BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/AN/PR/2024-25/30920]

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

In respect of:

SMC Global Securities Limited

PAN: AACS0581R

SEBI Registration No. INZ000199438

In the matter of inspection of SMC Global Securities Limited.

A. BRIEF BACKGROUND

1. Securities and Exchange Board of India ('SEBI') conducted a thematic joint inspection of SMC Global Securities Limited (Noticee'/ 'SMC / 'entity'/ 'Broker'/ 'Stock Broker'/ 'TM') for the period April 1, 2022 to May 31, 2023 (hereinafter referred to as "Inspection Period"). The themes for the inspection inter alia were regarding Quarterly settlement of client accounts; UCC verification - whether multiple clients are having common email IDs/mobile nos; use of client bank account for the purposes other than specified; margin collection & reporting; terminal verification & certifications and control system over branches/Aps; fund based activities of the broker i.e. whether the broker is engaged as a principal in a business other than that of securities involving personal financial liability; and examination of complaints relating to unauthorized trading / misuse of client funds, securities/non-settlement of accounts / arbitration matters.

2. Pursuant to the inspection, the findings of the inspection were communicated to the entity vide letter dated August 31, 2023. The entity submitted its reply to SEBI vide its letter dated September 18, 2023. Thereafter, SEBI conducted Post Inspection Analysis (PIA) in the matter.

3. Pursuant to the PIA, SEBI inter alia observed and alleged the violation of the following provisions in respect of the Noticee:

   3.1. Clause 33.2 of SEBI Master Circular SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023 ('SEBI Master Circular');

   3.2. Clause 23.1.3 and 23.1.4 of SEBI Master Circular SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023

4. In view thereof, SEBI initiated Adjudication Proceedings in respect of Noticee under Section 15 I of the Securities and Exchange Board of India Act, 1992 ('SEBI Act, 1992', in short), for the alleged violation of aforesaid provisions.

B. APPOINTMENT OF ADJUDICATING OFFICER

5. Whereas, the Competent Authority was prima facie of the view that there were sufficient grounds to adjudicate upon the alleged violation by the Noticee, as stated above and therefore, in exercise of the powers conferred under Section 19 of the SEBI Act, 1992 read with Section 15I (1) of the SEBI Act, 1992 and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 ('Adjudication Rules'), the Competent Authority appointed the undersigned as Adjudicating Officer ('AO') vide order dated April 16, 2024 to inquire into and adjudge under Section 15HB of the SEBI Act, 1992 for the alleged violation by the Noticee. The said proceedings of appointment were communicated to the undersigned vide Communique dated April 19, 2024.

C. SHOW CAUSE NOTICE, REPLY and HEARING

6. A Show Cause Notice bearing No. *SEBI/HO/EAD/EAD5/P/OW/2024/15353/1* dated April 26, 2022 ('SCN', in short) was issued to the Noticee by in terms of Rule 4 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 to show cause as to why inquiry should not be held and penalty should not be imposed under Section 15HB of the SEBI Act, for the aforesaid alleged violations.

7. The allegations in respect of the Noticee inter alia brought out in the SCNs are as under:

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4. Findings and observations by SEBI and alleged violation thereto in respect of the Noticee:

4.1. Finding regarding UCC Verification:

In this regard, following is inter alia observed and/or alleged by SEBI:

Email IDs and Mobile numbers of active clients in member Back Office were verified by SEBI with Exchange's UCC records and following discrepancies had been observed by SEBI in the findings of inspection:

4.1.1. Irregularity in Email Id and Mobile number as per Member Back Office Database and Exchanges UCC records-

Exchange	Email ID	Mobile number
NCDEX	11	7
NSE	232	340
BSE	249	236
MCX	54	42

4.1.1.1. In this regard, SEBI observed that:

i. For NCDEX, 11 Email IDs and 7 Mobile numbers as per Member's back office database were found to be inconsistent with the exchange's UCC records (Annexure 5)

ii. For NSE, details of 232 Email IDs and 340 Mobile numbers as per Member's back office database were found to be inconsistent with the exchange's UCC records out of which Email IDs of 10 clients and Mobile numbers of 39 clients were not available in the member's back office database although same were reflected in exchange record (Annexure 6).

iii. For BSE, details of 249 Email IDs and 236 Mobile numbers as per Member's back office database were found to be inconsistent with the exchange's UCC records out of which Email IDs of 1 client and Mobile numbers of 10 clients were not available in the member's back office database although same were reflected in exchange record (Annexure 7).

iv. For MCX, 54 Email IDs and 42 Mobile numbers as per Member's back office database were found to be inconsistent with the exchange's UCC records out of which Email IDs of 2 clients and Mobile numbers of 2 clients were not available in the member's back office database although same were reflected in exchange record (Annexure 8).

4.1.1.2. Vide letter dated September 18, 2023, SMC submitted its reply to the findings of observation. In this regard, SEBI inter alia observed that stock broker had not submitted any evidence substantiating any of the replies submitted. Hence, stock broker's replies in this regard were not acceptable by SEBI. Further, it was observed by SEBI that with respect to mobile number mismatch in NSE in 24 instances and in BSE in 9 instances, broker had submitted that they belong to NRI clients where difference was of ISD code only and no difference in contact number, however on verification by SEBI observed that the difference was majorly due to addition of 0 in the end of contact number in member's back office records/ exchange records in few instances and addition of ISD Code in exchange records/ back office records in few instances. However, addition of numbers at the end of mobile numbers was not appropriate. Thus, broker's reply in this regard was not acceptable to SEBI.

4.1.2. Single email id mapped to multiple clients:

Exchange	No of Email IDs	Mapped to No. of clients
NCDEX	1	2
NSE	102	221
BSE	176	384
MCX	8	16

Single mobile number mapped to multiple clients:

Exchange	No of Mobile numbers	Mapped to No. of clients
NCDEX	1	2
NSE	49	104
BSE	53	122
MCX	8	16

4.1.2.1. In this regard, SEBI observed that:

i. For NCDEX, 1 common Email ID was mapped to 2 clients and 1 common Mobile number was mapped to 2 clients (Annexure 9).

ii. For NSE, 102 common Email IDs was mapped to 221 clients and 49 common Mobile numbers was mapped to 104 clients (Annexure 10).
iii. For BSE, 176 common Email IDs was mapped to 384 clients and 53 common Mobile numbers was mapped to 122 clients (Annexure 11)
iv. For MCX, 8 common Email IDs was mapped to 16 clients and 8 common Mobile numbers was mapped to 16 clients (Annexure 12).

