BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/MC/RM/2022-23/22435]

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

In respect of –

1. **Indian Clearing Corporation Limited (PAN No. : AABCI7140K)** having address at Phiroze Jeejeebhoy Towers, Dalal Street, Mumbai- 400001

In the matter of Karvy Stock Broking Limited

BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') initiated adjudication proceedings under Section 15HB of the SEBI Act, against Indian Clearing Corporation Limited (hereinafter referred as "Noticee/ICCL"), for alleged violation of provisions of the para 7 of SEBI Circular dated December 17, 2018 (December 2018 Circular).

APPOINTMENT OF ADJUDICATING OFFICER

2. Shri. Amit Pradhan was appointed as Adjudicating Officer under Section15-I of the SEBI Act read with Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter be referred to as the 'Adjudication Rules'), vide order dated March 24, 2021 to inquire into and adjudge under section 15HB of the SEBI Act, the aforesaid alleged violations against the Noticee. Subsequently, vide order dated June 18, 2021, the undersigned was appointed as Adjudicating Officer (hereinafter referred to as "AO") and the appointment was communicated vide communique dated June 21, 2021.

SHOW CAUSE NOTICE, REPLY AND HEARING

3. Show Cause Notice No. EAD-2/AP/VS/9862/2021 dated May 06, 2021 (hereinafter be referred to as, the "**SCN**") was served upon the Noticee under Rule 4 of the

Adjudication Rules read with Section 15-I of the SEBI Act to show cause as to why an inquiry should not be held and penalty not be imposed upon the Noticee under Section 15HB of SEBI Act for the aforesaid alleged violations.

4. The allegations levelled against the Noticee in the SCN are summarized as below:

5. SEBI issued a circular dated December 17, 2018, under section 11(1) of the SEBI Act, 1992 and section 19 of the Depositories Act, 1996, on Early Warning Mechanism to prevent diversion of client securities wherein as per para 2 of circular, there shall be a mechanism for sharing of information between Stock Exchanges, Depositories and Clearing Corporations to detect the diversion of client's securities by the stock broker at an early stage so as to take appropriate preventive measures. Further, as per para 5 of the said circular, Stock Exchanges, Depositories and Clearing Corporations shall devise a mechanism to detect diversion of client's securities and to share information among themselves. Accordingly, a Standard Operating Procedure (SOP) was framed by Market Infrastructure Institutions (MIIs), detailing the sequence of steps to be followed by MIIs based on the type of alert generated finalized and agreed upon by MIIs vide minutes of the meeting held on January 24, 2019 . It was also observed that SEBI had also approved the same on January 24, 2019 and as per para 9 of the aforementioned circular, the provisions of the circular shall come into force from February 01, 2019.

6. As per para 5.2 of the said SOP, mismatches between gross (client wise) securities pay-in and pay-out files of a stock brokers generated by the Clearing Corporations (CCs) shall be compared with actual transfer of securities to/from the client's depository accounts by the Depository. The cases of any mismatch found out by the Depository shall be informed to the CCs. As client can hold demat accounts across depositories, depositories will inform the quantity of securities delivered or received by a PAN for a CM-ISIN combination for a settlement to CCs. CCs will compile information across depositories and finalize the alerts to Stock Exchanges.

7. As per para 7 of the said circular, alerts triggered on the Stock Exchange/Clearing Corporation/Depository through early warning mechanism shall be immediately shared with other Stock Exchange/Depositories with respect to the Stock Broker/depository participant.

8. In order to check compliance with para 7 of circular, Indian Clearing Corporation Limited ("ICCL/the Noticee") was asked to submit the details of alerts generated for the PAN (No. AABCK5190K) of Karvy Stock Broking Limited (AABCK5190K) that were finalized and shared by it with National Stock Exchange of India Limited (NSE) and Bombay Stock Exchange (BSE) during February 2019 to November 2019.

9. In this regard, ICCL vide email dated February 24, 2021 (enclosed as Annexure-C), has submitted that no alerts were shared with both the Exchanges during the period February 2019-November 2019. The discussion on the implementation of SOP started in June 2020 and the format for the sharing of information is currently under development.

10. National Securities Depository Limited (NSDL) (the demat account of KSBL which is under examination is with NSDL) vide email dated February 24, 2021 has confirmed that as per SOP, it had sent various alerts that are pertaining to KSBL to ICCL during February 2019 to November 2019.

11. It was observed that as per SEBI Circular dated December 17, 2018 read with SOP framed under the said circular, ICCL was required to process the mis-match data received from depositories and finalize the alerts and forward the same to exchange for further necessary action to prevent diversion of client securities. However, despite receiving relevant information from NSDL, Noticee failed to provide any alerts to NSE and BSE.

12. **Therefore, it was alleged that despite receiving relevant information from NSDL, Noticee failed to provide any alerts to NSE and BSE. The said failure on the part of the Noticee was in violation of provisions of the para 7 of SEBI Circular dated December 17, 2018.**

13. The aforesaid alleged violations, if established, make the Noticee liable for monetary penalty under Section 15HB of the SEBI Act.

14. In response to SCN dated May 06, 2021 Noticee submitted its request for inspection of documents vide letter dated July 12, 2021. The documents sought by Noticee were provided along with Hearing Notice dated December 16, 2021. Noticee submitted Reply to SCN vide letter dated February 08, 2022. The personal hearing was conducted in March 02, 2022, which was attended by Mr. Kumar Desai, Counsel, Mr. Yogesh Chande, Advocate, Ms. Preeti Kapany, Advocate, Mr. Piyush Chaurasia, CRO-ICCL, Mr. Tushar Ambani, COO-ICCL, Mr. Sanjay Narvankar, Add.GM-ICCL, Mr. Ajay Darji, DGM-ICCL as Authorised representatives (AR) of the Noticee. The ARs of the Noticee reiterated the submissions made by the Noticee in its reply dated February 08, 2022. Further, Noticee made post hearing submissions vide letter dated March 16, 2022.

15. The submissions of the Noticee are summarized as below:

16. The Noticee's only two responsibilities in the "early earning mechanism" set up pursuant to the EWM Circular read with the SOP were limited to:
    a) providing details of member wise/client wise delivery and receipt positions for all the clearing members settling through the Noticee to the depositories (i.e., NSDL and Central Depository Services Limited ("CDSL")) in the prescribed file format; and
    b) upon receipt of mis-match data received from depositories, finalize the alerts and send them to the stock exchanges.

