Noticee/Stock Broker)** on October 12, 2018; October 15-17, 2018 and October 19, 2018, at its Ghatkopar office w.r.t. its Stock Broking and Depository Participants (hereinafter referred to as '**DP**') activities. The period covered in the inspection was from April 01, 2017 to August 31, 2018 (hereinafter referred to as '**Inspection Period'**).

2. Noticee is a SEBI-registered Stock Broker, having SEBI registration number as INZ000279232. Noticee is trading member of BSE and NSE.

3. Based on the findings of inspection and the reply of Noticee, SEBI initiated adjudication proceedings against Noticee in terms of Section 23D of Securities Contracts (Regulation) Act, 1956 (hereinafter referred to as "**SCRA/SC(R)A**") and Section 15HB of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "SEBI Act") for the alleged violations of the following provisions by Noticee:

3.1 Section 23D of SCRA read with Clause 1 of Annexure to SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993(herein after referred to as "**Transaction Regulation Circular"**) and Clause 1.2, 2.5, 2.6, 3, 3.2, 8.1 of Annexure to SEBI Circular SEBI/HO/MIRSD/ MIRSD2/ CIR/P/2016/95 dated September 26, 2016 (herein after referred to as "**Enhanced Supervision Circular"**);

3.2 SEBI Circular SEBI/MIRSD/SE/Cir-19/2009 dated December 03, 2009(herein after referred to as "**SEBI Circular dated December 03, 2009"**);

3.3 SEBI circular CIR/HO/MIRSD/ MIRSD2/CIR/P/2017/64 dated June 22, 2017;

3.4 SEBI Circular CIR/MIRSD/16/2011 dated August 22, 2011;

3.5 SEBI circular CIR/MIRSD/120/2016 dated November 10, 2016 read with SEBI circular no. CIR/MIRSD/66/2016 dated July 21, 2016;

3.6 Clause 1 of SEBI Circular No. MIRSD/Cir-26/2011 dated December 23, 2011 read with SEBI circular no. MIRSD/Cir-23/2011 dated December 2, 2011 and SEBI circular MIRSD/Cir-5/2012 dated April 13, 2012;

3.7 Clause 2(B) of SEBI Circular CIR/MIRSD/15/2011 dated August 02, 2011;

3.8 Clause 2(B) of SEBI Circular CIR/MIRSD/15/2011 dated August 02, 2011 read with NSE circular NSE/INSP/27368 dated August 18, 2014;

3.9 Clause A(5) of Schedule II read with Regulation 9(f) of SEBI (Stock Brokers) Regulations, 1992(herein after referred to as **"Stock Broker Regulation/ Broker Regulation"**) and NSE Circular NSE/INVG/28739 dated January 30, 2015;

3.10 Clause 2.II.ii of SEBI Circular CIR/MRD/DSA/01/2016 dated January 01, 2016;

3.11 Clause 6.1.1(e) of Annexure to Enhanced Supervision Circular;

3.12 Clause A (5) of Schedule II read with Regulation 9(f) of Broker Regulation and NSE circular no. NSE/MEMB/3574 dated August 29, 2002, NSE/MEMB/3635 dated September 25, 2002 and NSE/MA/22732 dated February 13, 2002; and

3.13 Clause 6.1.1(j) of Annexure to Enhanced Supervision Circular read with Rule 33 of Chapter III of the Rules of NSEIL and NSE circular NSE/MEMB/2739 dated July 30, 2001

APPOINTMENT OF ADJUDICATING OFFICER

4. Vide order dated February 27, 2020, Shri B.J. Dilip was appointed as Adjudicating Officer (hereinafter referred to as '**AO**') under Section 15-I of the SEBI Act read with Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as '**Adjudication Rules 1995'**) and also under Section 23-I of the SCRA read with Rule 3 of Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties) Rules, 2005 (hereinafter referred to as 'SCRA Adjudication Rules 2005'), (**both rules collectively being referred** as "**Adjudication Rules**") to inquire into and adjudge under the provisions of Section 15HB of the SEBI Act and under the provisions of the Section 23D of the SCRA, the various violations alleged to have been committed by Noticee. Subsequent to transfer of Shri B.J. Dilip, undersigned was appointed as the AO in the matter by SEBI vide order dated December 29, 2020.

SHOW CAUSE NOTICE, REPLY AND HEARING

5. A Show Cause Notice (hereinafter being referred to as the "**SCN**") dated August 03, 2021, was issued to Noticee in terms Rule 4(1) of Adjudication Rules to show cause as to why an inquiry should not be initiated against Noticee and why penalty, if any, should not be imposed upon Noticee under Section 23D of SCRA and Section 15HB of SEBI Act, for the aforesaid violations alleged to have been committed by Noticee.

6. The SCN was sent to Noticee through Speed Post AD ("**SPAD**") and through digitally signed email dated August 03, 2021 and was duly served upon Noticee. Noticee was given fifteen (15) days' time to submit the reply of SCN. Vide email dated August 13, 2021, Noticee requested additional time till September 03, 2021 for submitting the reply of SCN and requested for personal hearing. Vide letter dated September 02, 2021, Noticee submitted reply to SCN. In the interest of natural justice, an opportunity of personal hearing was granted to Noticee on October 11, 2021, vide hearing notice dated September 23, 2021. The said hearing notice was sent to Noticee through SPAD and through digitally signed email dated September 24, 2021 and was duly served upon Noticee.

7. On the scheduled date of hearing, i.e. October 11, 2021, Authorized Representatives ("**AR"**) of Noticee, namely, Mr. Janak Mehta, Whole Time Director, Mr. Nitin Lakhotia, Compliance Officer, Ms. Deepa Khimasia, CFO and Shashank Bagayatkar- Statutory

Auditor of Noticee, attended the hearing and reiterated the submission made by Noticee vide letter dated September 02, 2021. Vide email dated October 22, 2021, Noticee forwarded a letter dated October 19, 2021, submitting their additional reply. Thereafter, since more than six months had elapsed since the last date of hearing, vide email dated April 27, 2022, Noticee was granted another opportunity for filing additional written submissions in the matter, if any. Pursuant to the aforementioned email, vide email dated May 04, 2022, Noticee requested additional time till May 20, 2022, for submitting additional reply. Vide email dated May 04, 2022, Noticee was granted time till May 10, 2022, for filing additional reply, if any. Vide email dated May 11, 2022, forwarded a letter dated May 10, 2022, submitting their additional reply.

8. The allegations levelled against Noticee, the submissions and findings in respect of the same are dealt with in the subsequent paragraphs of this order.

CONSIDERATION OF ISSUES, EVIDENCE AND FINDINGS

9. I have carefully perused the charges levelled against Noticee in the SCN and the material available on record. I have also perused the submissions made by Noticee in this regard. The issues that arise for consideration in the present case are:

    I. Whether Noticee has violated the provisions as mentioned in para 3 of the order?
    II. Do the violations, if any, attract monetary penalty under Section 23D of SCRA and Section 15HB of SEBI Act?
    III. If the answer to issue no. II is in affirmative, then what should be the quantum of monetary penalty?

Issue I: Whether Noticee has violated the following provisions:

a) Section 23D of SCRA read with Clause 1 of Annexure to Transaction Regulation Circular and Clause 1.2, 2.5, 2.6, 3, 3.2, 8.1 of Annexure to Enhanced Supervision Circular;
b) SEBI Circular dated December 03, 2009;
c) SEBI circular CIR/HO/MIRSD/ MIRSD2/CIR/P/2017/64 dated June 22, 2017;
d) SEBI Circular CIR/MIRSD/16/2011 dated August 22, 2011;
e) SEBI circular CIR/MIRSD/120/2016 dated November 10, 2016 read with SEBI circular no. CIR/MIRSD/66/2016 dated July 21, 2016;

f) Clause 1 of SEBI Circular No. MIRSD/Cir-26/2011 dated December 23, 2011 read with SEBI circular no. MIRSD/Cir-23/2011 dated December 2, 2011 and SEBI circular MIRSD/Cir-5/2012 dated April 13, 2012;

g) Clause 2(B) of SEBI Circular CIR/MIRSD/15/2011 dated August 02, 2011;

h) Clause 2(B) of SEBI Circular CIR/MIRSD/15/2011 dated August 02, 2011 read with NSE circular NSE/INSP/27368 dated August 18, 2014;

i) Clause A(5) of Schedule II read with Regulation 9(f) of Broker Regulation and NSE Circular NSE/INVG/28739 dated January 30, 2015;

j) Clause 2.II.ii of SEBI Circular CIR/MRD/DSA/01/2016 dated January 01, 2016;

k) Clause 6.1.1(e) of Annexure to Enhanced Supervision Circular;

l) Clause A (5) of Schedule II read with Regulation 9(f) of Broker Regulation and NSE circular no. NSE/MEMB/3574 dated August 29, 2002, NSE/MEMB/3635 dated September 25, 2002 and NSE/MA/22732 dated February 13, 2002; and

m) Clause 6.1.1(j) of Annexure to Enhanced Supervision Circular read with Rule 33 of Chapter III of the Rules of NSEIL and NSE circular NSE/MEMB/2739 dated July 30, 2001

10. I now proceed to deal with the aforementioned allegations leveled against Noticee in the SCN, the submissions made by Noticee and record my observations/ findings as under:

A. **Non-segregation/ Mis-utilization of clients' funds**

Allegation in the SCN:

1. *During the course of inspection, analysis was done w.r.t the total available funds of Noticee i.e. cash and cash equivalents with itself and with the clearing corporation/clearing member. In this regard, the analysis of sample data according to the principle laid down in point 3.3.1 of SEBI circular no. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016, (hereinafter referred to as '**Enhanced supervision circular'**) is given as* ***Annexure-3****. It was observed that in 8 out of 43 cases the value of 'G' was negative. For these 8 days the total funds available with Noticee was less than the ledger credit balance of clients. This indicates that on 8 days, the funds of credit balance clients were utilized for settlement obligations of debit balance clients and/or for its own purpose which shows that Noticee misutilized the funds of credit balance clients. The*

amount of mis-utilization of clients' funds ranges from Rs. 1.80 Lakhs to Rs. 4.76 Crores.

2. *Further, the funds available with Noticee as on September 30, 2017, was verified to ascertain whether Noticee was having sufficient funds available with it to repay its clients. It was observed that funds available with Noticee, clearing member and clearing corporation were not sufficient enough to cover payable to the clients. Thus, it was observed that the funds of credit balance client's funds have been mis-utilized to meet the obligations of debit balance clients and/ or for its own purpose. The amount of such misutilization was Rs.133.43 lakhs. The details of the same are given below:*

Amount Rs. in lakhs

Date	***Funds available with the TM (Including Client bank, Clearing Member and Exchange Deposits.)***	***Funds payable to the clients (In Rs. Lakhs)***	***Net Available funds***
30-09-17	*2,958.59*	*3,092.02*	*-133.43*

3. *In view of the foregoing, it is alleged that Noticee has violated the following provisions:*
   a. *Section 23D of SC(R) A read with Clause 1 of Annexure to SEBI Circular no. SMD/SED/CIR/93/23321 dated November 18, 1993(herein after referred to as "Transaction Regulation Circular");*
   b. *Clause 3 of Annexure to Enhanced Supervision Circular*

<u>Reply of Noticee:</u>

<u>Letter dated September 02, 2021</u>

4. **<u>Availability of surplus funds:</u>**

   a) "*We humbly submit that we deny the allegation of misutilization of client funds/ non- segregation of clients' funds for the reasons given in ensuing paragraphs.*
   b) *In its letter dated April 04, 2019, the notice had pointed out that in 2 cases there were errors in* considering *amount of collateral with the exchange / clearing member considered by the inspection team. (Dates: 07.09.2018, 14.09.2018), If correct amount of collateral with the exchange / clearing member is considered, then 'G' would be positive in these 2 cases.*

Date	Collateral with the exchange / clearing member	
	considered by the inspection team (Rs).	Actual Amount (Rs.)
07.09.2018	12,12,19,701	15,38,44,619
14.09.2018	10,49,56,701	13,75,81,393

c) *Exhibit 1: annexed herewith of clearing corporation and clearing member for dates 07.09.2018 and 14.09.2018.*

d) *However, without prejudice to our above observations, an important point in respect of margins due from clients to be considered is as below.*

e) *Please note that we do not debit margin applicable to the clients in their respective ledger.*

f) *The total credit balance, as arrived by inspection team is the credit balance, without taking into account the margins applicable to the clients. Column 'G' alleged (annexure -3) reflects negative balances, however the margin requirement of the credit clients against the same has been ignored.*

g) *Margin due, is an inclusive part of dues of clients, and if not included in the ledger balance, it needs to be separately considered while arriving at credit balance of the clients. The margin requirement of clients having credit balance is in excess of the alleged shortage.*

h) *Working of surplus funds, after considering margin utilized in respect of credit clients for 8 days is as given below.*

Date	Alleged Shortage as per Observation Letter	Margin in respect of credit clients	Net Surplus (After Margin)
02.02.2018	(1,80,408)	7,61,54,610	7,59,74,202
05.02.2018	(2,12,74,964)	7,43,91,334	5,31,16,370
08.02.2018	(1,12,22,087)	7,06,94,736	5,94,72,649
09.02.2018	(74,66,394)	7,32,21,011	65,754,617
15.02.2018	(4,76,34,125)	8,74,75,331	3,98,41,206
21.02.2018	(11,54,368)	6,59,16,561	64,762,193
07.09.2018	(1,54,44,804)	12,07,83,999	10,36,03,884
14.09.2018	(2,27,68,285)	9,58,19,790	8,59,63,383

5. **Submission/ *Explanation in respect of second instance of mis utilization of fund on September 30, 2017:***

a) *After* considering margin requirement of clients having credit balance, there was surplus amount in excess of funds payable to client on September 30, 2017. Details of the same are as under:

Rs in lakhs

Date	Funds available with TM	Funds Payable to the Clients	Net Available Funds as per Inspection Team	Margin in respect of credit clients	Correct surplus amount
30.09.2017	2,958.59	3,092.02	(133.43)	729.94	596.51

b) *Above table show that we had surplus funds in excess of credit balances actually due to client on above dates considered by the inspection team. We humbly submit that we have not misutilised client funds. Enclosed please find the same as* ***Exhibit 2_30.09.2017_Margin Calculation***

6. Segregation of clients' funds

A. *We humbly submit that we have maintained segregation of client funds and securities as under:*

- *Separate bank accounts in respect of client funds and own funds have been maintained since opening of such accounts post incorporation of the company (i.e. from financial year 2010- 2011).*
- *Client bank accounts have been designated as 'Client bank accounts' since opening of such bank accounts.*
- *We have maintained separate ledgers of each client and have also maintained a separate ledger for proprietary trading.*
- *The moneys received from clients are deposited in client bank accounts and are always correctly reflected in their respective client ledgers.*
- *No receipt or payment relating to own transactions are deposited or paid from client bank account. Similarly no client cheques are deposited in or paid from own bank account.*
- *Similarly demat account for client securities have been designated as such since opening of such demat accounts.*

B. *Please refer to* ***Exhibit 3_Bank & Demat details*** *for details of separate client bank and client securities accounts along with details of own bank and demat accounts maintained by us.*

- *All the records relating to receipt of collaterals from client, authorization to deposit collateral with Exchange Clearing Corporation, Clearing House towards margin, record of return of collaterals to clients, credit of corporate action benefit to clients etc. are maintained.*
- *Records with respect to reconciliation with the actual collateral deposited*

with us are adequately maintained. Daily statements are being issued to the clients and there is no adverse observation about non-receipt of collateral by the client.