4.1.2.2. Vide letter dated September 18, 2023, SMC submitted its reply to the findings of observation. In this regard, SEBI inter alia observed that stock broker has not submitted any evidence substantiating the replies submitted. Hence, stock broker's replies in this regard were not acceptable to SEBI.

In view thereof, it is alleged that Noticee had violated provisions of Clause 33.2 of SEBI Master Circular SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023.

4.2. Finding regarding use of client bank account for only the purposes specified: Stock Broker had used client bank accounts for payment/ receipts to/ from multiple authorized persons. (Receipts amounting to Rs. 36,61,304 in 169 instances and Payments amounting to Rs. 8,11,77,471 in 1262 instances from 01.01.2023 to 31.05.2023)

In this regard, following is inter alia observed and/or alleged by SEBI:

4.2.1. On verification of Client Bank of TM, it was observed by SEBI in its findings of inspection that Member had used Client bank for purposes other than specified during the Inspection period. TM had used client bank accounts for payment/ receipts to/ from multiple authorized persons (Annexure 13).

4.2.2. Vide letter dated September 18, 2023, SMC submitted its reply to the findings of observation. In this regard, it was observed by SEBI that Broker had submitted that the payments/ receipts to/from authorised persons through client bank account was due to part of brokerage being shared with Exchange registered Authorized Persons only against introduction of client and that there were no clear guidelines. However, SEBI observed that clause 1(C) and 1(D) of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 clearly specifies the amounts to be paid into and withdrawn from client's bank account. Thus, SEBI observed that broker's contention was not valid.

In view thereof, it is alleged that Noticee had violated provisions of Clauses 23.1.3 and 23.1.4 of SEBI Master Circular SEBI/ HO/MIRSD/MIRSD-PoD-1/P/ CIR/2023/71 dated May 17, 2023.

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8. Vide email dated May 10, 2024, the Noticee sought time to submit its reply to the SCN. In this regard, vide email dated May 13, 2024, Noticee was advised to submit its reply to the SCN latest by May 20, 2024. Thereafter, vide email dated May 20, 2024, Noticee again sought time to submit reply to the SCN. Considering the request of the Noticee, as final opportunity in this regard, Noticee was advised to submit its reply to the SCN latest by May 27, 2024.

9. Having regard to Principles of Natural Justice, vide Hearing Notice dated May 22, 2024, the Noticee was provided with an opportunity of personal hearing on June 04, 2024. Vide email dated May 24, 2024, Noticee acknowledged the receipt of Hearing Notice. Vide email and letter dated May 27, 2024, Noticee submitted its reply to the SCN. Vide email dated May 29, 2024, Noticee requested to reschedule the hearing. Having regard to the request of the Noticee, the hearing was rescheduled to June 05, 2024.

10. The Noticee availed the opportunity of hearing through online mode i.e. Webex on the scheduled date i.e. on June 05, 2024 through its Authorised representatives ('ARs') viz., Mr. Ashok K Aggarwal (compliance officer of

Noticee), Mr. Ranjit Parmar (VP-Compliance of Noticee), Mr. Nishant Agarwal (AVP-KYC of Noticee) and Mr. Rakesh Gupta (Authorised person). During the hearing, inter alia the ARs relied upon and reiterated the submissions made by Noticee vide its email and letter dated May 27, 2024. The ARs submitted that the Noticee had no further submissions to make and the letter dated May 27, 2024 be taken as complete and final submissions as regards the instant proceedings.

11. The key submissions made by Noticee vide its email and letter dated May 27, 2024 as reply to the SCN, are as under:

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5. Para wise reply to the findings and observations by SEBI

5.1 Findings regarding UCC Verifications, in para 4.1.1 of SCN it is observed by the inspection team that there is mismatch in member back office mobile and email id in comparison with exchange back office records which is as under :-

Exchange	Email ID	Mobile No
NCDEX	11	7
NSE	233	340
BSE	249	235
MCX	54	42

Now with regard to client wise UCC mismatch observation, please find below the following exchange wise explanation:-

NCDEX

With regard to the aforesaid observation in respect of NCDEX exchange it is respectfully submitted that we are having total 31596 number of clients and only in 18 instances, inspection team observed mismatch.

Please find attached the Annexure 1 duly depicting the reason for mismatch in emailid along with evidence of the same as exhibit (Can be searched using UCC) mentioned in the attached annexure.

From the perusal of the said annexure you will observed that the following

Reason for Mismatch	No. of clients
Changes are made during the year 2023 itself. Apparently data of different date is compared	4
Data entry error, rectified later	5
Delay in data updation due to software error	2

From the aforesaid table you will appreciate that out of 11 instances observed in case of emailid, in 4 (four) cases the email id modification letter is received. (Proof the same attached as exhibits). In 5 cases there is typographical error which had been rectified immediately after inspection observation and in 2 cases there in delay in updating the details in exchange UCC record which might be due to back office software technical glitch.

From the aforesaid you will appreciate that only in 7 instances of email, unintentional error is found on our part which is 0.02 % as compared to total no of clients in NCDEX exchange in case of emailid. You will further appreciate that no investor complaint had been received by us in respect of non-receipt of any communications or contact notes.

With respect to mismatch in Mobile no in NCDEX, please find attached the annexure 1 duly depicting the reason for mismatch along with evidence of the same as exhibit (Can be searched using UCC) mentioned in the attached annexure.

From the perusal of the said annexure you will observed that the following

Reason for Mismatch	No. of clients
Changes are made during the year 2023 itself. Apparently data of different date is compared	5
Delay in data entry due to software error	2
Total	7

From the aforesaid table you will appreciate that out of 7 instances observed in case of mobile, in 5 (five) cases the mobile no modification letter is received. (Proof the same attached as exhibits). In

2 cases there in delay in updating the details in exchange UCC record which might be due to back-office software bug.

From the aforesaid you will appreciate that only in 2 instances of e-mail, unintentional error is found on our part which is 0.001% as compared to total no of clients in NCDEX exchange in case of mobile no.

You will further appreciate that no investor complaint had been received by us in respect of non-receipt of any communications or confirmations.

