

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER SECTION 12(3) OF SECURITIES AND EXCHANGE BOARD OF INDIA
ACT, 1992 READ WITH REGULATION 27 OF SECURITIES AND EXCHANGE
BOARD OF INDIA (INTERMEDIARIES) REGULATIONS, 2008

In respect of:

BRH Commodities Private Limited

PAN: AACCB5142K

Commodity Derivative Broker

SEBI Registration No. INZ000082232

In the matter of BRH Wealth Kreamtors Limited

A. BACKGROUND

1. BRH Commodities Private Limited (*formerly known as BMA Commodities Pvt. Ltd.*), is a commodity derivative broker ("**Noticee**" / "**BRHCPL**"). BRHCPL was a member of Multi Commodity Exchange of India Ltd. ("**MCX**") and National Commodity & Derivatives Exchange Ltd. ("**NCDEX**"). BRHCPL is a subsidiary company of BRH Wealth Kreamtors Limited (*formerly known as BMA Wealth Kreamtors Limited*) ("**BRHWKL**"). BRHWKL was registered as a stock broker with Securities and Exchange Board of India ("**SEBI**") having registration number INZ000184733 and was a member of National Stock Exchange of India Limited ("**NSE**") in equity, equity derivatives, currency derivatives and MFSS segments and BSE Limited ("**BSE**"), in equity, equity derivatives, and currency derivatives. This case *inter alia* concerns misutilisation of clients' securities and funds by BRHCPL.

2. SEBI conducted inspection of the books of accounts and other records of BRHWKL between October 01 to 05, 2018 for the period April 01, 2017 to July 25, 2018. SEBI also conducted an inspection of BRHCPL during November 26 to 28, 2018 for the period April 01, 2017 to October 30, 2018 (hereinafter referred to as “**Inspection Period**”). Thereafter, SEBI passed an Ex-Parte Interim Order on October 07, 2019 (“**Interim Order**”) against BRHWKL and 7 other related parties including BRHCPL *inter alia* restraining their access to securities markets, prohibiting them from dealing in securities, directing them to not dispose of their assets and directing depositories and banks to freeze their bank and demat accounts. The stock exchanges, clearing corporations and depositories were also directed to appoint a forensic auditor to track misuse of client's funds/securities and to identify the net assets/liabilities of BRHWKL and its subsidiary BRHCPL. Subsequently, *vide* order dated January 02, 2020, the directions issued in the Interim Order were confirmed.
3. In line with the directions of Interim Order, NSE appointed Ernst & Young LLP to conduct forensic audit of BRHWKL and BRHCPL. Final forensic audit report dated February 26, 2020 (“**FAR**”) was submitted by NSE to SEBI on March 03, 2020. The period covered under the audit was from April 01, 2016, to September 30, 2019. After submission of FAR, action was approved by competent authority to initiate enquiry proceedings against the Noticee and a designated authority (“**DA**”) was appointed. Thereafter, the DA issued a show cause notice (“**SCN**”) dated September 15, 2021 to the Noticee, pursuant to which a hearing was conducted on June 02, 2022 and the Noticee filed its reply on June 08, 2022. After considering the submissions of the Noticee, the DA in its report dated June 30, 2022 (“**DA Report**”) has observed that the Noticee has committed the following violations and has recommended cancellation of its registration with immediate effect:
 - 3.1 Misutilised client securities leading to violation of (a) SEBI circular bearing no. SMD/SED/CIR/93/23321 dated November 18, 1993 (“**SEBI 1993 Circular**”); (b) SEBI circular bearing no. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 (“**SEBI Enhanced Supervision Circular**”); and (c) SEBI

circular bearing no. CIR/MIRSD/15/2011 dated August 02, 2011 (“**SEBI 2011 Circular**”).

- 3.2 Misutilised client funds leading to violation of SEBI 1993 Circular and SEBI Enhanced Supervision Circular.
- 3.3 Not provided bounce email notification of electronic contract notes leading to violation of SEBI circular bearing no. MRD/DoP/SE/Cir-20/2005 dated September 08, 2005 (“**SEBI 2005 Circular**”).
- 3.4 Incorrect/non-reporting of enhanced supervision data leading to violation of SEBI Enhanced Supervision Circular.
4. I also note that with effect from July 02, 2021 and July 05, 2021, the Noticee was declared a defaulter and it was expelled from the membership of MCX and NCDEX respectively.
5. *Vide* order dated January 11, 2023 (“**WTM 2023 Order**”), WTM passed an order against BRHWKL, BRHCPL and other related entities holding BRHWKL liable for the following:
 - (i) Misutilisation of client securities by pledging client securities and diversion of loan raised against securities (“**LAS**”);
 - (ii) Misutilisation of client funds;
 - (iii) Wrong/non-submission of data;
 - (iv) Non-cooperation with forensic auditor; and
 - (v) Non-redressal of investor grievances.
6. *Vide* the aforesaid order, WTM also held BRHCPL liable for the following violations:
 - (i) Misutilisation of client securities by pledging client securities and diversion of LAS;
 - (ii) Misutilisation of client funds;

- (iii) Not providing bounce email notification of electronic contract notes; and
- (iv) Incorrect/non-reporting of enhanced supervision data.

7. Further, *vide* order dated February 27, 2023 ("**WTM 2023 Enquiry Order**"), the registration certificate of BRHWKL was cancelled for the violations stated in paragraph 5 above.

B. SHOW CAUSE NOTICE, REPLY AND HEARING

8. The present matter emanates from SCN dated July 19, 2022 issued by SEBI calling upon the Noticee to show cause as to why the action recommended by the DA should not be taken against it in terms of regulation 27 of SEBI (Intermediaries) Regulations, 2008 ("**Intermediaries Regulations**"). A copy of the DA Report was enclosed with the said letter.
9. Pursuant to the SCN, *vide* email dated November 28, 2022, an opportunity for personal hearing was granted to appear before me on December 14, 2022. On the scheduled date and time, the authorized representatives ("**ARs**") of the Noticee appeared before me and reiterated the submissions made before the DA *vide* email sent on June 08, 2022 and requested that their submissions be considered as their written submissions for the present proceedings. During the hearing, I observed that the Noticee has been declared a defaulter and expelled from membership of MCX and NCDEX with effect from July 02, 2021 and July 05, 2021, respectively and that membership of any stock exchange is an essential condition for registration of the Noticee as a commodity derivative broker. The aforesaid status was acknowledged by the ARs of the Noticee.
10. The reply of the Noticee submitted before DA *vide* email dated June 08, 2022 is summarized below:
- 10.1 BRHCPL is wrongly being targeted because BRHWKL had itself requested NSE, BSE and SEBI *vide* letter dated September 29, 2019 for freezing its account due to illegal and wrongful acts of HDFC Bank Limited ("**HDFC**"). BRHWKL was incorporated in December, 2004 and started its business operations in the same

year in the field of wealth management, stock trading and insurance. The first Promoters of BRHWKL were Mr. Sudhanshu Agarwalla, Mr. Avinash Agarwalla and Mr Anubhav Bhattar.

- 10.2 The business model of BRHWKL, soon after its commencement of business in 2005, was guided towards providing the clients exposure on various trading platforms which over the time included NSE, BSE, NSE futures and options, NSE currencies and derivatives, NCDEX and MCX. In order to provide leverage to the clients to simultaneously trade on all platforms at the same time, BRHWKL used to pledge the securities purchased in the name of the respective clients with banks/ financial institutions. This was well known to and was with deemed consent of all the clients of BRHWKL. The annual accounts of BRHWKL for last several years showed that it was the clients' securities that were pledged with banks/ financial institutions. Thus, this fact was known to all exchanges, banks, financial institutions and clients amongst others.
- 10.3 The banks and financial institutions would give credit facilities to BRHWKL, and in lieu of this, BRHWKL would provide combined exposure together with default funding to the respective clients on the said trading platforms. This practise was not only followed by BRHWKL but by almost all other securities brokers in India. None of the clients of BRHWKL had raised any issue or complained in respect to the same as they all were enjoying the combined exposure and default funding to trade on all the platforms of various exchanges. This business model remained undisturbed until issuance of a SEBI circular bearing no. CIR/HO/MIRSD/DOP/CIR/P/2019/75 dated June 20, 2019 ("**SEBI 2019 Circular**"). Banks and financial institutions were secured and extended the credit facilities as they felt secured by the pledging of the shares as well as other collateral securities provided by BRHWKL. It was only after issuance of the aforesaid circular that the banks and financial institutions which had lend money to BRHWKL started playing tricks in order to reduce their exposure.
- 10.4 The steps taken by the banks/financial institutions to secure themselves at the cost of the investors could not be tolerated by BRHWKL, due to which it issued a letter dated September 30, 2019 to NSE, BSE and SEBI to protect the interest

of the clients wherein BRHWKL requested NSE and BSE to freeze its trading accounts on one hand and by another letter of even date addressed to banks/ financial institutions requested them to unpledge the shares of the clients in lieu of other collateral securities to be provided by BRHWKL. Thus, it was always its *bonafide* and genuine intent to protect the interest of the clients and segregate their securities. Despite the said letters, NSE and BSE only suspended the trading account instead of freezing it and the banks/ financial institutions failed to release the pledge and instead recalled the loan facilities. Further, despite several requests made to NSE, they have failed to liquidate all the assets of BRHWKL and make payment to the clients of BRHWKL.

10.5 BRHWKL has caused settlement with various clients and have arranged for payment of their dues through third parties. Such settlement payment amounting approximately to Rs. 6.50 crores have been made to 195 clients. NSE has control over assets of BRHWKL, which is worth over Rs. 137 crores and the same can be and has only been partially used for payment to its clients. There has not been a single instance where BRHWKL has resisted NSE from disposing off its assets for the benefit of its clients. This is apart from nearly thousands of clients paid through the Investor Protection Fund by NSE, where BRHWKL has actively provided all details to clients so that they can smoothly claim money from Investor Protection Fund of NSE.

