BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
(ADJUDICATION ORDER NO: Order/AS/AK/2022-23/21990-21991)

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

In respect of

First Futures and Stocks Private Limited (PAN: AABCF1127B)	**Chennai Commodities (PAN: AGOPG2342M)**

In the matter of First Future and Stocks Private Limited and Chennai Commodities

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BACKGROUND OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as **'SEBI'**) conducted inspection of the books of accounts and other records of First Futures and Stocks Private Limited (hereinafter also referred to as '**Noticee 1**' or **'FFSPL/ /First Futures**') and Chennai Commodities referred to as '**Noticee 2**' or **'Chennai Commodities'**), (hereinafter Noticee 1 and Noticee 2 are collectively referred to as **'Noticees'**) to ascertain whether the Noticees had complied with the provisions of Securities and Exchange

Board of India Act, 1992 (hereinafter referred to as **'SEBI Act**), Securities Contracts (Regulations) Act, 1956 (hereinafter referred to as **'SCRA '**) and SEBI Circulars. The inspection was conducted during December 14, 2021 to December 18, 2021 and the period covered under inspection was from April 2019 to September 2020 (hereinafter referred to as **'Inspection period'**). The scope of the inspection was to, *interalia*, verify whether the Noticee 1 and Noticee 2 had complied with the Regulations and Circulars issued in respect of the Broking activities such as Handling of clients' own funds and securities, Settlement of Clients funds and securities, Client related issues, Financial statement analysis etc. The observations made during the course of inspection were recorded as **'Inspection report'** and findings were communicated to the Noticees vide SEBI letter dated April 09, 2021 and also vide email dated April 12, 2021 and the Noticees were advised to submit their respective replies to the finding in the Inspection report. A reminder was also sent on April 28, 2021. However, the Noticees did not submit any comments/ explanations on the observations/ findings in the aforesaid Inspection report.

APPOINTMENT OF ADJUDICATING OFFICER

2. SEBI felt satisfied that there were sufficient grounds to inquire and adjudicate upon the alleged violations by the Noticees. SEBI had appointed Shri Prasanta Mahapatra as Adjudicating Officer vide Communiqué dated February 15, 2022. Pursuant to transfer of Shri Prasanta Mahapatra by a *communiqué* dated June 07, 2022, the undersigned was appointed as Adjudicating Officer to conduct the adjudication proceedings in the manner specified under rule 4 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules,1995 (hereinafter referred to as '**Adjudication Rules 1995'**), rule 4 of the Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties) Rules, 2005 (hereinafter referred to as **'SCR Adjudication Rules 2005'**) and impose such penalty on the

Notices, as deemed fit, in terms of rule 5 of the SEBI Adjudication Rules and rule 5 of the SCR Adjudication Rules 2005 and under section 15HB of the SEBI Act, section 23D of the SCRA for the alleged violations done by the Noticees.

SHOW CAUSE NOTICE, REPLY AND HEARING

3. Show Cause Notice bearing ref. no. SEBI/HO/EAD-8/PM/SM/22834/1-2/2022 dated May 31, 2022, (hereinafter referred to as '**SCN'**) was issued to Noticees in terms of the provisions of rule 4(1) of the SEBI Adjudication Rules 1995, and rule 4(1) of the SCR Adjudication Rules 2005 read with section 15-I of SEBI Act and section 23-I of the SCRA requiring the Noticees to show cause as to why an inquiry should not be held against them and why penalty, if any, should not be imposed upon the Noticees under section 15HB of the SEBI Act and section 23D of the SCRA for the alleged violations. I note that SCN issued to the Noticees through Speed Post had returned undelivered with the comment "addressee left without instruction".

4. Thereafter, the notice regarding issuance of SCN was affixed at the last known address of the Noticees on September 08, 2022, and was also published in Times of India (English), Dakshin Prakash (Hindi) and Daily Thanti (Tamil) in their Chennai editions on October 22, 2022. It was also published in the said newspaper publications that, the Noticee shall collect the Show Cause Notice from Enquiry and Adjudication Department-8 (EAD-8), Securities and Exchange Board of India, SEBI Bhavan II, C-7, G Block, BKC, Bandra (E) Mumbai 400051. It was further published that the said SCN has been published/ uploaded for on www.sebi.gov.in under the section Enforcement: Unserved Summons/ Notices. Vide the said publication, an opportunity of personal hearing was also granted to the Noticees on November 02, 2022 at the above address, and if Noticees so desire through online platform. However, the Noticees did not submit any response/ reply

to the SCN/Hearing notice and also failed to appear for the scheduled hearing.

5. The violations alleged to have been committed by the Noticees and the corresponding provisions of SEBI Act, 1992, SC(R) Act, 1956 and SEBI circulars, as also alleged in the SCN, are given in the tables below:

Table 1 - Noticee 1

Sr. No.	Alleged Violations	Regulatory Provisions
A	Mis-Utilisation of clients' Funds	Section 23D of SC(R) Act, 1956 read with Clause 1 of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 3 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.
B	Segregation of clients' funds and securities	Section 23D of SC(R) Act, 1956 read with Clause 1 of Annexure of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 2.4 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.
C	Pledging of clients' securities	Section 23D of SC(R) Act, 1956 read with SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 2.5 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.
D	Delay in settlement of Funds	SEBI Circular SEBI/MIRSD/SE/Cir-19/2009 dated December 03, 2009 and Clause 8.1 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016. Clause 12(e) of Annexure-A of SEBI Circular SEBI/MIRSD/SE/Cir-19/2009 dated December 03, 2009

Sr. No.	Alleged Violations	Regulatory Provisions
E	Account Modification	SEBI Circular MIRSD/Cir-26/2011 dated December 23, 2011
F	Disclosure of information on website & display of certificates	SEBI circular CIR/MIRSD/3/2014 dated August 28, 2014.
G	Verification of Email ID & Mobile numbers	SEBI Circular CIR/MIRSD/15/2011 dated August 02, 2011
H	Clients' order recording and pre trade authorisation	Clause III and IV of SEBI Circular CIR/HO/MIRSD/MIRSD2/CIR/P/2017/108 dated September 26, 2017
I	Verification of systems and trading terminals and certification requirements	SEBI Notification LAD-NRO/GN/2010-11/21/29390 issued under Reg. 3 of SEBI (Certification of Associated Persons in the Securities Markets) Regulations, 2007
J	Financial statement analysis	Clause A (5) of Code of Conduct for Stock Brokers prescribed in Schedule II read with Regulation 9 of SEBI (Stock Brokers) Regulations, 1992
K	Net worth verification	Clause 6.1.1(j) of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016

Table 2- Noticee 2

Sr. No.	Alleged Violations	Regulatory Provisions
A	Mis-Utilisation of clients' Funds & verification of data	Section 23D of SC(R) Act, 1956 read with Clause 1 of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 3 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.
B	Segregation of clients' funds and securities	Section 23D of SC(R) Act, 1956 read with Clause 1 of Annexure of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 2.4 of Annexure of SEBI Circular

Sr. No.	Alleged Violations	Regulatory Provisions
		SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.
C	Delay in settlement of Funds	SEBI Circular SEBI/MIRSD/SE/Cir-19/2009 dated December 03, 2009 and Clause 8.1 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.
D	Financial statement analysis	Clause A (5) of Code of Conduct for Stock Brokers prescribed in Schedule II read with Regulation 9 of SEBI (Stock Brokers) Regulations, 1992
E	Net worth verification	Clause 6.1.1(j) of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016

6. It is pertinent to note that there has been no response/reply recieved from the Noticees to the SCN and also to the hearing notice despite service of notices in terms of the extant Rules.

7. I note that sufficient opportunities have been provided to the Noticees to represent their case by way of reply to the SCN and also by way of personal hearing. However, it is a matter of record that the said Noticees failed to furnish any response/reply to the SCN and also failed to appear for the personal hearing fixed on the stipulated date, despite the service of the SCN through affixture/ newspaper publication. Therefore, in the absence of reply from the said Noticees, and/or their failure to make personal appearance, I am inclined to presume that the said Noticees have nothing to offer in their defence and therefore, they have admitted to the allegations levelled against them in the SCN. In this context, Hon'ble SAT in the matter of Sanjay Kumar Tayal vs SEBI, vide Order dated February 11, 2014 held that "*appellants have neither filed reply to show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted to*

the charges levelled against them in the show cause notice". Hence, I am proceeding ex-parte in respect of the Noticees, after taking into account the facts and material available on record.

CONSIDERATION OF ISSUES AND FINDINGS

8. I have carefully perused the charges levelled against the Noticee in the SCN and material available on record. The issues that arise for consideration in the present case are as follows:

    A. **Whether the Noticee 1 has violated the provisions enumerated under Para 5, Table 1?**
    B. **Whether the Noticee 2 has violated the provisions enumerated under Para 5, Table 2?**
    C. **Does the violations by the Noticees, if any, attract monetary penalty under section 15HB of the SEBI Act, 1992 and section 23D of the SC(R) Act, 1956?**
    D. **If so, what would be the quantum of monetary penalty that can be imposed on the Noticees after taking into consideration the factors mentioned in section 15J of the SEBI Act and section 23J of SCRA?**

9. Before proceeding further, it is pertinent to refer to the relevant provisions which are alleged to have been violated. The said provisions are reproduced hereunder:

SCRA

PENALTIES AND PROCEDURE

Penalty for failure to segregate securities or moneys of client or clients.

23D. *If any person, who is registered under Section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) as a stock broker or sub-*

broker, fails to segregate securities or moneys of the client or clients or uses the securities or moneys of a client or clients for self or for any other client, he shall be [liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.

SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993
Clause 1
REGULATION OF TRANSACTIONS BETWEEN CLIENTS AND BROKERS

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.

SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated Sep 26, 2016
Clause 2.4.2
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.
Clause 2.5
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

SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated Sep 26, 2016 Clause 3

3. Monitoring of Clients' Funds lying with the Stock Broker by the Stock Exchanges

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**-Aggregate value of proprietary non-cash collaterals i.e. securities which have been deposited with the clearing corporations and/or clearing member (across Stock Exchanges)*

***F**-Aggregate value of Non-funded part of the BG across Stock Exchanges*

P-Aggregate value of Proprietary Margin Obligation across Stock Exchanges

***MC**-Aggregate value of Margin utilized for positions of Credit Balance Clients across Stock Exchanges*

***MF**-Aggregate value of Unutilized collateral lying with the clearing corporations and/or clearing member across Stock Exchange*

Clause 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:

Cause 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:

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

Clause 3.3.2.

Funds of clients used for Margin obligation of proprietary trading:

Stock Exchanges shall thereafter, verify whether the proprietary margin obligations (across Stock Exchanges) is less than the own funds and securities lying with the Stock Exchanges as collateral deposit, as follows:

Principle:

The sum of Proprietary funds and securities i.e. (G + E + F) lying with the clearing corporation/clearing member should be greater than or equal to Proprietary margin obligations (P)

If value of G is positive (i.e. A+B > C), then Proprietary funds are lying with the clearing corporation/clearing member and/or client bank *accounts along with the client's funds to the extent of positive value of G.*

The sum of the proprietary funds (positive value of G), the value of proprietary securities (E) and the non-funded portion of bank guarantee (F) available in the Stock Exchanges is compared with the Proprietary margin obligations (P).

If P > (G+E+F), then Stock Exchange shall calculate the difference I, which is the amount of proprietary margin obligation funded from clients assets.

$$I = P - (G+E+F)$$

If G is negative, then, value of G is considered as 0, as there is no proprietary funds lying with the stock exchange.

The value of I indicates the extent of funds and securities of clients which is possibly utilised towards proprietary margin obligations. This value of I acts as an alert to the Stock Exchanges on the possible mis-utilisation of clients' assets towards proprietary margin obligations.