17. When the EWM Circular came into force i.e., on 1 February 2019, the Noticee provided the data files to NSDL on a daily basis with effect from 1 February 2019 and to CDSL with effect from 4 February 2019. With this, the first responsibility of the Noticee under the EWM Circular and SOP i.e., providing details of member wise/client wise delivery and receipt positions for all the clearing members settling through the Noticee to the depositories has been complied with since the date of effectiveness of the EWM Circular.

18. However, the data received by the Noticee from the depositories did not capture the movement of securities from one depository to another and accordingly this exercise of sharing of complete data with the Noticee did not take place. In this regard, it is pertinent to note that this, in fact, did not happen till September 2021 i.e., after issuance of the SCN dated 6 May 2021.

19. The depositories did not take into consideration the inter-depository transfers which resulted in the generation of false alerts to the clearing corporations including, inter alia, the Noticee. Further, such inter-depository transfers were not considered by the depositories until 6 September 2021 (for trade date 26 August 2021 onwards) i.e., even after the issuance of the SCN on 6 May 2021.

20. Further, the allegation that the Noticee did not share information with NSE is unsustainable since NSE Clearing Limited ("NCL") was clearing and settling the trades of Karvy Stock Broking Ltd ("KSBL") done on NSE. In addition, post the implementation of the Interoperability Circular, KSBL decided to continue with NCL as a clearing member for clearing and settlement of all its trades executed through various stock exchanges and consequently, KSBL discontinued its clearing and settlement activities with the Noticee with effect from July 2019.

21. Accordingly, Noticee submitted that the SCN not having taken into account the aforesaid facts, the Noticee's obligation to compile information received across

depositories and finalize alerts and send the same to stock exchanges in the file format and location as provided by the stock exchanges could not be completed or even commenced before 6 September 2021 and consequently, the SCN is liable to be and ought to be withdrawn and/or set aside on this ground alone.

22. KSBL discontinued clearing and settlement of trades with the Noticee with effect from July 2019: SEBI issued circular dated 27 November 2018 bearing reference no. CIR/MRD/DRMNP/CIR/P/2018/145 on 'Interoperability among Clearing Corporations' ("Interoperability Circular") which came into effect from 1 June 2019. Pursuant to the Interoperability Circular, KSBL decided to continue with NSE Clearing Limited as a clearing member for clearing and settling for all its trades executed through various stock exchanges and consequently, KSBL discontinued its clearing and settlement activities with the Noticee with effect from July 2019.

23. Accordingly, as KSBL was no longer settling its trades with the Noticee with effect from July 2019, the responsibility cast on the Noticee under the EWM Circular and SOP with respect to sharing of data was no longer applicable with respect to trades cleared and settled by KSBL post June 2019.

24. In view of the aforesaid, the allegation against the Noticee in the backdrop of KSBL is flawed as the SCN has failed to take into account that KSBL did not even clear and settle its trades with the Noticee post June 2019. Accordingly, it is submitted that the SCN is liable to be set aside as the allegations contained therein are baseless and lack merit.

25. Further, despite no settlement obligations of KSBL on the Noticee post the introduction of the interoperability system, the information provided by NSDL to SEBI contained a few mismatch alerts (ranging from six to ten records) for several months, which is untenable and unreliable. It appears that the NSDL system permitted securities pay-in to the Noticee by KSBL despite KSBL having chosen

NCL as its clearing corporation for clearing and settlement purpose under framework of the Interoperability Circular.

26. The Noticee has not been granted inspection of certain relevant documents/material referred to and/or relied upon in the SCN: While Noticee had requested to be provided with copies of all documents/ material referred to and/or relied upon in connection with, or in relation to the charges against the Noticee in the SCN, we have not been provided with requisite documents / material including: (a) report of the joint inspection conducted of KSBL by SEBI along with NSE from June 2019 (ref: paragraph 1 on page 1 of the SCN); and (b) report of the forensic auditor appointed by NSE which was forwarded to SEBI in November 2019. In addition, the SCN only relies upon the mismatch information provided by NDSL for assailing that the Noticee has not complied with the requirement of sharing information, which is incorrect and untenable in light of SOP.

27. In view of the fact that the entire SCN has been based on defaults by KSBL, failure to provide the relevant documents in relation to KSBL as mentioned above, goes to the root of the matter. Noticee submitted that this is a breach of natural justice and on this ground alone, the SCN should be set aside as against the Noticee.

28. The effective date for the implementation of the EWM Circular and SOP was not achievable in view of the crunched timelines: Noticee submitted that while the EWM Circular was issued on 17 December 2018 to come into effect from 1 February 2019, neither the EWM Circular nor the SOP (which was finalized only on 24 January 2019) set out the mode of implementation of the "early warning mechanism to prevent diversion of client securities" with effect from 1 February 2019. In this regard, it is pertinent to note that after multiple rounds of discussions and meetings between the MIIs, the SOP was finalized only at the meeting of the MIIs held on 24 January 2019.

29. Accordingly, while the EWM Circular and SOP were slated to come into effect from 1 February 2019, the SOP of the mechanism to detect diversion of client's

securities was not even finalized until a week before the effective date. With this, there was hardly any time for any MII, including the Noticee, to finalize/implement/test the changes in the system and ensure implementation of the EWM Circular along with the SOP.

30. In fact, even after the effective date of the EWM Circular, various joint meetings of the MIIs were held for the purpose of discussing the alerts and finalizing the SOP, including on 21 February 2019 ("21 February 2019 Meeting") and 10 April 2019 ("10 April 2019 Meeting"). It is pertinent to note from the minutes of the 10 April 2019 Meeting that the minutes of the 21 February 2019 Meeting were finalized for sharing with SEBI.

31. Further, a joint meeting was held on 21 May 2020 between clearing corporations and depositories in SEBI, inter alia, relating to full implementation of the provisions of the early warning mechanism. Accordingly, until at least 21 May 2020, SEBI was aware that the process to be followed under the EWM Circular and SOP was still not finalized between the MIIs and accordingly, the question of implementation of such mechanism does not arise.

32. In view of the aforesaid, it is clear that the MIIs were facing difficulties in the implementation of the EWM Circular and SOP and the multiple meetings held between the MIIs further evidences this fact. Accordingly, it was not possible that all functionalities and operational readiness could be implemented by the effective date of the EWM Circular. However, even though SEBI was aware that the SOP was finalized only on 24 January 2019 post which the aforesaid multiple meetings were held on the manner of implementation of the SOP and accordingly the entire early warning mechanism could not be put in place by the effective date i.e., 1 February 2019, it did not extend the effective date of implementation of the EWM Circular read with the SOP.