10.6 BRHWKL has been continuously filing representations before SEBI to instruct NSE to take steps for liquidating its remaining assets, encashing the bank guarantee and make payment to clients. It is a misbelief that all stock brokers have *malafide* intention to defraud their clients and in the case of BRHWKL same view has been formed, which is not a fact as BRHWKL and its management have been working strenuously to ensure that all its clients are paid their justified dues. BRHWKL had filed the following statement of its assets to provide all support to NSE for liquidating the same so that the proceeds can be used for payment to its clients:

Table 1

Sl.	Particulars	Amount (Rs.)
1.	Claim admitted by the NSE till March 2021	130,25,80,875.81

Sl.	Particulars	Amount (Rs.)
2.	Less: Amount of free shares of BRHWKL in DP of Edelweiss Custodial Services Ltd.	35,69,45,254.38
3.	Less: Amount of free shares in DP of BRHWKL	12,45,67,193.00
4.	Less: Amount of fixed deposit with NSE free of encumbrances	13,98,27,916.55
5.	Less: Immovable property of BRHWKL held by HDFC Bank Ltd.	2,00,00,000.00
6.	Less: Debtors of BRHWKL	72,56,50,550.79
	TOTAL OF SURPLUS ASSETS	6,44,10,038.91

- 10.7 The aforesaid surplus amount is apart from the value of shares over Rs. 200 crores illegally sold by HDFC Bank Ltd. and for which proceedings were initiated by SEBI, as stated above, is pending before the Hon'ble Supreme Court of India. BRHWKL has also filed proceedings before the Hon'ble High Court at Calcutta challenging the illegal steps taken by HDFC Bank Ltd.
- 10.8 It is unfortunate that SEBI and NSE have targeted Mr. Anubhav Bhatte as the only person responsible for the affairs of BRHWKL since 2005, whereas the practise and dealings of BRHWKL has remained the same since inception when it was promoted by Mr. Sudhanshu Agarwalla, Mr. Avinash Agarwalla and Mr Anubhav Bhatte. The FAR is completely silent on the transactions between BRHWKL and group entities of the Agarwalla family upto September, 2018. The allegations made therein against Mr. Anubhav Bhatte are all false. Further, FAR is conspicuously silent on all acts done by the other promoters being Mr. Sudhanshu Agarwalla and Mr. Avinash Agarwalla for the period when they were in active control of BRH and the same being the period forming basis of such report.
- 10.9 BRHCPL and BRHWKL are two separate companies and neither of these companies are subsidiary of each other. The allegations in FAR that: (i) Polo Setco Tie Up Pvt. Ltd. ("**Polo**") received LAS of Rs. 80.61 crores; (ii) Prosperous Vyapaar Pvt. Ltd. ("**Prosperous**") received LAS of Rs. 5 crores; (iii) Parton Commercial Pvt. Ltd. ("**Parton**") received LAS of Rs. 50.67 crores; and (iv) AB Investments received LAS of Rs. 1.80 crores are all incorrect.
- 10.10 FAR is based on wrong appreciation and misinterpretation of facts and no clarifications were sought from BRHWKL regarding the same. NSE and E&Y have acted against principles of natural justice by not providing a fair opportunity

to BRHWKL and BRHCPL to give particulars when they were duly informed that the back office software was showing errors and required proper verifications and corrections. They were aware that the business had come to a sudden halt on September 29, 2019 which led to a mayhem at the BRHWKL's office at the behest of the disgruntled employees, franchisees and clients. Despite the above, there was no effort by them to get the data verified and they continued to analyse wrong data to give a faulty report. Hence, the contents of FAR are wrong and based on surmise and conjectures. As far as inspection conducted by BSE, NSE, CDSL and NSDL during October 1-5, 2018 for the period April 01, 2017 to July 25, 2018 is concerned, it is stated that BRHWKL had provided support to them and had taken steps as per their suggestions.

10.11 The whole premise of dealing with pledging of clients' securities has been wrongly interpreted in the FAR. The FAR wrongly alleges that (i) there was substantial increase in pledge from Rs. 169 crores in quarter end June, 2018 to Rs. 448 crores as on quarter end December, 2018; or (ii) the debtors balance was Rs. 156 crores in quarter end December, 2018; or (iii) securities pledged as at quarter end December, 2018 were more than client's indebtedness to BRHWKL amounting to Rs. 292 crores. All these allegations are based on surmises and wrong appreciation of facts. The sample two dates *i.e.*, September 28, 2018 and September 30, 2019 and observation that securities of clients having credit balance were also pledged are also based on surmises without appreciation of correct facts. BRHWKL would provide combined exposure together with default funding to the respective clients on various trading platforms including on the F&O segment of NSE. The clients having credit balance otherwise, when dealing on the F&O segment did not maintain cash securities as mandated by NSE and this was provided by BRHWKL out of the credit facilities availed by pledging shares. The aforesaid position can be explained by way of an example:

Mr. X (Client) had Rs. 50,000 as credit balance with BRHWKL, but he traded on F&O segment for a total value of Rs 16 lakhs, for which he was required to give Rs. 8 lakhs as cash margin but since he did not provide the same, his shares worth Rs. 16 lakhs had to be pledged to avail credit line from bank for Rs. 8 lakhs,

as bank would provide maximum 50% value of the stock price. This client was not considered as a debit client in the FAR, when the fact is that this client was a debit client in so far as shortfall in providing cash margin was concerned on the day of trading on the F&O segment.

10.12 A statement (Annexure A) to the reply gives details of various clients who despite having credit balance or debit balance failed to provide cash security for trading on F&O segment. Such margin towards the shortfalls were provided by BRHWKL to NSE and thus the clients indebtedness towards BRHWKL was much more than their respective balances. Further, Annexure A does not capture the peak margin requirement of the clients trading on F&O segment and it was BRHWKL who had provided cash margin in this regard also to NSE. In order to secure all such margins provided by BRHWKL, the shares of all such clients were pledged. Hence, it is incorrect to state that pledge was created on shares of credit balance clients. All such clients were deemed to be debit balance clients on any given day of trading by them on the exchange.

10.13 It is well accounted in the books of BRHWKL, which FAR fails to mention, that the actual LAS utilization of BRHWKL was only Rs. 197.83 crores and not Rs. 448 crores as on quarter end December, 2018 and similarly it was Rs. 79.37 crores instead of Rs. 169 crores in the quarter ending June, 2018. This is because of the fact that the bank only funded towards 40-50% of the value of the shares and not for its full value. Actual debtors of BRHWKL as on September 29, 2018 were 68387 clients having aggregate of Rs. 163.40 crores debit balance approximately and as on September 30, 2019, it was 31803 clients having aggregate of approximately Rs. 76.01 crores debit balance.

10.14 It is denied that there was any diversion of funds by BRHWKL and/or BRHCPL through LAS of clients. The LAS was availed as per practise prevalent at the relevant time since the year 2006. Infact, in the past, for every year, there were inspection by SEBI, NSE and BSE, when no issues were raised for such LAS. The amount of LAS availed from JM Financial Products Limited ("**JMF**"), Axis Bank Ltd. ("**Axis**"), ICICI Bank Ltd. ("**ICICI**"), Bajaj Finance Limited ("**BFL**") were fully repaid. The LAS availed from HDFC was also substantially paid, however,

it was for the illegalities being committed by HDFC that BRHWKL had to stop its operations. As stated above, actual LAS utilization of BRHWKL was only Rs. 197.83 crores as on quarter end December, 2018. The LAS funds were not transferred to any of the related parties of BRHWKL. BRHWKL had its own internal accruals and the same were used for carrying out its payment obligations for the credit facilities availed by BRHWKL from its related parties. The amounts paid to Parton, Prosperous, BRH Stainless Limited, AB Investments and East West Infra Projects Private Limited were all against their respective dues towards BRHWKL and no amount is due and/or payable by any of these entities to BRHWKL. As far as Polo is concerned, there was a running account between Polo and BRHCPL for last several years, which was part of the inspection carried out by SEBI and NSE on year to year basis. There were several transactions carried out between Polo and BRHCPL and infact, Polo being a NBFC had provided loans to BRHCPL which were repaid from time to time. Loans given by BRHWKL to BRHCPL in usual course were repaid together with interest and TDS was deducted thereon. This issue has been raised for the first time in the FAR, because the business of BRHWKL has stopped, however, this was known to all the exchanges all along since 2006. Polo was also a client of BRHWKL and till date its securities worth over Rs. 13 crores are retained in the books of BRHWKL.

10.15 Whenever discrepancies in email IDs or mobile numbers of clients were pointed out, the same were duly rectified by the compliance officer. There was no *malafide* intention in this regard as mostly clients had several of their family members and related entities enrolled as clients and for their convenience, they had provided common email ID and mobile numbers. BRHWKL had over 1 lakh satisfied clients and none of them ever complained of non-receipt of trade information on either email or mobile numbers. It is denied that discrepancies in email IDs or mobile numbers of clients has been used for misuse of funds/securities of clients by BRHWKL/BRHCPL.

10.16 It is falsely alleged that:

- (i) BRHWKL or BRHCPL had pledged securities of credit balance clients and debit balance clients beyond their indebtedness; or

- (ii) BRHWKL had a net shortfall in client securities amounting to Rs. 137 crores as on September 30, 2019; or
- (iii) BRHWKL and/or BRHCPL diverted funds raised through LAS; or
- (iv) Purported discrepancies in email IDs or mobile numbers of clients of BRHWKL and/or BRHCPL or alleged misuse of PoA by BRHWKL has enabled BRHWKL and/or BRHCPL in misutilisation of clients' fund and securities; or
- (v) BRHWKL and/or BRHCPL have misappropriated client securities and diverted funds raised through such misappropriation; or
- (vi) BRHWKL has misutilized funds of credit balance clients towards settlement obligations of debit balance clients ranging from Rs 4.42 crores to Rs. 7.30 crores.