NSE
With regard to the aforesaid observation in respect of NSE exchange it is respectfully submitted that we are having total 158147 number of clients and only 572 instances, inspection team observed mismatch.
Please find attached the Annexure 2 duly depicting the reason for mismatch in emailid along with evidence of the same as exhibit (Can be searched using UCC) mentioned in the attached annexure.
From the perusal of the said annexure you will observed that the following

Reason form mismatch	***Nos of client***
Changes are made during the year 2023 itself. Apparently data of different date is compared	*178*
Data entry error rectified later	*21*
Data missed in file given to inspection team	*10*
Delay in data updation due to software error	*23*
Total	*232*

From the aforesaid table you will appreciate that out of 232 instances observed in case of emailid, in 178 cases the email id modification letter is received. (Proof the same attached as exhibits). In 21 cases there is typographical error which had been rectified immediately after inspection observation and in 23 cases there in delay in updating the details in exchange UCC record which might be due to back-office software bug.
Further in respect of 10 cases, wherein blank/null had been reported to the inspection team at the time of providing the data, the same might have happened due to technical glitch. In those case we are provided you the emailid log of those client duly depicting the emailid as per exchange UCC data.
From the aforesaid you will appreciate that only in 44 instances of email id, unintentional error is found on our part which is 0.028 % as compared to total no of clients in NSE exchange in case of emailid.
You will further appreciate that no investor complaint had been received by us in respect of non-receipt of any communications or contact notes.

With respect t to mismatch in Mobile no in NSE, please find attached the annexure 2 duly depicting the reason for mismatch along with evidence of the same as exhibit (Can be searched using UCC) mentioned in the attached annexure.
From the perusal of the said annexure you will observed that the following:

Reason for Mismatch	***No. of clients***
Changes are made during the year 2023 itself. Apparently data of different date is compared	*273*
Data missed in file given to inspection team	*38*
Delay in updation due to software error	*2*
Institutional client (Since ins	*1*
NRI Account, difference is due to STD Code (61)	*1*
NRI Account, difference is due to STD Code (65)	*1*
NRI Account, difference is due to STD Code (965)	*2*
NRI Account, one additional zero entered due to data entry	*2*
NRI Client, Additional Zero is used in back office to make it complete 10 digit	*18*
NRI Client, Data entry error (ISD Code entered after phone number)	*1*
NRI Client, difference due to ISD code	*1*
Grand Total	***340***

From the aforesaid table you will appreciate that out of 340 instances observed in case of email id, in 273 cases the mobile no modification letter is received. (Proof the same attached as exhibits). In 1 case there is typographical error which had been rectified immediately after inspection observation and in 2 cases there in delay in updating the details in exchange UCC record which might be due to back- office software bug.

Further in respect of 38 cases, wherein blank/null had been reported to the inspection team at the time of providing the data, the same might have happened due to data formatting error. In those cases we are providing you the SMS log of those clients duly depicting the mobile no. as per exchange UCC data. (SMS log will not be available for NRI clients having ISD no.)

From the aforesaid you will appreciate that only in 2 instances of mobile no, unintentional error is found on our part which is 0.028 % as compared to total no of clients in NSE exchange in case of mobile.
It is further submitted that in our back-office software there is a mandatory provision of 10 digit for capturing mobile number of clients and have separate field for ISD code. Your good self will appreciate that in some countries such as UAE where mobile number is less than 10 digits, in such cases we have to add additional digit(s) so that back-office software accepts the mobile number. We further submit that adding digit at the end does not make the mobile number invalid. However, Exchange UCC portal accept mobile number even if the digits are less than 10 excluding ISD code. Therefore, in Exchange UCC portal we feed the actual number of digits of client mobile number.
You will appreciate that to NSE clients, only email confirmation is sent by NSE as well brokers. Since bulk SMS sending facility is not meant for the ISD mobile number. Therefore, no information was missed by said NRI clients.

You will further appreciate that no investor complaint had been received by us in respect of non-receipt of any communications or contact notes.

BSE
With regard to the aforesaid observation in respect of BSE exchange it is respectfully submitted that we are having total 160047 numbers of clients and only 485 instances, inspection team observed mismatch.
Please find attached the Annexure 3 duly depicting the reason for mismatch in emailid along with evidence of the same as exhibit (Can be searched using UCC) mentioned in the attached annexure.
From the perusal of the said annexure you will observed that the following

Reason form mismatch	***Nos of client***
Changes are made during the year 2023 itself. Apparently data of different date is compared	*187*
Data entry error	*53*
Data missed in file given to inspection team	*1*
Delay in updation due to software error	*8*
Total	***249***

From the aforesaid table you will appreciate that out of 249 instances observed in case of email-id, in 187 cases the email id modification letter is received. (Proof the same attached as exhibits). In 53 cases there is typographical error which had been rectified immediately after inspection observation and in 8 cases there in delay in updating the details in exchange UCC record which might be due to back- office software bug.

Further in respect of 1 instance, wherein blank/null had been reported to the inspection team at the time of providing the data, the same might have happened due to data formatting. In those cases we are provided you the emailid log of those client duly depicting the emailid as per exchange UCC data.

From the aforesaid you will appreciate that in 61 instances of email id, unintentional error is found on our part which is 0.04% as compared to total no of clients in BSE exchange in case of emailid.

You will further appreciate that no investor complaint had been received by us in respect of non-receipt of any communications or contact notes.
With respect to mismatch in Mobile no in NSE, please find attached the Annexure 3 duly depicting the reason for mismatch along with evidence of the same as exhibit (Can be searched using UCC) mentioned in the attached annexure.
From the perusal of the said annexure you will observed that the following

Reason for Mismatch	*No. of clients*
Changes are made during the year 2023 itself. Apparently data of different date is compared	*211*
Data missed in file given to inspection team	*10*
Delay in updation due to software error	*6*
NRI Account, difference is due to STD code	*4*
NRI Account, difference is due to STD code (971) and zero added in last to make it 10 digit	*4*
NRI Account, difference is due to STD code (974) and a few digit are wrong entered	*1*
Total	***236***

From the aforesaid table you will appreciate that out of 236 instances observed in case of emailid, in 211 cases the mobile no modification letter is received. (Proof the same attached as exhibits). In 6 cases there in delay in updating the details in exchange UCC record which might be due to back office software bug.

Further in respect of 10 cases, wherein blank/null had been reported to the inspection team at the time of providing the data, the same might have happened due to data formatting. In those case we are provided you the SMS log of those client duly depicting the mobile no. as per exchange UCC data.

From the aforesaid you will appreciate that only in 6 instances of mobile no , unintentional error is found on our part which is 0.04% as compared to total no of clients in BSE exchange in case of mobile No.

It is further submitted that in most of error other than the modification letter is pertaining to the mobile no of NRI clients, due to STD code.
You will appreciate that to BSE clients, only email confirmation is sent by BSE as well brokers. Since bulk SMS sending facility is not meant for the ISD mobile no. Therefore, no information was missed by said NRI clients.