33. In this regard, the SCN itself states in paragraph 6 that the discussion on the implementation of the SOP started in June 2020 and the format for the sharing of information is currently under development, as had been informed by the Noticee. This fact has been taken into cognizance in the SCN without any comment and therefore, the Noticee cannot be held liable for non-compliance of the EWM Circular read with the SOP within the prescribed timelines as alleged.

34. In view of the aforesaid, Noticee submitted that as the SCN has not taken into account the aforesaid difficulties faced by the MIIs on implementation of the EWM Circular and SOP, the allegations in the SCN are liable to be set aside as against the Noticee.

35. The schedule for implementation of the EWM Circular and SOP was revised multiple times even after the effective date of the EWM Circular: Noticee submitted that while the EWM Circular was issued on 17 December 2018 to come into effect from 1 February 2019, the schedule for implementation of the EWM Circular and SOP was revised multiple times even after the effective date of the EWM Circular.

36. In this regard, it is pertinent to note the below mentioned emails:
    a) CDSL sent an email dated 27 May 2021 to the MIIs wherein the fresh timelines with respect to implementation of receiving obligation details with UCC from clearing corporations, sharing of additional details between the depositories and generating early warning alerts based on PAN and UCC including inter depository transactions.
    b) NCL sent an email dated 8 June 2021 to the MIIs wherein it is stated that sample files have not been received in view of which that they will not be working towards the go live date of 10 June 2021 and will inform the go live date after the sample files are received.
    c) CDSL sent an email dated 11 June 2021 to the MIIs wherein the revised timelines with respect to implementation of receiving obligation details with UCC from clearing corporations, sharing of additional details between the

depositories and generating early warning alerts based on PAN and UCC including inter depository transactions after discussions with NSDL.

d) NCL sent an email dated 14 July 2021 to the MIIs wherein it is stated that they are yet to receive the response file from NSDL for trade date 30 June 2021 and 1 July 2021 with a request to provide the same on priority.

e) NSE sent an email dated 10 August 2021 to the MIIs wherein it proposed a meeting amongst the depositories and exchanges to review the status of sharing of the inter-depository transfer transactions as part of the alert mechanism and to decide the revised timelines for sharing such details.

f) NSDL sent an email dated 26 August 2021 to the MIIs wherein it is stated that the depositories will be able to provide the EWM alerts to the clearing corporations (incorporating the inter-depository transfers data) for alert files with effect from 6 September 2021 (i.e., for trade date 26 August 2021 onwards).

37. In view of the aforesaid, it is clear that the mechanism of implementation of the EWM Circular and SOP was undergoing constant revisions by the depositories and other MIIs. However, the SCN has failed to take into consideration such changes in the implantation schedule and challenges faced by the MIIs and is liable to be set aside on this ground alone.

38. The multiplicity of circulars issued by SEBI required the Noticee to prioritize implementation of certain circulars over the others: It is clear that the Noticee’s only two responsibilities in the “early earning mechanism” set up pursuant to the EWM Circular read with the SOP were limited to:

a) providing details of member wise/client wise delivery and receipt positions for all the clearing members clearing through the Noticee to the depositories (i.e., NSDL and CDSL) in the prescribed file format; and

b) upon receipt of mis-match data received from depositories, finalize the alerts and send them to the stock exchanges.

39. As mentioned above, the first responsibility of the Noticee under the EWM Circular and SOP i.e., providing details of member wise/client wise delivery and receipt positions for all the clearing members settling through the Noticee to the depositories has been complied with since the date of effectiveness of the EWM Circular.

40. With respect to the Noticee's responsibility under (b) above, the data to be received by the Noticee from the depositories was not capable of being processed by human intervention and necessarily required a computer system to process the same and generate the alerts onwards to the stock exchanges. As the data files received from the depositories contained details of all clearing members settling their trades through the Noticee, such data files ran in lakhs of rows which was impossible for any individual to decipher and process and therefore, could only be processed by a computer system. In order for such processing and generation of alerts by the computer system, the format for generating and forwarding such alerts to the stock exchanges was also necessary which format was finalized by the stock exchanges only in January 2021. Accordingly, the Noticee's role in this entire process was limited to compiling the information received across depositories and converting the data received from the depositories into the format required by the stock exchanges for processing at their end without any human intervention.

41. Noticee submitted that while the EWM Circular was issued on 17 December 2018 to come into effect from 1 February 2019, neither the EWM Circular nor the SOP (which was finalized only on 24 January 2019) set out the mode of implementation of the "early warning mechanism to prevent diversion of client securities" with effect from 1 February 2019. Accordingly, while the EWM Circular and SOP laid down the responsibilities of the respective MIIs in terms of transfer of information between each of them, they did not deal with the information or manner of sharing the information between the MIIs, which was at a very nascent stage and evolving while EWM circular already came into effect.

42. Considering the huge size of the data files that were being exchanged and the format in which data required by the depositories, it required lot of system developments to take place (such as finalizing business requirements, specifications after detail discussion with depositories and technology teams for generating files as required by the depositories) setting up the server path on which the Noticee would place the data, the server path on which depositories would keep their response data, and whitelisting of the server paths (i.e. authorized access) at both the ends). Moreover, the two depositories i.e., CDSL and NSDL were two different independent entities having different processes for data exchange. Further, a lot of co-ordination had to be done between the MIIs to finalize the mode of sharing including the location path.

43. Noticee submitted that functions and duties of the technology team which relate to operations and functionality of the clearing corporation would take precedence over all other functions of the technology team. The changes required to be made by the Interoperability Circular in the operating system could only be done with co-operation of the depositories, stock exchanges, SEBI and other regulatory authorities, including having to purchase the required software/hardware.

44. Setting up of the EWM added additional responsibilities on depositories, clearing corporations and stock exchanges for which vast data generated at the depository level, clearing corporation level and the stock exchange level were required to be analysed, abnormalities identified and shared between the depositories, stock exchanges and clearing corporations.