Clause: 3.3.3.

Funds of credit balance clients used for Margin obligations of debit balance clients and proprietary trading:

Stock Exchanges shall thereafter, verify whether the clients funds lying with the clearing corporation/clearing member are utilised towards margin obligations of debit balance clients and proprietary margin obligations.

Principle:

The clients' funds lying with the clearing corporation/clearing member should be less than or equal to sum of credit clients' margin obligations (MC) and free collateral deposits available with the clearing corporation/clearing member (MF)

If value of G is negative (i.e. A+B < C), then fund lying with the clearing corporation/ clearing member (B)is entirely clients' fund. In such cases, B is compared with Margin obligations of credit balance clients and the free deposits available with the clearing corporation/ clearing member. The value of J is calculated as under:

J = (C -A) -(MC + MF)

The value of J, if positive,indicates the extent of clients' funds utilised towards margin obligations of debit balance clients and proprietary margin obligations.

This value of J acts as an alert to the Stock Exchanges on the possible mis-utilisation of clients' funds towards margin obligations of debit balance clients and proprietary margin obligations.

Clause 6.1.1 (j)

6. Standard Operating Procedures for Stock Brokers/Depository Participants - Actions to be contemplated by Stock Exchanges/Depositories for any event based discrepancies

6.1. As per existing norms, Stock Exchanges /Depositories are required to monitor their members/depository participants. It has been decided that the Stock Exchanges and Depositories shall frame various event based monitoring criteria based on market dynamics and market intelligence. An illustrative list of such monitoring criterias are given below: Page 22 of 29

6.1.1. Monitoring criteria for Stock Brokers *j. In case stock broker shares incomplete/wrong data or fails to submit data on time.*

Clause 8.1

8. Running Account Settlement

8.1. In partial modification of circular on running account settlement, the stock broker shall ensure that;

8.1.1. There must be a gap of maximum 90/30 days (as per the choice of client viz. Quarterly/Monthly) between two running account settlements.

8.1.2. For the purpose of settlement of funds, the mode of transfer of funds shall be by way of electronic funds transfer viz., through National Electronic Funds Transfer (NEFT), Real Time Gross Settlement (RTGS), etc.

8.1.3. The required bank details for initiating electronic fund transfers shall be obtained from new clients and shall be updated for existing clients. Only in cases where electronic payment instructions have failed or have been rejected by the bank, then the stock broker may issue a physical payment instrument.

8.1.4. Statement of accounts containing an extract from client ledger for funds & securities along with a statement explaining the retention of funds/securities shall be sent within five days from the date when the account is considered to be settled.

SEBI Circular SEBI/MIRSD/SE/Cir-19/2009 dated December 03, 2009

Clause 12(e)

The actual settlement of funds and securities shall be done by the broker, at least once in a calendar quarter or month, depending on the preference of the client. While settling the account, the broker shall send to the client a 'statement of accounts' containing an extract *from the client ledger for funds and an extract from the register of securities displaying all receipts/deliveries of funds/securities. The statement shall also explain the retention of funds/securities and the details of the pledge, if any.*

SEBI Circular ref no. MIRSD/Cir- 26 /2011 dated December 23, 2011
Clause 1

1. Guidelines for Intermediaries:

i. After doing the initial KYC of the new clients, the intermediary shall forthwith upload the KYC information on the system of the KRA and send the KYC documents i.e. KYC application form and supporting documents of the clients to the KRA within 10 working days from the date of execution of documents by the client and maintain the proof of dispatch.

ii. In case a client's KYC documents sent by the intermediary to KRA are not complete, the KRA shall inform the same to the intermediary who shall forward the required information / documents promptly to KRA.

iii. For existing clients, the KYC data may be uploaded by the intermediary provided they are in conformity with details sought in the uniform KYC form prescribed vide SEBI circular no. MIRSD/SE/Cir-21/2011 dated October 05, 2011. While uploading these clients' data the intermediary shall ensure that there is no duplication of data in the KRA system.

iv. The intermediary shall carry out KYC when the client chooses to trade/ invest / deal through it.

v. The intermediaries shall maintain electronic records of KYCs of clients and keeping physical records would not be necessary.

vi. The intermediary shall promptly provide KYC related information to KRA, as and when required. vii. The intermediary shall have adequate internal controls to ensure the security / authenticity of data uploaded by it.

SEBI Circular No. CIR/MIRSD/3/2014 dated August 28, 2014

Clause 2 read with Annexure A of the said circular

2. As an additional measure and for information of all investors who deal/ invest/ transact in the market, it has now been decided that offices of all Stock Brokers (its registered Sub -Broker(s) and Authorized Person(s)) and Depository Participants shall prominently display basic information, as provided in Annexure-A, about the grievance redressal mechanism available to investors. For other intermediaries, the information as provided in Annexure-B shall be prominently displayed in their offices.

SEBI Circular No. CIR/MIRSD/15/2011 dated August 02, 2011

Clause 2(B)

2. As an additional measure, it has now been decided in consultation with the major stock exchanges and market participants that the stock exchanges shall send details of the transactions to the investors, by the end of trading day, through SMS and E-mail alerts. This would be subject to the following guidelines:

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 detailsof 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.

CIR/HO/MIRSD/MIRSD2/CIR/P/2017/108 dated September 26, 2017

Prevention of Unauthorised Trading by Stock Brokers

Clause III.

To further strengthen regulatory provisions against un-authorized trades and also to harmonise the requirements across markets, it has now been decided that all brokers shall execute trades of clients only after keeping evidence of the client placing such order, it could be, inter alia, in the form of:

a. Physical record written & signed by client,

b. Telephone recording,

c. Email from authorized email id,

d. Log for internet transactions,

e. Record of SMS messages,

f. Any other legally verifiable record.

When dispute arises, the burden of proof will be on the broker to produce the above records for the disputed trades.

Clause IV.

Further, wherever the order instructions are received from clients through the telephone, the stock broker shall mandatorily use telephone recording *system to record the instructions and maintain telephone recordings as part of its records.*

Reg. 3 of SEBI (Certification of Associated Persons in the Securities Markets) Regulations, 2007

Obligation to obtain certificate

Regulation 3

3. (1) The Board may by notification in the Official Gazette require such categories of associated persons to obtain requisite certificate for engagement or employment with such classes of intermediaries and from such date as may be specified in the notification:

Provided that an associated person employed or engaged by an intermediary prior to the date specified by the Board may continue to be employed or engaged by the intermediary if he obtains the certificate within two years from the said date.

(2) An associated person on being employed or engaged by an intermediary on or after the date specified by the Board shall obtain the certificate within one year from the date of being employed or engaged by the intermediary.

(3) An associated person who, as on the date specified by the Board, holds a certificate for a category as recognized by the Board shall not be required to obtain a fresh certificate for the same category during the validity of such certificate.

(4) The Board for the purpose of issuing notification under sub regulations (1) and (2) shall take into consideration:

(a) whether the associated person as part of his work or operation deals or interacts with the investors, issuers or clients of intermediaries;

(b) whether the associated person deals with assets or funds of investor or clients;

(c) whether the associated person handles redressal of investor grievances;

(d) whether the associated person is responsible for internal control or risk management;

(e) whether the associated person is responsible for compliance of any rules or regulations;

(f) Whether the associated person is engaged in activities that have a bearing on operational risk of the intermediary.

Notification under regulation 3 of the Securities and Exchange Board of India (Certification of Associated Persons in the Securities Markets) Regulations, 2007.

1. In terms of sub-regulation (1) of regulation 3 of the Securities and Exchange Board of India (Certification of Associated Persons in the Securities Markets) Regulations, 2007 (the Regulations), the Board is empowered to require, by notification, any category of associated persons as defined in the Regulations to obtain requisite certification(s).

2. Accordingly, it is notified that with effect from the date of this notification, the following category of associated persons, i.e., persons associated with a registered stock-broker/trading member/clearing member in recognised stock exchanges, who are involved in, or deal with, any of the following, namely:-

(a) assets or funds of investors or clients,

(b) redressal of investor grievances,

(c) internal control or risk management, and

(d) activities having a bearing on operational risk,

shall be required to have a valid certification from the National Institute of Securities Markets (NISM) by passing the NISM-Series-VII: Securities Operations and Risk Management Certification Examination as mentioned in the NISM communiqué/Press Release NISM/Certification/Series-VII: SORM/2010/01 dated November 11, 2010, read with Annexures-I and II thereto.

Provided that the stock-broker/trading member/clearing member shall ensure that all persons associated with it and carrying on any activity specified in this paragraph as on the date of this notification obtain valid certification within two years from the said date of notification.

Provided further that a stock-broker/trading member/clearing member who employs any associated persons specified in this paragraph after the date of this notification shall ensure that the said associated persons obtain valid certification within one year from the date of their employment.

Schedule II of Regulation 9 of SEBI (Stock Brokers) Regulations, 1992 Regulation 9(f)

CONDITIONS OF REGISTRATION.

9. *Any registration granted by the Board under regulation 6 shall be subject to the following conditions, namely*

(f) he shall at all times abide by the Code of Conduct as specified in Schedule II;

Clause A (5)

CODE OF CONDUCT FOR STOCK BROKERS

A. General.

(5) Compliance with statutory requirements: A stock-broker shall abide by all the provisions of the Act and the rules, regulations issued by the Government, the Board and the Stock Exchange from time to time as may be applicable to him.

10. I note that inspection findings are based on analysis of samples and test checking of books of accounts and other records maintained by the Noticees. Consequently, the instances of irregularities/ observations pointed out in inspection report are illustrative in nature and are not all-inclusive. Before I begin to note my findings, I once again reiterate that no reply for SCN/Hearing notice issued has been received from the Noticees and also the Noticees did not attend the hearing on the scheduled date and time. As stated above, sufficient opportunity was given to submit reply to the SCN and also to appear for personal hearing.

11. As regards, no reply from Noticees to the SCN served upon them, I refer to the judgment of Hon'ble Securities Appellate Tribunal dated December 08, 2006 in the matter of Classic Credit Ltd. v SEBI (Appeal No. 68 of 2003) wherein, it is observed,

    "… the appellants did not file any reply to the second show-cause notice. This being so, it has to be presumed that the charges alleged against them in the show cause notice were admitted by them".

12. In view of the above, I find that the allegations leveled in the SCN and the evidences enclosed therewith are not in dispute in absence of any reply from the Noticees and by not submitting any reply to SCN till the date of this order, it is presumed that Noticees have admitted the charges leveled against them by the said SCN.

13. Based on perusal of the material available on record and giving regard to the facts and submission of the Noticee and circumstances of the case, I record my findings hereunder:

A. Whether the Noticee 1 has violated the provisions enumerated under Para 5, Table 1?

14. At the outset, I find that there are 11 major alleged violations to be established for attracting the provisions with respect to Noticee 1 in the instant matter: (i) Mis-utilisation of clients' funds; (ii) Segregation of clients' funds and securities; (iii) Pledging of clients' securities (iv); Delay in settlement of Funds (v) Account Modification (vi) Disclosure of information on website & display of certificates (vii) Verification of Email ID & Mobile numbers (viii) Clients' order recording and pre trade authorisation (ix) Verification of systems and trading terminals and certification requirements (x) Financial statement analysis and (xi) Net worth verification.