- *There is nothing on record to substantiate that money of the clients is not kept in a separate account and own money not kept in a separate account.*
- *There is not a single investor/ client complaint against us for non-payment against credit balance or misuse of funds or collateral.*
- *None of our clients have ever complained that they have not been allowed to transact in spite of having credit balance and this in itself suggests that their credits were always made available to them for trading as and when demanded.*
- *Had we resorted to use one client's money for other, then at least on few days clients with credit balance would have not been allowed to take position as the same would have been already consumed by other clients. The fact that there has never been any single instance where clients with credit balance have been restricted in using their balance. This in itself substantiates that the allegations of having used credit balance of clients for other clients in SCN are misplaced.*

C. *We are of the opinion that we have maintained segregation of funds and securities of client or clients.*

D. *The observation in inspection report in respect of the alleged violation is based merely upon a possibility rather than on any specific basis or specific instance of utilization of funds having credit balance to meet pay-in obligation of clients having debit balance on any identified settlement date.*

E. *Please note that in our own case covering period April 01, 2015 to December 31, 2016, while disposing the SCN dated January 10, 2020 for similar allegations, the adjudicating officer had accepted our contention that margin due from client if not included in the ledger balance, should be separately considered while arriving at credit balance of the clients. The adjudicating officer while deciding in our favour, had observed that violation of the circular no SMD/SED/ CIR/ 93/23321 dated November 18, 1993 read with section 23D of the SCRA does not stand established. Therefore, imposition of penalty under Section 23D of the SCRA is not warranted.*

F. *The copy of the above mentioned adjudication order dated April 15, 2020 is attached as Exhibit 4_SEBI Order of FRR Shares.*

G. Reliance is placed on the adjudication order no EAD-2/ SS/SK / 2019-20 /2651 in respect of AC Agarwal Share Brokers Private Limited, Jaipur dated April 09, 2019 where in adjudication officer while disposing of show cause notice has mentioned that penal charges should be leveled for violation of specific legal obligations and the charges should not be based on merely, probablising or endeavoring to prove the allegation. [Padola Veera Reddy Vs. State of Andhra Pradesh AIR 1990 SC 79; Sterlite Industries Vs. SEBI (2001) 34 SCN 485 (SAT)]. It is also the settled position that there must be convincing preponderance of probability to support the allegation for invoking penalty provisions.

H. Reliance is also placed on the following orders of Hon'ble Securities Appellate Tribunal (hereinafter referred to as "the SAT") which deals with inspection of stock brokers:

(i) The Hon'ble SAT in Appeal No. 109 of 2011 in UPSE Securities Ltd. V SEBI vide order dated July 25, 2011 held that "…before concluding we cannot resist observing that the object of carrying out inspection of the books of accounts and records of any intermediary including a stock exchange or its subsidiaries is to ensure compliance with the provisions of the Act, Rules, Regulations, By-laws and circulars issued from time to time which are meant to regulate the securities market. Every little irregularity/ deficiency noticed during the course of the inspection is not culpable and does not call for initiation of penalty proceedings. The purpose of inspection in quite a few cases could be better achieved if the inspecting team at the time of the inspection were to advise the erring entity…"

(ii) Further, Hon'ble SAT, in Appeal No. 153 of 2012 in DSE Financial Services Ltd. v SEBI in its order dated September 11, 2012 held that "…every minor discrepancy/ irregularity found during the course of inspection is not culpable and object of the inspection could well be achieved by pointing out the irregularities/ deficiencies to the intermediary at the time of inspection and making it complaint."

(iii) The above judgments have been positively considered in the several SEBI orders like Adjudication Order No. EAD/ AO-NP/ JR/ 39 /2017 dated May 22, 2017 in the matter of IFCI Financial Services Limited and Adjudication Order No. EAD-12/ AO/SM/191 /2017-18 dated February 26, 2018 in the matter of Marfatia Stock Broking Private Limited, etc.

We humbly request to consider above submissions favorably and request you to not to initiate inquiry in terms of Rule 4 of Securities Contract (Regulations) (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 2005 and not levy any penalty under Section 23D of the SCRA."

Email dated October 19, 2021

7. *We, vide our letter dated April 04, 2019 had provided explanation for 7 out of 9 cases where G was alleged to be negative.*

8. *We, during personal hearing, drew attention to the fact that amount of collaterals were incorrectly considered and amount of early pay in was not considered on one day (15.02.2018).*

Date	**Explanation provided in earlier submission**
04.05.2018	Document supporting correct amount of collateral with the exchange / clearing member
07.09.2018	Document supporting correct amount of collateral with the exchange / clearing member
14.09.2018	Document supporting correct amount of collateral with the exchange / clearing member
15.02.2018	Early pay-in of Rs 8 crore done for credit client.
02.02.2018	In one of the instances highlighted by inspection team, dated 02.02.2018, where "G" is negative of Rs 180408/- We hereby state that our creditors have been considered on higher side by Rs. 5,00,000/-. As one of our clients chq was in clearing. We are hereby attaching our Bank statement of HDFC Account Number 00010340006156, highlighting the cheque clearing date. And also the ledger of that client, whose credit have been reported, after consideration of this Rs 5,00,000/- uncleared cheque. After Adjusting un-cleared cheque, of Rs 5,00,000/-, as explained above, our Revised Creditors stand at Rs 18,69,58,853, INSTEAD OF 18,74,58,853, AS REFLECTING IN ANNEX 3. Post consideration of this Revised Creditors, our "G" would be positive, for the amount of Rs 3,19,592/-.
09.02.2018	Funds of credit client was used for debit client in the same group temporarily.
21.02.2018	Funds of credit client was used for debit client in the same group temporarily.

Observations/Findings

9. I note that in the SCN, it has been alleged that Noticee has misutlized the funds of credit balance clients either for debit balance clients or for proprietary obligation as per details given below:

Sr. No.	Date	Total fund balance available in all client bank accounts, including the settlement account, maintained by the stock broker across stock exchanges	Collateral deposited with clearing corporation/ clearing member in form of Cash and Cash Equivalents (Fixed deposit (FD), Bank guarantee (BG), etc.) across all Stock Exchanges. Only funded portion of the BG, i. e. the amount deposited by stock broker with the bank to obtain the BG, shall be considered	Total credit balances of all clients as obtained from trial balance across stock exchanges (after adjusting for open bills for clients, uncleared cheques deposited by clients and uncleared cheques issued to clients and the margin obligation)	G=A+B-C
		A	**B**	**C**	**G=A+B-C**
1	02-Feb-18	13186176	174092269	187458854	-180408
2	05-Feb-18	6107080	150940989	178323034	-21274964
3	08-Feb-18	16501629	139645639	167369355	-11222087
4	09-Feb-18	8400183	155426853	171293430	-7466394
5	15-Feb-18	98794017	181789726	328217868	-47634125
6	21-Feb-18	26287610	156914118	184356096	-1154368
7	07-Sep-18	31681702	121219701	168346207	-15444804
8	14-Sep-18	50904187	104956701	178629173	-22768285

10. Noticee in its submission has contended that SEBI has not considered the margin due from clients while calculating the balance of creditors. Noticee has further contended that margin due is an inclusive part of dues of clients. If margin amount had been considered by SEBI, there would be no shortfall while ascertaining the value of “G”. In addition to above, Noticee has contended that in its own case, covering period April 01, 2015 to December 31, 2016, while disposing the SCN dated January 10, 2020 for similar allegations, the Adjudicating Officer vide its order dated April 15, 2020, had accepted its contention that margin due from client, if not included in the ledger balance, should be separately considered while arriving at credit balance of the clients.

11. I note that Enhanced Supervision circular specifies the method for arriving at the value of “G”. As per Enhanced Supervision circular, the value of “G” is arrived after considering the funds available in client bank accounts and cash/cash equivalent deposits with clearing corporations/clearing members- across all Stock Exchanges. From the said figures, the figures of total credit balance clients (after adjustment of open bills and uncleared cheques) needs to be deducted. I also note that subsequent to receipt of findings of inspection, Noticee has taken a similar plea that margin has not been considered by SEBI Inspection Team. From the material

available on record, I find that SEBI has not considered such plea of Noticee. Even if I were to consider the margin figures presented by Noticee in its reply to SCN, it would be seen that Noticee has only provided the figures of margin due from the credit balance clients. Further, Noticee has not provided any supporting documents to substantiate its calculation. Therefore, in absence of any documents to substantiate the calculation, I am not inclined to accept the contention of Noticee w.r.t margin calculation.

12. Noticee in its reply has further contended that on 2 dates i.e. September 07, 2018 and September 14, 2018, SEBI has erred in considering the amount of collateral with the exchange/ clearing member. I note that Noticee, in its submission, has provided the details regarding the actual amount of collateral deposited with the exchange/clearing member and has also provided collateral statement to support its contention. Noticee has further contended that if the actual amount of collateral with the exchange /clearing member is considered, the value of "G" would be positive. The amounts provided by Noticee are as under:

Date	**Collateral with the exchange / clearing member**	
	considered by the inspection team (Rs).	Actual Amount (Rs.)
07.09.2018	12,12,19,701	15,38,44,619
14.09.2018	10,49,56,701	13,75,81,393

13. From the documents provided by Noticee as well as from the material available on records, I note that there is a difference in amount as calculated from the supporting documents provided by Noticee and the amount mentioned by Noticee in its reply. From the material available on record, I note that Noticee had taken the same plea while submitting the reply to findings of inspection. However, the rationale and revised calculation provided by Noticee has not been taken into account while finalizing the charges against Noticee. I also note that SEBI has not provided any reasons for not accepting the aforesaid contention raised by Noticee in its Post Inspection Analysis. In the face of such ambiguity in calculation of collateral figures, I am unable to proceed further in this regard.

14. Noticee in its reply dated October 19, 2021, has also contended that while calculating the balance of "G", for the date February 09, 2018 and February 21, 2018, the funds of credit balance clients were used by them for debit balance clients in the same group on a temporary basis. In this regard, I note that Enhanced

Supervision Circular, does not allow group adjustments among the clients of the same group. In view of the same, I am not inclined to accept the contention raised by Noticee.

15. Noticee in its reply dated October 19, 2021, has contended that on February 02, 2018, one of its clients had deposited the cheque of Rs. 5,00,000/- directly in its account and it was under clearing process. Noticee has also provided a bank statement of its HDFC Bank and ledger of the client to support its contention. Noticee has further contended that if such amount of Rs. 5,00,000/- is considered, the credit balance of clients works out to Rs.18,69,58,853/-. In this regard, on examining the material available on record, I find that revised amount of “G” works out to be positive. Therefore, I find this contention of Noticee to be acceptable.

16. Noticee in its reply dated October 19, 2021, has submitted that on February 05, 2018, there was early pay in of credit client to the extent of Rs. 8 crore. Accordingly, the value of G will be positive, if early pay-in is considered. In this regard, I note that although the said amount may not have been considered in bank balance, the same amount would be considered under funds with clearing member/exchange. Nevertheless, Noticee has not provided any supporting documents to support its contention. Therefore, I am not inclined to accept the contention of Noticee in this regard.

17. I also note that Noticee has not provided any justification for the instances brought out for February 05, 2018, February 08, 2018 and February 09, 2018.

18. In view of the foregoing, I find that the value of G comes out to negative for the four days viz. February 08, 2018, February 09, 2018, February 15, 2018 and February 21, 2018. Thus, I find on that on these four instances, Noticee has utilized the credit balance clients’ funds for the purpose of debit balance clients or for its own obligation. Accordingly, I find that Noticee has violated Section 23D of SCRA read with Clause 1 of Transaction Regulation Circular read with Clause 3 of Annexure to Enhanced Supervision Circular.

19. W.r.t. allegation regarding that Noticee was having sufficient funds available with it to repay its clients as on September 30, 2017, Noticee has contended that after considering the margin requirements of clients having credit balance, there was a surplus amount in excess of funds payable to clients. Noticee has provided one

excel file, containing the three excel worksheets namely, "control statement, mg02, F13". I note that Noticee has not provided any supporting documents to show the calculation in this regard. In absence of any supporting documents, I am not inclined to accept the contention of Noticee. Therefore, in view of the aforesaid observation, I find that Noticee was not having sufficient funds with it to repay its clients. In view of the same, I find that allegation levelled against Noticee that it has violated Section 23D of SCRA read with Clause 1 of Annexure to Transaction Regulation Circular read with Clause 3 of Annexure to Enhanced Supervision Circular.

B. Incorrect reporting of Enhanced Supervision data

Allegation in the SCN

1. *During the course of inspection, the data submitted by Noticee w.r.t. weekly submission as per Enhanced Supervision Circular as on August 31, 2018 was verified. It was observed that Noticee had submitted incorrect data for eight (8) areas under weekly reporting as on August 31, 2018. The details of the same is given as Annexure-4. In view of the foregoing, it is alleged that Noticee is in violation of Clause 3.2 of Annexure to Enhanced Supervision Circular.*

Reply of Noticee:

2. *In 2 heads relating to collateral with exchanges / clearing member, there is a typo error in Annexure by the inspection team and the same figure is considered for collateral with exchanges as well as collateral with clearing member without bifurcating them in to respective heads.*
3. *In 2 heads relating to free / unblocked collaterals, there is typo error in Annexure by inspection team. In this case also, same figure is considered twice.*
4. *We believe that all major figures for weekly reporting as on August 31, 2018 were correctly reported by us.*
5. *Please refer to **Exhibit 5_Enhanced Supervision Data_31.08.2018** for details of incorrect figures considered by the inspection team and our correct calculation for the same.*
6. *We request you to consider clearing member / clearing corporation figure in their respective heads.*

Observations/Findings

7. Noticee in its reply has provided exhibit 5, which deals with all the 8 instances, which were provided to Noticee as Annexure to SCN. The reply submitted by Noticee is tabulated below:

Sr.No	Particulars	Actual Calculation	Data highlighted by Inspection Team	Difference	Remark
1	Total of day end balance in all Client Bank Accounts	5,91,52,083	5,91,29,639	22,444	AXIS CDSL AC - 596754 Balance in Account related to Depository Operations was not considered by us.
2	Collateral deposited with exchanges in form of Cash and Cash Equivalents	4,23,50,400	**18,13,79,332**	-13,90,28,932	Typo Error by Inspection Team. We had reported collaterals with exchange and Clearing member separately. TGF of BSE of Rs 5,00,000 was considered in reporting of collaterals with exchange.
3	Collateral deposited with clearing member in form of Cash and Cash Equivalents	13,95,28,631	**18,13,79,332**	-4,18,50,701	
4	Value of Non-funded portion of the Bank Guarantee	2,06,00,000	2,11,00,000	-5,00,000	TGF of BSE of 10,00,000 was considered in reporting of BG with exchange.
5	Proprietary margin Obligation	1,85,36,380	1,86,04,540	-68,160	We have not deducted the mark to Market in currency segment. We have provided the MTM directly to Clearing Member.
6	Margin utilized for positions of Credit Balance Clients	12,65,38,979	12,33,92,607	31,46,372	In our calculation, BSE segment margin was not taken into the cumulative margin working data at the time of uploading.
7	Free/unblocked Collateral deposited with Clearing corporation (In Rs.)	4,73,69,449	-	4,73,69,449	Typo Error by Inspection Team. We had reported collaterals with exchange and Clearing member separately.
8	Free/unblocked Collateral deposited with Clearing Member	16,26,57,000	20,20,26,449	-3,93,69,449	

8. I note from aforesaid table that there were typographical errors in 4 heads, namely Collateral deposited with exchanges in form of Cash and Cash Equivalents, Collateral deposited with clearing member in form of Cash and Cash Equivalents, Free/unblocked Collateral deposited with Clearing corporation, Free/unblocked Collateral deposited with Clearing Member. So I find that same figures have been considered by SEBI twice. Thus, I am inclined to accept this contention of Noticee.