45. When the EWM Circular was issued on 17 December 2018, SEBI had already issued the Interoperability Circular on 27 November 2018 which was to come into effect from 1 June 2019. It is pertinent to note that the difficulties faced by the MIIs, including the Noticee, to implement multiple requirements simultaneously and where a multiplicity of requirements are effected at the same time, an organization has to equally prioritize such multiple requirements/deliverables. Given the

multiplicity of circulars issued by SEBI that had an effect on operations and functionality of the Clearing Corporation and required major developments on the part of the Noticee, such circulars also caused a delay in the implementation of framework of the EWM Circular and the SOP laid thereunder.

46. It is submitted that the SCN fails to take into account that any MII will prioritize acting on requirements that have an impact on the operations and functionality than over other functions including assisting in the functions of other entities such as SEBI, stock exchanges, as such requirements will have a wider ramification in the market. Accordingly, the SCN is faulty on this ground as well and the allegations against the Noticee in the SCN deserve to be set aside.

47. The Noticee had no power to take any action under the EWM Circular read with the SOP: The primary responsibility with respect to analysis of mismatch data and action to be taken against defaulting members was of the stock exchanges and depositories only, and not of the clearing corporations (including the Noticee). It is pertinent to note that the EWM Circular and the SOP did not envisage and/or require the Noticee to take any action on its own. In this regard, it is pertinent to note that in terms of the rules, bye-laws and regulations of the Noticee, it has the power to take action only against its clearing members. Accordingly, as the framework set up pursuant to the EWM Circular and SOP did not relate to the clearing members in any way, there was no question of the Noticee taking any action/measure under the EWM Circular and/or SOP except to the extent of its two responsibilities as elaborated above.

48. While the SOP was still in the process of being finalized, the Noticee proactively shared a sample test file with NSDL and CDSL on 22 January 2019. The MIIs held a meeting on 24 January 2019 at which the SOP of the mechanism to detect diversion of client's securities was finalized and agreed upon.

49. The Noticee also wrote to its technology team on 28 January 2019 requesting them to design the system to process the data as received from both the depositories and step by step logic for generating the output to be provided to the exchanges. However, as manner of exchange of alerts with the stock exchanges including file format was pending finalization, the system could not be developed completely.

50. While testing of files between the Noticee and depositories was underway, it was observed that certain records of the data file shared by the Noticee with the depositories were without PAN details and accordingly, the depositories informed that in absence of PAN details, the information received from the Noticee cannot be processed which created further difficulties in fulfilling Noticee's obligation.

51. Further, a joint meeting was held on 21 May 2020 between clearing corporations and depositories in SEBI regarding the implementation of the Handling of Clients' Securities Circular at which the status of the implementation of the EWM Circular was also discussed ("21 May 2020 MII Meeting"). Further, as the 21 May 2020 MII Meeting was held in SEBI, it is pertinent to note that all the stakeholders including SEBI was aware that at least until 21 May 2020, the early warning mechanism could not be implemented.

52. In this regard, a brief list of dates are appended herein below:

Sr. No	Date	Events
1.	28 May 2020	NSE sent an email to the Noticee in relation to putting in place a mechanism for sharing the mismatch data with respect to NSE members clearing through the Noticee and for the Noticee to share such mismatch reports with NSE.
2.	18 June 2020	The Noticee sent an e mail to NSE requesting it to provide the Noticee with the file format in which data is to be provided to NSE.
3.	29 June 2020	NSE sent an e mail to the Noticee requesting for the sample data received from the depositories in order to enable NSE to understand and finalize the format in which the Noticee was to share the data files with NSE.

Sr. No	Date	Events
4.	30 June 2020	The Noticee promptly shared the sample data received from CDSL and NSDL to the stock exchanges.
5.	30 September 2020	As the Noticee did not receive any response to the aforesaid e mail, it sent a follow up e mail to both the stock exchanges requesting to provide the file format and location for sharing the same as the files were of huge size containing details of settlement pay-in/pay-out of all clearing members of the Noticee.
6.	21 December 2020	After around 80 days, the Noticee received the format in which the data is required to be provided by the Noticee and that a meeting can be scheduled to fix the location for data sharing.
7.	30 December 2020	Upon analysing the file format, the Noticee requested the stock exchanges to provide clarifications on the file format and location for sharing the same.
8.	5 January 2021	The Noticee promptly requested for clarifications and location of sharing of information.
9.	7 January 2021, 8 January 2021 and 20 January 2021	NSE provided the requisite clarification, file format and location for sharing the information with the Noticee. It is pertinent to note that such format was shared only after a series of discussions and multiple follow-ups by the Noticee with both the stock exchanges during the period June 2020 and third week of January 2021.
10.	20 January 2021, 9 February 2021 and 1 March 2021	The Noticee sent e mails to BSE following up on the response file format and location for file sharing.
11.	17 March 2021	BSE provided the requisite response including the path for sharing the file.
12.	17 March 2021	Upon finalization of manner and mode of sharing of the information, the Noticee started sharing the information with stock exchanges.

53. Further, it is pertinent to note that the implementation of the EWM Circular and SOP involved participation, co-ordination and agreement between various MIIs. Accordingly, the implementation of the EWM Circular read with the SOP was a mammoth exercise involving extensive changes at every stage amongst various entities operating at different levels. In this regard, Noticee submitted that the framework of the EWM Circular read with the SOP involved a lengthy and rather complicated procedure requiring technical expertise, including finalization of the SOP, finalization of formats for sharing of information, testing of formats and data

received thereafter, building and testing of the manner of sharing the data between various entities. Further, this process was required to be followed for each step in the implementation of the EWM Circular read with the SOP i.e., at the time of sharing of information by the clearing corporations with the depositories, followed by sharing of information by the depositories with the clearing corporations and thereafter, sharing of information by the clearing corporations with the stock exchanges. It is quite natural in such a mammoth exercise that some aspect of the process is partially implemented or not implemented especially considering the criteria was at initial stage and evolving but the same does not amount to culpability warranting action or imposition of penalty. It is also pertinent to note that the Noticee was required to carry out various changes (technical and otherwise) at the same time, as elaborated above, resulting in flux. In this regard, it is pertinent to note the following judgments:

(a) The Bombay High Court in the matter "*Securities and Exchange Board of India v. Cabot International Capital Corporation*" has held:

"*25. Thus, the following extracted principles are summarised.*

…..

(G) <u>Though looking to the provisions of the statute, the delinquency of the defaulter may itself expose him to the penalty provision yet despite, that in the statute minimum penalty is prescribed, the authority may refuse to impose penalty for justifiable reasons like the default occurred due to bona fide belief that he was not liable to act in the manner prescribed by the statute or there was too technical or venial breach, etc</u>."