(i) <u>Misutilisation of Funds and Securities of Clients</u>

Allegation

15. During inspection, analysis was done by SEBI and NSE w.r.t the total available funds of Noticee 1 i.e. cash and cash equivalents with itself and with the clearing corporation/clearing member. It was observed that, in the analysis done by SEBI in 40 sample as per the point 3 of SEBI circular SEBI/HO/MIRSD/MIRSD2/CIR/P/201 6/95 dated Sep 26, 2016 (hereinafter referred to as '**Enhanced supervision circular**') value of G was found be to negative. Negative value of G implies that the ledger balances available in all the client bank accounts of the Noticee 1 along with the collaterals deposited with the Exchanges / Clearing member were lesser than the ledger balance of the credit balance clients on the said days. Further, the

Negative value of 'G' indicates that the clients' funds were used for other purposes i.e. either for settlement obligations of debit balance of clients or for self-purposes. In this regard, the analysis done by SEBI in 40 sample is given in the Table 3a below:

Table: 3a

S.No.	Date	Total End of the day balance in all Client Bank Accounts	Collateral deposited with Exchanges and Clearing member in form of Cash and Cash Equivalents	Total Credit Balance of all clients (after adjusting for open bills and uncleared cheques)	Total debit balance (after adjusting for open bills and uncleared cheques)	Difference G = (A +B) - C
		(A)	(B)	(C)	(D)	(G)
1	03.09.2019	393893.37	11,509,633.07	26066621.65	10439014.24	(14,163,095.21)
2	04.09.2019	120296.02	11,550,000.00	26113482.02	10412755.31	(14,443,186.00)
3	05.09.2019	67243.46	11,550,000.00	26240021.34	10386100.68	(14,622,777.88)
4	06.09.2019	1321430.97	11,550,000.00	26290330.37	10420665.19	(13,418,899.40)
5	09.09.2019	274469.57	11,561,004.00	27040195.13	10682518.91	(15,204,721.56)
6	11.09.2019	536517.07	11,561,092.42	27371234.41	10451265.86	(15,273,624.92)
7	12.09.2019	540199.96	11,559,017.71	27345526.57	10448697.32	(15,246,308.90)
8	13.09.2019	708526.94	11,558,801.11	27169356.92	10459668.57	(14,902,028.87)
9	16.09.2019	1400945.95	11,555,114.86	27554828.49	10436896.05	(14,598,767.68)
10	17.09.2019	803302.95	11,553,999.02	27343464.53	10451454.90	(14,986,162.56)
11	18.09.2019	67134.00	11,546,955.49	26604345.68	10427757.72	(14,990,256.19)
12	19.09.2019	934229.96	11,550,000.00	28213761.92	10466032.43	(15,729,531.96)
13	20.09.2019	1199179.66	11,550,000.00	28054669.30	10397303.49	(15,305,489.64)
14	23.09.2019	1404645.77	11,550,000.00	28311565.73	10373433.94	(15,356,919.96)
15	24.09.2019	819604.18	11,550,034.92	27750957.63	10373484.62	(15,381,318.53)
16	25.09.2019	59899.68	11,548,877.91	27437770.64	10396399.59	(15,828,993.05)
17	26.09.2019	426186.18	11,550,880.82	28064284.99	10387541.91	(16,087,217.99)
18	27.09.2019	524936.02	11,549,374.68	27959824.19	10406570.53	(15,885,513.49)
19	30.09.2019	223080.72	11,533,574.26	28091860.70	10393555.48	(16,335,205.72)
20	02.03.2020	3374532.10	11,959,635.36	20833851.92	11125160.6	(5,499,684.46)
21	03.03.2020	1004373.26	11,805,758.37	18825988.66	11151976.38	(6,015,857.03)
22	04.03.2020	1344856.46	11,655,717.16	19762226.44	11131779.21	(6,761,652.82)
23	05.03.2020	891049.77	11,655,717.16	19770412.57	11132355.11	(7,223,645.64)
24	06.03.2020	1406014.52	11,655,716.97	19551959.54	11132185.76	(6,490,228.05)

S.No.	Date	Total End of the day balance in all Client Bank Accounts	Collateral deposited with Exchanges and Clearing member in form of Cash and Cash Equivalents	Total Credit Balance of all clients (after adjusting for open bills and uncleared cheques)	Total debit balance (after adjusting for open bills and uncleared cheques)	Difference G = (A +B) - C
		(A)	(B)	(C)	(D)	(G)
25	09.03.2020	1545467.47	11,654,845.22	19123280.51	11175356.98	(5,922,967.82)
26	11.03.2020	1597211.25	11,621,631.42	18759591.06	11157177.30	(5,540,748.39)
27	12.03.2020	1051640.79	11,621,678.42	18368007.42	11172826.73	(5,694,688.21)
28	13.03.2020	671233.27	11,564,603.17	18586084.89	11162510.27	(6,350,248.45)
29	16.03.2020	1842842.68	11,553,708.56	19463922.15	11178835.42	(6,067,370.91)
30	17.03.2020	1356687.63	11,541,378.21	19636669.93	11209297.29	(6,738,604.09)
31	18.03.2020	494558.14	11,541,378.21	19020357.14	11188760.99	(6,984,420.79)
32	19.03.2020	1760369.95	11,542,372.66	20435639.01	11171004.88	(7,132,896.40)
33	20.03.2020	2167429.76	11,434,140.91	20145471.52	11232497.33	(6,543,900.85)
34	23.03.2020	1689028.10	11,545,418.91	18956347.22	11206109.39	(5,721,900.21)
35	24.03.2020	1880618.55	11,589,418.91	19349189.48	11185367.14	(5,879,152.02)
36	25.03.2020	1629758.55	11,589,418.91	19763483.84	11184146.50	(6,544,306.38)
37	26.03.2020	1630235.10	11,545,517.91	18774490.04	11184436.85	(5,598,737.03)
38	27.03.2020	282028.19	11,738,927.16	17911500.95	11178151.14	(5,890,545.60)
39	30.03.2020	563080.14	11,791,869.41	18184719.02	10765304.05	(5,829,769.47)
40	31.03.2020	2225548.78	11,588,930.15	17906880.96	10785257.72	(4,092,402.03)

16. As per NSE observation, G was found to be negative on all 83 sample dates selected by NSE and it was alleged that the Noticee 1 had mis-used the clients' funds towards the settlement obligation of other clients, margin obligation of pro-trading and for other own purposes as detailed in the table below.

Table: 3b

Particulars	**No. of dates**	**Highest Mis-use Date**	**Highest Mis-use Amount**
Shortfall cum Misuse of Client funds towards settlement obligation of other clients	All 83 dates	Sep 27, 2019	Rs. 1.47 Crores

Particulars	No. of dates	Highest Mis-use Date	Highest Mis-use Amount
Funds used for own purpose	18 out of 83 dates	Aug 16, 2019	Rs. 1.06 Crores
Funds of clients used for Margin obligation of pro-trading	06 out of 83 dates	May 31, 2019	Rs. 0.48 crores

17. In view of above it was observed that on all sample dates G was negative and average amount of misutilisation was Rs. 0.80 crore.

18. It was also observed that value of 'I' was positive in 6 out of 115 selected instances as given in the table 4 below. The positive value of 'I' indicates the sum of Proprietary funds and securities i.e. (G + E + F) lying with the clearing corporation/clearing member is lesser than the Proprietary margin obligations (P). 'I' Positive indicates that the client's assets are mis-utilised towards proprietary margin obligations on all these 6 days. This implies that the total amount of misutilisation is Rs. 1.55 cr and average amount of misutilisation is Rs. 25.83 lakh. Computation of 'I' Value is detailed in the last column of the table 4 below:

Table 4 : Comparison of Funds of Clients misutilized against Margin Obligation of Proprietary Trading				
G	**E**	**F**	**P**	
Difference (G)	**Value of Own Securities Deposited as Collateral with Clearing corporation and with Clearing Member (In Rs.)**	**Value of Non funded portion of the Bank Guarantee (In Rs.)**	**Proprietary margin Obligation (In Rs.)**	**Funds of clients used for Margin obligation of proprietary trading I = P – (G+E+F), As G is –ve, G is taken as 0**
(47,93,539.60)	-	12,50,000.00	14,59,473.40	2,09,473.40

Table 4 : Comparison of Funds of Clients misutilized against Margin Obligation of Proprietary Trading				
G	**E**	**F**	**P**	
Difference (G)	**Value of Own Securities Deposited as Collateral with Clearing corporation and with Clearing Member (In Rs.)**	**Value of Non funded portion of the Bank Guarantee (In Rs.)**	**Proprietary margin Obligation (In Rs.)**	**Funds of clients used for Margin obligation of proprietary trading I = P – (G+E+F), As G is –ve, G is taken as 0**
(49,90,766.64)	-	12,50,000.00	15,32,818.75	2,82,818.75
(34,29,024.69)	-	12,50,000.00	40,58,216.25	28,08,216.25
(35,36,247.96)	-	12,50,000.00	56,63,643.75	44,13,643.75
(55,03,276.07)	-	12,50,000.00	42,07,166.25	29,57,166.25
(85,18,118.90)	-	12,50,000.00	60,78,692.00	48,28,692.00

19. Therefore, it was alleged that the Noticee 1 has violated the following provisions:
    a) Section 23D of SC(R) Act, 1956
    b) Clause 1 of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993
    c) Clause 3 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

Finding

20. I note that as per SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016, the principle is that 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 –

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

21. 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 value of I indicates the extent of funds and securities of clients which is possibly utilised towards proprietary margin obligations.

22. The sum of the proprietary funds (positive value of G), the value of proprietary securities (E) and the non-funded portion of bank guarantee (F) available in the Stock Exchanges is compared with the Proprietary margin obligations (P). If P > (G+E+F), then Stock Exchange shall calculate the difference I, which is the amount of proprietary margin obligation funded from clients assets.

$$I = P - (G+E+F)$$

23. If G is negative, then, value of G is considered as 0, as there is no additional proprietary funds lying with the stock exchange. The value of I indicates the extent of funds and securities of clients which is possibly utilised towards proprietary margin obligations.

24. I note that as per SEBI observation, G was found to be negative on all 40 sample dates selected by SEBI and as per NSE observation, G was found to be negative on all 83 sample dates as per inspection observations of Noticee 1. However, there were 8 sample dates which were common in sample dates of both SEBI and NSE. Therefore, after consolidating all the dates, G was found to be negative on 115 sample dates (40+83-8). The value of misutilisation ranged from Rs.31.77 lakh to Rs.1.52 crores with average amount of misutilisation of Rs. 0.80 crore {after taking into account Rs. 11,00,000 as part of collateral in the SEBI sample of 40 days}. This indicates

funds of credit balance clients are being utilized either for settlement obligations of debit balance clients or for the stock brokers' own purposes.

25. Further, I observe the value of ‘I’ was positive on 6 dates and the average amount of ‘I’ was Rs. 25.83 lakh and the total amount of positive ‘I’ was Rs. 1.55 cr. Therefore, I note that the client’s funds were utilized towards margin obligations of proprietary obligations.

26. In this regard, I note that the measure taken by SEBI are intended to increase transparency in fund / client management by the stock brokers. The funds in the client's accounts cannot be applied for any purpose other than what is permissible under SEBI rules and regulations.

27. Since Noticee 1 has failed to submit any reply to the above allegations in the SCN despite opportunities granted to it and failed to appear for the personal hearing on the scheduled date, it is presumed that it has no explanation to offer against the observed violation.