You will further appreciate that no investor complaint had been received by us in respect of non-receipt of any communications or contact notes.

MCX
With regard to the aforesaid observation in respect of MCX exchange it is respectfully submitted that we are having total 33231 number of clients and only 96 instances, inspection team observed mismatch.
Please find attached the Annexure 4 duly depicting the reason for mismatch in emailid along with evidence of the same as exhibit (Can be searched using UCC) mentioned in the attached annexure. From the perusal of the said annexure you will observed that the following

Reason form mismatch	***Nos of client***
Changes are made during the year 2023 itself. Apparently data of different date is compared	*29*
Data missed in file given to inspection team	*2*
Date entry error	*15*
Delay in detail updation due to some software error	*7*
No change as per back office. Apparently wrong client email ID as per exchange is taken	*1*
Total	***54***

From the aforesaid table you will appreciate that out of 54 instances observed in case of email id, in 29 cases the email id modification letter is received. (Proof the same attached as exhibits). In 15 cases there is typographical error which had been rectified immediately after inspection observation and in 7 cases there in delay in updating the details in exchange UCC record which might be due to back office software bug.
Further in respect of 2 cases, wherein blank/null had been reported to the inspecption team at the time of providing the data, the same might have happened due to data formatting error. In those case we are provided you the emailid log of those client duly depicting the emailid as per exchange UCC data.
From the aforesaid you will appreciate that only in 22 instances of email ID, unintentional error is found on our part which is 0.066 % as compared to total no of clients in MCX exchange in case of emailid.
You will further appreciate that no investor complaint had been received by us in respect of non-receipt of any communications or contact notes.
With respect to mismatch in Mobile no in MCX, please find attached the Annexure 4 duly depicting the reason for mismatch along with evidence of the same as exhibit (Can be searched using UCC) mentioned in the attached annexure.
From the perusal of the said annexure you will observed that the following

Reason for Mismatch	*No. of clients*
Changes are made during the year 2023 itself. Apparently data of different date is compared	*32*
Data entry error	*2*
Data missed in file given to inspection team, log of SMS sent on mobile attached	*2*
Delay in detail updation due to some software error	*6*
Total	***42***

From the aforesaid table you will appreciate that out of 42 instances observed in case of emailid, in 32 cases the mobile no modification letter is received. (Proof the same attached as exhibits). In 2 cases there is typographical error which had rectified immediately and in 6 cases there in delay in updating the details in exchange UCC record which might be due to back office software bug.
Further in respect of 2 cases, wherein blank/null had been reported to the inspection team at the time of providing the data, the same might have happened due to data formatting error. In those cases we are provided you the SMS log of those client duly depicting the mobile no. as per exchange UCC data.
From the aforesaid you will appreciate that only in 8 instances of mobile no , unintentional error is found on our part which is 0.024% as compared to total no of clients in MCX exchange in case of mobile.
You will further appreciate that no investor complaint had been received by us in respect of non-receipt of any communications or confirmations.
In view of the aforesaid we request your goodself take a lenient view miniscule proportion to the total no. of clients and also duly corrective action taken by us. We assure your good self that we will be more diligent in future.

5.2 *With regard to observation mentioned in Clause 4.1.3 of SCN, wherein it was observed that single email ID and mobile no is mapped to multiple clients in each of the four segments i.e. NCDEX, NSE, BSE and MCX as tabulated below :-*

Email ID

Exchange	No of Email ID	Mapped to No. Of clients
NCDEX	1	2
NSE	102	221
BSE	176	384
MCX	8	16

Mobile

Exchange	No of Email ID	Mapped to No. Of clients
NCDEX	1	2
NSE	49	104
BSE	53	122
MCX	8	16

With regard to the aforesaid allegation, as we had earlier submitted that all the emailid/ mobile mapped to the clients are clause 33.2.4 of the SEBI Master Circular SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/71 dated May17, 2023. With regard to your post inspection observation pursuant to our reply to said inspection observation that we had not submitted any evidence substantiating our reply. Please find attached Annexure 5 to 8, as tabulated below duly mentioning the relation between the duly substantiating our reply submitted after post inspection.

Email ID

Exchange	No of Email ID	Mapped to No. Of clients	Annexure No
NCDEX	1	2	Annexure – 5
NSE	102	221	Annexure – 6
BSE	176	384	Annexure – 7
MCX	8	16	Annexure - 8

Mobile

Exchange	No of Email ID	Mapped to No. Of clients	Annexure No
NCDEX	1	2	Annexure – 5
NSE	49	104	Annexure – 6
BSE	53	122	Annexure – 7
MCX	8	16	Annexure - 8

From the perusal of the annexures tabulated above, wherein we have mentioned the relationship amongst the persons whom the single email ID and mobile no. is mapped. We are further enclosing herewith family undertaking as exhibits mentioned against each UCC. Further, where the email ID and mobile is mapped with Corporate/Partnership firms, we have attached the Board resolution / list of director or partners as exhibit of the corporate authorised the person whose email and mobile no is mapped. In case the UCC pertains to HUF, we have attached the list of members as exhibit of HUF, where the person is amongst the members of HUF.

From the perusal of the aforesaid you will appreciate that except 4 emailid out of 221 instances in NSE segment and 7 emailid out of 384 instances in BSE segment had been suspended after failing to locate the earlier undertaking provided by the clients. Some of them had provided the updated email ID and rest had been suspended till further revert from clients.

From the perusal of the aforesaid you will appreciate that except 10 mobile nos. out of 104 instances in NSE segment and 4 mobile nos. out of 122 instances in BSE segment had been suspended after failing to locate the earlier undertaking provided by the clients. Some of them had provided the updated mobile no. and rest had been suspended till further revert from clients.

In NCDEX, all emailid are as per clause 3.2.4 of the master circular.

You will further appreciate that even in the cases where emailid and mobile no is updated/ UCC is suspended, the same is provided by the client itself through duly filled KYC since long back. Inspite of regular follow-up with the clients for nature of relation, they have provided the updated details *themselves. Further no complaint of non-receipt of contract note, sauda confirmation and payment extra had been received.*

Hence, we request your good-self to consider our aforesaid submission as we are having approx. 1.60 lacs active clients as on date, from which only 25 clients are having non-acceptable mobile no and email id which is only 0.015% of total client base. We assure you we will be more diligent in future.