(Emphasis Supplied)

(b) The Supreme Court in the matter "*Hindustan Steel Ltd. v. State of Orissa*"[1] has held:

"*7. Under the Act penalty may be imposed for failure to register as a dealer : Section 9(1) read with Section 25(1)(a) of the Act. <u>But the liability to pay penalty does not arise merely upon proof of default in registering as a dealer. An order imposing penalty for failure to carry out a statutory obligation is the result of a quasi-criminal proceeding, and penalty will not ordinarily be imposed unless</u>*

the party obliged either acted deliberately in defiance of law or was guilty of conduct contumacious or dishonest, or acted in conscious disregard of its obligation. Penalty will not also be imposed merely because it is lawful to do so. Whether penalty should be imposed for failure to perform a statutory obligation is a matter of discretion of the authority to be exercised judicially and on a consideration of all the relevant circumstances. Even if a minimum penalty is prescribed, the authority competent to impose the penalty will be justified in refusing to impose penalty, when there is a technical or venial breach of the provisions of the Act or where the breach flows from a bona fide belief that the offender is not liable to act in the manner prescribed by the statute…."

(Emphasis Supplied)

(c) The Hon'ble Securities Appellate Tribunal in the matter "*Piramal Enterprises v. SEBI*" has held:

"17. This leads us to a question as to whether the imposition of penalty is the ultimate aim under Section 11 of the SEBI Act. In our view, the object of the SEBI Act is to protect the interest of the investors in the securities market and to promote the development of the securities market. SEBI has to monitor the activities in the securities market and take appropriate measures if it finds that the provisions of the Act has been violated.

…..

24. Considering the aforesaid, we are of the opinion that the object of the Act is not only to protect the investors but also the securities market. The appellant is part of the securities market and its existence is required for the healthy growth of the securities market. SEBI is the watchdog and not a bulldog. If there is an infraction of a rule, remedial measures should be taken in the first instance and not punitive measures. In the absence of any direct or clinching evidence of insider trading or misuse of UPSI, a reasonable benefit of doubt should be extended to the PEL instead of mechanically imposing a penalty. Other factors should be considered including those stated in Section 23J of the Act which apparently was not considered."

(Emphasis Supplied)

54. In light of the aforesaid, Noticee submitted that the conduct of Noticee was bona fide and the Noticee took reasonable steps and focused on ensuring compliance

with its responsibilities under the EWM Circular read with the SOP to the extent possible by the Noticee. However, the allegations in the SCN in relation to the Noticee fail to take into account the aforesaid difficulties faced by the Noticee in the implementation of the EWM Circular and SOP which are to the knowledge of all the stakeholders including SEBI, as elaborated above, and accordingly such allegation are baseless and lack merit and shall be liable to be set aside. Further, the aforesaid demonstrates that the Noticee's conduct was not malafide or deliberate.

55. Noticee submitted that being an MII, it has always maintained transparency in its conduct and affairs. Further, the Noticee has always complied with the letter and spirit of the law and all regulations, and has maintained the highest standards of ethical behaviour. For all the reasons as aforesaid, it submitted that no question arises of the Noticee having violated any law or regulations or of having violated the provisions of the EWM Circular. Therefore, the allegations in the SCN are liable to be set aside as against the Noticee.

56. As the inquiry in the matter has been completed, I now proceed to decide the case on the basis of SCN issued, replies made by the Noticees and material available on record.

CONSIDERATION OF ISSUES AND FINDINGS

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

Issue No. I Whether Noticee violated provisions of the para 7 of SEBI Circular dated December 17, 2018 (EWM circular).

Issue No. II If yes, whether the failure, on the part of the Noticees would attract monetary penalty under Section 15HB of SEBI Act,1992? And

Issue No. III If yes, what would be the monetary penalty that can be imposed upon the Noticees taking into consideration the factors stipulated in Section 15J of the SEBI Act read with Rule 5(2) of the Adjudication Rules?

Issue No. I Whether Noticee violated provisions of the para 7 of SEBI Circular dated December 17, 2018.

58. Before going into the merits of the case, I note that the Noticee has contended that it has not been granted inspection of (a) report of the joint inspection conducted of KSBL by SEBI along with NSE and (b) report of the forensic auditor appointed by NSE which was forwarded to SEBI in November 2019. It has also contended that the entire SCN has been based on defaults by KSBL and failure to provide the relevant documents in relation to KSBL as mentioned above, is a breach of natural justice.

59. In this regard, I note that the aforesaid two reports have not been relied upon during the proceedings in support of the alleged violations. I note that in order to check compliance of December 2018 Circular, Noticee and Depositories, were asked to provide the details of the alerts issued by them in respect of KSBL, which formed the basis of alleged violations by the Noticee. The relevant documents relied upon for the alleged violations i.e. minutes of meeting dated January 24, 2019 containing SOP finalized among MIIs in respect of EWM, Alerts pertaining to KSBL sent by NSDL to the Noticee, referred circulars, SEBI orders mentioned in the SCN, orders passed pursuant to the SEBI orders, emails from NSDL along with its annexures were provided to the Noticee during the proceedings. The observations, details and information from the forensic audit report and joint inspection report has not been relied upon for examining the compliance of Noticee in regard to the December 2018 circular and the SOP. I also note that while the allegation in the SCN is made against the Noticee in the context of alerts generated for KSBL by depositories, the allegation is regarding non-compliance with provisions of the EWM circular in general, rather than only with respect to the KSBL alerts. Since the allegations pertain purely to the compliance by Noticee with the EWM circular,

and all material relied upon and relevant to arriving at the allegation of non-compliance with the circular has been provided to the Noticee, I find that principle of natural justice have been complied with.

60. As per Para 5 of the EWM Circular, MIIs were to devise a mechanism (Early Warning Mechanism /EWM) to detect diversion of clients' securities and to share information among themselves. As per para 6 of the aforesaid circular, the MIIs may generate any other alerts as deemed fit. In view of the above, the MIIs formulated a Standard Operating Procedure (SOP) in their meeting dated January 24, 2019. As per clause 5.2 of the said SOP, mismatches between gross (client wise) securities pay-in and pay-out files of a stock brokers generated by the Clearing Corporations (CCs) are to be compared with actual transfer of securities to/from the client's depository accounts by the Depository. Cases of any mismatch found out by the Depository are to be informed to the Clearing Corporations by depositories. The Clearing Corporations have to compile this information across depositories, finalize the alerts and share with Stock Exchanges. Further, as per para 7 of the December 2018 circular, the alerts triggered at one Stock Exchange/ Clearing Corporation/ Depository through early warning mechanism shall be immediately shared with other Stock Exchanges / Depositories with respect to the stock broker / depository participant.

61. The allegation against Noticee is based on the requirement placed on Clearing Corporations to compile the mis-match alerts received from depositories, finalize the alerts and forward the triggered alerts to stock exchanges for further necessary action in terms of EWM. It is alleged that Noticee, despite receiving relevant mismatch alerts from NSDL (specifically in respect of PAN No. AABCK5190K of KSBL) from February–November 2019, failed to provide any alerts to NSE and BSE in terms of EWM Circular and SOP. Noticee in its reply to SEBI has stated that it did not compile and forward such alerts till August 2020, thereby allegedly not complying with para 7 of the December 2018 circular.

62. As submitted by the Noticee, under the EWM circular and the SOP, Noticee inter alia had two responsibilities in the “EWM”:

a) providing details of member wise/client wise delivery and receipt positions for all the clearing members settling through the Noticee to the depositories ; and

b) upon receipt of mis-match data received from depositories, compile and finalise the alerts and send them to the stock exchanges.

63. I note from the documents available on record that the Noticee complied with the first part of its responsibility and shared with depositories the data of member wise/client wise delivery and receipt positions for all the clearing members settling through the Noticee from February 2019 onwards. Then, as per SOP the depositories (NSDL and CDSL) compared the delivery and receipt positions with the actual transfer of securities to/from the client’s depository accounts, and reported the mismatch alerts in obligations (shortfall/excess/matched/no obligations) for securities by a PAN for a CM-ISIN (combination for a settlement) to the Noticee.

64. Further, the Noticee upon receipts of mismatches from the depositories was required to compile the mismatch alerts from NSDL and CDSL; and mismatches of more than 1% of the settlement value would trigger the alerts, which were to be shared with the Stock exchanges for further action at exchange’s end. This requirement derives from a combined reading of clause 5.2 of the SOP with para 7 of the December 2018 circular.

65. Noticee in its reply has stated that the second part of the responsibility relating to compiling mis-matched alerts received from depositories and sharing with the exchanges could not be implemented due to several operational challenges which are discussed in the paragraphs below.

66. One contention of the Noticee is that the mismatch alerts from the depositories did not capture inter-depository transfers and accordingly sharing of complete mismatch alerts data with the Noticee did not take place till September 2021 i.e., even after issuance of the SCN dated 6 May 2021. From this, it can be derived that there may have been some errors in the alerts generated due to non-capturing of inter depository transfers. However, this did not make the alerts per se meaning less, and did not provide a reason to delay implementation of sharing of alerts received by the clearing corporations from the depositories. I note that there is nothing on record to reflect that any extension/exemption in implementation of EWM circular was granted by SEBI due to such an operational challenge. When timeline for implementation was prescribed by SEBI, and the implementation of the circular is jointly agreed to by stock exchanges, clearing corporations and depositories as per the SOP, at no point was it recorded that the alerts mentioned at clause 5.2 of the SOP could not be implemented or that further time was needed to clarify operational issues. I note that in certain other aspects of the SOP, further discussion was ongoing up to April and even May 2021, but in respect of the alerts under clause 5.2 of SOP, there is no further discussion of changes. Hence, I find that given the timelines specified in the Circular, the Noticee was mandated to share the alerts after compilation with the exchanges, on as received basis, which it failed to do.

67. Noticee has contended that with implementation of interoperability, KSBL discontinued clearing and settlement with Noticee w.e.f. July 2019, and NSE Clearing Corporation Limited (NCL) was clearing and settling the trades of KSBL. In this regard, I note that the EWM circular was to come into effect from February 01, 2019, and KSBL was clearing and settling it trades with Noticee also till June 2019, hence Noticee was required to share mismatch alerts in respect of KSBL for the months February 2019 to June 2019 with exchanges, which it failed to share.

68. The Noticee has contended that even post July 2019, the information provided by NSDL to SEBI contained a few mismatch alerts (ranging from six to ten records)

for several months, which were untenable and unreliable. In this regard, I note that the system for generation of EWM alerts was new and taking its final shape, and therefore certain false alerts could be there. However, presence of some errors or false alerts was not sufficient reason to not compile and share the mismatch alerts with the exchanges. On the contrary, from an operational perspective, successive iterations of sharing of alerts, even with few errors, would have helped to reduce errors with every iteration.

69. The Noticee has contended that the effective date for the implementation of the EWM Circular and SOP was not achievable in view of the crunched timelines. The EWM circular was issued on 17 December 2018 to come into effect from 1 February 2019. Neither the EWM Circular nor the SOP set out the mode of implementation of the EWM Mechanism. Noticee has also contended that there was hardly any time for any MII, including the Noticee, to finalize/implement/test the changes in the system and ensure implementation of the EWM Circular along with the SOP. Further, a joint meeting was held on 21 May 2020 between clearing corporations and depositories in SEBI, inter alia, relating to full implementation of the provisions of the early warning mechanism. Accordingly, until at least 21 May 2020, SEBI was aware that the process to be followed under the EWM Circular and SOP was still not finalized between the MIIs and hence, the question of implementation of such mechanism does not arise. Therefore, it was not possible that all functionalities and operational readiness could be implemented by the effective date of the EWM Circular. Here, Noticee has itself submitted that even though SEBI was aware that the SOP was finalized only on 24 January 2019 post which the aforesaid multiple meetings were held on the manner of implementation of the SOP, it did not extend the effective date of implementation of the EWM Circular read with the SOP.

70. I note that pursuant to the EWM Circular, the SOP was formulated by MIIs, which was finalized on the January 24, 2019 meeting. Further, I also note that certain provisions of the SOP was still under revision, and they were subsequently revised

in the MIIs meeting dated February 21, 2019, April 10, 2019 (minutes of the meeting were still in draft stage as on May 13, 2019). However, I note that the provision 5.2 of SOP in regard to alerts pertaining to obligation mismatch alerts were finalized in the meeting dated January 24, 2019 itself, and did not undergo any subsequent revision in future MIIs meetings.