28. In view of the above, I hold that Noticee 1 was non-compliant during the inspection period and it is established that Noticee 1 has violated the provision of section 23D of SC(R) Act, 1956 read with Clause 1 of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 3 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

(ii) <u>Segregation of clients’ funds and securities :-</u>

Allegation

29. While verifying the fund transfers from client account to own account, it was observed that there was excess transfer from client account to the Noticee’s 1 account. It was observed that client funds were transferred from HDFC bank account number ending with 3880&3890 to FFSPL’s own HDFC bank

a/c no. ending with 3726 and 7585 for meeting own purposes. The net difference in transfer of fund between client account and Noticee 1's account was Rs. 98,02,560/-. The details of transfer of funds between client account and Noticee 1's account during the inspection period are given below:

Table 5– Transfer of funds between Client and Own bank A/cs			
Transfer of funds	**19-20 (in Rs)**	**20-21 (till October 31, 2020 (in Rs)**	**Total (in Rs)**
Client to Own	32725140.00	18353420.00	5,10,60,560.00
Own to Client	32916600.00	83,59,400.00	4,12,76,000.00
Difference			**98,02,560.00**

30. Further, out of the funds lying in the client bank account, Noticee 1 was only entitled to withdraw the brokerage and other statutory due and levies. However, as per the records, the following amounts were withdrawn from the clients' bank account:

Table 6 – Charges collected by FFSPL		
Particulars	**2019-20 (In Rs)**	**2021-21-Upto 31 -Oct-20 (In Rs)**
	A	**B**
Brokerage	2321192.95	1227239.75
T.Charges	964907.31	829542.29
Clearing Charges	280997.45	163390.28
S. Duty	363376.39	55404.6
STT	951221	1142814
GST	639970.86	395177.42
Sub – Total	**5521665.96**	**3813568.34**
Total (A + B)		**9335234.30**

31. From the tables 5 and 6 above, it is noted that Noticee 1 has made an excess withdrawal of Rs.4,67,325.70 (Funds transferred from Client to Noticee 1 account: 98,02,560.00 minus charges payable to FFSPL: 93,35,234.30).

32. Thus, it was alleged that the Noticee 1 had violated the following provisions:
    a. Section 23D of SC(R) Act, 1956
    b. Clause 1 of Annexure of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993
    c. Clause 2.4 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

Finding

33. During the period of inspection, it was observed that, the Noticee 1 had 22 bank accounts out of which 11 were clients' bank accounts, 6 were settlement bank account, 2 were exchange dues account and 3 were Noticee 1 own bank accounts.

34. I find from the records that Noticee 1 has made excess withdrawal of Rs. 4,67,325.70 from client account to his own bank account. Since, Noticee 1 has failed to submit any reply to the above allegations in the SCN despite opportunities granted to it and failed to appear for the personal hearing on the scheduled date, it is presumed that it has no explanation to offer against the observed violation.

35. Thus, it is established that Noticee 1 was non-compliant during the inspection period and has violated Clause 1 of Annexure of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 2.4 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

(iii) Pledging of clients' securities: -

Allegation

36. It was observed from the Inspection Report that securities belonging to Shri Chockalinagam, Shri Raman, Shri Mukund Joshi, Shri Sankaranarayanan, Shri Stephen, Smt Pramila (clients with collateral securities) were given to the clearing member by Noticee 1 for taking exposure on sample dates. It was observed that the Noticee 1 had negligible or negative fund balance with clearing member (Globe Capital) on all the 6 sample dates. Therefore, in order to give exposure to the clients who were having only fund balances, the Noticee 1 had utilized the securities of aforesaid 6 clients. The total mis-utilised amount was Rs. 2.29 cr. Details are given below:

Table 7 - Securities of CCS (clients with collateral securities) used for exposure of other clients

Date	Total margin required of FFSPL (Noticee 1)	FFSPL (Noticee 1) funds with CM	FFSPL (Noticee 1)securities with CM	FC19 margin requirement	CCS clients securities used
Jun 28, 2019	7340538.15	-14539.76	Nil	1505585	5649139.35
Sep 30,2019	11363649	-16425	Nil	1056570	9948258
Dec 31, 2019	7386753.20	109940.75	Nil	1380497.75	10311296.59
Mar 31, 2020	1026630.57	49549	Nil	0	977081.57
Jun 30, 2020	1586795.35	815939.65	479719.23	7146	291136.47
Sep 30, 2020	1883812.09	65449.90	544103.55	0	1274258.64

37. In view of the above, it was alleged that the Noticee 1 has violated the following provisions:
    a) Section 23D of SC(R) Act, 1956
    b) SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993
    c) Clause 2.5 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

Finding

38. Based on the allegations made in the SCN I find that Noticee 1 had negligible or negative fund balance with clearing member (Globe Capital) on all the 6 sample dates. Therefore, in order to give exposure to the clients who were having only fund balances, the Noticee 1 had utilized the securities belonging to Shri Chockalinagam, Shri Raman, Shri Mukund Joshi, Shri Sankaranarayanan, Shri Stephen, Smt Pramila. The table 7 above lists the amount of misutilisation on the 6 sample dates.

39. Since Noticee 1 has failed to submit any reply despite opportunities granted to it and failed to appear for the personal hearing on the scheduled date, it is presumed that it has no explanation to offer against the observed violation.

40. Thus, it is established that Noticee 1 was non-compliant during the inspection period and has violated SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 2.5 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

(iv) <u>Delay in settlement of Funds: -</u>

Allegation

41. During the inspection period, it was observed that the Noticee has not settled client accounts in case of 239 out of 288 instances of quarterly settlement of top 50 active clients selected for sample scrutiny. The break-up of amounts not settled in each quarter is given below:

Table 8 – Details of Non-settlement of Client accounts			
F.Y.	**Quarter**	**No. of Clients**	**Amount not settled in Rs.**
2019-20	Apr-Jun	36	1,27,18,088
2019-20	Jul-Sep	38	76,01,074
2019-20	Oct-Dec	38	1,25,37,243
2019-20	Jan-Mar	40	1,29,81,059
2020-21	Apr-Jun	44	94,90,675
2020-21	Jul-Sep	43	87,83,670
Total		239	**64,111,809**

42. It was observed from the verification of clients who have not traded (across Exchanges) after September 30, 2020, (based on the creditors as on September 30, 2020) that Noticee 1 has not settled the funds to an extent of Rs. 85,29,885/-, belonging to 481 inactive clients who are having ledger balances of Rs. 500 or more. Details are given below:

Table-9

Inactive Client Balances (having balances of Rs.500 and above) with Stock Broker	**No. of clients**	**Amount with Stock Broker**
5,00,000 and above	2	45,65,371
1,00,000 -5,00,000	9	15,42,134
10,000-1,00,000	48	15,75,274
500-10,000	422	8,47,106
Total	**481**	**85,29,885**

43. Further, it was observed that the Noticee 1 had not sent statement of accounts & retention statement at the time of settlement of client's accounts in 236 out of 288 sample instances.

44. In view of the above, the total non-settled amount is Rs 6.41 crore (Active clients) + Rs 85.29 lakh (inactive clients). Therefore, it is alleged that the Noticee 1 has violated the following provisions:
   a) SEBI Circular SEBI/MIRSD/SE/Cir-19/2009 dated December 03, 2009
   b) Clause 8.1 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.
   c) Clause 12(e) of Annexure-A of SEBI Circular SEBI/MIRSD/SE/Cir-19/2009 dated December 03, 2009.

Finding

45. As per SEBI Circular no. CIR/MIRSD/SE/Cir-19/2009 dated December 03, 2009, the actual settlement of funds and securities shall be done by the broker, at least once in a calendar quarter or month, depending on the preference of the client. The Noticee 1 has not settled Active clients' accounts in 239 out of 288 sample instances across six quarters. The total non settled amount is Rs. 6.41 cr. As per inspection report, member has not settled funds to the extent of Rs. 85.29 lakhs belonging to 481 inactive clients. However, the supporting document furnished by inspection team reflects the total unsettled amount of Rs. 84.69 lakhs. The difference arises on account of mismatch in unsettled amount of inactive clients having balance between 500-10000 and 10000-100000. Hence, it is noted that, Noticee 1 has not settled funds to the extent of Rs. 84.69 lakh belonging to 481 Inactive client accounts.

46. In this regard, I note that the said SEBI circular intends that the stock brokers should settle funds of clients periodically, so that clients' funds are not kept

unsettled by the stock broker for indefinite period on any pretext. The circular was issued with a view to instill greater transparency and discipline in the dealings between the clients and the stock brokers and to keep the investor informed about his/her account, so as to curb any misutilisation of funds by the stock brokers, thereby safeguarding the integrity of the market which in the instant case, has been completely disregarded by the Noticee 1.

47. It was also observed that, Noticee 1 has not sent statement of accounts and retention statements in 236 out of 288 sample instances.

48. I note that, Noticee 1 has failed to submit its reply to the above allegations in the SCN despite opportunities granted to it and failed to appear for the personal hearing on the scheduled date, it is presumed that he has no explanation to offer against the observed violation

49. In view of the above, it is established that, Noticee 1 has violated *SEBI Circular SEBI/MIRSD/SE/Cir-19/2009 dated December 03, 2009, Clause 8.1 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016; Clause 12(e) of Annexure-A of SEBI Circular SEBI/MIRSD/SE/Cir-19/2009 dated December 03, 2009*.

(v) <u>Account Modifications: -</u>

Allegation

50. It was observed that Noticee 1 had not updated the KYC modifications of the sample clients to the KRA system and the same had been confirmed by Noticee 1 vide email dated Mar 30, 2021.Therefore, it was alleged that the Noticee 1 has violated the provisions of SEBI Circular MIRSD/Cir-26/2011 dated Dec 23, 2011.

Finding

It is noted that, Noticee 1 has accepted vide its email dated March 30, 2021, that it has not updated the KYC modification in KRA system for all the 10 sample clients. Further, since Noticee 1 has failed to submit any reply to the SCN despite opportunities granted to it and failed to appear for the personal hearing on the scheduled date, it is presumed that it has no explanation to offer against the observed violation.

51. Based on the above, it is established that, Noticee 1 was non-compliant during the inspection period and has violated SEBI Circular MIRSD/Cir-26/2011 dated Dec 23, 2011.

(vi) <u>Disclosure of information on website & display of certificates: -</u>

Allegation

52. It was observed that although Noticee 1 had submitted photo of notice boards displaying Registration certificates, details of Director/Compliance officer and investor grievance redressal etc. upon verification, it was observed that Noticee 1 had not prominently displayed details of SCORES in their office premises. Therefore, it was alleged that the Noticee 1 has violated the provisions of SEBI Circular CIR/MIRSD/3/2014 dated August 28, 2014.

Finding

It is noted that, Noticee 1 has not displayed details of SCORES in its office premises as required by SEBI circular CIR/MIRSD/3/2014 dated August 28, 2014. Since Noticee 1 has failed to submit any reply to the SCN despite opportunities granted to it and failed to appear for the personal hearing on the scheduled date, it is presumed that it has no explanation to offer against the observed violation.

53. In view of the above, it is established that Noticee 1 was non-compliant during the inspection period and has violated SEBI circular CIR/MIRSD/3/2014 dated August 28, 2014.

(vii) <u>Verification of Email ID & Mobile numbers: -</u>

Allegation

54. It was observed that 4 mobile number had been used for 14 clients as given below.

Table 10

Sr. No.	UCC	Client Name	PAN	Mobile No.
1	1221	ALEXANDER J	ASVPA8803C	9962880636
2	73A13	AMAL KRISHNA SIKDER	BMGPS7705F	
3	7469G1	GANESAN S	ACCPG8863D	
4	FA18	AROCKIA JENITHA J	ATEPA2577M	
5	FV15	MURTHY RANGANATHAN	BGKPM2329N	
6	1K42	KANNAN P	AXCPK7797D	9962397151
7	1M38	MD.YOUNUS V	ANUPM9668D	
8	1N57	N NIRMALA	AHGPN4177L	
9	1S47	SATHYAVATHI	BFTPS8259A	
10	7443K4	KUMARAVEL N	AVMPK0123F	9942290055
11	7443S1	SUBBURAYALU CHETTIAR DHANDAYUTHAM	ACYPD5801G	
12	7443V1	VASUDEVAN D	ADBPV8263E	
13	4512J1	JOSEPH DOMNIC F	AATPF9420A	9941331553
14	FP25	PACHAIYAPPAN K	AQXPP3043K	

55. In view of the above, it was alleged that the Noticee 1 has violated the provisions of SEBI circular CIR/MIRSD/15/2011 dated August 02, 2011.