10.17 It is denied that BRHWKL or BRHCPL have misappropriated clients' funds.

- (i) AB Investments is a client of BRHWKL and a copy of the ledger of transactions undertaken by it with BRHWKL is enclosed as Annexure B to the reply. From such ledger, it would be evident that no excess amount was paid to AB Investment by BRHWKL as alleged in the FAR. BRHWKL had only made payment of the amounts due to AB Investments on account of its trading balance.
- (ii) Polo is a NBFC. Polo had not only provided loans to BRHCPL but even provided various clients to BRHWKL. Since last several years there were regular transactions between Polo and BRHWKL directly and through BRHCPL, which would be evident from the NSE inspection reports of last several years. The accounts of Polo and BRHCPL were squared off every year and any excess amount provided to Polo was repaid with interest and *vice versa*. Once the business of BRHWKL stopped on September 30, 2019 and immediately thereafter Interim Order was passed by SEBI

against BRHWKL, BRHCPL and Polo, there could not be any further business conducted leading to the accounts getting frozen on such date. On one hand there is allegation of indebtedness of Polo but on the other hand there is complete silence that the accounts of Polo were frozen, and hence, it could not do any business to return the amounts as had been done in past. There is also no mention of the sums used through Polo to purchase shares held by Agarwalla family of and in BRHWKL and BRHCPL. The ultimate beneficiaries of the substantial amounts from Polo are the Agarwallas and their group entities who held shares of and in BRHWKL and BRHCPL. As stated above, Polo still has securities over Rs 13 crores in BRHWKL and also credit balance of substantial amount with BRHWKL.

- (iii) Prosperous was a client of BRHWKL and the ledger of transactions undertaken by it with BRHWKL is enclosed as Annexure C. From such ledger, it would be evident that no excess amount was paid to Prosperous by BRHWKL as alleged by NSE.
- (iv) Bluesnow Suppliers Private Limited ("**Bluesnow**") had provided office space to BRHWKL and had charged license fee against the same. Though forensic auditor has accepted payment of Rs. 5.27 crores as license fees, however, a further payment of Rs. 1.68 crores for subsequent period has not been taken into account. In terms of the agreement with Bluesnow, based on the commitment of BRHWKL, it had made capital expenditure in the concerned premises and it was agreed between them that if BRHWKL untimely terminates the agreement for any reason, it shall make payment of the license fees for the remainder period. BRHWKL failed to make payment of the license fees for the remainder period as its accounts got frozen, but yet it had already made payment of Rs. 1.68 crores towards license fee. The forensic auditor ignored such fact and no opportunity was provided to BRHWKL to give such clarification.
- (v) It is denied that there has been any net outflow of funds by BRHWKL to AB investments, Polo, Prosperous or Bluesnow beyond their individual

obligations or that it indicates misuse or diversion of client funds or securities by BRHWKL through these entities.

10.18 Not providing certain particulars of bank accounts was purely unintentional by the compliance team. PAN and other required information of the two persons, namely, Mrugesh Bhaskarbai Devshrayi and Sudhanta Chakraborty were duly uploaded on the web portal of the exchange and was always available with the exchange. The allegation contained in this regard is incorrect and hence denied. It is denied that BRHWKL and/or BRHCPL have violated provisions of SEBI Enhanced Supervision Circular.

10.19 Securities pledged by BRHCPL was released. BRHCPL had all along maintained pledge register, however with the close of business and the compliance team leaving abruptly, the same could not be provided immediately. However, it is denied that details of pledge of clients' securities has not been provided or there was any violation of SEBI Enhanced Supervision Circular.

10.20 It is denied that bounce mail notification of electronic contract notes was not provided or there was any violation of SEBI 2005 Circular.

10.21 In view of the above, none of the allegations contained in the SCN are admitted. There is no cogent or valid reason for taking any action under regulation 26 of Intermediaries Regulations.

C. CONSIDERATION OF ISSUES AND FINDINGS

11. Based on the conclusions arrived at in the DA Report, the following issues are to be decided upon:

- (i) Whether BRHCPL had misutilised client securities?
- (ii) Whether BRHCPL had misutilised client funds?
- (iii) Whether bounce email notification of electronic notes was provided by BRHCPL?
- (iv) Whether BRHCPL had correctly reported the enhanced supervision data?

- (v) Whether the expulsion of membership of stock exchanges renders the Noticee's certificate of registration liable to be cancelled?
- (vi) Whether the recommendations made by the DA in DA Report must be accepted or whether any other order needs to be passed against the Noticee?

12. I have examined the charges against the Noticee, the DA Report, the reply of the Noticee and other material available on record. Having done so, I now proceed to adjudicate the charges one by one.

13. **MISUTILISATION OF CLIENT SECURITIES**

13.1 Since pledging of client securities, non-maintenance of register of pledge, funds raised through such pledging, discrepancies in email IDs and mobile number of clients, diversion of such funds to related parties, are all inter related issues, I am dealing with it together. Accordingly, I find it appropriate to reproduce below the provisions alleged to have been violated by the Noticee in this issue:

(i) **SEBI 1993 Circular**

"1...

2. It shall be compulsory for all Member brokers to keep separate accounts for client's securities and to keep such books of accounts, accounts, as may be necessary, to distinguish such securities from his/their own securities. Such accounts for client's securities shall, inter-alia provide for the following:-

- a. Securities received for sale or kept pending delivery in the market;*
- b. Securities fully paid for, pending delivery to clients;*
- c. Securities received for transfer or sent for transfer by the Member in the name of client or his nominee(s);*
- d. Securities that are fully paid and are held in custody by the Member as security/margin etc. Proper authorization from client for the same shall be obtained by Member;*
- e. Fully paid for client's securities registered in the name of Member, if any, towards margin requirements etc.;*

f. Securities given on Vyaj-badla. Member shall obtain authorization from clients for the same.”

(ii) SEBI Enhanced Supervision Circular

“

2.4. In line with the prevalent regulatory requirement, it is reiterated that;

2.4.2. Transfer of funds between "Name of Stock Broker - Client Account" and "Name of Stock Broker - Settlement Account" and client's own bank accounts is permitted. Transfer of funds from "Name of Stock Broker - Client Account" to "Name of Stock Broker - Proprietary Account" is permitted only for legitimate purposes, such as, recovery of brokerage, statutory dues, funds shortfall of debit balance clients which has been met by the stock broker, etc. For such transfer of funds, stock broker shall maintain daily reconciliation statement clearly indicating the amount of funds transferred.

2.4.3. Transfer of securities between "Name of the Stock Broker - Client Account " and individual client's BO account, "Name of the Stock Broker – Pool Account" and "Name of the Stock Broker – Collateral Account" is permitted. Transfer of securities between "Name of the Stock Broker - Client Account" to "Name of the Stock Broker - Proprietary Account" is permitted only for legitimate purposes such as, implementation of any Government/Regulatory directions or orders, in case of erroneous transfers pertaining to client's securities, for meeting legitimate dues of the stock broker, etc. For such transfer of securities, stock broker shall maintain a stock transfer register clearly indicating the day-wise details of securities transferred.

2.5. As per existing norms, a stock broker is entitled to have a lien on client's securities to the extent of the client's indebtedness to the stock broker and the stock broker may pledge those securities. This pledge can occur only with the explicit authorization of the client and the stock broker needs to maintain records of such authorisation. Pledge of such securities

is permitted, only if, the same is done through Depository system in compliance with Regulation 58 of the SEBI (Depositories and Participants) Regulations, 1996. To strengthen the existing mechanism, the stock brokers shall ensure the following:

2.5.1. Securities of only those clients can be pledged who have a debit balance in their ledger.

2.5.2. Funds raised against such pledged securities for a client shall not exceed the debit balance in the ledger of that particular client.

2.5.3. Funds raised against such pledged securities shall be credited only to the bank account named as "Name of the Stock Broker - Client Account".

2.5.4. The securities to be pledged shall be pledged from BO account tagged as "Name of the Stock Broker - Client Account".

2.5.5. Stock Brokers shall send a statement reflecting the pledge and funding to the clients as and when their securities are pledged/unpledged as given below:

2.6. Stock brokers shall not grant further exposure to the clients when debit balances arise out of client's failure to pay the required amount and such debit balances continues beyond the fifth trading day, as reckoned from date of pay-in.

2.7. The above requirements mentioned under paras 2.4 to 2.6 shall be applicable within three months from the date of this circular.

.....

7. Uploading clients' fund balance and securities balance by the Stock Brokers on Stock Exchange system

The Stock Exchanges shall put in place a mechanism and ensure that stock brokers upload the following data on a monthly basis for every client onto each Stock Exchange system where the broker is a member

7.1.1. Exchange-wise end of day fund balance as per the client ledger, consolidated across all segments and also net funds payable or receivable by the broker to/from the client across all Exchanges

7.1.2. End of day securities balances (as on last trading day of the month) consolidated ISIN wise (i.e., total number of ISINs and number of securities across all ISINs)

7.1.3. For every client, number of securities pledged, if any, and the funds raised from the pledging of such securities

7.1.4. The data at Para 7.1.1, 7.1.2 and 7.1.3 pertains to the last trading day of the month. The stock broker shall submit the aforesaid data within seven days of the last trading day of the month.

....

(iii) SEBI 2011 Circular

2.

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

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

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

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

iv. 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.