71. Further, from the SEBI email dated September 19, 2018 (submitted with the submissions of the Noticee) I find that SEBI had meetings with MIIs on August 07, 2018 and August 14, 2018 for identification of Early Warning Signals for detection of diversion of clients' securities by Stock Brokers/Depository Participants. In the meetings it was agreed among MIIs that they shall put in place appropriate infrastructure to detect early warning signals. It was also communicated to MIIs that they shall create the required infrastructure/systems to implement the above as early as possible, but not later than three months from the date of the email. It was also directed that MIIs shall keep SEBI informed of the developments / steps taken by them for creation of the necessary infrastructure/systems for early warning signals as above on monthly basis. From these emails, it is clear that Noticee had been part of the process for development of early warning mechanism even prior to the issue of the December 2018 circular, and had been made aware of the timelines for implementation.

72. Noticee has contended that SEBI held a meeting on May 21, 2020 with Clearing Corporations and Depositories inter-alia relating to full implementation of the provisions of the early warning mechanism, and that until at least 21 May 2020, SEBI was aware that the process to be followed under the EWM Circular and SOP was still not finalized between the MIIs. In this regard I note from minutes of the meeting that the said meeting was held to discuss the implementation of SEBI Circular dated February 25, 2020 on 'Margin Obligations to be given by way of Pledge/Re-pledge in the Depository System'. It is also noted that the reference of circulars on Early Warning Mechanism in para 4 of the Minutes of the meeting is to provide context of measures undertaken by SEBI to check the misuse of client

securities by brokers, in continuation of which the February 25, 2020 circular was issued. Further, it was in regard to issues faced by MIIs in implementing the February 25, 2020 circular on account of Covid-19 pandemic restrictions that the issue of extension two months to carry out necessary wok and implementation of the provisions of the February 2020 circular was discussed. From the minutes of the meeting, I note that neither Noticee nor any other MIIs brought up the issues faced by them in timely implementation of EWM circular. Hence, the contention of the Noticee that as on May 21, 2020, SEBI was aware that the process to be followed under the EWM Circular and SOP was still not finalized between the MIIs is not acceptable.

73. With regard to Noticee's contention that SEBI despite being aware that the SOP was finalized only on 24 January 2019, post which multiple meetings were held on the manner of implementation of the SOP, did not extend the effective date of implementation of the EWM Circular read with the SOP, I note that Noticee has produced any records indicating that the clearing corporations or depositories brought to the notice of SEBI, the issues faced by them in implementing the EWM circular within the prescribed timelines and sought extension for the same. The fact that SEBI did not extend timeline for implementation makes it clear that even if such requests were made, they were not acceded to by SEBI, and hence Noticee was required to adhere to its responsibilities in terms of EWM circular and SOP.

74. The Noticee has contended that there were multiplicity of circulars issued by SEBI required the Noticee to prioritize implementation of certain circulars over the others. The implementation of December 2018 circular required processing by computer system for which the finalized formats and changes in existing software, purchase of new software, arrangement of necessary infrastructure for processing and transfer of data among MIIs were needed, which required time and intervention of technology teams and operational teams of MIIs. These responsibilities are additional to the existing workloads of MIIs and since the system are being put in

place, it required identification of issues faced and their rectification. In addition to this Interoperability Circular issued on 27 November 2018 (came into effect from 1 June 2019), Uniform Membership Circular dated 11 January 2019 (came into effect from 1 April 2019), Handling of Clients' Securities Circular dated 20 June 2019 (which came into effect from 1 September 2019) and Margin Obligations Circular dated 25 February 2020 (came into effect from 1 June 2020) also had an effect on operations and functionality of the Noticee and required major developments on the part of the Noticee, causing delay in the implementation of the EWM circular and SOP. Noticee has also contended that it prioritized acting on requirements that have an impact on the operations and functionality than over other functions including assisting in the functions of other entities such as SEBI, stock exchanges, as such requirements will have a wider ramification in the market.

75. In regard to the aforesaid contention of the Noticee, I note that the SOP was formulated by MIIs after discussion among themselves, and there were several meetings among MIIs wherein the practical issues faced by them could have been communicated to SEBI. However there is nothing on record to indicate that Noticee raised the issue with SEBI. Further, it is also noted from material on record that the other clearing corporation, NCL, was able to compile the mismatch alerts and forwarded the same to NSE. This indicates that NCL which also faced similar operational challenges, was able to compile and share alerts with NSE within specified timelines. Hence, operational challenges or prioritization of compliance with various circulars cannot be accepted as a condoning non-compliance with one of the circulars.

76. I note that the modalities of implementation of SOP was an ongoing evolving process, and the issues faced by MIIs in the process required coordinated efforts to iron out the errors and false alerts to achieve the measures outlined in EWM Circular. However, given the timeline prescribed in the circular, once mismatch alerts were received by the Noticee from the depositories, it was mandated that Noticee compile the alerts, as received and forward the same to exchanges for

necessary action at their end as per SOP. In the event of any errors, the SOP in the chain of steps contemplated that the exchange will seek explanation from the stock broker, which would have helped exchange in identifying any false alerts before taking necessary preventive action. Further, in SOP there is no provision that clearing corporations would verify the accuracy of the mismatch alerts provided by depositories and then only upon their satisfaction w.r.t. accuracy of the alerts, the clearing corporations will compile and forward the alerts. Further, MIIs were directed to arrange necessary infrastructure in this regard vide SEBI email dated September 19, 2018 and keep SEBI updated about the developments on monthly basis. Noticee has not put on record the monthly updates it was to give to SEBI about the developments and the issues faced in regard to implementation of EWM Circular.

77. The Noticee has also contended that, it has no power to take any action under the EWM Circular read with the SOP, and it was only stock exchanges and depositories who had the primary responsibility to take preventive actions basis on the early warning data. Further, as per the bye-laws, rules, regulations Noticee has the power to take action only against its clearing members. In this regard, I note that there was no requirement upon the Noticee to take preventive action but just to compile the mismatch alerts received from the depositories and forward it to exchanges. There was no obligation on the Noticee to analyze alerts, and contemplate upon the validity of action that may be taken upon the basis of the alerts compiled and shared by it. In view of the above, the contention of the Noticee is not acceptable.