Finding

56. It is noted that, during inspection a sample of 280 clients was taken during inspection for verification of Email ID & Mobile numbers, and it was observed that Noticee 1 has mapped the same mobile number against multiple clients. Overall, 4 mobile numbers were mapped to 14 clients indicating one-to-many mapping of mobile numbers.

57. Since, Noticee 1 has failed to submit any reply to the SCN despite opportunities granted to it and failed to appear for the personal hearing on the scheduled date, it is presumed that it has no explanation to offer against the observed violation.

58. Thus, it is established that, Noticee 1 was non-compliant during the inspection period and has violated SEBI Circular CIR/MIRSD/15/2011 dated August 02, 2011.

(viii) <u>Clients order recording and pre trade authorization: -</u>

Allegation

59. It was observed that Noticee 1 did not maintain the call recording for all the sample instances and did not have the facility for pre trade authorization and therefore, it was alleged that the Noticee 1 has violated the provisions of Clause III and IV of SEBI Circular CIR/HO/MIRSD /MIRSD2/CIR/P/2017/108 dated September 26, 2017.

Finding

60. It is noted from the material available on record that Noticee 1 has admitted vide email dated April 01, 2021, that it did not had any call recording facility or pre trade authorisation.

61. Further since Noticee 1 has failed to submit any reply to the above allegation in the SCN despite multiple opportunities granted to it and failed to appear for the personal hearing on the scheduled date, it is presumed that it has no explanation to offer against the observed violation.

62. In view of the above it is established that, Noticee 1 was non-compliant during inspection period and has violated Clause III and IV of SEBI Circular CIR/HO/MIRSD/MIRSD2/CIR/P/2017/108 dated September 26, 2017

(ix) <u>Verification of systems and trading terminals and certification requirements:-</u>

Allegation

63. It was observed that certificates of 4 CTCL terminal users and 3 NEAT terminal users of the Noticee were not valid during the inspection period, details are provided in the Table below.

Table-11

Name of Terminal User	**Certificate Valid till**
CTCL Terminal	
Manavalan Vedaprakash M	08-Apr-20
Rajeshkannan R R	15-Apr-20
Manickam Swaminathan	25-Apr-20
Rajaram Loganathan	04-Sep-19
NEAT Terminal	
Madhu Sudhanan M	22-Jul-16
Vasanthi Ramakrishnan	04-Feb-16
Sathish S	26-May-18

64. Therefore, it was alleged that the Noticee 1 has violated the provisions of SEBI Notification LAD-NRO/GN/2010-11/21/29390 issued under Reg. 3 of

SEBI (Certification of Associated Persons in the Securities Markets) Regulations, 2007.

Finding

65. It is observed from the records, that certificates of CTCL and NEAT terminal users were not valid during inspection period. Since, Noticee 1 has failed to submit any reply to the above allegation in the SCN despite opportunities granted to it and failed to appear for the personal hearing on the scheduled date, it is presumed that it has no explanation to offer against the observed violation.

66. In view of the above, it is established that Noticee 1 was non-compliant during the inspection period and has violated SEBI Notification LAD-NRO/GN/2010-11/21/29390 issued under Reg. 3 of SEBI (Certification of Associated Persons in the Securities Markets) Regulations, 2007.

(x) <u>Financial Statement Analysis:-</u>

Allegation

67. It was observed that provision made by the Noticee 1 for stamp duty payable in the F.Y. 2018-19 for Rs 36,96,608/- under other current liabilities were neither paid nor carried forward in the annual report of F.Y. 2019-20.

68. Therefore, it was alleged that the Noticee 1 has violated the provisions of Clause A (5) of Code of Conduct for Stock Brokers prescribed in Schedule II read with Regulation 9 of SEBI (Stock Brokers) Regulations, 1992.

Finding

69. It is noted that, the observation pertains to provision made for stamp duty in FY 2018-19 which is neither paid nor carried forward in FY 2019-20. Since, Noticee 1 has failed to submit any reply to the above allegation in the SCN

despite opportunities granted to it and failed to appear for the personal hearing on the scheduled date, it is presumed that it has no explanation to offer against the observed violation.

70. In view of the above, it is established that Noticee 1 was non-compliant during the inspection period and has violated Clause A (5) of Code of Conduct for Stock Brokers prescribed in Schedule II read with Regulation 9 of SEBI (Stock Brokers) Regulations, 1992

(xi) <u>Net worth verification:-</u>

Allegation

71. It was observed that networth as per Networth Certificate, as on March 31, 2020 was Rs.116.91 lakh. However, it was also observed that in the profit and loss account, proprietary trading losses for the financial year 2019-20 amounting to Rs. 62,10,051 were not accounted for and it was also observed that statutory duties such STT, GST and Stamp Duty were shown in the other income whereas the same had not been shown in the expenses (amounting to Rs19.55 lakh), in the profit and loss account. Therefore, it was alleged that by not accounting of the statutory expenses and proprietary trading losses, Noticee 1 had overstated the profit.

72. It was also observed from the Inspection report that in the net worth statement the advances to the associates amounting to Rs.3,38,08,468.31 i.e., advances to directors and this balance was carried over from 2017-18, was not deducted under non allowable assets, thereby allegedly inflating networth as on March 31, 2020.

73. Further, it was observed from the age-wise analysis of debtors in the inspection report, the balances shown in the debtors are more than 1-year-old and also these debtors were not written off /provided for doubtful debts

as seen in networth calculation of March 31, 2020. It is noted from the age wise debtor analysis given in the table below, the debtors greater than 1 year aggregates to Rs 83.88 lac whereas in the networth calculation doubtful debts is shown as Rs.12.04 lakh. By not writing off the debit balance clients, it was alleged that Noticee 1 over stated their net worth. The age wise debtor analysis is given in the table below :

Table 12

Aging Particulars	**No. of clients**	**Value of debit balance clients as on Mar 31, 2020**
Debtors < 3 months	8	-266027
6 months < Debtors > 3 months	8	-931215
1 year < Debtors > 6 months	18	-160603
Debtors > 1 year	1542	-8388625

74. Therefore, it was alleged that the Noticee 1 has violated the provisions of Clause 6.1.1(j) of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

Finding

75. It is noted that while calculating net worth the Noticee 1 has not accounted the following:
    a. Proprietary trading losses of Rs. 62,10,051 for FY 2019-20 was not accounted in Profit and loss account
    b. Statutory duties of Rs. 19.55 lakh not shown as expense in Profit and loss account
    c. Advances to associates worth Rs. 3,38,08,468.31 not deducted under non-allowable assets, thereby inflating net worth
    d. Debtors more than 1 year old amounting Rs. 83.88 lakh not written off, thereby inflating net worth.

76. Since, Noticee 1 has failed to submit any reply to the above allegation in the SCN despite opportunities granted to it and failed to appear for the personal hearing on the scheduled date, it is presumed that it has no explanation to offer against the observed violation.

77. In view of the same, it is established that Noticee 1 was non-compliant during the inspection period and has violated Clause 6.1.1(j) of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

B. Whether the Noticee 2 has violated the provisions enumerated under Para 5, Table 2?

78. On perusal of the material available on record and giving regard to the facts and circumstances of the same, I hereby proceed to record my findings with respect to violations of Noticee 2, which are as under:

79. At the outset, I find that there are 5 major alleged violations to be established for attracting the provisions with respect to Noticee 2 in the instant matter: (i) Mis-Utilisation of clients' Funds & verification of data reported (ii) Segregation of clients' funds and securities (iii) Delay in settlement of Funds; (iv) Financial statement analysis and (v) Net worth verification.

(i) <u>Misutilisation of client's Funds & verification of data reported:-</u>

Allegation

80. It was observed during that on all the 43 days which were selected for verification of mis-utilization of clients' funds, the value of 'G' was negative on all 43 days. Thereafter, the absolute value of G was compared with the debit balance of all clients. It was observed that the funds of credit balance of clients were used for settlement of debit balance of clients and for self-

purposes on all 43 sample days of September, 2019 and March, 2020. Details of which are given in Table below:

Table 13

S.No.	Date	Total End of the day balance in all Client Bank Accounts	Collateral deposited with Exchanges and Clearing member in form of Cash and Cash Equivalents	Total Credit Balance of all clients (after adjusting for open bills and uncleared cheques	Total debit balance (after adjusting for open bills and uncleared cheques)	Difference G = (A +B) - C
		(A)	(B)	(C)	(D)	(G)
1	02.09.2019	17389.86	940,935.32	4944881.87	8634784.70	(3,986,556.69)
2	03.09.2019	67389.86	854,086.63	5003224.68	8634784.70	(4,081,748.19)
3	04.09.2019	16903.86	903,142.63	5025469.02	8634784.70	(4,105,422.53)
4	05.09.2019	30903.86	1,341,232.05	5098744.68	8634784.70	(3,726,608.77)
5	06.09.2019	117503.86	3,020,843.87	6863479.25	8634784.70	(3,725,131.52)
6	09.09.2019	47603.86	2,329,302.69	6370690.14	8634784.70	(3,993,783.59)
7	10.09.2019	74101.86	2,329,302.69	6612975.39	8634784.70	(4,209,570.84)
8	11.09.2019	59101.86	1,552,295.34	5709144.57	8634784.70	(4,097,747.37)
9	12.09.2019	165176.86	1,448,046.68	5751148.22	8634784.70	(4,137,924.68)
10	13.09.2019	49565.86	1,410,721.58	5966944.14	8634784.70	(4,506,656.70)
11	16.09.2019	9565.86	1,133,705.51	5773413.68	8634784.70	(4,630,142.31)
12	17.09.2019	9536.36	1,125,631.51	5757869.33	8634784.70	(4,622,701.46)

S.No.	Date	Total End of the day balance in all Client Bank Accounts	Collateral deposited with Exchanges and Clearing member in form of Cash and Cash Equivalents	Total Credit Balance of all clients (after adjusting for open bills and uncleared cheques	Total debit balance (after adjusting for open bills and uncleared cheques)	Difference G = (A +B) - C
		(A)	(B)	(C)	(D)	(G)
13	18.09.2019	21424.36	1,084,149.51	5710408.39	8634784.70	(4,604,834.52)
14	19.09.2019	9624.36	1,316,008.51	5776988.94	8634784.70	(4,451,356.07)
15	20.09.2019	9624.36	1,059,439.51	5715096.56	8634784.70	(4,646,032.69)
16	23.09.2019	10617.36	1,122,395.60	5772316.30	8634784.70	(4,639,303.34)
17	24.09.2019	10617.36	1,158,769.60	5802233.99	8634784.70	(4,632,847.03)
18	25.09.2019	10617.36	1,495,173.60	5866289.43	8634784.70	(4,360,498.47)
19	26.09.2019	11610.86	1,220,533.60	5444566.18	8634784.70	(4,212,421.72)
20	27.09.2019	11610.86	1,328,670.60	5245307.60	8634784.70	(3,905,026.14)
21	30.09.2019	317795.86	1,092,866.14	5407365.13	8634784.70	(3,996,703.13)
22	02.03.2020	353189.26	1,287,281.47	5615641.06	8634890.09	(3,975,170.33)
23	03.03.2020	354189.26	1,891,644.47	5663386.03	8634890.09	(3,417,552.30)
24	04.03.2020	25255.26	2,056,314.68	5723842.90	8634890.09	(3,642,272.96)
25	05.03.2020	50255.26	2,052,789.68	5731620.06	8634890.09	(3,628,575.12)
26	06.03.2020	39248.26	1,528,436.30	5735599.14	8634890.09	(4,167,914.58)