5.3 Finding regarding use of client bank account other than purpose specified by the SEBI act i.e. payment shall be received/paid from/to client accounts only, wherein it was observed by the inspection team that there are 169 instances of receipts from authorised persons amounting to Rs. 32,61,304 (36,61,304 mentioned in SCN however it was totalling to 32,61,304 after retotalling) and 1262 instances of payments to authorised person amounting to Rs. 8,11,77,471 during the inspection period.

We like to inform your good self that along with client payments towards pay-in & payout, balance in client bank account also includes brokerage, Exchange transaction charges, SEBI fee, other statutory levies etc. to be paid by client and security deposit by APs. Kindly note that instances noticed by inspection team were those where part of brokerage was shared with Exchange registered Authorized Persons only against introduction of client as there are no clear guidelines on the same.

The brokerage, Exchange transaction charges and other statutory charges collected from these clients register through aforesaid AP's are part of receipts in client account on the trading so facilitated by these AP's. The 1262 instances of payments so made were a part of brokerage shared with these AP's.

Further with regard to 169 instances of receipts, it is respectfully submitted that these amounts are received from these AP's only towards margin/security deposit and connectivity charges etc. from these AP's.
Further, you will appreciate that since we made these payments out of brokerage earned from their clients, we had not mis-utilised the client money nor it had been observed by the inspection team that proper segregation between the client account and business account had not been maintained by us.

Further we are enclosing herewith the calculation of "G" as per enhanced supervision norms, for the period from Jan 1st 2023 to May 31st 2023 as Annexure 9. From the perusal the same you will appreciate that Value of "G" as per Enhance supervision principle is always positive, which signifies that we had never mis-utilised client's money.

Further we wish to bring to your kind notice that similar observation had been reported by NSE Exchange in their regular inspection for the period, from Jul 2022 to Dec 2022. Same had been duly replied by us and finally exchange in their action letter of the committee of the Exchange, had taken cognizance of our corrective action and instructed us to be more cautious in future. (Exchange Action letter dated Sept 01, 2023 enclosed as Annexure - 10).

Further we like to inform your good self that after receipt of said action letter from NSE and we ensured that payment from and payment to AP should be made from member's (SMC) business account only.

In view of the above submission, we humbly request your good-self to kindly consider our submission with sympathy and not to consider the same as violation to clause 23.1.3 and 23.1.4 of the master circular.

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D. CONSIDERATION OF ISSUES AND FINDINGS

12. The issues that arise for consideration in the instant matter are:

Issue No. I: Whether the Noticee had violated the provisions of SEBI Master Circular, as alleged?

Issue No. II: If yes, whether the violations on the part of the Noticee would attract monetary penalty under Sections 15HB of the SEBI Act, 1992?

Issue No. III: If yes, what should be the monetary penalty that can be imposed upon the Noticee?

13. I now proceed to deal with the matter on merits as regards alleged violations in respect of the Noticee, as per the SCN

Issue No. I: Whether the Noticee had violated the provisions of SEBI Master Circular, as alleged?

13.1. In respect of the findings of inspection relating to UCC verification, the following was inter alia observed and alleged in respect of the Noticee:

i. There was irregularity in Email Id and Mobile number as per Member Back Office Database and Exchanges UCC records.

ii. Single email id was mapped to multiple clients and Single mobile number was also mapped to multiple clients.

In view thereof, it was inter alia alleged that Noticee had violated the provisions of Clause 33.2 of SEBI Master Circular SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023.

13.1.1. Here it would be, firstly, pertinent to draw reference to the text of the relevant provisions of the SEBI Master Circular alleged to have been violated , which inter alia reads as under :

'…

33.2 Uploading of mobile number and E-mail address by stock brokers

33.2.1Stock Exchanges shall provide a platform to stock brokers to upload the details of their clients, preferably, in sync with the UCC updation module.

33.2.2Stock Brokers shall upload the details of clients, such as, name, mobile number, address for correspondence and E-mail address.

33.2.3Stock Brokers shall ensure that the mobile numbers/E-mail addresses of their employees /remisiers/authorized persons are not uploaded on behalf of clients.

33.2.4Stock Brokers shall ensure that separate mobile number/E-mail address is uploaded for each client. However, under exceptional circumstances, the stock broker may, at the specific written request of a client, upload the same mobile number/E-mail address for more than one client provided such clients belong to one family.

'Family' for this purpose would mean self, spouse, dependent children and dependent parents.

…'.

13.1.2. Firstly, I will deal with the allegations regarding irregularity in Email and Mobile number as per Member Back Office Database and Exchanges UCC records. In this regard, I note the following from material available on record:

i. For NCDEX, 11 Email IDs and 7 Mobile numbers as per Member's back office database were found to be inconsistent with the exchange's UCC records.

ii. For NSE, details of 232 Email IDs and 340 Mobile numbers as per Member's back office database were found to be inconsistent with the exchange's UCC records out of which Email IDs of 10 clients and Mobile numbers of 39 clients were not available in the member's back office database although same were reflected in exchange record.

iii. For BSE, details of 249 Email IDs and 236 Mobile numbers as per Member's back office database were found to be inconsistent with the exchange's UCC records out of which Email IDs of 1 client and Mobile numbers of 10 clients were not available in the member's back office database although same were reflected in exchange record.

iv. For MCX, 54 Email IDs and 42 Mobile numbers as per Member's back office database were found to be inconsistent with the exchange's UCC records out of which Email IDs of 2 clients and Mobile numbers of 2 clients were not available in the member's back office database although same were reflected in exchange record.

13.1.2.1. In this regard, I note that the submissions of the Noticee, as reply to the SCN vide its letter dated May 27, 2024, are in the nature of admission in so far as the Noticee has inter alia submitted that:

<u>W.r.t email mismatch at NCDEX:</u>

'...In 5 cases there is typographical error which had been rectified immediately after inspection observation and in 2 cases there in delay in updating the details

in exchange UCC record which might be due to back office software technical glitch…'

W.r.t mobile number mismatch at NCDEX:

'….In 2 cases there in delay in updating the details in exchange UCC record which might be due to back-office software bug…'

W.r.t email mismatch at NSE:

'…In 21 cases there is typographical error which had been rectified immediately after inspection observation and in 23 cases there in delay in updating the details in exchange UCC record which might be due to back-office software bug…'

W.r.t mobile number mismatch at NSE:

'…In 1 case there is typographical error which had been rectified immediately after inspection observation and in 2 cases there in delay in updating the details in exchange UCC record which might be due to back- office software bug…'

W.r.t email mismatch at BSE:

'…In 53 cases there is typographical error which had been rectified immediately after inspection observation and in 8 cases there in delay in updating the details in exchange UCC record which might be due to back- office software bug…'

W.r.t mobile number mismatch at BSE:

'…In 6 cases there in delay in updating the details in exchange UCC record which might be due to back office software bug…'

W.r.t email mismatch at MCX:

'…In 15 cases there is typographical error which had been rectified immediately after inspection observation and in 7 cases there in delay in updating the details in exchange UCC record which might be due to back office software bug…'

W.r.t mobile number mismatch at MCX:

'…In 2 cases there is typographical error which had rectified immediately and in 6 cases there in delay in updating the details in exchange UCC record which might be due to back office software bug...'.