78. It is relevant to note the purpose of the EWM Circular which was to set up an early warning mechanism to share alerts with all the MIIs so that any diversion of client's securities are detected at the early stage, and appropriate preventive measures could be taken in a timely manner by MIIs collectively to safeguard clients securities. Taking a purposive interpretation of the circular, it was of utmost importance to initiate the alerts as early as possible, particularly as at the time the

circular was issued, diversion of securities was actually taking place. Therefore, delay in implementation or sharing of alerts potentially had a cost of wrong doing going undetected.

79. The importance of early warning signals mechanism for detection of diversion of clients' securities by Stock Brokers and Depository Participants is underlined by the fact that it one of the slew of proactive measures undertaken by SEBI (including SEBI issued "Handling of Clients' Securities Circular dated 20 June 2019 and Margin Obligations Circular dated 25 February 2020) to safeguard the interests of investors, in view of several instances of misuse of clients securities.

80. In view of the above, I find that, Noticee was mandated to share the mismatch alerts received from depositories (after compilation and finalization) with the Stock Exchanges, in terms of para 7 of the EWM Circular read with clause 5.2 of the SOP, but the Noticee failed to do so and thereby violated provisions of para 7 of SEBI Circular dated December 17, 2018 read with clause 5.2 of the SOP.

81. The Noticee has referred Judgements in the matter of (i) "*Piramal Enterprises v. SEBI*", (ii) "*Hindustan Steel Ltd. v. State of Orissa*", (iii) "*Securities and Exchange Board of India v. Cabot International Capital Corporation*" etc., which hold that technical or venial breach of the provisions or breaches which flows from a bona fide belief that the offender is not liable to act in the manner prescribed by the statute should not result into imposition of penalty, just because a minimum penalty has been prescribed in the statute.

82. Here it is important to determine whether the non-compliance with para 7 of the EWM circular read with clause 5.2 of the SOP was a technical and venial breach. I note that with regard to the diversion of securities by KSBL, the Noticee was clearing its trades till June 2019. The copies of alerts provided with the SCN do not indicate that these specific alerts indicated the wrong doing by KSBL, or that has ICCL shared these alerts, the KSBL matter would have come to light earlier than it

did. I find it relevant to quote the following para 240 from the order passed against NSE in the matter of KSBL

"240. NSE in its email of March 22, 2019 wrote to SEBI stating, inter alia that in 70% of cases of running account settlement, they were receiving alerts of mismatches from depositories and they were finding it difficult to act on such a large number of alerts. Pursuant to a review meeting held in SEBI on April 09, 2019 on reconciliation of holding statements with depository data for all MIIs, SEBI undertook reconciliation of weekly brokers reports with depository data in which mismatches were observed for securities reported by KSBL and actual balance in demat accounts of KSBL as on April 19, 2019."

83. From the aforesaid para, I note that on account of alerts on mismatch of securities generated by depositories, by April 19, 2019, mismatches had been observed for securities reported by KSBL and actual balance in accounts of KSBL. Thus, after the relevant alerts were implemented post the EWM circular, by April 2019, the KSBL mismatches had been detected at NSE. I note that the material on record does not bring out that failure to implement sharing of the alerts by Noticee delayed detection of the wrong doing. However, at the same time, this failure cannot be deemed to be a technical or venial breach, as the Noticee is an MII carrying out important risk management related functions, and failure to share alerts as required under para 7 of the EWM circular cannot be taken lightly. Therefore, the aforementioned judgments are not directly applicable in this case.

Issue No. II If yes, whether the failure, on the part of the Noticees would attract monetary penalty under Section 15HB of SEBI Act,1992?

and

Issue No. III If yes, what would be the monetary penalty that can be imposed upon the Noticees taking into consideration the factors stipulated in

Section 15J of the SEBI Act read with Rule 5(2) of the Adjudication Rules?

84. As it is established that Noticee violated para 7 of SEBI Circular dated December 17, 2018 the Noticee is liable for monetary penalty under Section 15HB of SEBI Act, 1992, which states as follows

SEBI Act, 1992

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 may extend to one crore rupees.*

85. While determining the quantum of penalty under Section 15HB of SEBI Act,1992, the following factors stipulated in Section 15J of the SEBI Act have to be given due regard:

SEBI Act, 1992

<u>Factors to be taken into account by the adjudicating officer</u>

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.

86. The violations by the Noticee, as established, are of para 7 of the SEBI Early Warning Mechanism Circular dated December 17, 2018 read with clause 5.2 of the SOP framed under the circular, which attract penalty under Section 15 HB of SEBI

Act which provides for minimum penalty of Rs. one lakh rupees and maximum penalty of Rs.1 crore. As noted on preceding paras, the violation by the Noticee led to delay in implementation and sharing of alerts but material on record does not bring out that inability to detect KSBL wrongdoings earlier than they were detected, is attributable to Noticee's non-compliance with para 7 of the EWM circular late. At the same time, I note that the Noticee is an MII carrying out important risk management related functions and such delay could potentially lead to wrong doing going undetected with market wide impact, particularly in context of several instances of misuse of clients' securities.

87. Taking note of the importance and necessity of early compliance with EWM circular and aforesaid mitigating factors, I find that a penalty of Rs.50 lakhs shall be commensurate with the violation committed.

ORDER

88. After taking into consideration all the facts and circumstances of the case, in exercise of powers conferred upon me under Section 15-I of SEBI Act read with Rule 5 of the Adjudication Rules, I hereby impose a penalty of Rs. 50,00,000/- (Rupees Fifty Lakhs only) under Section 15HB of SEBI Act,1992 on Indian Clearing Corporation Limited for violation of para 7 of the SEBI Early Warning Mechanism Circular dated December 17, 2018.

89. The Noticees 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

90. The Noticees shall forward said Demand Draft or the details / confirmation of penalty so paid to the Enforcement Department – Division of Regulatory Action –

II of SEBI. The Noticees shall provide the following details while forwarding DD/ payment information:

a) Name and PAN of the entity (Noticee)
b) Name of the case / matter
c) Purpose of Payment – Payment of penalty under AO proceedings
d) Bank Name and Account Number
e) Transaction Number

91. Copy of this Adjudication Order is being sent to the Noticees and also to SEBI in terms of Rule 6 of the Adjudication Rules.

MANINDER CHEEMA Digitally signed by MANINDER CHEEMA Date: 2022.12.28 16:53:33 +05'30'

DATE: December 28, 2022 **MANINDER CHEEMA**

PLACE: MUMBAI **ADJUDICATING OFFICER**