13.2 Regarding misutilisation of client securities, the DA Report *inter alia* states the following:

- (i) Noticee had pledged and unpledged many shares from April, 2017 to September, 2017 from its account bearing no. 2194. Securities were transferred from futures and options client margin account of BRHWKL (bearing no. 1137) to commodity collateral demat account of BRHCPL (bearing no. 2194) which were ultimately pledged by BRHCPL. It further states that BRHCPL pledged shares of 21 companies amounting to Rs.15.72 crores during the period April to September, 2017 using its demat account (bearing no. 2194). However, Noticee has been unable to provide register of pledge, details of clients whose securities were pledged and purpose of such pledge.
- (ii) When verification of email Id and mobile number was carried out, 2353 email IDs were mapped to 12818 clients (*i.e.*, single email ID was mapped to multiple clients) and 4059 mobile numbers were mapped to 9842 clients (*i.e.*, single mobile number was mapped to multiple clients) which indicates that clients may not have been informed of the transactions made by the Noticee using their funds/securities. The aforesaid may have been used as a method for misuse of funds/securities of clients.
- (iii) BRHWKL had pledged client securities with 6 institutions for availing the LAS facility, namely, HDFC, JMF, ICICI, Axis, BFL and ICCL. Based on the review of 3 out of 6 LAS statements made available, total LAS disbursement of Rs. 513 crores was made to BRHWKL during the period April 01, 2016 till September 30, 2019. On analysis of fund utilization raised through LAS from 3 institutions (JMF, Axis and BFL), it was observed that funds amounting to Rs 150.13 crores were transferred to 7 related parties of BRHWKL as provided below.
 - (a) Rs. 80.61 crores (54%) to Polo;
 - (b) Rs. 50.67 crores (34%) to Parton;

- (c) Rs. 8 crores (5%) to Agarwallas (Subodh Agarwalla, Subhas Chandra Agarwalla and Prahlad Rai Agarwalla);
- (d) Rs. 5 crores (3%) to Prosperous;
- (e) Rs. 4 crores (3%) to BRH Stainless Limited;
- (f) Rs. 1.80 crores (1%) to AB Investments;
- (g) Rs. 0.05 crores to East West Infra Projects Private Limited.

With respect to role of the Noticee in utilization of LAS, funds were transferred from bank account of BRHWKL to multiple bank accounts of BRHCPL before being transferred to the related parties.

13.3 I note that Annexure 2 provided with SCN issued by DA dated September 15, 2021 ("**DA SCN**") lists shares of 21 companies amounting to Rs 15.72 crores which were pledged by BRHCPL from its demat account bearing no. 2194. I also note that inspection report records that client ledger balances in equity segments were also examined on the date of transfer of securities for pledging (*i.e*, ledger balances in derivative segment as well as equity segments were checked), and it was found that for atleast 2 clients, namely, Polo and Anil Manilal Shah, there was no debit balance commensurate with value of pledged shares.

13.4 I note that movement of shares and ledger balance of Polo and Anil Manilal Shah was provided as Annexures 3 and 4 to the DA SCN. For instance, with respect to shares of Polo, Annexure 3 (Movement of shares) shows that on July 13, 2017, 18,000 shares of Tata Steel were transferred from demat account of Polo (xxxxxxxxxxxx9509) to demat account of BRHWKL (xxxxxxxxxxxx1137). On the same day, the said shares were transferred to demat account of BRHCPL (INxxxxxxxxxx2194). Further, Annexure 4 (Ledger balance of Polo in BRHWKL) shows that Polo's balance was as follows:

Table 2

Date	Segment	Balance (in Rs)
05/07/2017	Balance in capital-NSE	12,56,764.08
31/07/2017		0
30/06/2017	Balance in capital- BSE	0
20/07/2017		7,90,924.28
30/06/2017	Balance in derivatives- NSE	0
31/07/2017		0

Annexure 3 (Movement of shares) and Annexure 4 (Ledger balance of Polo) when read together shows that on the date shares of Polo were pledged (*i.e.*, July 13, 2017), it had no debit balance in any segment for the Noticee to pledge its shares.

- 13.5 As stated before, the Noticee has requested to consider the submissions made before the DA as submissions for the present proceedings as well. Before the DA, the Noticee has stated that it used to pledge securities of clients with banks/financial institutions to provide leverage to clients to simultaneously trade on all platforms at the same time. It has further stated that it would provide combined exposure together with default funding to its clients. The clients having credit balance otherwise, when dealing on the F&O segment did not maintain cash securities as mandated by NSE and this was provided by BRHWKL out of the credit facilities availed by pledging shares. The Noticee has claimed that all clients whose shares were pledged were debit balance clients, and to support this, has provided an annexure (*i.e.*, Annexure A of Noticee's reply) which provides details of clients who despite having credit balance, failed to provide cash security for trading in F&O segment.
- 13.6 From the above, it is clear that the Noticee has admitted that it had pledged client securities. The Noticee has claimed that it was providing leverage to clients across different segments, and that shortfall in one segment was compensated by pledging shares available in another segment. The annexure provided by the Noticee to prove that credit balance clients when dealing on the F&O segment, did not maintain cash securities and that this was provided by BRHWKL out of the credit facilities availed by pledging shares, does not adequately support its contention. The said annexure (*i.e.*, Annexure A of Noticee's reply) lacks material information such as the date on which the statement is drawn, how the Noticee had arrived at the amount of margin due *etc.* Further, Annexures 3 and 4 issued along with DA SCN does not show any margin obligation pending on the part of clients whose shares were pledged. Thus, the Noticee has failed to show that its credit clients were actually indebted to it/BRHWKL due to their margin obligations on futures and options segment.

- 13.7 The Noticee has argued that the practice of pledging was not only followed by BRHWKL but by almost all other securities brokers in India. None of the clients of BRHWKL had raised any issue or complained with respect to the same as they were all enjoying the combined exposure and default funding to trade on all the platforms of various exchanges. This business model remained undisturbed until issuance of SEBI 2019 Circular. In this regard, I note that clause 3 of SEBI 2019 Circular provides the following *“Referencing the above stated provisions, the TM/CM are transferring client’s securities into their own account by way of title transfer and then placing such securities as a collateral to Banks/NBFCs and/or fulfilling securities shortages of other clients/proprietary trades which is not contemplated in the provisions of the SEBI circulars referred to in paragraph 2” (emphasis supplied).* Clause 2 of the SEBI 2019 Circular reproduces relevant portions of the SEBI 1993 Circular, SEBI circular bearing no. MRD/DOP/SE/Cir–11/2008 dated April 17, 2008, SEBI Enhanced Supervision Circular, SEBI circular bearing no. CIR/HO/MIRSD/MIRSD2/CIR/P/2017/64 dated June 22, 2017 amongst others which emphasize segregation of client securities, procedures to ensure that client collateral is only used for the respective client, avoiding grant of further exposure by brokers to debit balance clients etc.

Thus, the claim of the Noticee that pledging of client shares was a practice followed by all brokers until it was disturbed by the SEBI 2019 Circular does not hold true, as SEBI 2019 Circular explicitly states in clause 2 that transferring client securities into own account of brokers and placing them as collateral or using them for trades of other clients/proprietary trades is not contemplated under various circulars issued by SEBI including circulars issued in 1993, 2008, 2016 and 2017. Therefore, SEBI 2019 Circular only reiterated the existing law, which existed since 1993. In view of the above, contention of the Noticee that pledging of client securities was industry practice until SEBI 2019 Circular was issued cannot be accepted.

- 13.8 The Noticee has submitted that it had *bonafide* and genuine intent to protect the interest of the clients and segregate their securities, and hence, it issued a letter dated September 30, 2019 to NSE, BSE, and SEBI wherein it requested NSE and BSE to freeze its trading accounts and also issued a separate letter of even

date to financial institutions wherein it requested them to unpledge the shares of its clients in lieu of other collateral securities to be provided by BRHWKL. However, according to the Noticee, NSE and BSE suspended its trading account and the banks/financial institutions failed to release the pledge and instead recalled the loan facilities. This contention is without merit. If the Noticee had interest of its clients in mind, it should not have pledged shares of credit balance clients in the first place.

- 13.9 The Noticee has argued that securities pledged by it was released. The Noticee had maintained pledge register at all times, however due to closure of business and the compliance team leaving abruptly, the same could not be provided immediately. The Noticee has denied that the details of pledge of clients' securities has not been provided or that there was any violation of SEBI Enhanced Supervision Circular.
- 13.10 I note that the details of shares pledged and unpledged by the Noticee during April, 2017 to September, 2017 from its account bearing no. 2194 was provided as Annexure 2 to DA SCN. As stated before, Annexure 2 shows that shares of 21 companies amounting to Rs 15.72 crores were pledged by the Noticee (from its demat account bearing no. 2194).
- 13.11 I note that the Noticee has not been able to provide an explanation regarding Annexure 2 to the DA SCN, which shows that shares were pledged and unpledged from April, 2017 to September, 2017 by the Noticee. Infact, the Noticee has admitted that it could not provide the inspection team, register of pledge and details of pledged shares. It has further stated that it has maintained a pledger register at all times. However, I am unable to accept this submission in the absence of any evidence. If the Noticee had maintained a pledge register containing details of pledged shares which it could not provide at the time of inspection, it had 2 more opportunities, one before the DA and one before the undersigned, to submit the same for consideration. I note that clause 7.1.3 read with clause 7.1.4 of SEBI Enhanced Supervision Circular states that for every client, data relating to number of securities pledged, if any, and the funds raised from pledging of such securities needs to be submitted by the stock broker to the

stock exchange within 7 days of the last trading day of the month. Thus, the requirement is with respect to “every client”. Since the securities pledged by BRHCPL were of clients of BRHWKL, it was the primary onus of BRHWKL to maintain such a register.