S.No.	Date	Total End of the day balance in all Client Bank Accounts	Collateral deposited with Exchanges and Clearing member in form of Cash and Cash Equivalents	Total Credit Balance of all clients (after adjusting for open bills and uncleared cheques	Total debit balance (after adjusting for open bills and uncleared cheques)	Difference G = (A +B) - C
		(A)	**(B)**	**(C)**	**(D)**	**(G)**
27	09.03.2020	32993.77	1,950,109.46	6182433.04	8634890.09	(4,199,329.81)
28	10.03.2020	332993.77	1,950,109.46	5695292.63	8677061.98	(3,412,189.40)
29	11.03.2020	43493.77	1,642,578.46	5622977.34	8677061.98	(3,936,905.11)
30	12.03.2020	30615.77	1,677,614.46	5651305.12	8677061.98	(3,943,074.89)
31	13.03.2020	129703.77	1,674,590.46	5576579.04	8677061.98	(3,772,284.81)
32	16.03.2020	29638.87	2,816,327.46	6742347.54	8677061.98	(3,896,381.21)
33	17.03.2020	543632.97	1,613,131.05	5600479.31	8677149.40	(3,443,715.29)
34	18.03.2020	723604.97	1,841,969.21	6078651.52	8634890.09	(3,513,077.34)
35	19.03.2020	745604.97	1,679,920.15	5968378.41	8634890.09	(3,542,853.29)
36	20.03.2020	658404.97	1,694,959.15	5910542.25	8634890.09	(3,557,178.13)
37	23.03.2020	20404.97	1,206,234.15	5419238.27	8634890.09	(4,192,599.15)
38	24.03.2020	68404.97	1,206,110.15	5462727.52	8634890.09	(4,188,212.40)
39	25.03.2020	22297.97	1,406,110.15	5409460.15	8634890.09	(3,981,052.03)
40	26.03.2020	20297.97	1,205,224.15	5405474.37	8634890.09	(4,179,952.25)

S.No.	Date	Total End of the day balance in all Client Bank Accounts	Collateral deposited with Exchanges and Clearing member in form of Cash and Cash Equivalents	Total Credit Balance of all clients (after adjusting for open bills and uncleared cheques	Total debit balance (after adjusting for open bills and uncleared cheques)	Difference G = (A +B) - C
		(A)	(B)	(C)	(D)	(G)
41	27.03.2020	23297.97	1,107,645.15	5408698.73	8634890.09	(4,277,755.61)
42	30.03.2020	15936.97	1,077,872.15	5406967.92	8634890.09	(4,313,158.80)
43	31.03.2020	320559.97	1,058,514.21	5910865.75	8634890.09	(4,531,791.57)

81. Further, it was also observed from the Inspection report that 10 days (in addition to abovementioned 43 days) were also selected for verification of mis-utilization of clients' funds and it was observed that G was found negative on all the 10 dates. Further, it was observed that the funds of credit balance clients have been used for the settlement obligations of debit balance clients on all the selected dates**.** The average amount of misutilisation of funds on all the 53 days (43+10) is Rs 41.66 lakh. Further, it was observed that the Noticee 2 had not correctly uploaded details of all clients' funds lying with them on stock exchange system for 9 selected dates out of 10 dates as given below:

Table 14 - Extract of analysis of Enhanced Supervision data submitted by the member to MCX		
Date of Mismatch	**Areas of Mismatch**	**Value of Mismatch in Rs. ***
Oct 18, 2019	Aggregate Fund Balance	-30.45
	Collateral deposited with Clearing Member	4999.71
	Unutilized Collateral lying with Clearing Member	-1.38
Oct 25, 2019	Collateral deposited with Clearing Member	4999.71
	Unutilized Collateral lying with Clearing Member	-1.31
Nov 01, 2019	Unutilized Collateral lying with Stock Exchange	1,49,507.41
Dec 06, 2019	Aggregate Fund Balance	-723.92

Table 14 - Extract of analysis of Enhanced Supervision data submitted by the member to MCX		
Date of Mismatch	**Areas of Mismatch**	**Value of Mismatch in Rs. ***
	Unutilized Collateral lying with Stock Exchange	5,00,000.00
Dec 20, 2019	Aggregate Fund Balance	-84.42
Dec 27, 2019	Aggregate Fund Balance	-84.42
Jan 03, 2020	Aggregate Fund Balance	-84.42
Jan 10, 2020	Aggregate Fund Balance	-84.42
	Unutilized Collateral lying with Clearing Member	16,775.00
Sep 04, 2020	Unutilized Collateral lying with Stock Exchange	80,389.39

**Negative mismatch value indicates under reporting by Member*

Funds of clients used for Margin obligation of proprietary trading: -

82. It was further observed that out of 43 trading days selected for finding the mis-utilisation of clients' fund, 'I' was positive on 7 trading days. Positive values of 'I' implies that the sum of proprietary funds and securities lying with the clearing corporation / clearing member were lesser than the proprietary margin obligation of the Noticee 2 on the aforesaid 7 trading days. 'I' Positive indicates that the funds of clients were used for margin obligation towards proprietary trading on all these 7 days. The total amount of mis-utilisation is Rs. 5.83 lakh and the average amount of misutilisation is Rs 83,285. Computation of 'I' Value is detailed in the last column of the Table below:

Table 15

S.No.	Date	Difference G = (A +B) - C	Value of Own Securities Deposited as Collateral with Clearing corporation as declared by the Member	Non funded portion of the Bank Guarantee	Proprietary Margin Obligation	Funds of clients used for Margin obligation of proprietary trading
		(G)	(E)	(F)	(P)	I = P – (G+E+F), As G is –ve, G is taken as 0
1	02.09.2019	(3,986,556.69)	-	-	-	0

S.No.	Date	Difference G = (A +B) - C	Value of Own Securities Deposited as Collateral with Clearing corporation as declared by the Member	Non funded portion of the Bank Guarantee	Proprietary Margin Obligation	Funds of clients used for Margin obligation of proprietary trading
		(G)	(E)	(F)	(P)	I = P – (G+E+F), As G is –ve, G is taken as 0
2	03.09.2019	(4,081,748.19)	-	-	-	0
3	04.09.2019	(4,105,422.53)	-	-	35,375.00	35,375.00
4	05.09.2019	(3,726,608.77)	-	-	-	0
5	06.09.2019	(3,725,131.52)	-	-	17,250.00	142,625.00
6	09.09.2019	(3,993,783.59)	-	-	142,625.00	135,425.00
7	10.09.2019	(4,209,570.84)	-	-	-	0
8	11.09.2019	(4,097,747.37)	-	-	-	0
9	12.09.2019	(4,137,924.68)	-	-	-	0
10	13.09.2019	(4,506,656.70)	-	-	135,425.00	135,425.00
11	16.09.2019	(4,630,142.31)	-	-	-	0
12	17.09.2019	(4,622,701.46)	-	-	-	0
13	18.09.2019	(4,604,834.52)	-	-	36,375.00	36,375.00
14	19.09.2019	(4,451,356.07)	-	-	-	0
15	20.09.2019	(4,646,032.69)	-	-	-	0
16	23.09.2019	(4,639,303.34)	-	-	-	0
17	24.09.2019	(4,632,847.03)	-	-	39,375.00	39,375.00
18	25.09.2019	(4,360,498.47)	-	-	58,750.00	58,750.00
19	26.09.2019	(4,212,421.72)	-	-	-	0
20	27.09.2019	(3,905,026.14)	-	-	-	0
21	30.09.2019	(3,996,703.13)	-	-	-	0
22	02.03.2020	(3,975,170.33)	-	-	-	0

S.No.	Date	Difference G = (A +B) - C	Value of Own Securities Deposited as Collateral with Clearing corporation as declared by the Member	Non funded portion of the Bank Guarantee	Proprietary Margin Obligation	Funds of clients used for Margin obligation of proprietary trading
		(G)	(E)	(F)	(P)	I = P – (G+E+F), As G is –ve, G is taken as 0
23	03.03.2020	(3,417,552.30)	-	-	-	0
24	04.03.2020	(3,642,272.96)	-	-	-	0
25	05.03.2020	(3,628,575.12)	-	-	-	0
26	06.03.2020	(4,167,914.58)	-	-	-	0
27	09.03.2020	(4,199,329.81)	-	-	-	0
28	10.03.2020	(3,412,189.40)	-	-	-	0
29	11.03.2020	(3,936,905.11)	-	-	-	0
30	12.03.2020	(3,943,074.89)	-	-	-	0
31	13.03.2020	(3,772,284.81)	-	-	-	0
32	16.03.2020	(3,896,381.21)	-	-	-	0
33	17.03.2020	(3,443,715.29)	-	-	-	0
34	18.03.2020	(3,513,077.34)	-	-	-	0
35	19.03.2020	(3,542,853.29)	-	-	-	0
36	20.03.2020	(3,557,178.13)	-	-	-	0
37	23.03.2020	(4,192,599.15)	-	-	-	0
38	24.03.2020	(4,188,212.40)	-	-	-	0
39	25.03.2020	(3,981,052.03)	-	-	-	0
40	26.03.2020	(4,179,952.25)	-	-	-	0
41	27.03.2020	(4,277,755.61)	-	-	-	0
42	30.03.2020	(4,313,158.80)	-	-	-	0
43	31.03.2020	(4,531,791.57)	-	-	-	0

Funds of credit balance clients used for Margin obligations of debit balance clients and proprietary trading.

83. It was observed that on all the 43 days which were selected for finding the mis-utilization of clients' fund, 'J' was positive on one day. 'J' positive indicates that funds of credit balance of clients were used for margin obligation of debit balance of clients and for proprietary trading on that one day i.e. Mar 30, 2020 as given in the table below. It was also observed that the mis-utilised amount is Rs. 1,01,308.84. Computation of J Value is detailed in the last column of the Table below:

Table 16

S.No.	Date	Total End of the day balance in all Client Bank Accounts (A)	Collateral deposited with Exchanges and Clearing member in form of Cash and Cash Equivalents (B)	Total Credit Balance of all clients (after adjusting for open bills and uncleared cheques) (C)	Margin utilized for positions of Credit Balance Clients (MC)	Free/unblocked Collateral deposited with clearing corporation/ clearing member	Funds of credit balance clients used for Margin obligations of debit balance clients and proprietary trading
		(A)	(B)	(C)	(MC)	(MF)	G positive: J = (C-A)-(MC+MF); G Negative: J = B - (MC+MF);
1	02.09.2019	17389.86	940,935.32	4944881.87	732111.21	732,599.34	-523,775.23
2	03.09.2019	67389.86	854,086.63	5003224.68	746536.18	656,544.62	-548,994.17
3	04.09.2019	16903.86	903,142.63	5025469.02	868201.96	546,036.96	-511,096.29
4	05.09.2019	30903.86	1,341,232.05	5098744.68	3415878.33	(1,547,067.88)	-527,578.40
5	06.09.2019	117503.86	3,020,843.87	6863479.25	1621883.32	1,917,775.18	-518,814.63
6	09.09.2019	47603.86	2,329,302.69	6370690.14	1368510.15	1,475,524.59	-514,732.05
7	10.09.2019	74101.86	2,329,302.69	6612975.39	884507.43	1,966,260.45	-521,465.19
8	11.09.2019	59101.86	1,552,295.34	5709144.57	640654.77	1,436,573.10	-524,932.53
9	12.09.2019	165176.86	1,448,046.68	5751148.22	933068.46	1,041,326.57	-526,348.35
10	13.09.2019	49565.86	1,410,721.58	5966944.14	1325521.03	774,715.41	-689,514.86