9. W.r.t. other 4 heads namely, Total of day end balance in all Client Bank Accounts, Value of Non-funded portion of the Bank Guarantee, Proprietary margin Obligation and Margin utilized for positions of Credit Balance, I note that Noticee has admitted to the allegation levelled against it. Noticee has accepted that there was an error in reporting the figures under Enhanced Supervision Data as on March 31, 2018. In view of the same, I find that Noticee has incorrectly reported the figures under Enhanced Supervision Data for March 31, 2018. In view of the same, I find that allegation levelled against Noticee that it has violated Clause 3.2 of Annexure to Enhanced Supervision Circular stands established.

C. Wrong nomenclature of accounts

Allegation in the SCN

1. *During* the course of inspection, the nomenclature provided to bank accounts and demat accounts by Noticee were verified in accordance with Enhanced Supervision Circular. It was observed that norms for *nomenclature* was not followed for one (1) client beneficiary demat account. The detail of the same is given below:

Sr. No	Name of the Demat	DP No	Demat Account Number	Purpose of the Demat Account
1	Stock Holding Corporation Of India Limited-In301330	IN301330	20936682	Client Beneficiary

2. *In view of the foregoing, it is alleged that Noticee is in violation of Clause 1.2 of Annexure to Enhanced Supervision Circular.*

Reply of Noticee:

3. *Please* note that in connection with tagging of the concerned demat account, Stock Holding (DP of NSDL) vide e-mail dated June 08, 2016 has informed us that in case of client beneficiary account, no separate subtype can be created.
4. *Please refer to Exhibit 6_nomenclature Demat for email correspondence dated June 08, 2016 with Stock Holding/ NSDL.*
5. *We request you to consider the above documentary email of third party (Stock holding) and consider that we have not violated the clause 1.2 of Annexure to Enhanced Supervision circular.*

Observations/Findings

6. On perusal of '*Exhibit 6*' as provided by Noticee, vide its letter dated September 02, 2021, I note that Noticee had received an email from NSE for tagging of "CM Beneficiary account". From the perusal of Exhibit 6, I find that Noticee vide its email dated June 08, 2016 had requested Stock Holding that, "FRR *SHARES AND SECURITIES LIMITED" has to be marked as sub-type "CLIENT BENF ACCOUNT.",* in response to which Stock Holding vide its email dated June 08, 2016, had informed Noticee that*, "… in case of NSDL margin a/c we can change the subtype. For beneficiary a/cs there is no separate sub-type."* In this regard, I note that Enhanced Supervision circular issued on September 26, 2016. Further, as per Clause 2.3.1 of Annexure to Enhanced Supervision Circular*, All existing demat accounts maintained by stock brokers are assigned the appropriate nomenclature as mentioned above, within three months from the date of the said circular.* Noticee has not provided any documentary evidence to show that subsequent to issuance of this circular, it had followed up with Stock Holding Corporation of India Ltd. for changing the name of aforesaid account. Nevertheless, the allegation in the SCN pertains to tagging of demat account and not its type/sub-type. In view of the same, I am not inclined to accept the contention raised by Noticee. Accordingly, I find that Noticee failed to tag the demat account as specified in Clause 1.2 of Annexure to Enhanced Supervision Circular. In view of the same, allegation levelled against Noticee that it has violated Clause 1.2 of Annexure to Enhanced Supervision Circular, stands established.

D. Non-segregation/ Mis-utilization of clients' securities

Allegation in the SCN

1. *During the course of inspection, the funds raised by Noticee, by pledging clients' securities with Banks & Financials and use of these funds for respective clients' obligation was checked for the sample date June 30, 2017. It was observed that Noticee had pledged clients' securities to the amount of Rs. 9,69,53,911.82 and the client total obligation was Rs. 61,67,297/-. Out of this client's pledged securities, it was observed that Noticee had misutilized the clients' securities to the extent of Rs. 9,07,86,614.49. The summary of the same is given below and client-wise breakup of ledger balance and corresponding drawing power on the aforesaid date is given as Annexure-5*.

Amount in Rs.

Value of Securities pledged	**Total client Obligation**	**Misutilisation of clients pledged securities**
9,69,53,911.82	61,67,297.00	9,07,86,614.49

2. *Further, during the course of inspection, it was observed that as on November 30, 2017, in case of 76 out of 217 instances Noticee had misused the funds by pledging client's securities with Banks and NBFC. The summary of the same is given below and detail instances is given as* ***Annexure-6.***

Amount in Rs.

Total overdraft availed	**Total value of securities pledged**	**Amount of misutilization**
52,00,08,584	619516078	7,16,14,457

3. *In view of the foregoing, it is alleged that Noticee has violated the following:*
   a. *Section 23D of SC(R)A read with Transaction Regulation Circular*
   b. *Clause 2.5 of Annexure to Enhanced supervision circular*

Reply of Noticee:

4. *We humbly submit, that we deny the allegation of misutilization of clients' securities / non- segregation of clients' securities for the reasons given in ensuing paragraphs.*

A. ***Non segregation of clients' securities*:**

a) We humbly submit that we have maintained segregation of client securities as under:

b) Separate demat accounts in respect of client securities and own securities have been maintained since opening of such accounts, post incorporation of the company (i.e. from financial year 2010- 2011). Please refer to Exhibit 3_Bank & Demat details for details of "client securities accounts" along with details of own demat accounts maintained by the Noticee.

c) Client securities demat accounts have been designated as 'Client securities accounts' since opening of such demat accounts.

d) Noticee has maintained separate Securities ledger of each client and have also maintained a separate securities ledger for proprietary trading.

e) The securities received and given back from/ to clients are always correctly reflected in their respective client's securities ledgers.

f) No paying relating to proprietary securities transactions are made from client securities account.

g) No pay in of securities of one client have been made from demat account of other client

h) All the records relating to-receipt of collaterals from client, authorization to deposit collateral with Exchange Clearing Corporation, Clearing House towards margin, record of return of collaterals to clients, credit of corporate action benefit to clients etc. are maintained.

i) Records with respect to reconciliation with the actual collateral deposited with us are adequately maintained. Daily statements are being issued to the clients and there is no adverse observation about non-receipt of collateral by the client.

j) There is nothing on record to substantiate that securities of the clients are not kept in a separate account and own securities are not kept in a separate account.

k) There is no finding by the inspection team that client securities were used for the paying of own transactions.

l) *There is not a single investor/ client complaint against us for non-receipt of securities or delay in receipt of securities against the pay out*

m) *None of our clients have ever complained that they have not been allowed to transact in spite of having securities as margin and this in itself suggests that their margin in the form of securities was always made available to them for trading as and when demanded.*

n) *Had we resorted to use of one client's securities for other, then at least on few days clients whose securities were lying with us as margin, would have not been allowed to take position as the same would have been already consumed by other clients? The fact that there has never been any single instance where clients with margin in the form of securities have been restricted in using their balance. This in itself substantiates that the allegations of having used securities of clients for other clients in the SCN are misplaced.*

o) *We* are of the opinion that we have maintained segregation of securities of client or clients.

p) *The observation in inspection report in respect of the alleged violation is based* merely *upon a possibility rather than on any specific basis or specific instance of utilization of one client securities to meet pay-in obligation of other clients or to meet pay-in obligation of own transaction on any identified settlement date.*

B. *Misutilization of clients' securities:*

a) *As a stock broker, our priority is to ensure that we as a company and our clients do not financially suffer because of particular client or set of clients who take positions of considerably higher amounts. Stock broker is exposed to significant credit risk if a client who has taken huge position defaults in payment. In case of such high volume/ value clients, our first concern is to protect our capital as well interest of other clients. Therefore we insist higher amount of margins from such clients. We believe stock exchange regulations allow us to take higher amount as margin than VAR/SPAN margin requirement.*

b) *Sometimes some of the active or high volume clients do not wish to give funds as margins instead gave their shares as margin.*

c) *These clients want their shares to be pledged and request amount realized by pledging shares to be treated as margin for positions they take from time to time.*

These clients have given written authority letter to pledge shares and treat funds raised as margin.

d) *Please refer to Exhibit 7_ Sample Pledge letter for few sample Client Authorisation letters. The same were also submitted during the course of inspection.*

e) *In our case, clients wanted to trade and wanted to keep margin for their future trading. It would be difficult to pledge shares of exact amount of debit/ margin and monitor the same on day to day basis. There will be always shortage/excess on any particular day. On highest funding day considered by the inspection team, particular client may not have pay-in/margin obligation, however that client has taken positions subsequently which were met out of funds raised by pledging shares.*

f) *We believe the circumstances in both situations are same (a) where client gives funds as margin and (b) where client wants shares to be pledged and treat funds raised as margin.*

g) We *wish* to emphasize that:

- *The shares were pledged and amount realized was used as margin as per client instructions only.*
- *The fact of pledging shares was informed to client regularly.*
- *Not a single complaint from any of our client that their shares were misused or used without his consent.*
- *Funds realized by pledge of shares were not used for our own purposes.*
- *After pledging of client shares has been discontinued by SEBI (September 30, 2019), we were able to return shares to all our clients whose shares were pledged. There has not been a single client complaint till date, against us, that shares were not returned to them, by us.*
- *Had we resorted to use one client's securities / money for other, then at least on few days clients with securities pledged would have not been allowed to take position as the same would have been already consumed by other clients. The fact is that, there has never been any single instance where clients whose securities were pledged, have been restricted for exposer / trading. This in itself substantiates that the allegations of misutilization of pledged securities is wrongly Alleged*.

C. ***Specific comments for misutilization of securities on June 30, 2017:***

a) 58 cases involving alleged misutilization of Rs 9,07,86,614 is cited.

b) Out of total amount of Rs 9,07,86,614, amount of Rs 8,15,29,508 is relating to one client Meenakhsi Bhargava (Client code 11000075). There was debit is her group account (Duane Park Pvt. Ltd. client code 11000511) of Rs 21,41,83,649.

c) Meenakshi Bhargava is controlling shareholder and director in Duane Park Pvt Ltd. Adjustment for margin between controlling shareholder/ director and corporate is allowed as per exchange circulars. (NSE/INSP/19583 dated December 14, 2011).

*d) Please refer to **Exhibit 8_Meenakshi Bhargava- Duane** for shareholding pattern and details of director of Duane Park Pvt. Ltd.*

*e) Please refer to **Exhibit 9_Duane Financial Ledger** for ledger account of Daune Park Pvt. Ltd. indicating debit of 21,41,83,649.41 as on 30.06.20217*

f) In 24 cases, clients have taken positions in next 3 to 4 trading days. Amount realized by pledge as on June 30, 2017 was considered as margin for positions taken in 3 to 4 trading days.

g) In 9 cases, shares were released from pledge in next working day on 4^{th}/ 5^{th} July (1^{st} and 2^{nd} July 2017 Saturday/ Sunday)

Summary:

	No of Cases	*Amount (Rs Lakhs)*	*%*
Group A/c Debit 11000511 with Group Code 11000075	*1*	*815.29*	*89.80*
Margin for positions in next 3 to 4 working days	*24*	*28.84*	*3.18*
Shares released on subsequent working days	*9*	*28.44*	*3.13*
Balance cases	*24*	*35.29*	*3.89*
Total as per Annexure-5	*58*	*907.86*	*100.00*

h) Details are given in Exhibit 10 Reply_Pledge_30.06.2017

D. ***Specific comments for mis-utilization of securities on Sep. 30, 2017:***

a) In case of 76 out of 217 instances, misuse of funds by pledging client's securities with Banks and NBFC is alleged. Amount of Mis-utilisation Rs 7,16,14,457 /-

b) Details of turnover and margin requirements on trading days subsequent to November 30, 2017, pertaining to these 76 instances are given in Exhibit 11 Reply_Pledge_30.11.2017

c) You will observe that in 44 cases, clients have taken positions triggering margin requirement.

d) In one case (Meenakshi Bhargava), there was debit balance in Group (Husband's Account – Vijay Bhargava) amounting to Rs.15,90,14,019 /- on November 30, 2017

e) There were specific reason / explanation for the cases involved which are given in Exhibit 11 Reply_Pledge_30.11.2017

f) Based on the explanation above, you will observe that we have not misutilised amount realized by pledge of shares as on November 30, 2017.

g) Enclosed: Exhibit 11 Reply_Pledge_30.11.2017

h) Exhibit 12 Meenakshi Bhargava passport Copy of Passport, submitted with KYC as proof, by Meenakshi Bhargava indicating her husband's name as Vijay Bhargava.

i) Exhibit 13 Ledger of Vijay Bhargava----- Ledger of Vijay Bhargava.

j) We humbly submit that based on the reasons and the explanation provided in above paragraphs, we are of the opinion that we have maintained segregation in respect of client securities and have not misutilised the same.

k) We here by state that we have not violated provisions / Section of following regulations.

   a. Section 23D of SC(R)A read with Transaction Regulation Circular

   b. Clause 2.5 of Annexure to Enhanced supervision circular

Observations/Findings

5. W.r.t. allegation regarding misutilization of securities, Noticee in its reply has contended that some of the active or high volume clients did not wish to give funds as margins, but rather gave their shares as margin. Further, these clients wanted their shares to be pledged and requested the amount, realized by pledging shares, to be considered as margin for positions taken by them from time to time. Further, Noticee in its reply has submitted a sample margin letter in support of its contention. Noticee has further contended that clients wanted to trade and wanted to keep margin for their future trading and it would be difficult to pledge shares of exact amount of debit/ margin and monitor the same on a day to day basis. Noticee stated that there will always be a shortage/excess on any particular day. In this regard, I note that as per Clause 2.5.1 of Annexure to Enhanced Supervision Circular Securities only those clients can be pledged who have a debit balance in their ledger. Further, as per Clause 2.5.2 aforesaid circular says that the funds raised against such pledged securities for a client shall not exceed the debit balance in the ledger of that particular client. Thus, as per the provision of this circular, Noticee cannot pledge the shares of the clients if the client has a credit balance or clients having no obligation.