- 13.12 Noticee has submitted that (i) BRHWKL had ensured settlement with various clients and had arranged for payment of their dues through third parties; (ii) BRHWKL had filed statement of its assets to provide all support to NSE for liquidating the same so that the proceeds can be used for payment to its clients; and (iii) FAR is silent on all acts done by the other promoters being Mr. Sudhanshu Agarwalla and Mr. Avinash Agarwalla for the period when they were in active control of BRHWKL. I find that all the above submissions are not relevant to the specific allegations stated in the DA Report and therefore, they do not merit discussion.
- 13.13 In conclusion, I note that client shares were transferred from client accounts to account of BRHWKL to account of BRHCPL and from thereon shares were pledged even for clients which did not have debit balance. I note that there is no material on record to state otherwise nor is there is any explanation from the Noticee which is satisfactory to justify the aforesaid act. I note that the DA Report states that the aforesaid act of the Noticee was in violation of the SEBI 1993 Circular and the SEBI Enhanced Supervision Circular. In view of the aforesaid observations and in the context of the facts alleged in the DA Report, I find that the Noticee has violated provisions of the SEBI 1993 Circular and the SEBI Enhanced Supervision Circular cited in para 13 of this Order.
- 13.14 As alleged in the DA SCN and Annexure 9 thereof, I note that a single email ID was used for multiple clients. For example, client names, Hemali Prakash Bhavsar, Manoj Chotalal Panchal and Kalpana Prakash Bhavsar were three different clients of the Noticee bearing client codes 1790646, 17920645 and 17920647. Yet, all three persons shared a common email ID: 002HEMALI@GMAIL.COM. Similarly, I note that two clients of the Noticee having client codes S9260005 (Om Arun Bongirwar) and S9260008 (Dipali Om Bongirwar) had the same email ID i.e,

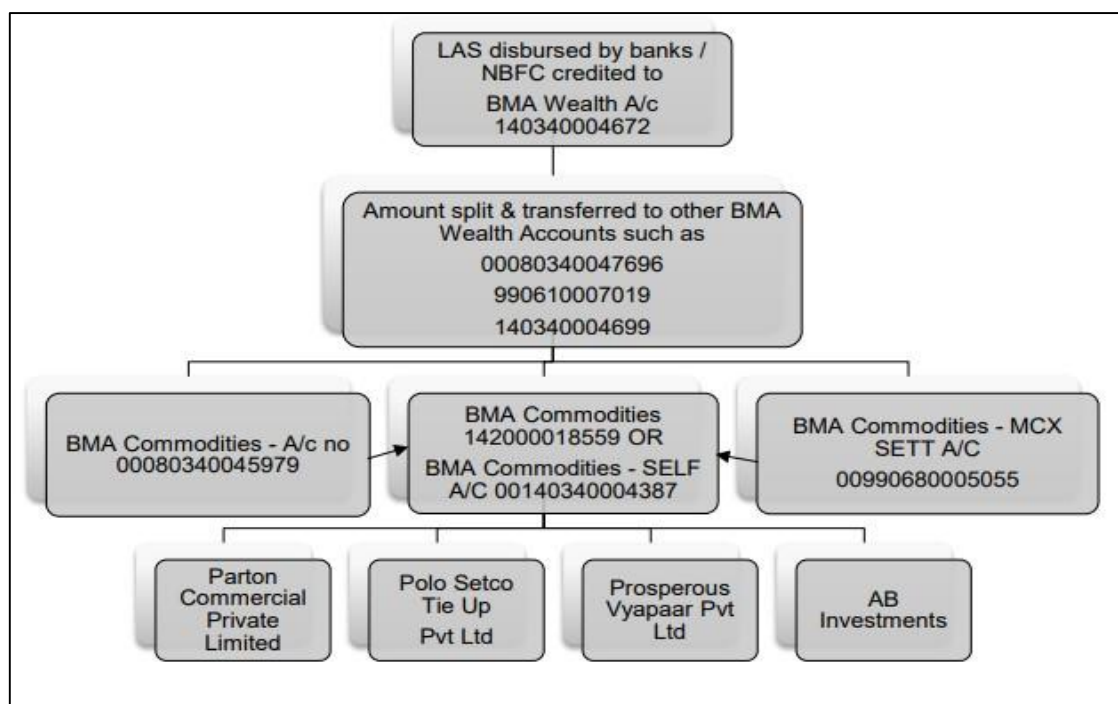
ABTRADINGCOMPANY@REDIFFMAIL.COM. I note that the said Annexure contains total 12818 names including the above. Further, I note that details of a single mobile number mapped to multiple clients was provided as Annexure 9A of the DA SCN. From the said annexure, for example, I note that the mobile number 9999054436 was used for three clients, Shruti Jindal (having client code 72440022), Sachin Kumar Jindal (having client code 72440005) and Sachin Jindal (HUF) having client code 72440020. Similarly, Mudra Control (having client code 93060006) and Shiv Chandra (having client code 93060005) were shown as having a common mobile number *i.e*, 9999001381. I note from Annexure 9A that 9737 clients (instead of 9842 clients as mentioned in the DA Report) were sharing 3954 mobile numbers (instead of 4059 clients mentioned in the DA Report).

- 13.15 The Noticee has argued that whenever discrepancies in email IDs or mobile numbers of clients were pointed out, the same were duly rectified by the compliance officer. There was no *malafide* intention in this regard as mostly clients had several of their family members and related entities enrolled as clients and for their convenience they used to provide common email IDs and mobile numbers. The Noticee has denied that discrepancies in email IDs or mobile numbers of clients has been misused by BRHWKL/BRHCPL.
- 13.16 On reading clause 2(B) of SEBI 2011 Circular, it is clear that a separate email ID and mobile number is required to be uploaded for each client. The Noticee in its submission has admitted that there was a lapse in terms of uploading email IDs and mobile numbers, and the same were rectified. The Noticee has not provided any evidence to support this submission. The Noticee has further submitted that its clients were mostly family members and related entities and for convenience they would submit common email ID and mobile numbers. In this regard, I note that the aforesaid clause provides that only under exceptional circumstances, stock broker may, at specific written request of client, upload common email ID or mobile number provided they belong to one family. However, the Noticee has not placed before me any proof to support the contention that the clients who were sharing common email ID and mobile numbers were part of the same family

and that they had made a specific written request for the same. Thus, I find that the Noticee has violated clause 2(B) of SEBI 2011 Circular.

- 13.17 With respect to LAS, it is worth highlighting that the charge against the Noticee is that its bank account was used for transferring LAS from bank account of BRHWKL to bank accounts of related entities. The snapshot of transaction trail in majority cases as reproduced from the FAR is provided below:

Image 1



- 13.18 The question before me is whether the Noticee had participated in diversion of LAS to related parties of BRHWKL. In this regard, details of fund trail for LAS disbursements by banks/NBFC is provided in Annexure 7.5 of FAR. A screenshot of one such disbursement from JMF to BRHWKL is provided below:

Image 2

7.5 Details of fund trail for LAS disbursements by banks/NBFC									
1. JM Finance									
(Amount in INR Crores)									
LEVELS	Transaction date	FROM				TO			
		NAME	ACCOUNT NUMBER	DEBIT AMOUNT	LINE BALANCE	NAME	ACCOUNT NUMBER	CREDIT AMOUNT	LINE BALANCE
1	22-04-2016	JM FINANCE		9.00		BMA WEALTH CREATORS LTD - NSE SELF A/C	140340004672	9.00	-5.89
2	22-04-2016	BMA WEALTH CREATORS LTD - NSE SELF A/C	140340004672	3.20	-9.09	BMA WEALTH CREATORS LTD	00080340047696	3.20	3.21
2	22-04-2016	BMA WEALTH CREATORS LTD - NSE SELF A/C	140340004672	5.07	-14.16	BMA WEALTH CREATORS LTD	00080340047696	5.07	5.07
3	22-04-2016	BMA WEALTH CREATORS LTD	00080340047696	3.20	0.01	M/S. BMA COMMODITIES PVT LTD	142000018559	3.20	3.20
3	22-04-2016	BMA WEALTH CREATORS LTD	00080340047696	5.07	0.01	M/S. BMA COMMODITIES PVT LTD	142000018559	5.07	5.07
4	22-04-2016	M/S. BMA COMMODITIES PVT LTD	142000018559	3.20	0.00	M/S. PARTON COMMERCIAL PRIVATE LIMITED	80340049414	3.20	3.21
4	22-04-2016	M/S. BMA COMMODITIES PVT LTD	142000018559	5.07	0.00	M/S. PARTON COMMERCIAL PRIVATE LIMITED	80340049414	5.07	5.07
5	22-04-2016	M/S. PARTON COMMERCIAL PRIVATE LIMITED	80340049414	3.20	0.01	TRINCAS MANAGEMENT	01058190000059	3.20	
5	22-04-2016	M/S. PARTON COMMERCIAL PRIVATE LIMITED	80340049414	5.07	0.01	POLO-SETCO TIE UP PVT LTD		5.07	
1	25-04-2016	JM FINANCE		7.00		BMA WEALTH CREATORS LTD - NSE SELF A/C	140340004672	7.00	-7.70

The screenshot above shows that on April 22, 2016, there was disbursement from JMF of Rs. 9 crores to the account of BRHWKL (Level 1). On the same day, BRHWKL transferred Rs 3.20 crores and Rs 5.07 crores (Level 3) to account of the Noticee. On the same day, the Noticee transferred the aforesaid amounts to Parton's account (Level 4). Similarly, another screenshot which shows disbursements from JMF to BRHWKL is provided below:

Image 3

1	11-10-2018	JM FINANCE		10.00		BMA WEALTH CREATORS LTD - NSE SELF A/C	140340004672	10.00	-3.64
2	11-10-2018	BMA WEALTH CREATORS LTD - NSE SELF A/C	140340004672	10.00	-13.64	BMA COMMODITIES P LTD - SELF A/C	00140340004387	10.00	10.03
3	11-10-2018	BMA COMMODITIES P LTD - SELF A/C	00140340004387	10.00	0.03	POLO-SETCO TIE UP PVT LTD	07180340000022	10.00	
1	12-10-2018	JM FINANCE		10.00		BMA WEALTH CREATORS LTD - NSE SELF A/C	140340004672	10.00	-4.89
2	12-10-2018	BMA WEALTH CREATORS LTD - NSE SELF A/C	140340004672	10.00	-14.89	BMA COMMODITIES P LTD - SELF A/C	00140340004387	10.00	10.02
3	12-10-2018	BMA COMMODITIES P LTD - SELF A/C	00140340004387	10.00	0.02	POLO-SETCO TIE UP PVT LTD	07180340000022	10.00	
1	15-10-2018	JM FINANCE		9.00		BMA WEALTH CREATORS LTD - NSE SELF A/C	140340004672	9.00	-5.89
2	15-10-2018	BMA WEALTH CREATORS LTD - NSE SELF A/C	140340004672	9.00	-14.89	BMA COMMODITIES P LTD - SELF A/C	00140340004387	9.00	9.02
3	15-10-2018	BMA COMMODITIES P LTD - SELF A/C	00140340004387	9.00	0.02	POLO-SETCO TIE UP PVT LTD	07180340000022	9.00	

From the above, it is evident that that on the same day, funds moved from JMF to BRHWKL to the Noticee then to Polo, which is a related party of BRHWKL.