S.No.	Date	Total End of the day balance in all Client Bank Accounts (A)	Collateral deposited with Exchanges and Clearing member in form of Cash and Cash Equivalents (B)	Total Credit Balance of all clients (after adjusting for open bills and uncleared cheques) (C)	Margin utilized for positions of Credit Balance Clients (MC)	Free/unblocked Collateral deposited with clearing corporation/ clearing member	Funds of credit balance clients used for Margin obligations of debit balance clients and proprietary trading
11	16.09.2019	9565.86	1,133,705.51	5773413.68	779992.02	847,849.82	-494,136.33
12	17.09.2019	9536.36	1,125,631.51	5757869.33	982441.87	712433.82	-569,244.18
13	18.09.2019	21424.36	1,084,149.51	5710408.39	1284231.25	317005.38	-517,087.12
14	19.09.2019	9624.36	1,316,008.51	5776988.94	1339677.25	531610.86	-555,279.60
15	20.09.2019	9624.36	1,059,439.51	5715096.56	1284038.39	274859.55	-499,458.43
16	23.09.2019	10617.36	1,122,395.60	5772316.30	1116247.48	535916.74	-529,768.62
17	24.09.2019	10617.36	1,158,769.60	5802233.99	1056096.01	635325.8	-532,652.21
18	25.09.2019	10617.36	1,495,173.60	5866289.43	1228919.37	804948.68	-538,694.45
19	26.09.2019	11610.86	1,220,533.60	5444566.18	1310892.70	620273.7	-710,632.80
20	27.09.2019	11610.86	1,328,670.60	5245307.60	1130178.85	850853.07	-652,361.32
21	30.09.2019	317795.86	1,092,866.14	5407365.13	1252451.91	430358.68	-589,944.45
22	02.03.2020	353189.26	1,287,281.47	5615641.06	2159057.61	(442,997.40)	-428,778.74
23	03.03.2020	354189.26	1,891,644.47	5663386.03	2385976.80	(47,517.20)	-446,815.13
24	04.03.2020	25255.26	2,056,314.68	5723842.90	2344891.74	153,522.59	-442,099.65
25	05.03.2020	50255.26	2,052,789.68	5731620.06	1652638.07	845,198.21	-445,046.60
26	06.03.2020	39248.26	1,528,436.30	5735599.14	2307624.58	(191,520.91)	-587,667.37
27	09.03.2020	32993.77	1,950,109.46	6182433.04	2878035.29	22,556.07	-950,481.90
28	10.03.2020	332993.77	1,950,109.46	5695292.63	2424432.33	(63,330.70)	-410,992.17
29	11.03.2020	43493.77	1,642,578.46	5622977.34	2269998.45	(263,196.02)	-364,223.97
30	12.03.2020	30615.77	1,677,614.46	5651305.12	2873997.62	(269,877.48)	-926,505.68
31	13.03.2020	129703.77	1,674,590.46	5576579.04	1791088.75	1,379,891.51	-1,496,389.80
32	16.03.2020	29638.87	2,816,327.46	6742347.54	3109221.93	1,512,281.55	-1,805,176.02
33	17.03.2020	543632.97	1,613,131.05	5600479.31	2220979.23	(65,756.56)	-542,091.62
34	18.03.2020	723604.97	1,841,969.21	6078651.52	902030.68	1,344,434.78	-404,496.25
35	19.03.2020	745604.97	1,679,920.15	5968378.41	483243.69	1,429,797.30	-233,120.84
36	20.03.2020	658404.97	1,694,959.15	5910542.25	520482.46	1,376,670.49	-202,193.80

S.No.	Date	Total End of the day balance in all Client Bank Accounts (A)	Collateral deposited with Exchanges and Clearing member in form of Cash and Cash Equivalents (B)	Total Credit Balance of all clients (after adjusting for open bills and uncleared cheques) (C)	Margin utilized for positions of Credit Balance Clients (MC)	Free/unblocked Collateral deposited with clearing corporation/ clearing member	Funds of credit balance clients used for Margin obligations of debit balance clients and proprietary trading
37	23.03.2020	20404.97	1,206,234.15	5419238.27	965815.25	652,053.19	-411,634.29
38	24.03.2020	68404.97	1,206,110.15	5462727.52	960613.78	618,696.54	-373,200.17
39	25.03.2020	22297.97	1,406,110.15	5409460.15	836172.67	900,801.58	-330,864.10
40	26.03.2020	20297.97	1,205,224.15	5405474.37	752729.06	751,215.37	-298,720.28
41	27.03.2020	23297.97	1,107,645.15	5408698.73	650616.46	687,208.09	-230,179.40
42	**30.03.2020**	**15936.97**	**1,077,872.15**	**5406967.92**	**740608.45**	**235,954.86**	**101,308.84**
43	31.03.2020	320559.97	1,058,514.21	5910865.75	468866.87	789,259.71	-199,612.37

84. In view of the above, it was alleged that the Noticee 2 has violated the following provisions:

a) *Section 23D of SC(R) Act, 1956*

b) *Clause 1 of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993*

c) *Clause 3 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016*.

Finding

85. I note that as per SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 the principle is that 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 –

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

86. 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 value of I indicates the extent of funds and securities of clients which is possibly utilised towards proprietary margin obligations.

87. The sum of the proprietary funds (positive value of G), the value of proprietary securities (E) and the non-funded portion of bank guarantee (F) available in the Stock Exchanges is compared with the Proprietary margin obligations (P). If P > (G+E+F), then Stock Exchange shall calculate the difference I, which is the amount of proprietary margin obligation funded from clients assets.

$$I = P - (G+E+F)$$

88. If G is negative, then, value of G is considered as 0, as there is no additional proprietary funds lying with the stock exchange. The value of I indicates the extent of funds and securities of clients which is possibly utilised towards proprietary margin obligations.

89. I find that the value of 'G' was negative on 53 out of the 53 sample dates, thus the funds of credit balance clients were misused by the Noticee 2 for settlement obligations of debit balance clients. Further, I observe the value of 'I' was positive on 7 dates, therefore, I note that the client's funds were utilized towards margin obligations of proprietary obligations. In this regard, I note that the measure taken by SEBI (provisions of the circular) are intended to increase transparency in fund / client management by the stock brokers. The funds in the client's accounts cannot be applied for any purpose other than what is permissible under SEBI rules and regulations.

90. The positive value of ‘I’ indicates the sum of Proprietary funds and securities i.e. (G + E + F) lying with the clearing corporation/clearing member is lesser than the Proprietary margin obligations (P). ‘I’ Positive indicates that the clients assests are mis-utilised towards proprietary margin obligations on all these 7 days. I find that the total amount of misutilisation is Rs. 5.83 lakh and average amount of misutilisation is Rs. Rs. 83,285.

91. Further, ‘J’ was found to be positive in 1 out of 53 sample instances indicating misutilisation of clients’ funds and securities towards margin obligation of debit balance clients and proprietary margin obligations. The value of positive ‘J’ is Rs. 1,01,308.84.

92. I note that, Noticee 2 did incorrect reporting of clients’ funds and collateral details in 9 out of 10 sample instances.

93. Since, Noticee 2 has failed to submit any reply to the above allegations in the SCN despite opportunities granted to it and failed to appear for the personal hearing on the scheduled date, it is presumed that it has no explanation to offer against the observed violation.

94. In view of the above it is established that, Noticee 2 was non-compliant during the inspection period and has violated Clause 1 of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993, Clause 3 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 and Clause 3.2 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016

(ii) <u>Segregation of clients’ funds and securities: -</u>

Allegation

95. It was observed that there was an excess withdrawal from client account. It was also observed that client funds were transferred from HDFC bank account number ending with 2378 to Noticee 2 bank a/c no. ending with 3873 for meeting Noticee 2 purposes and for proprietary trading. The net difference in transfer of fund between client and Noticee 2 was Rs. 59,59,464/. The details of transfer of funds between Noticee 2 account and client account during the inspection period is given below:

Table 17

Transfer of funds	**19-20 (in Rs)**	**20-21 (till October 31, 2020 (in Rs)**	**Total**
Own to Client	14787015.00	10733300.00	25520315.00
Client to Own	8136851.50	11424000.00	19560852.00
		Difference	**59,59,464.00**

96. It was also observed that, the Noticee 2 was only entitled to withdraw brokerage and other statutory dues and levies. It was observed from the Inspection Report that the following amounts were withdrawn from the client's bank account:

Table 18

Particulars	**2019-20 (In Rs)**	**2021-21-Upto 31 -Oct-20 (In Rs)**
	A	**B**
Brokerage	9,37,514.30	3,60,261.41
CGST	2,09,147.11	60,649.62
Clearing Charges	1,30,772.42	31,493.50
IGST	2,000.78	7,761.14
SEBI Turnover Charges	28,515.58	41,274.72
SGST	2,09,147.11	60,649.62
Transaction Charges	12,29,499.52	3,31,725.66

Particulars	2019-20 (In Rs)	2021-21-Upto 31 -Oct-20 (In Rs)
	A	B
Sub - Total	27,46,596.82	8,93,815.67
Total (A + B)		36,40,412.49

97. It was observed that the Noticee 2 had made an excess withdrawal of Rs.23,19,051.91/- i.e, (Funds transferred from Client to Noticee 2 bank account: 59,59,464.00 - Charges payable to Chennai Commodities; 36,40,412.49).

98. Based on the above, it was alleged that the Noticee 2 has violated the following provisions:
    a) Section 23D of SC(R) Act, 1956
    b) Clause 1 of Annexure of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993
    c) Clause 2.4 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

Finding

99. I find that, Noticee 2 had 5 bank accounts out of which 3 were clients' bank accounts, 1 was settlement bank account and 1 was Noticee 2 own bank account. It was observed that there was an excess withdrawal from client account. It was found that the member has made net excess transfer of Rs. 23.19 lakh from clients' account to own account.

100. Since, Noticee 2 has failed to submit any reply despite opportunities granted to it and failed to appear for the personal hearing on the scheduled date, it is presumed that it has no explanation to offer against the observed violation.

101. In view of the above, it is established that, Noticee 2 was non-compliant during the inspection period and has violated Clause 1 of Annexure of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 2.4 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016

(iii) <u>Delay in settlement of Funds: -</u>

Allegation

102. It was observed that the Noticee 2 had not settled client accounts in 43 out of 45 sample instances across 6 Quarters for Top 50 active clients selected for sample scrutiny. It was observed that the total non-settled amount is Rs 1.92 crore. Quarter-wise details for non-settled amount is given below:

Table-19

F.Y.	Quarter	No. of Clients	Amount not settled in Rs.
2019-20	Apr-Jun	9	4644262.13
2019-20	Jul-Sep	8	2182395.09
2019-20	Oct-Dec	7	2866150.45
2019-20	Jan-Mar	7	3445092.35
2020-21	Apr-Jun	7	2975113.98
2020-21	Jul-Sep	5	3097371.88
Total		**43**	**19210385.88**

103. It was also observed that the verification for the clients who have not traded (across Exchanges) after March 31, 2019 was carried out based on the creditors as on 30-Sep-2020. It was observed from creditors list as on July 31, 2020 that Noticee 2 had not settled the funds to an extent of Rs.12.46 Lakh of 82 clients, who are inactive having ledger balances

of Rs. 500 or more. Summary of the non-settlement of inactive clients is given below:

Table-20

Range of Amount (Rs.)	No. of Clients	Aggregate Amount in Rs.
500 to 10,000	72	1,27,691.27
10,001 to 1,00,000	9	3,00,195.00
1,00,001 to 5,00,000	0	0
>5,00,000	1	8,18,703.16
Total	**82**	**12,46,589.43**

104. Therefore, it was alleged that the Noticee 2 has violated the following provisions:

a) *SEBI Circular SEBI/MIRSD/SE/Cir-19/2009 dated December 03, 2009*

b) *Clause 8.1 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.*

Finding

105. I find that, for Active Clients Noticee 2 has not settled amount in 43 out of 45 sample instances across 6 quarters with total non-settled amount of Rs. 1.92 cr. I also find that, for Inactive clients, Noticee 2 has not settled amount in 82 instances with total non-settled amount of Rs. 12.46 lakh.