13.1.2.2. In this regard, Noticee, as part of its submissions as reply to the SCN vide its letter dated May 27, 2024, has contended that '*…With regard to the aforesaid observation in respect of NCDEX exchange it is respectfully submitted that we are having total 31596 number of clients and only in 18 instances, inspection team observed mismatch…With regard to the aforesaid observation in respect of NSE exchange it is respectfully submitted that we are having total 158147 number of clients and only 572 instances, inspection team observed mismatch… With regard to the aforesaid observation in respect of BSE exchange it is respectfully submitted that we are having total 160047 numbers of clients and only 485 instances, inspection team observed mismatch…With regard to the aforesaid observation in respect of MCX exchange it is respectfully submitted that we are having total 33231 number of clients and only 96 instances, inspection team observed mismatch…'.*

In this regard, I note that the contentions of the Noticee are misplaced in so far as the Inspection was conducted on a sample basis and for all the clients, accordingly it would be incorrect to compare the number of instances of mismatch with total number of clients. In view thereof, I am of the view that the contentions of the Noticee in this regard are devoid of merit and hence not acceptable.

13.1.2.3. Further in this regard, Noticee, as part of its submissions as reply to the SCN vide its letter dated May 27, 2024, has also contended w.r.t irregularity in email ids that modification letter was received in 4 instances at NCDEX, in 178 instances at NSE, in 187 instances at BSE and in 29 instances at MCX and w.r.t irregularity in Mobile number that modification letter was received in 5 instances at NCDEX, in 273 at instances NSE, in 211 instances at BSE and in 32 instances at MCX. Changes were made during the year 2023 itself. Apparently data of different date is compared.

In this regard, I note that the contention of the Noticee are vague in nature in so far as Noticee has submitted that *'…Apparently data* *of different date is compared…'* . Noticee has not provided relevant details and documents regarding which year's data was compared etc.

Further, I note that although the Noticee has contended that the changes were made already, however, Noticee has failed to demonstrate with relevant details and documents as to why there was a mismatch in the email ID and mobile number as per Member Back Office Database and Exchanges UCC records.

In view thereof, the contentions of the Noticee in this regard are devoid of merit and hence cannot be accepted.

13.1.2.4. The Noticee, as part of its submissions as reply to the SCN vide its letter dated May 27, 2024, has also contended that in 10 instances of email address at NSE, 1 instance of email address at BSE, 10 instances of mobile number at BSE, 2 instances of email address at MCX, 2 instances of mobile number at MCX, wherein blank/null had been reported to the inspection team at the time of providing the data, the same might have happened due to technical glitch. In those case we are provided you the emailid log and SMS log of those client duly depicting the emailid and mobile number as per exchange UCC data.

In this regard, I note that the Noticee submitted incorrect incomplete information during the Inspection and did not submit these email and SMS logs at the time of post Inspection Analysis as reply to the findings of Inspection. It is now, during the instant proceedings that the Noticee has submitted these email and SMS logs.

Further, I note that although the Noticee has contended that there was some technical glitch, however, apart from making mere assertions, the Noticee has failed to demonstrate the same with relevant details and documents in this regard. I note from material available on record that invariably the Noticee has submitted incorrect data not just for one of the Exchange but across NSE, BSE, and MCX. In view thereof, given the regulatory need for accurate UCC data, contentions attributing discrepancies to a generic technical glitch without documented proof are devoid of merit and hence not acceptable.

13.1.2.5. The Noticee, as part of its submissions as reply to the SCN vide its letter dated May 27, 2024, has also contended that '… *It is further submitted that in our back-office software there is a mandatory provision of 10 digit for capturing mobile number of clients and have separate field for ISD code…in some countries such as UAE where mobile number is less than 10 digits, in such cases we have to add additional digit(s) so that back-office software accepts the mobile number…adding digit at the end does not make the mobile number invalid. However, Exchange UCC portal accept mobile number even if the digits are less than 10 excluding ISD code. Therefore, in Exchange UCC portal we feed the actual number of digits of client mobile number …You will appreciate that to NSE clients, only email confirmation is sent by NSE as well brokers. Since bulk SMS sending facility is not meant for the ISD mobile number. Therefore, no information was missed by said NRI clients…It is further submitted that in most of error other than the modification letter is pertaining to the mobile no of NRI clients, due to STD code….You will appreciate that to BSE clients, only email confirmation is sent by BSE as well brokers. Since bulk SMS sending facility is not meant for the ISD mobile no. Therefore, no information was missed by said NRI clients….'*

In this regard, I note that the contentions of the Noticee as part of its reply to the SCN vide its letter dated May 27, 2024 are in the nature of admission in so far as the Noticee has submitted that '… *in such cases we have to add additional digit(s) so that back-office software accepts the mobile number… in Exchange UCC portal we feed the actual number of digits of client mobile number…'.*

Further, I note that the contention of the Noticee that '…*adding digit at the end does not make the mobile number invalid…'* cannot be accepted as even minor modifications may lead to data inconsistency, as leading to mismatch in the instant matter, which is critical in regulatory compliance, especially when precise contact information is essential for reliable client communication and record-keeping.

Further, as regards the contention of the Noticee regarding limitations of its back office software, I note that Regulatory compliance requires accurate and unaltered client data, which takes precedence over internal software limitations. I am of the view that it was upon the Noticee to take steps to ensure that its back office software was capturing details as per the regulatory requirement instead of altering the digits of the mobile number by adding digits at the end of the mobile numbers.

In view thereof, the contention of the Noticee in this regard are devoid of merit and hence not acceptable.

13.1.3. As regards the allegation relating to single email id and Single mobile number mapped to multiple clients, I note the following from material available on record:

i. For NCDEX, 1 common Email ID was mapped to 2 clients and 1 common Mobile number was mapped to 2 clients.

ii. For NSE, 102 common Email IDs was mapped to 221 clients and 49 common Mobile numbers was mapped to 104 clients.

iii. For BSE, 176 common Email IDs was mapped to 384 clients and 53 common Mobile numbers was mapped to 122 clients.

iv. For MCX, 8 common Email IDs was mapped to 16 clients and 8 common Mobile numbers was mapped to 16 clients.