- 13.19 The Noticee has denied that there was any diversion of funds by BRHWKL and/or BRHCPL through LAS. It has argued that amounts of LAS availed from JMF, Axis, ICICI, and BFL were fully repaid. The LAS availed from HDFC was also substantially paid. Actual LAS utilization of BRHWKL was only Rs. 197.83 crores as on quarter ending December, 2018. The LAS funds were not transferred to any of the related parties of BRHWKL. BRHWKL had its own internal accruals and the same were used for carrying out its payment obligations for the credit facilities availed by BRHWKL from its related parties. The amounts paid to Parton, Prosperous, BRH Stainless Limited, AB Investments and East West Infra Projects Private Limited were all against their respective dues towards BRHWKL and no amount is due and/or payable by any of these entities to BRHWKL. Specifically, with respect to Polo, the Noticee has contended that Polo being a NBFC had provided loans to BRHCPL which were repaid from time to time.
- 13.20 The Noticee's argument that it had transferred funds to related parties as they had taken loans from the Noticee is not convincing. No loan agreements or details such as tenor of loan, security, interest rate, terms and conditions of loan *etc* have been placed on record to satisfy me that the transactions between the Noticee and entities listed in the paragraph above were *bonafide* loan transactions. As to the submission that Polo being a NBFC had provided loans to BRHCPL which were repaid from time to time, I find that if several transactions had previously taken place between the Noticee and Polo, and if they were in ordinary course, then the Noticee should have at least produced one document before me which sets out the terms and condition of such transfers. However, the absolute lack of documentary evidence, clearly shows that the Noticee and Polo were transferring money on an informal basis. I find that the funds raised through the pledging of client securities ought to be used only for meeting the obligation of the respective client and should be received only in the clients' accounts.
- 13.21 The DA Report states that by diverting LAS to related parties, the Noticee has violated provisions of SEBI 1993 Circular and SEBI Enhanced Supervision Circular. As brought out before, such funds were raised by pledging client securities of BRHWKL. Herein, I find that the Noticee was acting as a conduit for

transferring funds from BRHWKL to related parties. Therefore, I find that BRHCPL assisted BRHWKL in diverting LAS to related parties, thereby violating the provisions of the SEBI 1993 Circular and the SEBI Enhanced Supervision Circular.

14. **MISUTILISATION OF CLIENT FUNDS**

14.1 In the context of allegation of misutilisation of client funds, provisions of the SEBI 1993 Circular and the SEBI Enhanced Supervision Circular are reproduced below:

(i) **SEBI 1993 Circular**

1. It shall be compulsory for all Member brokers to keep the money of the clients in a separate account and their own money in a separate account. No payment for transactions in which the Member broker is taking a position as a principal will be allowed to be made from the client's account. The above principles and the circumstances under which transfer from client's account to Member broker's account would be allowed are enumerated below.

A] Member Broker to keep Accounts: Every member broker shall keep such books of accounts, as will be necessary, to show and distinguish in connection with his business as a member –

i. Moneys received from or on account of each of his clients and,

ii. the moneys received and the moneys paid on Member's own account.

B] Obligation to pay money into "clients' accounts". Every member broker who holds or receives money on account of a client shall forthwith pay such money to current or deposit account at bank to be kept in the name of the member in the title of which the word "clients" shall appear (hereinafter referred to as "clients account"). Member broker may keep one consolidated clients account for all the clients or accounts in the name of each client, as he thinks fit: Provided that when a Member broker receives a cheque or draft representing in part money belonging to the client and in

part money due to the Member, he shall pay the whole of such cheque or draft into the clients account and effect subsequent transfer as laid down below in para D (ii).

D] What moneys to be withdrawn from "clients account". No money shall be drawn from clients account other than –

i. 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;

ii. such money belonging to the Member as may have been paid into the client account under para 1 C [ii] or 1 above.

(ii) SEBI Enhanced Supervision Circular

2.4. In line with the prevalent regulatory requirement, it is reiterated that;

2.4.2. Transfer of funds between "Name of Stock Broker - Client Account" and "Name of Stock Broker - Settlement Account" and client's own bank accounts is permitted. Transfer of funds from "Name of Stock Broker - Client Account" to "Name of Stock Broker - Proprietary Account" is permitted only for legitimate purposes, such as, recovery of brokerage, statutory dues, funds shortfall of debit balance clients which has been met by the stock broker, etc. For such transfer of funds, stock broker shall maintain daily reconciliation statement clearly indicating the amount of funds transferred.

3.3. Based on the aforesaid information submitted by the stock broker, Stock Exchanges shall put in place a mechanism for monitoring of clients' funds lying with the stock brokers on the principles enumerated below:

3.3.1. Funds of credit balance clients used for settlement obligation of debit clients or for own purpose:

Principle: The total available funds i.e. cash and cash equivalents with the stock broker and with the clearing corporation/clearing member (A + B) should always be equal to or greater than Clients' funds as per ledger balance (C)

Stock Exchanges shall calculate the difference i.e. G as follows -

$$G = (A+B) - C$$

If difference G is negative, then the total available fund is less than the ledger credit balance of clients. The value of G may indicate utilization of clients' funds for other purposes i.e. funds of credit balance clients are being utilized either for settlement obligations of debit balance clients or for the stock brokers' own purposes. The negative value of G acts as an alert to the Stock Exchanges.

Thereafter, the absolute value of G shall be compared with debit balance of all clients as per client ledger D as follows: If the absolute value of (G) is lesser than |D|, then the stock broker has possibly utilised funds of credit balance clients towards settlement obligations of debit balance clients to the extent of value of G. If the absolute value of (G) is greater than |D|, then the stock broker has possibly utilised a part of funds of credit balance clients towards settlement obligations of debit balance clients and remaining part for his own purposes. In such cases the amount of client funds used for own purpose is calculated as follows:

$$H = |G| - |D|$$

- 14.2 The DA Report records that top 20 turnover days of the Noticee were analyzed to identify instances of misutilization of client funds. For all selected 20 days, total available funds with the broker (column A+B) were found to be lesser than the ledger credit balance of clients (column C) which indicates utilization of client funds for other purposes (column G) i.e., funds of credit balance clients were utilized either for settlement obligations of debit balance clients or for own purposes of the Noticee. Value of "G" was negative for all 20 sample instances. Further, the absolute value of column G was observed to be less than the absolute value of column D (aggregate value of debit balances of all clients) i.e.,

the Noticee had utilized funds of credit balance clients towards settlement obligations of debit balance clients. The amount of misutilization ranged from Rs 4.42 crores to Rs 7.30 crores.

- 14.3 I note that the details of funds misutilisation for top 20 turnover days was provided as Annexure 10 to DA SCN. The said annexure contains two tables, one calculates the value of “G” and the other calculates the value of “H”. The said tables are reproduced below:

Table 3: Calculation of “G”

Date	Aggregate fund balance (including settlement a/c) (Rs.)			Aggregate value of collaterals (cash/FD/(BG/2)) (Rs.)			Cash + FD + BG/2 (Rs.)	Aggregate value of credit balance of all clients (as per trial balance after adjustm ents) (Rs.)	Aggregate value of debit balance of all clients (as per trial balance after adjustm ents) (Rs.)	A+B-C (Rs.)
	Client bank account balance	Settle ment account balance	Total (client bank balance + settle ment a/c balance	CASH	F D	BG/2				
			[A]				[B]	[C]	[D]	[G]
16-08-17	181675 2.99	23715 8.67	205391 1.66	151665 91.59	0. 00	732650 00.00	8843159 1.59	1632845 24.44	- 9466285 8.91	- 7279902 1.19
04-09-17	202009 0.03	29282 8.50	231291 8.53	151665 91.59	0. 00	732650 00.00	8843159 1.59	1637295 01.45	- 9460659 1.88	- 7298499 1.33
18-04-17	233725 4.60	23481 7.56	257207 2.16	150565 91.59	0. 00	732650 00.00	8832159 1.59	1425400 78.22	- 8464997 1.88	- 5164641 4.47
15-05-17	326500 6.94	19827 3.61	346328 0.55	150565 91.59	0. 00	732650 00.00	8832159 1.59	1415417 06.95	- 8608936 2.16	- 4975683 4.81
13-06-17	337887 3.61	17500 9.61	355388 3.22	150565 91.59	0. 00	732650 00.00	8832159 1.59	1360853 24.21	- 9042165 0.52	- 4420984 9.40
07-07-17	804956 7.45	19129 0.65	824085 8.10	250565 91.59	0. 00	732650 00.00	9832159 1.59	1555696 27.57	- 9498902 4.45	- 4900717 7.88
18-07-17	120166 0.37	78367. 49	128002 7.86	151665 91.59	0. 00	732650 00.00	8843159 1.59	1607926 41.04	- 9500292 6.71	- 7108102 1.59