106. Since, Noticee 2 has failed to submit any reply to the above allegations in the SCN despite opportunities granted to it and failed to appear for the personal hearing on the scheduled date, it is presumed that it has no explanation to offer against the observed violation.

107. In view of the above, it is established that, Noticee 2 was non-compliant during the inspection period and has violated SEBI Circular SEBI/MIRSD/SE/Cir-19/2009 dated December 03, 2009 and Clause 8.1 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016

(iv) <u>Financial statement analysis: -</u>

Allegation

108. It was observed that the funds available with bank and exchange was Rs.13,79,074 and funds available with creditors on that date was Rs.59,10,865.75. Hence, the funds with Noticee 2 were not sufficient to cover the funds payable to the clients as on March 31, 2020.

109. Therefore, it was alleged that the Noticee 2 has violated the following provision:

a) Clause A (5) of Code of Conduct for Stock Brokers prescribed in Schedule II read with Regulation 9 of SEBI (Stock Brokers) Regulations, 1992

Finding

110. I find that, insufficiency of funds have already been dealt with under the point (i) misutilisation of client's funds.

111. Since, Noticee 2 has failed to submit any reply to the above allegations in the SCN despite opportunities granted to it and failed to appear for the personal hearing on the scheduled date, it is presumed that it has no explanation to offer against the observed violation.

112. In view of the above, it is established that Noticee was non-compliant

during the inspection period and has violated Clause A (5) of Code of Conduct for Stock Brokers prescribed in Schedule II read with Regulation 9 of SEBI (Stock Brokers) Regulations, 1992

(v) Net worth verification

Allegation

113. It was observed from the inspection report that Noticee 2 has not accounted for statutory expenses such as stamp duty, GST and CTT in the profit and loss account for F.Y. 2018-19. Therefore, it was alleged that the Noticee 2 has violated the following provision:

(a) Clause 6.1.1 (j) of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016

Finding

114. I find that based on available records, Noticee 2 had not accounted for statutory expenses such as stamp duty, GST and CTT in the profit and loss account for F.Y. 2018-19

115. Since, Noticee 2 has failed to submit any reply to the above allegations in the SCN despite opportunities granted to it and failed to appear for the personal hearing on the scheduled date, it is presumed that it has no explanation to offer against the observed violation.

116. In view of the above, it is established that Noticee was non-compliant during the inspection period and has violated Clause 6.1.1(j) of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016

C. Does the violations by the Noticees, if any, attract monetary penalty under section 15HB of the SEBI Act, 1992 and section 23D of the SC(R) Act, 1956?

117. In the light of findings and observations made against the Noticees brought out in the foregoing paragraphs, it is evident that the Noticees have violated the following provisions:

Table 21 – Violations of Noticee 1

Sr. No.	Violations	Provisions
i	**Mis-Utilisation of clients' Funds**	Section 23D of SC(R) Act, 1956 read with Clause 1 of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 3 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.
ii	**Segregation of clients' funds and securities**	Section 23D of SC(R) Act, 1956 read with Clause 1 of Annexure of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 2.4 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.
iii	**Pledging of clients' securities**	Section 23D of SC(R) Act, 1956 read with SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 2.5 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.
iv	**Delay in settlement of Funds**	**a and b**. SEBI Circular SEBI/MIRSD/SE/Cir-19/2009 dated December 03, 2009 and Clause 8.1 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016. **c**. Clause 12(e) of Annexure-A of SEBI Circular SEBI/MIRSD/SE/Cir-19/2009 dated December 03, 2009
v	**Account Modification**	SEBI Circular MIRSD/Cir-26/2011 dated December 23, 2011
vi	**Disclosure of information on website & display of certificates**	SEBI circular CIR/MIRSD/3/2014 dated August 28, 2014.
vii	**Verification of Email ID & Mobile numbers**	Clause 2(B) of SEBI Circular CIR/MIRSD/15/2011 dated August 02, 2011
viii	**Clients' order recording and pre trade authorisation**	Clause III and IV of SEBI Circular CIR/HO/MIRSD/MIRSD2/CIR/P/2017/108 dated September 26, 2017

ix	**Verification of systems and trading terminals and certification requirements**	SEBI Notification LAD-NRO/GN/2010-11/21/29390 issued under Reg. 3 of SEBI (Certification of Associated Persons in the Securities Markets) Regulations, 2007
x	**Financial statement analysis**	Clause A (5) of Code of Conduct for Stock Brokers prescribed in Schedule II read with Regulation 9 of SEBI (Stock Brokers) Regulations, 1992
xi	**Net worth verification**	Clause 6.1.1(j) of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016

Table 22 – Violations of Noticee 2

Sr. No.	Violations	Provisions
i	**Mis-Utilisation of clients' Funds and verification of data reported by broker under enhanced supervision**	Section 23D of SC(R) Act, 1956 read with Clause 1 of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 3 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016. Clause 3.2 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016
ii	**Segregation of clients' funds and securities**	Section 23D of SC(R) Act, 1956 read with Clause 1 of Annexure of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 2.4 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.
iii	**Delay in settlement of Funds**	SEBI Circular SEBI/MIRSD/SE/Cir-19/2009 dated December 03, 2009 and Clause 8.1 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.
iv	**Financial statement analysis**	Clause A (5) of Code of Conduct for Stock Brokers prescribed in Schedule II read with Regulation 9 of SEBI (Stock Brokers) Regulations, 1992
v.	**Net worth verification**	Clause 6.1.1(j) of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016

118. The above violations, are serious in nature and as the violation of provisions of aforementioned SEBI circulars, by the Noticees has been established, I find that Noticees are liable for monetary penalty under section 15HB of the SEBI Act and section 23D of the SC(R) Act, 1956. In this regard, reliance is placed upon the judgment of Hon'ble Supreme Court of India in the matter **of SEBI Vs. Shri Ram Mutual Fund** [2006]

68 SCL 216(SC) which inter-alia has held that –

"In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established and hence the intention of the parties committing such violation becomes wholly irrelevant...".

119. The aforesaid violations, makes the Noticee liable for penalty under section 15HB of the SEBI Act and section 23D of the SC(R) Act, 1956 The contents of the said provisions of law is reproduced herein below:

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 shall not be less than one lakh rupees but which may extend to one crore rupees*

SC(R) Act, 1956

Penalty for failure to segregate securities or moneys of client or clients

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

D. If so, what would be the quantum of monetary penalty that can be imposed on the Noticees after taking into consideration the factors mentioned in section 15J of the SEBI Act and section 23J of SCRA?

120. While determining the quantum of penalty, it is important to consider the factors stipulated in Section 15J of the SEBI Act,1992 and Section 23-J of the SC(R) Act, 1956, which reads as under:-

<u>SEBI Act, 1992</u>

Factors to be taken into account while adjudging quantum of penalty

15J *While adjudging quantum of penalty under 15-I or section 11 or section 11B, the Board or the adjudicating officer shall have due regard to the following factors, namely :—*

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

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

(c) the repetitive nature of the default.

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

<u>SC(R) Act, 1956</u>

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

23J. While adjudging the quantum of penalty under section 12A or section 23-I, the Securities and Exchange Board of India or the adjudicating officer shall have due regard to the following factors, namely:-

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

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

(c) the repetitive nature of the default.

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

121. In this case, from the material available on record, any quantifiable gain or unfair advantage accrued to the Noticees or the extent of loss suffered by the investors as a result of the non-compliance is not available. Further from the material available on record, it may not be possible to ascertain the exact monetary loss to the investors on account of violations by the Noticees. The inspection findings do bring out a number of instances where the Noticee has not been complying with the requirements of SEBI circulars as listed above. In this regard, I cannot ignore the fact that the Noticees were under a statutory obligation to abide by the provisions of the SEBI Act, SC(R) Act and rules and regulations and circulars / directions issued thereunder, which it comply with during the inspection period. The conduct of the Noticee in not complying with the provisions of the SEBI Circulars cannot be taken lightly. The violations by the Noticees are serious and have a detrimental impact on the market integrity and therefore, should be dealt with sternly by imposing monetary penalty as effective deterrence.

ORDER

122. After taking into consideration the nature and gravity of the violations established in the preceding paragraphs and in exercise of the powers conferred upon me under section 15-I of SEBI Act, 1992 read with Rule 5 of the SEBI Adjudication Rules and section 23-I of the SCR Act read with Rule 5 of the SCR Adjudication Rules, 1956, I hereby impose the following monetary penalty under section 15HB of the SEBI Act, 1992 and section 23D of the SC(R) Act, 1956 as follows:

Noticee 1: First Future and Stocks Private Limited

Sr. No.	Penalty Provisions	Violations	Amount of penalty (in ₹)
1	Section 15HB of SEBI Act, 1992	(ii) Segregation of clients' funds and securities, (iv) Delay in settlement of Funds (v)Account Modification (vi) Disclosure of information on website & display of certificates (vii) Verification of Email ID & Mobile numbers (viii) Clients' order recording and pre trade authorisation (ix) Verification of systems and trading terminals and certification requirements (x) Financial statement analysis (xi) Net worth verification	₹3,00,000/- (Rupees Three lakhs only)
2	Section 23D of SC(R) Act, 1956	(i) Mis-Utilisation of clients' Funds & (iii)Pledging of clients' securities	₹ 2,00,000/- (Rupees Two lakhs only)
Total amount of penalty			**₹ 5,00,000/- (Rupees Five lakhs only)**

Notice 2: Chennai Commodities

Sr. No.	Penalty Provisions	Violations under Heads	Amount of penalty (in ₹)
1	Section 15HB of SEBI Act, 1992	(ii)Delay in settlement of Funds (iv)Financial statement analysis (v)Net worth verification	₹3,00,000/- (Rupees Three lakhs only)
2	Section 23D of SC(R) Act, 1956	(i)Misutilisation of clients' Funds & (iii) Segregation of clients' funds and securities	₹ 2 ,00,000/- (Rupees Two lakhs only)
Total amount of penalty			**₹ 5,00,000/- (Rupees Five lakhs only)**

123. The said penalty imposed on the Noticees, as mentioned above, is

commensurate with the violation committed and acts as a deterrent factor for the Noticees and others in protecting the interest of investors.

124. The Noticees shall remit / pay the respective 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 website of SEBI, i.e. www.sebi.gov.in on the following path, by clicking on the payment link:

ENFORCEMENT → ORDERS → ORDERS OF AO → PAY NOW

125. The Noticees shall forward the said demand draft or the details / confirmation of penalty so paid through e-payment to the Division Chief, Enforcement Department-I, SEBI, in the format given in table below:

Case name	
Name of payee	
Date of payment	
Amount paid	
Transaction no	
Bank details in which payment is made	
Payment is made for (like penalties/disgorgement / recovery/ settlement amount and legal charges along with order details)	

126. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, recovery proceedings may be initiated under section 28A of the SEBI Act, 1992 for realization of the said amount of penalty along with interest thereon, inter alia, by attachment and sale of movable and immovable properties.

127. In terms of Rule 6 of the SEBI Adjudication Rules, 1995 and Rule 6 of the SCR Adjudication Rules, copy of this order is sent to the Noticees viz. First Future and Stocks Private Limited and Chennai Commodities and also to the SEBI.

Place: Mumbai **ASHA SHETTY**

Date: December 14, 2022 **ADJUDICATING OFFICER**