13.1.3.1. In this regard, Noticee, as part of its submissions, has contended that '…*We are further enclosing herewith family undertaking as exhibits mentioned against each UCC. Further, where the email ID and mobile is mapped with Corporate/Partnership firms, we have attached the Board resolution / list of director or partners as exhibit of the corporate authorised the person whose email and mobile no is mapped. In case the UCC pertains to HUF, we have attached the list of members as exhibit of HUF, where the person is amongst the members of HUF. From the perusal of the aforesaid you will appreciate that except 4 emailid out of 221 instances in NSE segment and 7 emailid out of 384 instances in BSE segment…that except 10 mobile nos. out of 104 instances in NSE segment and 4 mobile nos. out of 122 instances in BSE…In NCDEX, all emailid are as per clause 3.2.4 of the master circular…Hence, we request your good-self to consider our aforesaid submission as we are having approx. 1.60 lacs active clients as on date, from which only 25 clients are having non-acceptable mobile no and email id which is only 0.015% of total client base. We assure you we will be more diligent in future….'*

In this regard, I note that the Noticee neither submitted these exhibits during Inspection, nor as a reply to the Findings of Inspection for Post Inspection Analysis. It is now, during the instant proceedings that the Noticee has submitted exhibits indicating the rationale for common mobile number and email ID being mapped to multiple clients. In this regard, I note that though the Noticee has submitted exhibits contents of which indicate undertaking by one of the client to use same email ID or mobile number for itself and others related to it, however, invariably, these exhibits do not bear any date on it. In view thereof, the submissions of the Noticee in this regard cannot be accepted.

Further, I note that the Noticee has inter alia also submitted that common email ID and mobile numbers were mapped to multiple clients owing to one of the clients being Authorised Signatory for

Corporate client. In this regard, it is pertinent to refer to the text of the provision alleged to have been violated, which reads as under:

> *'…*
> *33.2.4 Stock Brokers shall ensure that separate mobile number/E-mail address is uploaded for each client. However, under exceptional circumstances, the stock broker may, at the specific written request of a client, upload the same mobile number/E-mail address for more than one client provided such clients belong to one family. 'Family' for this purpose would mean self, spouse, dependent children and dependent parents.*
> *…'*

From the text of the provision as brought out above, I note that the Stock Brokers were required to ensure that separate mobile number/ E-mail address were uploaded for each client. The Stock Broker can upload same mobile number/ E-mail address for more than one client under exceptional circumstances provided such clients belong to one family. I note that the Noticee has failed to demonstrate with relevant details and documents that any exemption is available to it for uploading same mobile number/ E-mail address for corporate clients and their authorised signatory. Further, the Noticee has failed to demonstrate with relevant details and documents that there were exception circumstances basis which it uploaded the same mobile number/E-mail address for more than one client.

In view thereof, in particular that the exhibits are submitted during instant proceedings and not during Inspection or post Inspection Analysis stage and that none of the exhibits are dated and that the exemption to map same mobile number/ E-mail address for provided during exceptional circumstances and for family members, the contentions of the Noticee in this regard are devoid of merit and hence not acceptable.

13.1.4. In view thereof, I find that the allegation that there was Irregularity in Email Id and Mobile number as per Member Back Office Database and Exchanges UCC records and that Single email id and Single Mobile number was mapped to multiple clients, stands established. Therefore, I hold that Noticee had violated provisions of Clause 33.2 of SEBI Master

Circular SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023.

13.2. In respect of the findings of inspection regarding use of client bank account for only specified purposes, it was inter alia observed and alleged that Stock Broker had used client bank accounts for payment/ receipts to/ from multiple authorized persons. (Receipts amounting to Rs. 36,61,304 in 169 instances and Payments amounting to Rs. 8,11,77,471 in 1262 instances from 01.01.2023 to 31.05.2023).

In view thereof, it was alleged that Noticee had inter alia violated provisions of Clauses 23.1.3 and 23.1.4 of SEBI Master Circular SEBI/ HO/MIRSD/MIRSD-PoD-1/P/ CIR/2023/71 dated May 17, 2023.

13.2.1. Here it would be, firstly, pertinent to draw reference to the text of the relevant provisions of the SEBI Master Circular alleged to have been violated , which inter alia reads as under :

'…

23.1.3. What moneys to be paid into "clients account". No money shall be paid into clients account other than
a. money held or received on account of clients.
b. such money belonging to the Member as may be necessary for the purpose of opening or maintaining the account.
c. money for replacement of any sum which may by mistake or accident have been drawn from the account in contravention of para 23.1.4given below.
d. a cheque or draft received by the Member representing in part money belonging to the client and in part money due to the Member.

23.1.4. What moneys to be withdrawn from "clients account". No money shall be drawn from clients account other than
a. money properly required for payment to or on behalf of clients or for or towards payment of a debt due to the Member from clients or money drawn on client's authority, or money in respect of which there is a liability of clients to the Member, provided that money so drawn shall not in any case exceed the total of the money so held for the time being for such each client;
b. such money belonging to the Member as may have been paid into the client account under para23.1.3(b) or 23.1.3(d) given above;
c. money which may by mistake or accident have been paid into such account in contravention of para 23.1.3 above.

…'

From plain reading of the provisions, as reproduced above, I note that in terms of Clause 23.1.3 of SEBI Master Circular, no money shall be paid into clients account other than money held or received on account of clients, money belonging to the Member for the purpose of opening or maintaining the account, money for replacement of any sum which may by mistake or accident have been drawn from the account, a cheque or draft received by the Member representing in part money belonging to the client.

Further, in terms of 23.1.4 of SEBI Master Circular, I note that no money shall be drawn from clients account other than money properly required for payment to or on behalf of clients or for or towards payment of a debt due to the Member from clients or money drawn on client's authority, or money in respect of which there is a liability of clients to the Member, money belonging to the Member as may have been paid into the client account under para 23.1.3(b) or 23.1.3(d),money which may by mistake or accident have been paid into such account in contravention of para 23.1.3.

13.2.2. In this regard, the Noticee, as part of its submissions, has contended that *'…instances noticed by inspection team were those where part of brokerage was shared with Exchange registered Authorized Persons only against introduction of client as there are no clear guidelines on the same…The 1262 instances of payments so made were a part of brokerage shared with these AP's…169 instances of receipts, it is respectfully submitted that these amounts are received from these AP's only* ***<u>towards margin/security deposit and connectivity charges</u>*** *etc. from these AP's. ..'. (emphasis supplied)*

In this regard, I note that the Noticee has neither denied nor disputed that client bank accounts were used for payment / receipts to/ from multiple authorized persons with receipts amounting to Rs. 36,61,304 in 169 instances and payments amounting to Rs. 8,11,77,471 in 1262 instances from 01.01.2023 to 31.05.2023 to.

I also note that the instances when payment can be made to/from client account has evidently been provided under Clauses 23.1.3 and 23.1.4 of

SEBI Master Circular. Noticee has not demonstrated with relevant details and documents that payment made from /to client account to Authorised person was in terms of Clauses 23.1.3 and 23.1.4 of SEBI Master Circular.

Further in this regard, reference is drawn to NSE's Requirement and Guidelines for Authorised Person whereby it is inter alia stated that *'…The client shall be registered with the stock broker/trading member only. The funds and securities of the clients shall be settled directly between the stock broker/trading member and the client ….<u>No fund/securities of the clients shall be credited to the accounts of the Authorised Person</u>…'.* *(emphasis supplied)*

In this regard, reference is also drawn to NSE's conditions of Appointment as regards Authorised Person whereby it is inter alia stated that *'…The Authorised Person shall not receive or pay any money or securities in its own name or account. All receipts and payments of securities and funds shall be made in the name of or account of a Trading Member. The Authorised Person shall receive his remuneration-fees, charges, commission, salary etc. for his services only from the Trading Member and he shall not charge any amount from the clients…'*

(Source: https://www.nseindia.com/trade/authorised-for-membership)

In view thereof, I am of the view that the contentions of the Noticee in this regard are devoid of merit and hence not acceptable.

13.2.3. Further in this regard, Noticee has contended that *'…Value of "G" as per Enhance supervision principle is always positive, which signifies that we had never mis-utilised client's money….similar observation had been reported by NSE Exchange in their regular inspection for the period, from Jul 2022 to Dec 2022. Same had been duly replied by us and finally exchange in their action letter of the committee of the Exchange, had taken cognizance of our corrective action and instructed us to be more cautious in future…after receipt of said action letter from NSE and we ensured that payment from and payment to AP should be made from member's (SMC) business account only…'.*

In this regard, I note that the contention of the Noticee are out of context in so far as the alleged violations in the instant proceedings are regarding payment /receipt of fund from /to client account to Authorised Persons account and not regarding value of G. In view thereof, I am of the view that the contentions of the Noticee in this regard are devoid of merit and hence not acceptable.

13.2.4. In view thereof, I find that the allegation that the Noticee had used client bank accounts for payment/ receipts to/ from multiple authorized persons, stands established. Therefore, I hold that Noticee had violated provisions of Clauses 23.1.3 and 23.1.4 of SEBI Master Circular SEBI/ HO/MIRSD/MIRSD-PoD-1/P/ CIR/2023/71 dated May 17, 2023.

Issue No. II: If yes, whether the violations on the part of the Noticee would attract monetary penalty under Sections 15HB of the SEBI Act, 1992?

14. It has been established in the foregoing paragraphs that Noticee had violated provisions of SEBI Master Circular SEBI/ HO/MIRSD/MIRSD-PoD-1/P/ CIR/2023/71 dated May 17, 2023.

15. In this regard, it is noted that the Hon'ble Supreme Court of India in the matter of SEBI v/s Shri Ram Mutual Fund [2006] 68 SCL 216(SC) inter alia held that:

"…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….."

16. Therefore, for the established violation, as brought out in the foregoing paragraphs, I find that Noticee is liable for monetary penalty under section 15HB of the SEBI Act, 1992 which reads as under:

"…

***Penalty for contravention where no separate penalty has been provided**.*

***15HB.** 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 yes, what should be the monetary penalty that can be imposed upon the Noticee?

17. While determining the quantum of penalty under Section 15HB of the SEBI Act, 1992, it is important to consider the factors as stipulated in Section 15J of the SEBI Act, 1992 which inter alia reads as under: -

<u>SEBI Act, 1992</u>

"…

Factors to be taken into account while adjudging quantum of penalty.

***15J**. While adjudging quantum of penalty under 15- or section 11 or section 11B, the Board or 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 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 instant case, I note that the material available on record does not quantify the amount of disproportionate gain or unfair advantage or the amount of loss caused to an investor or group of investors as a result of the violations committed by the Noticee. Further, the material available on record has not brought out repetitive nature of default. However, I note from SEBI website that Adjudication order dated September 25, 2019 in the matter of SMC Global Securities Ltd. was passed in respect of the Noticee imposing monetary penalty of Rs. 5,00,000/-. Further, Adjudication order dated Jul 29, 2011 was passed inter alia in respect of the Noticee in the matter of trading activities of Aditya Kumar Sharma and Abhilash Sharma imposing monetary penalty of Rs. 50,000/- upon the Noticee.

In this regard, I also note that Noticee had inter alia contended that no investor complaint had been received by the Noticee in respect of non-receipt of any communications or confirmations. However, I cannot ignore that requirement of SEBI Master Circular SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023 as in the instant matter were obligatory on the Noticee and which the Noticee failed to comply with, as dealt with and established in the foregoing and that SEBI is duty-bound to inter alia enforce compliance of these regulations. In view thereof, I am of the view that such violation on part of the Noticee needs to be dealt with imposition of suitable penalty.

E. ORDER

19. After taking into consideration the facts and circumstances of the case, material available on record, submissions made by the Noticee and also the factors mentioned in the preceding paragraphs, in exercise of the powers conferred upon me under section 15-I of the SEBI Act, 1992 read with Rule 5 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995, I hereby impose penalty of Rs. 3,00,000/- (Rupees Three Lakhs Only) upon SMC Global Securities Limited under Section 15HB of SEBI Act, 1992, for the aforementioned violations as discussed in this order. In my view, the said penalty will be commensurate with the violations committed by the Noticee in this case.

20. The Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order through online payment facility available on the website of SEBI, i.e. www.sebi.gov.in on the following path, by clicking on the payment link:

ENFORCEMENT → Orders → Orders of AO → PAY NOW

21. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, SEBI may initiate consequential actions including but not limited to recovery proceedings 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.

22. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is being sent to the Noticee and also to the Securities and Exchange Board of India.

DATE: OCTOBER 29, 2024
PLACE: MUMBAI

AMAR NAVLANI
ADJUDICATING OFFICER