Date	Aggregate fund balance (including settlement a/c) (Rs.)			Aggregate value of collaterals (cash/FD/(BG/2)) (Rs.)			Cash + FD + BG/2 (Rs.)	Aggregate value of credit balance of all clients (as per trial balance after adjustm ents) (Rs.)	Aggregate value of debit balance of all clients (as per trial balance after adjustm ents) (Rs.)	A+B-C (Rs.)
	Client bank account balance	Settle ment account balance	Total (client bank balance + settle ment a/c balance	CASH	F D	BG/2				
			[A]				[B]	[C]	[D]	[G]
19-07-17	233783 6.97	80150. 66	241798 7.63	151665 91.59	0. 00	732650 00.00	8843159 1.59	1617972 98.11	- 9501501 8.33	- 7094771 8.89
10-08-17	254831 0.04	49185 3.34	304016 3.38	151665 91.59	0. 00	732650 00.00	8843159 1.59	1618310 51.10	- 9458283 3.47	- 7035929 6.13
31-08-17	143871 315.7	38991 9.15	144261 234.8	151665 91.59	0. 00	732650 00.00	8843159 1.59	2963176 48.33	- 7391655 8.23	- 6362482 1.92
29-08-17	382905 5.17	55565 3.58	438470 8.75	151665 91.59	0. 00	730150 00.00	8818159 1.59	1560424 71.89	- 9478764 8.59	- 6347617 1.54
08-08-17	314090 7.35	43560 7.99	357651 5.34	151665 91.59	0. 00	732650 00.00	8843159 1.59	1574975 30.34	- 9457597 1.00	- 6548942 3.41
11-07-17	421576 5.51	14404 9.33	435981 4.84	621665 91.59	0. 00	732650 00.00	1354315 91.59	1935890 37.40	- 9497894 4.12	- 5379763 0.97
27-07-17	300640 0.31	14186 0.72	314826 1.03	151665 91.59	0. 00	724150 00.00	8758159 1.59	1621450 60.19	- 9497453 6.28	- 7141520 7.57
18-08-17	345162 6.91	34936 6.61	380099 3.52	151665 91.59	0. 00	689150 00.00	8408159 1.59	1535261 99.33	- 9474477 9.82	- 6564361 4.22
23-08-17	146564 2.47	23912 5.74	170476 8.21	151665 91.59	0. 00	705150 00.00	8568159 1.59	1523178 15.90	- 9468888 7.41	- 6493145 6.10
12-07-17	403530 4.70	38929. 89	407423 4.59	251665 91.59	0. 00	732650 00.00	9843159 1.59	1563319 37.14	- 9497137 5.64	- 5382611 0.96
14-07-17	916643. 04	64678. 88	981321. 92	151665 91.59	0. 00	732650 00.00	8843159 1.59	1585842 49.23	- 9512273 5.87	- 6917133 5.72
11-08-17	189318 5.87	23791 6.58	213110 2.45	151665 91.59	0. 00	732650 00.00	8843159 1.59	1566908 78.20	- 9459756 7.58	- 6612818 4.16
04-08-17	320035 2.96	19892 3.17	339927 6.13	151665 91.59	0. 00	732650 00.00	8843159 1.59	1597469 21.10	- 9457742 8.24	- 6791605 3.38

Table 4: Calculation of “H”

Date	Value of G (Rs.)	Value of D (Rs.)	H= G - D (Rs.)
16-08-17	72799021.2	94662859	-21863837.71
04-09-17	72984991.3	94606592	-21621600.55
18-04-17	51646414.5	84649972	-33003557.41
15-05-17	49756834.8	86089362	-36332527.35
13-06-17	44209849.4	90421651	-46211801.11
07-07-17	49007177.9	94989024	-45981846.56
18-07-17	71081021.6	95002927	-23921905.11
19-07-17	70947718.9	95015018	-24067299.44
10-08-17	70359296.1	94582833	-24223537.33
31-08-17	63624821.9	73916558	-10291736.31
29-08-17	63476171.5	94787649	-31311477.04
08-08-17	65489423.4	94575971	-29086547.58
11-07-17	53797631	94978944	-41181313.14
27-07-17	71415207.6	94974536	-23559328.71
18-08-17	65643614.2	94744780	-29101165.59
23-08-17	64931456.1	94688887	-29757431.31
12-07-17	53826111	94971376	-41145264.67
14-07-17	69171335.7	95122736	-25951400.15
11-08-17	66128184.2	94597568	-28469383.41
04-08-17	67916053.4	94577428	-26661374.85

14.4 SEBI 1993 Circular lays down comprehensive guidelines regarding treatment of client securities and funds in the hands of broker. In the present issue, clause D of the circular is clearly applicable. Clause D permits removal of client funds only in specific situations as reproduced in paragraph 14.1 above. Further, SEBI Enhanced Supervision Circular stipulates that the total available funds with the stock broker in client bank accounts (A) and collateral deposited with clearing corporations and/or clearing member (B) should always be equal to or greater than client funds as per ledger balance (C). If A+B is lesser than C, it indicates that clients' funds have been used for settlement obligation of debit balance clients or own purposes of broker. Herein, from Table 3 above, I note that value of column G was negative for all 20 days *i.e.*, for all 20 days taken as sample, the Noticee had lesser funds available than it ought to have. The Noticee has provided copy of ledger of transactions undertaken by BRHWKL with AB Investments as Annexure B and copy of ledger of Prosperous as Annexure C. On perusal of the said annexures, I find that it nowhere explains or leads me to an understanding of why the Noticee had negative G balance on the selected 20 days. The Noticee's explanation that its transactions with Polo were in ordinary course and that FAR has not taken into account Rs. 1.68 crores paid by the Noticee towards license fees paid to Bluesnow, also do not explain its negative

G balance. Thus, I find that the Noticee has failed in providing an explanation regarding the shortfall observed in client's funds. From Table 3 above, I note that misutilisation of client funds of the Noticee ranges from Rs. 4,42,09,849 to Rs. 7,29,84,991.

14.5 SEBI Enhanced Supervision Circular also provides that if the value of column "G" is lesser than value of column "D" (column "D" being the aggregate value of debit balance of all clients), then the stock broker may have utilised funds of credit balance clients towards settlement of debit balance clients, and if $G > D$ then funds have been utilised partly for debit balance clients and partly for own purposes of stock broker. Table 4 reproduced above shows that for sample 20 days wherein column "G" was negative, column "G" was lesser than column "D", which means that the Noticee may have misutilized credit balance client funds towards its debit balance clients. I note that no reply towards the aforesaid allegation has been placed before me. Having regard to the material available on record, I find that the Noticee's acts have violated provisions of SEBI 1993 Circular and SEBI Enhanced Supervision Circular cited in para 14 of this Order.

15. **BOUNCE EMAIL NOTIFICATION OF ELECTRONIC CONTRACT NOTES NOT PROVIDED**

15.1 In the context of this allegation, extract of relevant provision is reproduced below. Clause 2.4 of SEBI 2005 Circular reads as follows:

2. It is hereby specified that in addition to the conditions specified in the aforesaid circulars and the provisions of the Information Technology Act, 2000 (IT A 2000), all the members of stock exchanges who are desirous of issuing Electronic Contract Notes (ECNs) to their clients shall comply with the follow conditions:-

2.4 Requirements for acknowledgement, proof of delivery, log report etc.

2.4.1 Acknowledgement

The acknowledgement of the e-mail shall be retained by the member in a soft and non-tamperable form.

2.4.2 Proof of delivery

i. The proof of delivery i.e., log report generated by the system at the time of sending the contract notes shall be maintained by the member period under the extant regulations of SEBI/stock exchanges and shall be made available during inspection, audit, etc.

ii. The member shall clearly communicate to the client in the agreement executed with the client for this purpose that non-receipt of bounced the member shall amount to delivery of the contract note at the e-mail ID of the client.

2.4.3 Log Report for rejected or bounced mails

i. The log report shall also provide the details of the contract notes that are not delivered to the client/e-mails rejected or bounced back.

ii. Also, the member shall take all possible steps (including settings of mail servers, etc) to ensure receipt of notification of bounced mails by times within the stipulated time period under the extant regulations of SEBI/stock exchanges.

15.2 Contract notes for 5 sample clients were examined to ascertain whether trail of bounce emails were maintained by the Noticee. The inspection records that the aforesaid information was not provided by the Noticee. However, copy of contract notes issued in physical mode along with the courier receipts was provided for sample clients by the Noticee. The DA Report records that the Noticee has not provided any evidence to substantiate its claim that it was maintaining bounce email notification of electronic contract notes, and that, it has violated provisions of SEBI 2005 Circular.

15.3 On perusal of material available on record, I agree with the finding of DA that the Noticee has not placed anything to show that it was maintaining the requisite trail of bounce emails of electronic contract notes sent despite being granted opportunities to do so, before the DA. No relevant information or document has been placed before me to support his claim. Further, even though the inspection report records that copy of contract notes sent through physical mode along with courier receipts were provided to the inspection team for the sample clients, I find that it does not state in explicit terms that copy of contract notes sent physically

were delivered. Therefore, I am not inclined to give benefit of doubt to the Noticee. In view of the above, I find that the Noticee has violated SEBI 2005 Circular by not maintaining bounce email notification of electronic contract notes.

16. **INCORRECT/NON- REPORTING OF ENHANCED SUPERVISION DATA**

16.1 Provisions of SEBI Enhanced Supervision Circular attracted in the context of this allegation are reproduced below:

16.1.1 Provisions with respect to reporting bank accounts

2.1. The stock brokers shall inform the Stock Exchanges of existing and new bank account(s) in the following format:

2.3. Stock Exchanges and/or Depositories, as the case may be, shall ensure the following:

2.3.3. Details of all existing bank and demat accounts shall be communicated to Stock Exchanges by the stock brokers in the format specified above within one month from the date of this circular.