6. W.r.t. allegation regarding misutilization of funds raised by pledging clients securities as on June 30, 2017 and November 30, 2017, I note that Noticee has contended that group adjustment needs to be considered in accordance with NSE circular (NSE/INSP/19583) dated December 14, 2011. I note that as per the said circular, margin between controlling shareholder/ director and corporate is allowed. In this regard, I note that inter-client adjustments are allowed only for margin purpose and not for pledging of shares. Therefore, since Noticee had pledged the shares for margin purpose, I am not inclined to accept this contention of Noticee. Noticee has further contended that in 24 cases as on June 30, 2017, and in 44 cases as on November 30, 2017, clients of Noticee had taken positions in the market subsequently. In this regard, I note that as per Clause 2.5.1 of Annexure to Enhanced Supervision Circular, securities of only those clients can be pledged who have a debit balance in their ledger. Further, as per Clause 2.5.2 of Annexure to Enhanced Supervision Circular the funds raised against such pledged securities for a client shall not exceed the debit balance in the ledger of that particular client. I find that Noticee had pledged the securities of credit balance clients or clients having no obligation. In view of the same, I am not inclined to accept the contention of Noticee.

7. In addition to above, Noticee has contended that in 9 cases as on June 30, 2017, shares were released from pledge in next working days on July 04 or July 05(July 1 and July 02, were Saturday and Sunday). In this regard, I note that Noticee has not provided any documentary evidence to justify its contention. Therefore, I am not inclined to accept the contention raised by Noticee. I also note that out of 76 instances, Noticee has provided justification for 45 instances and failed to provide any clarification for the remaining 31 instances. Therefore, I find that Noticee has accepted that the allegation levelled against it for 31 instances.

8. Further, Noticee has submitted that some of the clients had given authority letters for treating their clients shares for margin purpose. Noticee has also claimed that it was difficult for them to monitor the margins and pledge status for all their clients on a daily basis and due to this, there shall always be any excess/short funds raised for a given day. Noticee has further claimed that the clients had requested them to pledge these shares and treat the funds raised as margin. In this regard, I note that as per Clause 2.5.1 of Annexure to Enhanced Supervision Circular, securities of only those clients can be pledged who have a debit balance in their ledger. On perusal of the letters provided by Noticee that I note that except in case of Meenakshi Bhargava, the other letters were undated. Further, in case of Ms. Meenakshi Bhargava, I note that the letter is dated April 23, 2013 and it has been mentioned in the letter of Ms. Meenakshi Bhargava that, "I request you not to sell the shares as I am expecting current adverse market movement in the stock is temporary in nature and as such I do not wish to book the loss by selling the shares.

   I fully understand the liquidity issues resulting out of debit balances in my account and therefore I hereby allow you to treat shares as your own shares and pledge the same with any financiers including any third party NBFC or banks. ……". Even though Ms. Meenakshi has allowed Noticee to pledge the shares, but subsequent to issuance of Enhanced Supervision Circular, this letter does not have any validity, as a stock broker is allowed to pledge the shares of those clients who were having debit balance and to the extent of their indebtedness only. Therefore, I am not inclined to accept this contention of Noticee.

9. In view of the foregoing, I find that Noticee has misutilized the clients' securities. Therefore, I find that allegation leveled against Noticee that it has violated Section 23D of SCRA read with Transaction Regulation Circular read with Clause 2.5 of Annexure to Enhanced supervision circular stands established.

E. Non-settlement of funds and securities of clients

Allegation in the SCN

1. *During the course of inspection, it was checked to ascertain whether Noticee had settled the clients' fund and securities on quarterly or monthly basis as per the preference given by the respective client. Further, it was also checked whether Noticee had send the statement of accounts for funds and securities to their clients. It was observed that out of sample of four hundred thirty-five (435) instances in twenty-four (24), instances the active clients' accounts were not settled by Noticee on monthly or quarterly basis as per the preference given by the clients. The value of unsettled funds & securities ranges from Rs. 32.41 Lacs (3 clients) to Rs. 24.44 Crore (7 clients). The summary of the same is given below and the detail instances is given as **Annexure- 7**.*

Amount in Rs.

Quarter	**No. of unsettled active clients**	**Sum of total unsettled funds & securities (Above Rs. 10,000)**
Apr 17 to June 17	07	24,44,05,481.00
June 17 to Sept 17	03	32,40,778.00
Sept 17 to Dec 17	05	1,13,69,752.00
Dec 17 to March 18	06	10,51,08,404.00
Apr 18 to June 18	02	8,36,40,302.00

2. *Further, it was observed that Noticee has not settled the accounts of the Inactive Clients spanning six quarters during the Inspection Period. The amount of non-settlement ranges from Rs. 24.07 lakhs (1177 clients) to Rs. 86.06 lakhs (1489 clients). The summary of the same is given below:*

Amount in Rs.

Quarters	**Number of unsettled inactive clients**	**Amount of funds & securities not-settled (In Rs.)**	**Non client accounts (AP deposits number)**	**Non client accounts (AP deposits in Rs.)**	**Remaining number**	**Remaining value**
Apr 17 to June 17	1222	52,66,409.13	45	28,59,044	1177	24,07,365.13
June 17 to Sept 17	1268	51,36,757.64	50	26,87,562	1218	24,49,195.64
Sept 17 to Dec 17	1330	47,78,376.18	52	15,98,033	1278	31,80,343.18
Dec 17 to March 18	1550	1,02,69,986.2	61	16,63,914	1489	86,06,072.18

Quarters	Number of unsettled inactive clients	Amount of funds & securities not-settled (In Rs.)	Non client accounts (AP deposits number)	Non client accounts (AP deposits in Rs.)	Remaining number	Remaining value
Apr 18 to June 18	1735	42,44,650.81	61	9,81,541	1674	32,63,109.81
June 18 to Sep 18	1268	51,36,758			1268	51,36,758.00

3. *It was also observed that Noticee has not sent the retention statements to two (2) clients out of seventy-two (72) instances, while settling their accounts. The details of the same is given below:*

Client Code	***FY***	***Quarter***	***Date of Settlement***
50518	*2017-18*	*Q3*	*31-12-2017*
22270014	*2017-18*	*Q2*	*29-09-2017*

4. *In view of the foregoing, it is alleged that Noticee has violated SEBI Circular no. MIRSD/ SE/CIR-19/2009 dated December 03, 2009 and Clause 8.1 of Annexure to Enhanced Supervision Circular*

Reply of Noticee:

Letter dated September 02, 2021

5. **Active clients:**

   a. *Considering total of number of active clients (approx. 3000), non-compliance was observed is less than 10 cases in each quarter (highest being 7 in one of the quarter). Considering sample size of 435 instances, non-compliances is only 5.28%*
   b. In some of the case there is debit balance in group account of related entity / Parties (Group entities / Parties Adjustment for margin is allowed as per exchange circulars. (NSE/INSP/19583 dated December 14, 2011). And in some cases there is debit in client account, hence securities have been held. After considering the above explanation, the value of unsettled fund and Securities will go down.
   c. *Further* kindly note that there has been no complaints from the clients, with respect to fund and securities lying with us. We have been regularly sending the quarterly ledger plus demat statement to client.

d. Details of *the* same are provided in Exhibit 14 Reply Actual Settlement

6. **Inactive Clients**:
   a. Number of cases and amount of unsettled inactive clients will get reduced on account of following reasons:
   b. There are specific reasons for non-settlement.
   c. Amount involved less than Rs 1000 held against depository charges.
   d. The amount of non-settlement ranges from Rs. 6,45,920.81 /- to Rs. 22,55,738.13/-
   e. Details of the same are given in Exhibit 15 Inactive client summary

Quarters	Remaining number	Remaining value	After adjustment of specific case, remaining value
Apr 17 to June 17	1177	24,07,365.13	22,55,738.13
June 17 to Sept 17	1218	24,49,195.64	8,84,622.64
Spet17 to Dec 17	1278	31,80,343.18	16,99,344.18
Dec 17 to march 18	1489	86,06,072.18	16,68,631.05
Apr 18 to June 18	1674	32,63,109.81	6,45,920.81
June 18 to Sept 18	No working done	Wrong figure mentioned	NA

   f. In the quarter Apr 17 to June 17, we have some software technical problem due to which only fund portion of the client was calculate at the time of zeroing the settlement and the shares were left in the system and the same appear to be of more value than the fund. Refer the exhibit 15, sub sheet Apr 17 to June 17.
   g. If we do not keep some small amount credit with us for client for depository charges, then it's become difficult to recover the same at later stage.

7. ***Retention statement not sent to 2 clients:***
   a. We humbly state that we will take care to ensure that retention statement is sent to all clients. The same has been send but due to some software issue we are not able to extract the same and show to inspecting authority.
   b. Considering the explanation given above and no of instances being significantly to low as compared to sample size and overall client base in respect of active clients, we request you to condone the lapse. We have settled all these client

accounts subsequently. We will ensure that the non-compliances will not get repeated

Email dated October 19, 2021

8. *We, during personal hearing, drew attention to the fact that Group adjustment need to be considered while arriving at the amount of unsettled funds and securities.*

   a. **Group *Adjustment: Securities of Meenaskhi Bhargava held against debit in Daune Park Private Ltd.***

      - *Note 1: Meenakshi Bhargava (client code: 11000075) is dominant shareholder (51%) and director of Daune Park Private Ltd. She has given written consent to treat her shares as margin for trades in Duane Park Private Ltd (Client Code: 11000511)*
      - *Note 2: Vijay Bhargava (Client code: 11000074) is husband of Meenakshi Bhargava (Client code: 11000075). Her shares were adjusted against debit on Vijay Bhargava Account.*

Quarter	**No of unsettled active clients**	**Sum total of unsettled funds and securities (Above Rs 10,000) Rs**	**Group Adjustment Rs**	**Balance Unsettled funds and Securities after consideration of Group Adjustment Rs**
April 17 to June 17	07	24,44,05,481	21,41,83,649 (Note 1)	3,02,21,932
June 17 to Sept 17	03	32,40,778	-	
Sept 17 to Dec 17	05	1,13,69,752		
Dec 17 to March 18	06	10,51,08,404		
April 18 to June 18	02	8,36,40,302	3,17,13,586 (Note 2)	5,19,26,716
Total Clients	23			

   b. *After considering the group adjustment in the said two quarters, the value of unsettled funds and securities ranges from Rs. 32.41 lacs (3 clients) to Rs. 5.19 Crore (2 Clients).*

Email dated May 11, 2022

9. *We, during personal hearing, drew attention to the fact that Group adjustment need to be considered while arriving at the amount of unsettled funds and securities*.

   a. ***Group* Adjustment: Non settlement of funds and securities of clients**:

      In *some* of the case there is debit balance in group account of *related* entity / Parties (Group entities / Parties Adjustment for margin is allowed as per exchange circulars. (NSE/INSP/19583 dated December 14, 2011). And in some cases there is debit in client account, hence securities have been held. After considering the above explanation, the value of unsettled fund and Securities will go down.

   b. ***Note*** *1:* ***Explanation*** *for the Qtr. 1 - April 2017 -June 2017*

      - *Group Adjustment for client code* ***-11000075: - Meenakshi Bhargava – Mrs. Meenakshi Bhargava is dominant shareholder (51%) and director of Daune Park Private Ltd****. She has given written consent to treat her shares as margin for trades in Duane Park Private Ltd (Client Code: 11000511), Hence we have withheld her shares as margin for trades in Daune Park Private Limited.*

      - ***Group*** *Adjustment* ***for client code*** *-50517: - Jayantilal Hansraj Lodha, Mr.* ***Jayantilal Hansraj*** *Lodha, is director in Naysaa Securities Limited. He has given shares as margin for trades in Naysaa Securities Limited (Client Code: 50274), Hence we have withheld his shares as margin for trades in Naysaa Securities Limited. Ledger of M/s Naysaa Securities Limited is enclosed herewith for your reference.*

      - ***Group Adjustment for client code*** *-22270015: - Parag Anil Doshi, we have withheld* ***funds*** *and shares of Mr. Parag Anil Doshi as margin for the trades in group* ***account*** *of his spouse Mrs. Shilpa Parag Doshi (Client Code: - 22270014). Ledger of Mrs. Shilpa Parag Doshi is enclosed herewith for your reference.*

      - ***Client Code****: 12000550, Mr. Irfan Ahmed Siddiqui: – As per our records, Amount of Rs* ***100*** *as highlighted by the inspection team, does not match with our ledger. As per our Client master, this client's UCC has been* *activated on 15th July 2017, hence this client does not qualify for settlement in this quarter. April 2017 to June 2017*

c. ***Note 2: Explanation for the Qtr. 5 – April 2018 - June 2018***

- ***Group** Adjustment for client code -11000075: - Meenakshi Bhargava. Her **shares** were held, against debit in her account of Rs 5,08,86,546 /- as well as her shares, were held as Margin, for the trades in her spouse, Mr. Vijay Bhargava Account, Client code: 11000074.*

d. ***Note 3: Explanation for the Qtr. 4 – December 2017 – March 2018***

- ***Group** Adjustment for client code -11000075: - Meenakshi Bhargava. Her shares were held, against debit in her account of Rs 6,11,46,624.18/- as well as her shares, were held as Margin, for trades in her spouse Mr. Vijay Bhargava Account Client code: 11000074.*

e. *Please find herewith, appended below, the summarized explanations and the actual unsettled amount after group Adjustment as explained above, with reference to the note numbers, defined Quarter wise by us*

Quarter	***No of unsettled active clients (as per inspection teams observation n)***	***Reduced No. of unsettled active clients after group / family/ Related party adjustments As per our working***	***Sum total of unsettled funds and securities (Above Rs 10,000) Rs (as per inspection teams observation)***	***Group Adjustment Rs As explained above***	***Balance Unsettled funds and Securities after consideration of group / family/ Related party adjustments As per our working***
April 17 to June 17	*07*	*03*	*24,44,05,481*	*22,46,62,533 (Note 1)*	*1,97,43,048*
June 17 to Sept 17	*03*	*03*	*32,40,778*	*-*	*32,40,778*
Sept 17 to Dec 17	*05*	*05*	*1,13,69,752*	*-*	*1,13,69,752*
Dec 17 to March 18	*06*	*04*	*10,39,22,278*	*8,71,41,899 (Note 3)*	*1,67,80,375*
April 18 to June 18	*02*	*02*	*8,36,40,302*	*7,30,40,642 (Note 2)*	*1,05,99,656*
Total Clients	*23*	*18*			

f. *Further to our above explanation, we also state that, the clients referred to as unsettled, were settled subsequently, in the next quarter.*

g. *After taking into consideration our above explanation, with reference to group / family/ related party adjustments, our number of instances stands reduced and revised ranging from 02 to 05 across all the five quarters. Also the value of unsettled funds and securities, stands reduced and revised, within the range of Rs. 32.41 lacs to Rs. 1.97 Crore.*

h. *Further kindly note that there has been no complaints from the clients, with respect to fund and securities lying with us. We have been regularly sending the quarterly ledger plus demat statement to client.*

i. *….*

j. *Considering the explanation given above and no of instances being significantly too low as compared to sample size and overall client base in respect of active clients, we request you to condone the lapse. We have settled all these client accounts subsequently. We will ensure that the non-compliances will not get repeated.*

Observations/Findings

10. W.r.t. allegation regarding settlement of active clients, I note that Noticee in its reply has contended that non-compliance was observed in less than 10 cases in each quarter and considering the sample size of435 instances, non-compliance is only 5.28%. Noticee has further contended that in some of the cases there was debit balance in the group account of related entities/parties. Noticee has stated that adjustment of margin is allowed as per NSE circular NSE/INSP/19583 dated December 14, 2011. Noticee has further stated that some of the clients had given written consent to withhold their shares for the margin purpose and accordingly, they had withheld the securities for margin purposes. In his regard, I note that as per Clause 12 (i) of Annexure to SEBI circular dated December 03, 2009, inter-client adjustments for the purpose of settlement of running accounts is not allowed. Noticee in its reply has also accepted that after excluding group adjustments, from April 2017 to June 2018, they had not settled the accounts of the clients in 18 instances. Thus, I find that Noticee failed to settle the accounts of active clients.

11. W.r.t. allegation regarding settlement of inactive clients, the exhibit 15 as provided by Noticee vide its letter dated September 02, 2022, has been perused. The table provided by Noticee is given below:

Quarters	Number of Unsettled Inactive Clients	Amounts of Funds & Securities Not Settled (In Rs)	Non client Account (Security Deposit of Aps), Wrongly Included in Client List	Non client Account (Security Deposit of Aps), Wrongly Included in Client List	Specific Explanation		Unsettled Amount Less than 1000 RS,				Balance Case	
			No of Cases	Amount	No of Cases	Amount	No of Cases	Amount	No of Cases	Amount	No of Cases	Amount
April 17 to June 2017	1222	52,66,409.13	45	25,89,044.00	2	1,94,750.00	1000	2,26,877.00	1047	3010671.0	175	2255738.13
June 17 to Sept 2017	1268	51,36,757.64	50	26,87,562.00	4	13,46,883.00	1055	2,17,690.00	1109	4252135.0	159	884622.64
Sept 17 to Dec 2017	1330	47,78,376.18	52	15,98,033.00	6	12,47,665.00	1130	2,33,334.00	1185	3079032.0	145	1699344.18
Dec 2017 to March 2018	1553	50,24,765.19	61	16,63,914.14	13	14,35,545.00	1328	2,56,675.00	1402	3356134.1	151	1668631.05
April 2018 to June 2018	1735	42,44,650.81	61	9,81,541.00	7	23,44,979.00	1536	2,72,210.00	1604	3598730.0	131	645920.81
June 2018 to September 2018*	Some wrong working was done with respect to turnover, as Turnover was respect to some other Period.											

*In exhibit 15, Noticee has mentioned period as December 2017 to March 2018, however in reply it has been mentioned as June 2018 to September 2018. Therefore in above table, period has been considered as June 2018 to September 2018.

12. I note that Noticee in its reply has contended that they had withheld the amount less than Rs.1,000/- against depository charges. Further, Noticee has contended that if they do not keep some small amount of credit with them for depository

charges, then it will be difficult for them to recover such types of charges at a later stage. In this regard, I note that as per Clause 12(d) of Annexure A to SEBI Circular dated December 03, 2009, I note that brokers may retain funds towards outstanding obligations of clients on settlement date. However, in the said case, I note that the broker has not provided any evidence to justify that the clients had not paid their DP charges. In absence of any such evidence, I am not inclined to accept the contention raised by Noticee.

13. Noticee has further contented that security deposit of Authorized Persons are wrongly included in the client list. In this regard, I find that the balance in such accounts do not belong to the clients. Therefore, I am inclined to accept this contention of Noticee.

14. Noticee in its reply has accepted that in the quarter April 2017 to June 2017, there was some technical problem due to which only the fund portion of the client was calculated at the time of settling the account. Thus, I find that Noticee has accepted the violation. In view of the foregoing, I find that Noticee failed to settle the account of inactive clients.

15. W.r.t. allegation regarding not sending retention statement to two clients, I note that Noticee in its reply accepted the said observation. In view of Noticee's own admission, I find that allegation levelled against Noticee that it failed to send the retention statement stands established.

16. In view of foregoing, I find that Noticee failed to settle the accounts of active clients, inactive clients and also failed to send the retention statements to its clients. Therefore, I find that the allegation leveled against Noticee that it has violated SEBI Circular dated December 03, 2009 and Clause 8.1 of Annexure to Enhanced Supervision Circular, stands established.

F. **Client Funding: -**

Allegation in the SCN

1. *During the course of inspection, sample of twenty-five (25) clients' ledgers were verified to ascertain whether any further exposures were provided to clients from pay in date of securities i.e. T+2+5, in spite of non-recovery of debit balances (after considering free collaterals). It was observed that on twelve (12) instances, Noticee*

had funded its clients beyond T+2+5 days and the range of such funding was from Rs. 1.54 lakhs to Rs.7.27 crores. The details of the same is given as ***Annexure-8****. Therefore, it is alleged that Noticee has violated Clause 2.6 of Annexure to Enhanced Supervision Circular read with Clause 2(d) of SEBI circular no. CIR/HO/MIRSD/MIRSD2/ CIR/P/2017/64 dated June 22, 2017.*

<u>Reply of Noticee</u>:

2. We *humbly* submit that:
   a) *Against debit balance in account, we were holding securities more than the debit balance in client account.*
   b) *These excess securities were in the form of margin by the client. These are fully paid securities when given to us by the client as margin. These securities are appearing in securities ledger of the client and are reflected in daily margin statements sent to client.*
   c) *Please refer to Exhibit 16 Reply Client Funding.*
   d) *Considering availability of excess fully paid securities given by the client, in our opinion, there is no funding by us to clients.*
   e) *It should be noted that other than above securities which are lying in client beneficiary account, we had DP POA for clients demat account*

<u>Observations/Findings</u>

3. Noticee in its reply has admitted that they had granted further exposures to some debit balance clients, beyond T+2+5. However, Noticee has contended that the clients to whom exposures were granted, were holding securities more than debit balance in client account and the excess securities were in the form of margin by client. Noticee has stated that these were fully paid securities and such securities were appearing in securities ledger of clients and was reflected in daily margin statements. In this regard, I note that as per Clause 2.6 of Annexure to Enhanced Supervision Circular as well as Clause 2(d) of SEBI circular CIR / HO/ MIRSD/ MIRSD2/ CIR/P/2017/64 dated June 22, 2017, Stock Brokers are not allowed to give further exposure to their clients, if debit balances arise out of client's failure to pay the required amount and such debit balances continues beyond the fifth trading day, as reckoned from date of pay-in. As the client had a debit balance, Noticee should have ensured the debit balance was first cleared before giving the client further exposure. However, the Noticee failed to do so. In

view of the same, I find that Noticee had granted further exposures to clients beyond the stipulated date. Therefore, I find that allegation levelled against Noticee that it has violated the provisions of Clause 2.6 of Annexure Enhanced Supervision Circular read with Clause 2(d) of SEBI circular CIR /HO /MIRSD /MIRSD2/ CIR/P/2017/64 dated June 22, 2017, stands established.

G. <u>**Discrepancies in Know Your Client(KYC) and KYC Registration Agency Process**</u>

1. *During* the course of inspection, the process followed by Noticee w.r.t. Client Registration, Account Opening, KYC requirements, POA, uploading of data w.r.t. KYC Registration Agency (KRA), updating and uploading of mobile number and email id etc. were verified. Based on verification following discrepancies were observed:

   a. *In thirty-one (31) instances, amount/ percentage of brokerage and delayed payment charges were not mentioned in the tariff sheet. Further, monthly/quarterly settlement preference not obtained from eight (8) clients. The details of the same are given as Annexure-9. In view of the foregoing, it is alleged that Noticee is in violation of SEBI Circular no. CIR/MIRSD/16/2011 dated August 22, 2011.*

   b. Noticee has not uploaded KYC data of six (6) clients with Central KYC Registry (refer Annexure-9). In view of the foregoing, it is alleged that Noticee has violated SEBI Circular no. CIR/MIRSD/120/2016 dated November 10, 2016 read with SEBI circular no. CIR/MIRSD/66/2016 dated July 21, 2016.

   c. Noticee has not updated KYC details of four (4) clients with KRA (refer Annexure- 9). In view of the foregoing, it is alleged that Noticee has violated Clause 1 of SEBI Circular no. MIRSD/Cir-26/2011 dated December 23, 2011 read with SEBI circular no. MIRSD/Cir-23/2011 dated December 2, 2011 and SEBI Circular no. MIRSD/Cir-5/2012 dated April 13, 2012.

   d. Noticee has not updated/uploaded email IDs and mobile numbers on UCC database for three hundred forty-five (345) and thirty-six (36) clients respectively. The details of the same are given as Annexure-10. Further, there were mismatch between the clients' email IDs and mobile numbers uploaded in the UCC database and back office of Noticee in case of thirteen (13) and six (6) clients respectively. The details of the same are given as Annexure-11. In view of the *foregoing it is alleged that Noticee has violated Clause 2(B) of SEBI Circular no. CIR/MIRSD/15/2011 dated August 02, 2011.*

e. *Out of sample of 3458 clients, in 650 instances Noticee has uploaded email IDs as "not provided @not provided.com" and in case of 42 instances Noticee has uploaded mobile number as "666666666" in the UCC database. However, Noticee has not obtained any documentary evidence to upload the email IDs and mobile numbers as "not provided @not provided.com" and "666666666" respectively. The details of the same are given as Annexures 12 and 13 respectively. In view of the foregoing it is alleged that Noticee is in violation of Clause 2(B) of SEBI Circular no. CIR/MIRSD/15/2011 dated August 02, 2011 read with NSE circular no. NSE/INSP/27368 dated August 18, 2014.*

f. *Out of sample of 3458 instances, same email ids have been used for multiple clients in twenty-eight (28) instances and same mobile number have been used for multiple clients in two hundred eighty-nine (289) instances. The details of the same are given as Annexure 14. In view of the foregoing it is alleged that Noticee is in violation of Clause 2(B) of SEBI Circular no. CIR/MIRSD/15/2011 dated August 02, 2011.*

g. *Noticee has incorrectly flagged POA for funds in UCC in case of one hundred two (102) clients out of two thousand nine hundred seven (2907) sample clients. The details of the same is given as Annexure- 15. In view of the foregoing it is alleged that Noticee is in violation of Clause A (5) of Schedule-II read with Regulation 9(f) of SEBI (Stock Brokers) Regulations, 1992 and NSE Circular no. NSE/ INVG/28739 dated January 30, 2015.*

h. *Noticee has not sent the text of Regulation 19 & 20 of Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012, along with the contract notes in all the five (5) instances selected for verification during the course of inspection. The details of the aforesaid instances is given below:*

2. *In view of the foregoing, it is alleged that Noticee has violated Clause 2.II.ii of SEBI Circular no. CIR/MRD/DSA/01/2016 dated January 01, 2016.*

Reply of Noticee:

	Inspection Findings	***Reply***

a.	*Certain Discrepancy observed w.r.t. KYC. Amount/ percentage of brokerage and delayed payment charges not mention in KYC*	*We have regularized the discrepancies in KYC documents in respect of blank brokerage and Delayed payment charges. For new clients we have started collecting client consent on voluntary charges on separate sheet of paper. The same are incorporated in new KYC kit.*
b.	*Stock broker has not uploaded CKYC of certain clients on CKYC portal. No of clients 6*	*We have regularized the discrepancies and informed CDSL of action taken,*
c.	*Stock broker has not done CVL KRA of certain clients*	*We have regularized the discrepancies and informed CDSL of action taken,*
d.	*Stock broker has not updated / uploaded email ID and mobile number on UCC database*	*Email/ Mobile missing cases were relating to inactive clients. They have not been trading with us for last couple of years.*
e.	*Documentary evidence not obtained from the clients for the email id and mobile number uploaded as not provided@ notprovided.com and 6666666666 in the UCI database.*	*These clients did not provide email IDs at the time of account opening. Details of email ID and Mobile are requested through Account Opening Form as Mandatory details. When client does not indicate any email ID or mobile number and signs Account Opening form, such form itself is verifiable record of seeking details of email ID and mobile number. It is documentary evidence of not giving any details.*
f.	*Same email ids and mobile numbers have been uploaded for multiple clients in the UCI database*	*The client himself had given email ids and mobile numbers through KYC.* *We have provided the relation in remark column in Exhibit 17 mobile & Email* *In most of the cases same email Ids and mobile numbers are justified considering relation of the individual clients and same contact details provided by corporate entities.*
G	*Incorrect flagging of POA for funds in the UCI database.*	*The same error took placed because of software issues and was rectified immediately on the day of audit itself. We here by certified that we do not accept POA for Fund from any Client.*
H	*Text of Regulation 19 & 20 of SECC Regulations 2012, not sent along with the contract notes.*	*Text of Regulation 19 & 20 of SECC Regulations 2012 was sent as annexure on printed paper- along with Physical contract note for trades done in scrips of listed depositories and exchanges. This practice continued till March 2018. However we did not maintain duplicate copy of the physical contract note and annexure (since not mandatory). We confirm that we had sent text of regulation in relevant cases.* *From April 2018, relevant text has been included in the body of contract note itself in case of trades done in scrips of listed depositories and exchanges.*

Observations/Findings

3. W.r.t. allegation regarding discrepancy observed in KYC, w.r.t amount/ percentage of brokerage and delayed payment charges not mentioned in KYC etc. in thirty-one (31) instances and not obtaining settlement preference for settling the running account on monthly/ quarterly basis, I note that Noticee in its replies has accepted

the allegation levelled against it. Noticee in its reply has submitted that they have now regularized the discrepancies. In view of Noticee's own admission, I find that Noticee failed to comply with KYC requirements as specified in SEBI circular ref. no. SEBI Circular no. CIR/MIRSD/16/2011 dated August 22, 2011. Therefore, I find that allegation levelled against Noticee that it has violated SEBI Circular no. CIR/MIRSD/16/2011 dated August 22, 2011 stands established.

4. W.r.t. allegation regarding not uploading KYC details of six (6) clients, with CKYC portal, I note that Noticee in its reply has accepted the allegation levelled against it. Noticee in its reply has submitted that they have now regularized the discrepancies. In view of Noticee's own admission, I find that Noticee has failed to upload the details of clients with CKYC portal during the relevant time. Therefore, I find that allegation levelled against Noticee that it has violated SEBI Circular no. CIR/MIRSD/120/2016 dated November 10, 2016 read with SEBI circular no. CIR/MIRSD/66/2016 dated July 21, 2016 stands established.

5. W.r.t. allegation regarding not uploading KYC details of four (4) clients details in KRA, I note that Noticee in its reply has accepted the allegation levelled against it. Noticee in its reply has submitted that, they have now regularized the discrepancies. In view of Noticee's own admission, I find that Noticee has failed to upload the details of clients with KRA during the relevant time. Therefore, I find that allegation levelled against Noticee that it has violated Clause 1 of SEBI Circular no. MIRSD/Cir-26/2011 dated December 23, 2011 read with SEBI circular no. MIRSD/Cir-23/2011 dated December 2, 2011 and SEBI Circular no. MIRSD/Cir-5/2012 dated April 13, 2012 stands established.

6. W.r.t. allegation regarding not updating/uploading email ids and mobile numbers on UCC database for three hundred forty-five (345) and thirty-six (36) clients respectively, I note that Noticee in its reply has contended that email ids/ mobile number which were not captured in its system relates to inactive clients and they had not traded with them for last couple of years. In this regard, I note that Noticee has not provided any documentary evidence to justify its claims. In absence of any evidence, I am not inclined to accept the contention of Noticee. In any case, I find that SEBI circular CIR/MIRSD/15/2011 dated August 02, 2011, does not differentiate between active clients and inactive clients and compliance with this circular would not depend on the clients' status. In view of the same, I find that Noticee failed to update/ upload of email ids and mobile numbers on the UCC

database for three hundred forty-five (345) and thirty-six (36) clients respectively. Therefore, I find that allegation levelled against Noticee that it has violated Clause 2(B) of SEBI Circular no. CIR/MIRSD/15/2011 dated August 02, 2011 stands established.

7. W.r.t. allegation regarding not obtaining documentary evidence for uploading email id as, "*not provided @not provided.com*" in 650 instances and mobile number as "6666666666", Noticee in its reply has stated that clients have not provided any email ids or mobile number in KYC at the time of account opening. Noticee has further stated that when the client does not indicate any email ID or mobile number and signs Account Opening form, such form itself is a verifiable record of seeking details of email ID and mobile number. In this regard, I note from the Annexures 12 and 13 of SCN, that all these clients had carried out trades during the inspection period. I also note that as per NSE circulars viz. NSE/INSP/27368 dated August 18, 2014 and NSE/INSP/32471 dated May 31, 2016, if stock brokers are unable to get the details from their existing clients, stock brokers are advised to retain verifiable records of seeking details of email ID and mobile number for such clients. I further note that Noticee has not provided any documents when such accounts of these clients were opened and steps taken by them to update email IDs. In view of the same, I am not able to accept the contention raised by Noticee. Accordingly, I find that Noticee has not obtained any documentary evidence to upload the Email IDs and mobile numbers as "not provided @not provided.com" and "666666666" respectively. Therefore, I find that allegation levelled against Noticee that it has violated Clause 2(B) of SEBI Circular no. CIR/MIRSD/15/2011 dated August 02, 2011 read with NSE circular no. NSE/INSP/27368 dated August 18, 2014, stands established.

8. W.r.t. allegation that same email IDs have been used for multiple clients in twenty-eight (28) instances and same mobile number have been used for multiple clients in two hundred eighty-nine (289) instances, I note that Noticee, in its contention has submitted that the clients had given the same email IDs and mobile number in their KYC. Noticee in its reply has further contended that same email IDs and mobile numbers were uploaded based on relation of the individual's clients and same details provided by corporate entities. In this regard, on perusal of "exhibit 17" as provided by Noticee vide its letter dated September 02, 2022, I note the following: -

A. Uploading same mobile number:

i. Noticee has obtained undertaking from the clients for uploading same mobile number in ninety-eight (98) cases, which *inter-alia* includes category such as, "*Partnership firms, HUF, NRI*". In this regard, I note that Noticee has not provided any documentary evidence to justify that they had obtained the undertaking from their clients. Further, I note that as per Clause 2(B) (iv) of SEBI circular ref. no. CIR/MIRSD/15/2011 dated August 11, 2011, stock broker has to ensure that separate mobile number/email address is uploaded for each client. Only exception to this circular is that stock broker may at the specific written request of a client, upload the same mobile number/Email – address for more than one client provided such clients belongs to one family. "Family" for this purpose includes self, spouse, dependent children and dependent parents. Though uploading of same mobile number may be accepted for partnership firm, HUF category etc., I am not inclined to accept the contention of Noticee regarding uploading same mobile number for other cases. Therefore, I find that this contention of Noticee lacks merits.

ii. In 4 instances the relationship has been mentioned by Noticee as "*Nitin*". I note that in terms of Clause 2(B) (iv) of SEBI circular ref. no. CIR/MIRSD/15/2011 dated August 11, 2011, Noticee upload the same mobile number or email ids only for the family and family for the said purpose includes self, spouse, dependent children and dependent parents. Thus uploading the same mobile number or relationship by citing the relationship as "Nitin" is not in accordance with the said circular. In view of the same, I find that the contention of Noticee to be devoid of merit.

iii. In 8 instances, Noticee has uploaded the same mobile number citing the reasons such as, "Dep. Father Karta, Dep. Gr. Father-Karta, Dep. Grd. Mother, and son's HUF". In this regard, I note that as per SEBI circular dated August 11, 2011, Noticee can upload the same mobile number or email ids only for family. Family for the said purpose includes self, spouse, dependent children and dependent parents. Thus, I find that uploading of same mobile number citing the relationship as "Dep. Father Karta, Dep. Gr. Father-Karta, Dep. Grd. Mother, and son's HUF" is not in accordance with the SEBI circular dated August 11, 2011. In view of the same, I am not inclined to accept the Noticee's contention.

iv. In 14 instances, Noticee has uploaded the same mobile number citing the reasons, “sons/daughter”. In terms of SEBI circular dated August 11, 2011, Noticee can upload the same mobile number or email id, *inter-alia*, only for the dependent children. However, Noticee has failed to provide that the “son/daughter” were depended on their respective clients. In absence of any clarifications, I am not inclined to accept the contention of Noticee.

v. In 156 instances, Noticee has uploaded the same mobile number, citing the reason such as, “Spouse, Authorised Person, self, self-Karta, Director, Trustee, Partner, Son, Dep. Father, Dep. mother”. In this regard, I note that Noticee has uploaded the same mobile number for the family which is in accordance with the SEBI circular dated August 11, 2011, I am inclined to accept the contention of Noticee for uploading the same mobile number.

vi. In 18 instances, Noticee has not provided any reasons for uploading the same mobile number. However, on perusal of client’s name as well as category mentioned by Noticee, I note that the same belongs to one group or entity run by one client. In view of the same, I find that allegation in respect of aforesaid 18 instances is not established.

vii. In view of above, I find that Noticee has uploaded same mobile number in 124 instances which were not in line with Clause 2(B) (iv) of SEBI Circular dated CIR/MIRSD/15/2011 dated August 11, 2011. Therefore, I find that allegation levelled against Noticee that it has violated Clause 2(B) (iv) of SEBI Circular dated CIR/MIRSD/15/2011 dated August 11, 2011, stands established

B. **Uploading of same Email ID**:

i. In 8 instances, Noticee has uploaded the same email id citing the reason such as, “Grand Mother’s Account and Undertaking letter adopted”. In this regard, I note that in terms of Clause 2B (iv) of SEBI circular dated August 11, 2011, Noticee is permitted to upload the same email id for family only i.e. self, spouse, dependent children and dependent parents. Thus, uploading the same email ID with grandmother’s account and undertaking letter adopted is not permissible in terms of aforesaid circular. Therefore, I am not inclined to accept the contention of Noticee.

ii. In 20 instances, Noticee uploaded the reasons citing the reasons, "Dep*. Father's account, Dep. Mother's account, self, Corporate group* account*, corporate, Authorised person, self-emai*l". In this regard, I note that Noticee has uploaded the email id for the family. Therefore, I accept the contention of Noticee for uploading same email ID.

iii. In view of above, I find that Noticee has uploaded same same email ID in 8 instances, which were not in line with Clause 2(B) (iv) of SEBI Circular dated CIR/MIRSD/15/2011 dated August 11, 2011. Therefore, I find that allegation levelled against Noticee that it has violated Clause 2(B) (iv) of SEBI Circular dated CIR/MIRSD/15/2011 dated August 11, 2011, stands established.

9. W.r.t. allegation regarding incorrectly flagging of POA for funds in case of one hundred two (102) clients out of two thousand nine hundred seven (2907) sample clients, I note that Noticee in its reply has accepted the allegation levelled against it, citing that the same happened due to system error and it was subsequently rectified. In view of Noticee's own admissions, I find that allegation leveled against Noticee that it has violated Clause A (5) of Schedule-II read with Regulation 9(f) of SEBI (Stock Brokers) Regulations, 1992 and NSE Circular no. NSE/ INVG/28739 dated January 30, 2015, stands established.

10. W.r.t. allegation regarding text of Regulation 19 & 20 of SECC Regulations 2012, not sent along with contract notes in five (5) instances, I note that Noticee, in its reply, has accepted the allegation levelled against it. Further, Noticee in its reply has submitted that from April 2018, the relevant text has been included in the body of contract note. However, I note that Noticee has not provided any documentary evidence to support its contention. In view of the same, I find that Noticee failed to send the text of Regulation 19 & 20 of SECC Regulations 2012 along with the contract note. Therefore, I find that allegation levelled against Noticee that it has violated Clause 2.II.ii of SEBI Circular no. CIR/MRD/DSA/01/2016 dated January 01, 2016, stands established.

H. <u>Net worth verification</u>

<u>Allegation in the SCN</u>

1. *During the course of inspection, the Net worth certificate submitted by Noticee was verified to ascertain whether the same is calculated in line with L.C. Gupta*

committee. It was observed that Noticee reported excess net worth of Rs.30.78 crore as on March 31, 2018 in terms of L.C. Gupta committee. However, the actual net worth of Noticee as on March 31, 2018 was negative to the extent of Rs.12.73 crore. In view of the foregoing, it is alleged that Noticee is in violation of Clause 6.1.1(j) of Annexure to Enhanced Supervision Circular read with Rule 33 of Chapter III of the Rules of NSE and NSE circular no. NSE/MEMB/2739 dated July 30, 2001.

<u>Reply of Noticee</u>:

Letter dated September 02, 2021

2. NSE inspection official vide her mail dated Nov 22,2018, had informed us that we have reported *net worth*, in excess of actual by Rs 15.73 crore, as under

a. Incorrect Net Worth Submission as on 31-03-2018:

Particulars	As per Net Worth submitted	As per TB/Balance sheet	Difference
	Amt. in Lacs (Rs)	Amt. in Lacs (Rs)	
Share Capital	17,00,00,000	17,00,00,000	0.00
Reserves & Surplus	-9,38,28,882	-9,38,28,882	0.00
Total	**7,61,71,118**	**7,61,71,118**	**0.00**
Fixed Assets	62,75,044	47,55,729	15,19,315
Pledge Securities	0.00	0.00	0.00
Member's Card	0.00	0.00	0.00
Non-allowable Securities (Unlisted Securities)	0.00	0.00	0.00
Bad Deliveries	0.00	0.00	0.00
Doubtful Debts & Advances	58,31,136	15,71,36,279	-15,13,05,143
Prepaid Expenses, losses	43,08,597	43,08,597	0.00
Intangible Assets	2,97,16,601	3,12,35,916	-15,19,315
30% of Marketable securities	0.00	60,63,067	-60,63,067
Net Worth	**3,00,39,740**	**-12,73,28,470**	**15,73,68,210**
% Difference			523.87

b. *Thus the figure of excess reporting of net-worth of 30.78 crore as per SCN does not match with the figure of excess reporting of net-worth of Rs 15.73 crore informed by NSE inspection official vide her email dated 22. Nov.2018*.

c. We further humbly submit as under:

i. *The independent statutory auditors have certified Networth Figures after careful examination of books of account, other documents and relevant facts considered necessary for net-worth certification.*

ii. *There are four specific heads where differences are observed by NSE inspection team.*

   a. *Fixed Assets*
   b. *Doubtful debts and advances*
   c. *30% of marketable securities and*
   d. *Intangible Assets*

iii. *Our submission on each of the points above are given below which should be considered.*

<u>a & d Difference observed in Fixed Assets & Intangible Assets Rs. 15,19,315</u>

- *Please refer to the note below the statement of computation of net-worth as on March 31, 2018 certified by the statutory auditor of the company which says "Intangible assets comprise of deferred tax asset. WDV of Computer Software reduced separately under sub point no (a) Fixed Assets".*
- *Since WDV of Computer Software Rs 15,19,315 is already reduced under in 'Fixed Assets', it is not considered again under Intangible assets.*
- *Difference in a & d are compensatory and net effect on net-worth of difference is Nil.*
- *We humbly request you to kindly consider above explanation.*

<u>b. Difference in Doubtful Debts & Advances Rs30,17,72,721</u>

- *We humbly submit that amount of doubtful debts of Rs 30,17,72,721 appears to be incorrect figure. Such amount does not exist in the books of accounts/ ageing analysis as on March 31, 2018.*
- *NSE official vide e-mail dated November 22, 2018 had informed its Inspection observations which indicated Doubtful Debts & Advances at Rs 15,71,36,279. We had submitted our explanation in writing to NSE on November 29, 2018 for consideration. It appears the same has not been considered by NSE.*

- *We humbly submit that the amount of doubtful debts & advances as calculated by NSE Inspection team is not correct on account of following reasons.*

<u>Provision for doubtful debts Rs 1,35,67,032 not considered by NSE Inspection Team</u>

- *In respect of very old outstanding debts we have already made provision for doubtful debts amounting to Rs 1,35,67,032 as on March 31, 2018. Party-wise details of provision for doubtful debts is as per Exhibit 18_Doubtful Debts'.*
- *Please note that Reserves & Surplus as on March 31, 2018 are already reduced by provision for doubtful debts of Rs 1, 35, 67,032. Therefore, specific debtors for which provision doubtful debts is already made, should not be considered again for arriving at doubtful amount.*
- *Unlike bad debts written of, entry for provision for doubtful debts is not made in specific debtor's ledger. However, P&L account gets debited by such provision for doubtful debts.*
- *Please note that recent clarification on Dr. L C Gupta Net Worth Computation (circular no: NSE/ COMP/ 47555 dated March 08, 2021) by NSE indicates that whenever a provision is created for doubtful / bad debts, net amount i.e. after reducing provision made for Doubtful Debts/ shall be considered. This support adjustments of provision for doubtful debts considered in net-worth certificate submitted by us.*
- *We humbly request you team to kindly consider above explanation.*

(i) <u>Margin in the form of securities not considered</u>

- *Inspection team has not considered margin in the form of securities while arriving at amount of doubtful debts. Please note that we cannot pass entry for securities received as margin in client's financial ledgers. Details of such margins appear in Securities Ledger of the clients. It appears Securities ledger of the clients giving details of margin available has not been considered by NSE inspection team.*

- *All top clients appearing in the list of doubtful debts shared by NSE are our active clients. They have given substantial amount of margin in the form of liquid securities.*
- *These clients take positions involving significant margin requirement. Our risk management team does not allow clients to take positions unless adequate margins in the form of cash-margin or securities- margin are given by the clients.*
- *Please refer to 'Exhibit 18_Doubtful Debts' for Party-wise details of Margin in the form of securities and our working of doubtful debts as on March 31, 2018.*
- *As a stock broker, we ensure that the company and our other clients do not financially suffer because of particular client or set of clients who take positions of considerably higher amounts. We are exposed to significant credit risk if any client who has taken huge position gets defaulted in payment. Therefore, in case of such high volume/ value clients, our first concern is to protect our capital as well interest of other clients. Therefore, we insist higher amount of margins from such clients. We believe stock exchange regulations allow us to take higher amount as margin than VAR/SPAN margin requirement.*
- *NSE inspection team has not considered margin held in the form of securities while arriving at doubtful debts.*
- *Review of 'Exhibit 18_Doubtful Debts' will indicate that total margin held by us is more than the total debit balance in client account in most of the cases including top debit client cases.*
- *We send margin statements to clients on daily basis (or whenever trade takes place) informing margin available including margins available in the form of securities, applicable haircut, margin utilized. Sample margins statements issued to clients are attached for ready reference. Margin indicated in 'Exhibit 18_Doubtful Debts' is reflected in margin statements sent to clients.*
- *Considering margins available in the form of securities, amounts are not doubtful, nor overdue.*
- *In addition to above, please note that we are within our rights to pledge shares and recover working capital blocked in debits of the clients.*

- *Out of total doubtful amount of Rs 15.62 crore (2570 cases) calculated by NSE inspection team, top 10 cases involve amount of Rs 14.01 crore outstanding for more than 90 days.*
- *Summary of margin available and amount of working capital realized by us in top 10 cases is as under:*

	Total Outstanding as on March 31, 2018	*More than 90 days*	*Margin Stock Available in securities ledger (Valuation Rate 28.03.2018)*	*Stock Pledged (Valuation Rate 28.03.2018)*	*Working Capital realised by pledging margin shares*	*Already Provided for as doubtful debt*
	Rs in Cr.					
Top 10 Clients	*20.56*	*14.01*	*43.45*	*38.25*	*19.12*	*0.81*
Other cases		*1.61*				
	Total	*15.62*				

- *Details of above are given in 'Exhibit 18_Doubtful Debts'*
- *Above summary table indicates that amount realized by pledging shares received (Rs 19.12.cr) is more than amount outstanding for more than 90 days (RS 14.01 Cr)*
- *We humbly request you to consider amount of securities margin available and amount realized by pledging margin shares, while deciding amount of doubtful/ overdue amount.*
- *We sincerely believe we have correctly reflected amount of doubtful amounts in Networth certificate.*

(ii) <u>c. Differences in 30% of Marketable securities Rs 60,63,067</u>

- *NSE inspection team has considered 30% of Securities held as Stock in Trade as on March 31, 2018 as non-allowable asset.*
- *In this regard, please note that BSE through its various notices has provided clarification to its members about L C Gupta networth format. Please refer to Notice No 20130604-25 dated June 4, 2013 which clearly says 'Securities held as stock-in-trade, are not to be considered at point no. (i) 30% marketable securities'. Copy of notice attached.*

- *There was no specific clarification from NSE in respect of L C Gupta format available then. Only recently in March 2018, NSE has come out with clarification in respect of L C Gupta format.*
- *We, being member of BSE & NSE, have considered clarification provided by BSE in respect of L C Gupta format and not considered stock in trade while arriving at 30% of Marketable Securities.*
- *You will appreciate that there can-not be two different net-worth amounts under same L C Gupta format (NSE being different from BSE). As member of both exchanges, we are entitled to use clarification provided by BSE since NSE has not come out with any specific clarification.*
- *We humbly request you to consider the spirit behind such clarification. Securities held as stock in trade are valued at cost or market value whichever is lower. Hence book values of stock in trade reflected in financial statements represent liquid assets available with the company. On the other hand, Investments are stated at cost (unless diminution in value is permanent). As such book value of Investments appearing in financial statement is historic and may not fully represent liquid asset for the company. Therefore, only Investments in securities are to be considered for 30% deduction.*
- *It should be noted that the company did not have any investments at any time during the year ended March 31, 2018.*
- *We humbly request NSE Inspection team to consider above explanation. Differences observed by NSE inspection team are on account of differences in interpretation.*
- *We humbly state that there are no deliberate efforts/ attempts on our part to misreport any figures in networth certificate. We reiterate that the independent statutory auditors have certified Networth Figures after careful examination of books of account, other documents and relevant facts considered necessary for net-worth certification. The same should be relied upon by the exchanges.*

Email dated October 19, 2021

a. NSE inspection team has considered 30% of Securities held as Stock in Trade as on March 31, 2018 as non-allowable asset.

b. In this regard, please note that BSE through its various notices has provided clarification to its members about L C Gupta networth format. Please refer to Notice No 20130604-25 dated June 4, 2013 which clearly says 'Securities held as stock-in-trade, are not to be considered at point no. (i) 30% marketable securities'. Copy of notice attached.

c. We, during personal hearing, drew attention to availability of clarification given by BSE vide above mentioned notice which was relied upon by us.

d. We explained about compensatory difference in fixed assets and intangible assets

e. We explained about doubtful amounts: Provision for doubtful debts not considered by NSE.

f. We explained about consideration of securities available as margin and appearing in daily margin statement issued to client as well as securities ledger of the client was considered by us while arriving at amount of doubtful debt.

Observations/Findings

3. Noticee in its reply has contended that NSE inspection officials had informed that Noticee had reported networth in excess of actual by Rs. 15.73 crore. The calculation provided by Noticee in this regard is as under:

Particulars	As per Net Worth submitted	As per TB/Balance sheet	Difference
	Amt. in Lacs (Rs)	Amt. in Lacs (Rs)	
Share Capital	17,00,00,000	17,00,00,000	0.00
Reserves & Surplus	-9,38,28,882	-9,38,28,882	0.00
Total	**7,61,71,118**	**7,61,71,118**	**0.00**
Fixed Assets	62,75,044	47,55,729	15,19,315
Pledge Securities	0.00	0.00	0.00
Member's Card	0.00	0.00	0.00
Non-allowable Securities (Unlisted Securities)	0.00	0.00	0.00
Bad Deliveries	0.00	0.00	0.00
Doubtful Debts & Advances	58,31,136	15,71,36,279	-15,13,05,143
Prepaid Expenses, losses	43,08,597	43,08,597	0.00
Intangible Assets	2,97,16,601	3,12,35,916	-15,19,315
30% of Marketable securities	0.00	60,63,067	-60,63,067
Net Worth	**3,00,39,740**	**-12,73,28,470**	**15,73,68,210**
% Difference			523.87

4. Noticee in its reply has contended that the difference was on account of fixed assets, Doubtful Debts and advances, 30% of marketable securities and Intangible assets.

5. W.r.t. difference observed in Fixed Assets & Intangible assets of Rs.15,19,315/- Noticee has contended that Written Down Value of Computer Software amounting to Rs. 15,19,315/- was reduced under in Fixed Assets, the same has not been considered under Intangible Assets. The said difference is compensatory in nature and has no effect on networth of difference. In this regard, I note that there has been no effect on the networth of Noticee regarding fixed assets and intangible assets. Accordingly, I am inclined to accept the contention of Noticee.

6. Noticee's in its reply has contended that NSE had shared the observation of inspection with Noticee which indicated Doubtful Debts & Advances at Rs. 15,71,36,279. In this regard, I note that Noticee has contended that the inspection team had not considered provision for doubtful debts amounting to Rs.1,35,67,032/- and margin in the form of securities. I also note that Noticee, in its reply, has

provided analysis w.r.t. aforesaid amount and has also submitted that as per recent clarification on networth Computation as per L.C Gupta Committee (circular no. NSE/COMP/47555 dated March 08, 2021) of NSE, whenever a provision is created for doubtful/bad debts, net amount i.e. after reducing provision made for Doubtful Debts/ shall be considered and this supports the adjustments of provision for doubtful debts considered in networth certificate submitted by them. I have perused "Exhibit 18", provided Noticee vide its letter dated September 02, 2022. I note that Noticee has provided ageing (more than 90 days) amounting to Rs. 15,62,02,653/- and other advances as Rs. 9,33,626/-. From the material available on record, I note that SEBI has also considered the debtors more than 90 days as Rs. 15,62,02,653/- and advance given to related parties as Rs. 9,33,626/-. In this regard, I note that the NSE circular referred by Noticee to explain its analysis for the amount of Rs.1,35,67,032/- is dated March 08, 2021, which is a prospective circular and would not apply in this case. Therefore, I am not inclined to accept the contention of Noticee.

7. Noticee has further contended that inspection team has not considered margin in the form of securities while arriving at amount of doubtful debts and that they cannot pass entry for securities received as margin in the client's financial ledger. Noticee has further contended that since margins are available in the form of securities, amounts are not doubtful and not overdue. Noticee has further stated that it is within their rights to pledge the shares and recover working capital blocked in debits of the clients. In this regard, I note that as per L.C. Gupta Committee method for computation of Net-worth, debts or advances overdue for more than three months are not allowed. Accordingly, even though I accept the contention that Noticee was holding securities of clients for margin purpose, I note that the same is not permissible as per L.C. Gupta Committee report. In view of the above, I am not inclined to accept the contention of Noticee.

8. Noticee has contended that the inspection team had not considered 30% of securities held as Stock in Trade as on March 31, 2018. Noticee has further contended that it was calculating networth as per the clarification provided by BSE vide its Notice no. 20130604-25 dated June 04, 2013. I note that as per the said notice of BSE, "securities held as stock-in trade, are not to be considered at point no. (i) 30% marketable securities. In this regard, I note that BSE vide its notice no. 20180424-36 dated April 24, 2018, has requested trading members to submit the networth certificate & computation of networth as on March 31, 2018 latest by May

31, 2018. On perusal of the aforesaid Notice, I note that 30% of securities held as Stock in trade are not allowed while computing networth as on March 31, 2018. In view of the same, I am not inclined to accept the contention of Noticee.

9. In view of the foregoing, I find that Noticee has submitted an incorrect figure of networth as on March 31, 2018. Therefore, I find that allegation leveled against Noticee that it has violated Clause 6.1.1(j) of Annexure to Enhanced Supervision Circular read with Rule 33 of Chapter-III of the Rules of NSE and NSE Circular no. NSE/MEMB/2739 dated July 30, 2001 stands established.

I. Risk Based supervision data

Allegation in the SCN

1. *During* the course of inspection, the Risk Based Supervision (RBS) data submitted by Noticee to the exchange for the period ended March 31, 2018 was verified and it was observed that Noticee has wrongly submitted the data for total number of debit balance clients, value of collaterals from the debit balance clients and brokerage income for the financial year 2017-18 to the exchange. The details of the same is given below:

Data Uploaded In RBS Submission For March 2018:-	**Data uploaded**	**As per records**	**Difference**
1) Debit Balance of all clients	45,82,52,545	48,26,59,337	(2,44,06,792)
2) Value of collaterals from the debit balance clients.	1,47,86,98,731	1,49,31,08,841	(1,44,10,110)
3) Brokerage income	11,04,12,237	11,11,82,135	(7,69,898)

2. *Therefore*, it is alleged that Noticee is in violation of Clause 6.1.1.e of Annexure to Enhanced Supervision Circular

Reply of Noticee:

Area	*Findings of Inspection*	*Reply of Stock Broker*
I. Risk Based Supervision data verification	*Data submitted was not correct* *1. Debit balance of all clients* *2. Value of collaterals from the debit balance clients* *3. Brokerage Income*	*We humbly submit that we have correctly reported the RBS details.* *In the absence of specific details of amount considered by the Exchange under various heads, we are not able to comment on the differences pointed out.* ***Debtors: Difference of Rs 2.44 Cr*** *It appears inspection team has considered Proprietary Account balance Rs 2.02 Cr as debtors. The same is reflected as Stock In Trade in BS and not as debtors.* ***Brokerage: Difference of Rs 7.69 lakhs*** *Difference could be on account of accrual of brokerage which was done at the time of audit finalization. At the time of reporting brokerage accrual was not done.*

3. *Exhibit 19 – details of debit balance as on 31.03.2018 and the value of collaterals from the debit* ***balance*** *clients*

Observations/Findings

4. It has been alleged that Noticee had incorrectly reported monthly upload of clients' securities balance for Enhanced Supervision and the data towards weekly monitoring of clients' funds to the NSE for total number of debit balance clients, value of collaterals from the debit balance clients and brokerage *income* for the financial year 2017-18 to the exchange for the period March 31, 2018, thereby violating Clause 6.1.1(e) of Annexure to Enhanced Supervision. At this juncture, I find it pertinent to refer to the provision of Clause 6.1.1(e) of Annexure to Enhanced Supervision Circular which is reproduced below:

   6.1.1. Monitoring criteria for Stock Brokers:
   (e)Failure to submit data for the half yearly Risk Based Supervision within the time specified by Stock Exchange.

5. I note that the aforesaid clause deals with submission of Risk Based Supervision data on half yearly basis with the Stock Exchange i.e. BSE and NSE. I note that Noticee has submitted the Risk Based Supervision Data to Exchanges. Therefore, Noticee cannot be charged under the aforesaid clause and the aforesaid clause is not applicable under the facts and circumstances of this case.

6. In this regard, I find it pertinent to refer to Clause 6.1.1.j of Annexure to Enhanced Supervision Circular which is given hereunder:

   "*6.1.1. "Monitoring criteria for Stock Brokers:*

   ……..

   j. In case stock broker shares incomplete/wrong data or fails to submit data on time"

7. In the above facts and circumstances, I find that the applicable charging provision would be Clause 6.1.1.j of Annexure to Enhanced Supervision Circular. Hence, I find that Clause 6.1.1(e) of Annexure to Enhanced Supervision Circular is not applicable to facts and circumstances involved in the aforementioned allegation.

8. In view of the foregoing, I am inclined to drop the said allegation without going into its merits.

J. Terminal Related Requirement

Allegation in the SCN

1. *During the course of inspection, Computer to Computer Link terminal (**CTCL/terminal**) allocated to Noticee as on October 12, 2018 was verified to ascertain whether there was any deviation as per Exchange records and Noticee records. It was observed as under: -*
   - *a. There were twenty-four (24) instances in which Terminals were found in Neat on Web (**NOW**) report/ Open Dealer Integrated Network (**ODIN**) report but the same was not in Exchange records. The details of the same is given as **Annexure- 16.***
   - *b. There were three (3) instances where mismatch in Login ID was observed as per CTCL terminal id vis.a. vis. User ID as per Exchange records. The details of the same is given as **Annexure-17.***
   - *c. There were twenty (20) instances (details as per **Annexure- 18**), wherein Terminals details were found in Exchange records but the same were not observed in Member records.*
   - *d. In twenty (20) instances (details as per **Annexure-19**), single user was allotted multiple login ID.*

2. *In view of the foregoing, it is alleged that Noticee is in violation of Clause A (5) of Schedule II read with Regulation 9(f) of SEBI (Stock Brokers) Regulations, 1992*

and NSE circulars no. NSE/MEMB/3574 dated August 29, 2002, NSE/MEMB/3635 dated September 25, 2002 and NSE/MA/22732 dated February 13, 2013.

Reply of Noticee:

3. ***Terminal not found in Now Report/ODIN but not in Exchange records***

   a. *Information about closing above IDs was informed to Exchange long back.*
   b. *According to us, these IDs were closed at the exchange level. Inadvertently they remained to be disabled in NOW/ ODIN.*
   c. *We confirm that we have not carried any trades from these IDS.*
   d. *We have now deactivated these IDS from NOW/ ODIN as well.*

4. **Mismatch in Login ID**

   a. *We believe there is typo error in first case. ID 1101JK牋 is not appearing in exchange records. Infect no mismatch found in Exchange v/s NOW admin.*
   b. *We confirm that USER IDs ADMIN2 and BORV were admin IDs and not dealer IDs*
   c. *For ADMIN 2, We have now changed CTCL ID to 400021013008,*
   d. *For BORV, We have now changed CTCL ID to 400092098008*
   e. *Inadvertent error is regretted. We humbly request you to pardon*.

5. **Terminals found in Exchange records but not in Member records**
   a. *We confirm that above IDs were Admin IDs, details of which were informed to exchange, hence appearing in exchange records. How-ever we inadvertently forgot to map CTCL IDs in NOW/ ODIN. Now we have mapped CTCL ID to login IDS.*
   b. *……..*

6. ***Multiple Login IDs allotted to single dealer in respective segment***
   a. *Out of 42 cases indicated above, 4 User IDs involved duplication. We have deactivated these IDs on NOW as well as on ENIT.*
   b. *Rest of the cases do not need correction as same person is acting in the capacity of dealer as well admin for cash and F&O cases. As such 4 users IDs are mapped to same person. (2 as admin and 2 as dealer in 2 segments). For Example: User Sanjay Pandya, Umesh Tibrewal, Gopal Bansal, Jasmin Joshi, Ganesh Gargote, Dhaval Patel, Riddhi Shah*

c. ……:

Observations/Findings

7. W.r.t. allegation regarding terminal found in NOW report/ ODIN in 24 instances, Noticee has submitted that these were closed at the exchange level and inadvertently they remained to be disabled in NOW/ODIN. Thus, from the submission of Noticee, I note that Noticee has accepted the allegation levelled against it.

8. W.r.t. allegation regarding mismatch in Login ID, from the documents available on record, I note that there has been no mismatch w.r.t. USERID 1101JK. W.r.t. other 2 instances, I note that Noticee in its submission has stated that the same has been happened inadvertently. In view of Noticee's own admission, I find that allegation levelled against Noticee stands established.

9. W.r.t. allegation regarding terminals found in exchange records but not in member records in 20 instances, I note that Noticee in its reply has submitted that inadvertently they forgot to map CTCLIDs in Now/ODIN. Noticee has further stated that they had now rectified the said deficiency. In view of Noticee's own admission, I find that the allegation levelled against Noticee stands established.

10. W.r.t. allegation regarding single users were allotted multiple login ID, I note that Noticee in its reply has stated that 4 User IDs involved duplication and they had deactivated these IDs on NOW as well as on ENIT. Noticee has further contended that the same person was acting in the capacity of dealer as well Admin for cash & F&O cases. In this regard, I note that a single person cannot act in the capacity of dealer as well as Admin at the same time and one single person should be allotted a single User ID. Therefore, I am not inclined to accept the contention of Noticee that same person was acting in the capacity of dealer as well as admin.

11. In view of the foregoing, I find that allegation levelled against Noticee that it has violated Clause A (5) of Schedule II read with Regulation 9(f) of SEBI (Stock Brokers) Regulations, 1992 and NSE circulars no. NSE/MEMB/3574 dated August 29, 2002, NSE/MEMB/3635 dated September 25, 2002 and NSE/MA/22732 dated February 13, 2013, stands established.

Issue No. II: Do the violations, if any, attract monetary penalty under Section 23D of SCRA and Section 15HB of SEBI Act

11. It has been established in the foregoing paragraphs that Noticee has violated the following provisions: -
    i. Section 23D of SCRA read with Clause 1 of Annexure to Transaction Regulation Circular read with Clause 3 of Annexure to Enhanced Supervision Circular;
    ii. Clause 3.2 of Annexure to Enhanced Supervision Circular;
    iii. Clause 1.2 of Annexure to Enhanced Supervision Circular;
    iv. Section 23D of SCRA read with Transaction Regulation Circular read with Clause 2.5 of Annexure to Enhanced Supervision Circular;
    v. SEBI Circular dated December 03, 2009 read with Clause 8.1 of Annexure to Enhanced Supervision Circular;
    vi. Clause 2.6 of Annexure to Enhanced Supervision Circular read with Clause 2(d) of SEBI circular CIR/HO/MIRSD/ MIRSD2/CIR/P/2017/64 dated June 22, 2017;
    vii. SEBI circular CIR/MIRSD/16/2011 dated August 22, 2011;
    viii. SEBI circular CIR/MIRSD/120/2016 dated November 10, 2016 read with SEBI circular no. CIR/MIRSD/66/2016 dated July 21, 2016;
    ix. Clause 1 of SEBI Circular no. MIRSD/Cir-26/2011 dated December 23, 2011 read with SEBI circular no. MIRSD/Cir-23/2011 dated December 2, 2011 and SEBI circular MIRSD/Cir-5/2012 dated April 13, 2012;
    x. Clause 2(B) of SEBI Circular CIR/MIRSD/15/2011 dated August 02, 2011;
    xi. Clause 2(B) of SEBI Circular CIR/MIRSD/15/2011 dated August 02, 2011 read with NSE circular NSE/INSP/27368 dated August 18, 2014;
    xii. Clause A(5) of Schedule II read with Regulation 9(f) of Broker Regulation and NSE Circular NSE/INVG/28739 dated January 30, 2015;
    xiii. Clause 2.II.ii of SEBI Circular CIR/MRD/DSA/01/2016 dated January 01, 2016;
    xiv. Clause A (5) of Schedule II read with Regulation 9(f) of Broker Regulation and NSE circular no. NSE/MEMB/3574 dated August 29, 2002, NSE/MEMB/3635 dated September 25, 2002 and NSE/MA/22732 dated February 13, 2002; and
    xv. Clause 6.1.1(j) of Annexure to Enhanced Supervision Circular read with Rule 33 of Chapter III of the Rules of NSEIL and NSE circular NSE/MEMB/2739 dated July 30, 2001.

12. Noticee, in its submissions has submitted that every little deficiency or technical violation noticed during the course of the inspection is not culpable and does not call for penalty. To support its contention, Noticee has quoted the judgment of Hon'ble

Securities Appellate Tribunal ("SAT") in the matters of UPSE Securities Ltd. v/s SEBI (Appeal No. 109 of 2011), DSE Financial Services Ltd. v/s SEBI (Appeal No.153 of 2012).Noticee has contended that aforesaid order of SAT have been positively considered in the several SEBI Adjudication order the said order has Noticee has also placed reliance on the judgment of Adjudication Order No. EAD/ AO-NP/ JR/ 39 /2017 dated May 22, 2017 in the matter of IFCI Financial Services Limited and Adjudication Order No. EAD-12/ AO/SM/191 /2017-18 dated February 26, 2018 in the matter of Marfatia Stock Broking Private Limited, etc. However, I note that the facts of the above cases are different from the facts of the present proceedings and therefore, not relevant.

13. Noticee in its reply has also placed reliance on the Adjudication Order in the matter of AC Agarwal Share Brokers Private Limited, dated April 09, 2019 where in Adjudication Officer while disposing of show cause notice has mentioned that penal charges should be leveled for violation of specific legal obligations and the charges should not be based on merely, probalising or endeavoring to prove the allegation. [Padola Veera Reddy Vs. State of Andhra Pradesh AIR 1990 SC 79; Sterlite Industries Vs. SEBI (2001) 34 SCN 485 (SAT)]. It is also the settled position that there must be convincing preponderance of probability to support the allegation for invoking penalty provisions. In this regard, I note that the said order has been reviewed by SEBI and Whole Time Member of SEBI has imposed a monetary penalty on AC Agarwal Share Brokers Private Limited. Therefore, I am not inclined to accept this contention of Noticee.

14. In context of the above, I refer to the observations of Hon'ble Supreme Court in the matter of Chairman, SEBI vs. Shriram Mutual Fund {[2006] 5 SCC 361} wherein the Hon'ble Court had observed: *"In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established……… .".*

15. Therefore, in view of the violations as established and placing reliance on the aforesaid judgment, I find that monetary penalty would be attracted under:
    a) <u>Section 23D of SCRA</u> for the alleged violations of Section 23D of SCRA read with Transaction Regulation Circular read with Clauses 2.5 and 3 of Annexure to Enhanced Supervision Circular and
    b) <u>Section 15HB of SEBI Act</u> for the alleged violations of Clause 3.2 of Annexure to Enhanced Supervision Circular, Clause1.2 of Annexure to Enhanced Supervision Circular, SEBI Circular dated December 03, 2009 read with Clause 8.1 of Annexure to Enhanced Supervision Circular, Clause 2.6 of Annexure to

Enhanced Supervision Circular read with Clause 2(d) SEBI circular CIR /HO/ MIRSD/ MIRSD2 /CIR /P/2017/64 dated June 22, 2017, SEBI circular CIR/ MIRSD/16/2011 dated August 22, 2011, SEBI circular CIR/MIRSD/120/2016 dated November 10, 2016 read with SEBI circular no. CIR/MIRSD/66/2016 dated July 21, 2016, Clause 1 of SEBI Circular no. MIRSD/Cir-26/2011 dated December 23, 2011 read with SEBI circular no. MIRSD/Cir-23/2011 dated December 2, 2011 and SEBI circular MIRSD/Cir-5/2012 dated April 13, 2012; Clause 2(B) of SEBI Circular CIR/MIRSD/15/2011 dated August 02, 2011;Clause 2(B) of SEBI Circular CIR/MIRSD/15/2011 dated August 02, 2011 read with NSE circular NSE/INSP/27368 dated August 18, 2014;Clause A(5) of Schedule II read with Regulation 9(f) of Broker Regulation and NSE Circular NSE/INVG/28739 dated January 30, 2015;Clause 2.II.ii of SEBI Circular CIR/MRD/DSA/01/2016 dated January 01, 2016;Clause A (5) of Schedule II read with Regulation 9(f) of Broker Regulation and NSE circular no. NSE/MEMB/3574 dated August 29, 2002, NSE/MEMB/3635 dated September 25,2002 and NSE/MA/22732 dated February 13, 2013; and Clause 6.1.1(j) of Annexure to Enhanced Supervision Circular read with Rule 33 of Chapter III of the Rules of NSEIL and NSE circular NSE/MEMB/2739 dated July 30, 2001.

16. The texts of Section 23D of SCRA and Section 15HB of SEBI Act are reproduced as under:

Section 23 D of SCRA- *Penalty for failure to segregate securities or moneys of client or clients**:** If any person, who is registered under Section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) as a stock broker or sub-broker, fails to segregate securities or moneys of the client or clients or uses the securities or moneys of a client or clients for self or for any other client, he shall be [liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.*

Section 15HB of SEBI Act: - *Penalty for contravention where no separate penalty has been provided: Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.*

Issue No. III: If the answer to issue no. II is in affirmative, then what should be the quantum of monetary penalty?

17. While determining the quantum of penalty under Section 23D of SCRA and Section 15HB of the SEBI Act factors stipulated in Section 23J of SCRA and Section 15J of the SEBI Act have to be given due regard:

Factors to be taken into account by adjudicating officer under SCRA

23J. *While adjudging the quantum of penalty under Section 23-I, the adjudicating officer shall have due regard to the following factors, namely: —*

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.

Explanation-For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under sections 23A to 23C shall be and shall always be deemed to have exercised under the provisions of this section.

Factors to be taken into account by the adjudicating officer under SEBI Act

15J. *While adjudging quantum of penalty under Section 15-I, the adjudicating officer shall have due regard to the following factors, namely: -*

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default

Explanation. —For the removal of doubts, it is clarified that the power of an adjudicating officer *to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section*

18. In the present matter, it is noted that no quantifiable figures are available to assess the disproportionate gain or unfair advantage made as a result of the defaults by Noticee. Further, from the material available on record, it may not be possible to ascertain the

exact monetary loss to the investors /clients on account of default by Noticee. As regards the repetitive nature of the default, I do not find the Inspection having brought on record any regulatory action taken by SEBI in past against Noticee for same violations as those observed in the instant inspection. I also observe that there are no investor complaints on record, arising out of failure on the part of Noticee.

19. However, I cannot ignore the fact that as a SEBI registered Intermediary, Noticee was under a statutory obligation to abide by the provisions of the SCRA, SEBI Act, Rules and Regulations and Circulars/directions issued thereunder etc., which it failed to do. Such disregard for the provisions of law governing the functioning of intermediaries calls for an appropriate penalty which should act as a deterrent.

ORDER

20. Having considered all the facts and circumstances of the case, the material available on record as well as the factors mentioned in Section 23J of SCRA and Section 15J of SEBI Act, I, in exercise of the powers conferred upon me under Section 23-I of the SCRA and Section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules, hereby impose the following penalty on Noticee, viz. M/s. FRR Shares and Securities Limited

Sr. No.	**Penalty**	**Under the provisions of**
1	3,00,000(Rupees Three Lakhs only)	Section 23D of SCRA
2	2,00,000 (Rupees Two Lakhs only)	Section 15HB of SEBI Act
Total	**Rs. 5,00,000(Rupees Five Lakhs only)**	

I am of the view that the said penalty is commensurate with the violations committed by Noticee.

21. Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favour of “SEBI - Penalties Remittable to Government of India”, payable at Mumbai, OR through online payment facility available on the SEBI website www.sebi.gov.in on the following path, by clicking on the payment link:

ENFORCEMENT -> Orders -> Orders of AO -> PAY NOW.

In case of any difficulties in payment of penalties, Noticee may contact the support at portalhelp@sebi.gov.in

22. Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid to the Enforcement Department – Division of Regulatory Action – III of SEBI. Noticee shall provide the following details while forwarding DD/ payment information:

    i. Name and PAN of the entity (Noticee)
    ii. Name of the case / matter
    iii. Purpose of Payment – Payment of penalty under AO proceedings
    iv. Bank Name and Account Number
    v. Transaction Number

23. In the event of failure to pay the said amount of penalty by Noticee within 45 days of the receipt of this Order, recovery proceedings may be initiated against Noticee under Section 28A of the SEBI Act for realization of the said amount of penalty along with interest thereon, inter alia, by attachment and sale of movable and immovable properties.

24. In terms of the provisions of Rule 6 of Adjudication Rules, copy of this order is being sent to Noticee viz. M/s. FRR Shares and Securities Limited and also to SEBI.

Date: June 23, 2022 **SOMA MAJUMDER**
Place: Mumbai **Adjudicating Officer**