16.1.2 Provisions with respect to reporting funds and securities balance

3.2. Stock brokers shall submit the following data as on last trading day of every week to the Stock Exchanges on or before the next trading day:

A- Aggregate of fund balances available in all Client Bank Accounts, including the Settlement Account, maintained by the stock broker across stock exchanges

B- Aggregate value of collateral deposited with clearing corporations and/or clearing member (in cases where the trades are settled through clearing member) in form of Cash and Cash Equivalents (Fixed deposit (FD), Bank guarantee (BG), etc.) (across Stock Exchanges). Only funded portion of the BG, i. e. the amount deposited by stock broker with the bank to obtain the BG, shall be considered as part of B.

C- Aggregate value of Credit Balances of all clients as obtained from trial balance across Stock Exchanges (after adjusting for open bills of clients, uncleared cheques deposited by clients and uncleared cheques issued to clients and the margin obligations)

D- Aggregate value of Debit Balances of all clients as obtained from trial balance across Stock Exchanges (after adjusting for open bills of clients, uncleared cheques deposited by clients, uncleared cheques issued to clients and the margin obligations)

E...

F....

MC...

MF...

16.1.3 Provisions with respect to reporting PAN

9. Providing PAN Number

9.1. The stock brokers shall provide Permanent Account Numbers of all their Directors, Key Management Personnel and dealers to the Stock Exchanges within three months from the date of this circular. Any change in the aforesaid details/information shall be intimated to the Stock Exchanges within seven days of such change.

16.2 The inspection report provides and the DA Report concludes that the Noticee:

(i) Has not reported following 5 bank accounts to stock exchange:

Table 5

Name of bank	Account number	Name of account	Purpose of Account (Own/client/settlement)
HDFC Bank	00140340004360	BMA Commodities Pvt. Ltd- Client A/C	Client Bank A/C
Axis Bank	912020023508550	BMA Commodities Pvt. Ltd- Settlement A/C	Settlement A/C
Axis Bank	912020046147372	BMA Commodities Pvt Ltd- Exchange Dues A/C	Settlement A/C
HDFC Bank	00990690006560	BMA Commodities Pvt Ltd- Exchange Dues A/C	Settlement A/C

Name of bank	Account number	Name of account	Purpose of Account (Own/client/settlement)
HDFC Bank	00140340004387	BMA Commodities Pvt. Ltd-SELF A/c	Self-Bank A/C

- (ii) Has not reported PAN and other required information of the following director and KMP in enhanced supervision portal of stock exchange:

Table 6

#	Name	Designation
1.	Mrugesh Bhaskarbhai Devashrayi	Additional Director
2.	Sushanta Chakraborty	Compliance Officer

- (iii) Has made incorrect submission to stock exchanges on July 31, 2017, August 31, 2017, September 29, 2017, October 31, 2017, November 30, 2017, December 29, 2017, January 31, 2018, February 28, 2018, March 28, 2018, October 19, 2018 and October 26, 2018, as column "G" of the Noticee was always negative on the aforesaid dates.

16.3 Regarding the bank accounts, I note that the inspection methodology was to verify details of bank accounts and demat account reported by the Noticee to stock exchange with the details provided by the Noticee during inspection. I note from material available on record that the Noticee had reported the following accounts to the stock exchange:

Table 7

Account Number	Name of Account	Purpose of Account (Own/Client/Settlement)	Date of A/c Opening
35590244364	BMA Commodities Pvt Ltd-Client A/C	Client	01/04/2016
00140340004370	BMA Commodities Pvt Ltd-Client A/C	Client	01/04/2006
319010200003124	BMA Commodities Pvt Ltd-Client A/C	Client	01/04/2008
000605021527	BMA Commodities Pvt Ltd-Client A/C	Client	01/04/2006
31156813735	BMA Commodities Pvt Ltd-Client A/C	Client	01/04/2010
00990680005055	BMA Commodities Pvt Ltd-Settlement A/C	Settlement	01/04/2006

On comparing the details of the aforesaid accounts with the account details reproduced in paragraph 16.2 above, I find that accounts listed in paragraph 16.2 are missing from the above list, which indicates that the Noticee had not reported the said accounts to the stock exchange.

16.4 As regards director and KMP details, it was found in the inspection report that details of (i) Mrugesh Bhaskarbhair Devashrayi- Additional Director; and (ii) Sushanta Chakraborty- Compliance Officer, were not reported on the enhanced supervision portal of the stock exchange. The Noticee has submitted that not providing certain particulars of bank accounts by the compliance team was purely unintentional. PAN and other required information of the two persons, namely, Mrugesh Bhaskarbhair Devashrayi and Sudhanta Chakraborty were duly uploaded on the web portal of the exchange and was always available with the exchange. Hence, the Noticee has denied that it has violated provisions of SEBI Enhanced Supervision Circular.

16.5 From the above, *firstly*, I find that the Noticee has admitted that it had not provided bank account details to stock exchanges inadvertently. Secondly, regarding PAN and other required information of its 2 directors, the Noticee has submitted that if not on the enhanced supervision portal, the details of director were available on the web portal of the stock exchange. However, I find that Noticee has not provided any evidence to support the aforesaid claim. Hence, I find that with respect to not submitting (i) bank account details of 5 accounts; and (ii) PAN and other required information of 2 of its directors, the Noticee has violated provisions of the SEBI Enhanced Supervision Circular cited in para 16 of this Order.

16.6 Coming to the incorrect submission made by the Noticee to stock exchange on 11 dates where column “G” turned out to be negative, I note that the calculation with respect to the said dates was provided as Annexure 11 to DA SCN. For example, the difference in calculation provided by the Noticee and the calculations by stock exchange for July 31, 2017 is tabulated below:

Table 8

Column	Particulars	Submission by the Noticee on July 31, 2017 (in Rs.)	Stock exchange working (in Rs.)
A	Aggregate of fund balances available in all client bank accounts, including the settlement account, maintained by the stock broker across stock exchanges.	159403351	159416206
B	Aggregate value of collateral deposited with exchange (in cases where the trades are settled through clearing member) in form of cash and cash equivalents (Fixed deposit (FD), Bank guarantee (BG), etc.) (across stock exchanges). Only funded portion of the BG i.e, the amount deposited by stock broker with the bank to obtain the BG, shall be considered while submitting this amount.	160696592	87382592
C	Aggregate value of credit balances of all clients as obtained from trial balance across stock exchanges (after adjusting for open bills of clients, uncleared cheques deposited by clients and uncleared cheques issued to clients and the margin obligations).	271608988	271608988
G	Difference G=(A+B)- C	48490955	-24810190

As evident from above, there is a substantial difference between the calculation submitted by the Noticee when compared to the calculation arrived at by the stock exchange. I find that the Noticee has not provided any specific submission with respect to the aforesaid allegation. Thus, I find that by making factually incorrect submission, the Noticee has violated provisions of Enhanced Supervision Circular.

17. It is important to highlight that transfer of client shares by BRHWKL to BRHCPL for pledging and the role of BRHCPL in diversion of LAS to related parties

alleged in the present proceedings was also separately decided in the WTM 2023 Order. In the said order, the following has been *inter alia* concluded:

- a. Contrary to the provisions of the SEBI circulars, BRHWKL and BRHCPL were pledging securities of clients for purposes other than those permitted under the circulars issued by SEBI. This is evident from the fact that BRHWKL and BRHCPL were pledging securities of clients who had a credit balance. Even in the case of clients having debit balances, the quantum of securities pledged were much larger than the debit balance of such clients. In many instances, the securities were first transferred by BRHWKL to BRHCPL even in cases where such securities belonged to clients who did not trade in the commodities segment during this period, before being pledged eventually by BRHCPL.
 - b. BRHWKL and BRHCPL have failed to provide register of pledge and provide details of clients whose securities were pledged along with purpose of such pledge. BRHWKL and BRHCPL have wrongly reported or not reported funds and securities balance of clients, details of bank and demat accounts, PAN of directors and key managerial personnel and weekly enhanced supervision data.
 - c. BRHWKL and BRHCPL had misutilised clients' securities and also misappropriated clients' funds through its related parties namely, AB Investments, Polo, Prosperous and Bluesnow.
18. As stated earlier, with effect from July 02, 2021 and July 05, 2021, the Noticee was declared a defaulter and expelled from the memberships of MCX and NCDEX respectively. Regulation 9 (a) of the SEBI (Stock Brokers) Regulations, 1992 provides that any registration granted by SEBI is subject to the condition that the stock broker holds the membership of any stock exchange. Further, as per regulation 27(i) of SEBI (Stock Brokers) Regulations, 1992, ceasing to be a member of a stock exchange is one of the grounds for suspension or cancellation

of registration of a stock broker. Thus the absence of a membership in any exchange is by itself a ground for cancellation of registration as a stock broker.

19. In view of all of the violations detailed in this Order, I am inclined to accept the recommendation in the DA Report that the registration granted to the Noticee should be cancelled.

DIRECTIONS

20. In view of the foregoing, I, in exercise of the powers conferred upon me under sections 12(3) and 19 of SEBI Act read with regulation 27(5) of Intermediaries Regulations, hereby cancel the certificate of registration granted to BRH Commodities Private Limited having registration no. INZ000082232.
21. Irrespective of the cancellation the Certificate of Registration, BRH Commodities Private Limited shall continue to be liable for anything done or omitted to be done as a Stock Broker and continue to be responsible for payment of outstanding fees and dues if any, payable to SEBI.
22. This order shall come into force with the immediate effect.
23. A copy of this order shall be forwarded to BRH Commodities Private Limited and all recognized Stock Exchanges.

-Sd-

DATE: MAY 10, 2023

PLACE: MUMBAI

ANANTH NARAYAN G.

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA