BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/AN/HG/SM/2022-23/25498]

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

In respect of

4A Securities Limited
[PAN: AACCD8482C]

In the matter of Trading Members in Illiquid Stock Options

A. BRIEF BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as, "**SEBI**") has examined trading in Illiquid Stock Options at BSE for possible violation of the provisions of the SEBI Act, 1992 (hereinafter referred to as, "**SEBI Act**") and various rules and regulation made thereunder.

2. An Interim Order No. WTM/RKA/ISD/106/2015 dated August 20, 2015 was passed by SEBI in the matter of Illiquid Stock Options restraining 59 persons/entities from buying, selling or dealing in the securities market, either directly or indirectly, in any manner, till further directions. Confirmatory orders dated July 30, 2016, August 22, 2016 and August 24, 2016 ("**Confirmatory orders**") in this regard, were passed by SEBI confirming the directions issued vide aforementioned Interim order against all 59 persons/entities.

3. The modus operandi that was identified in the Interim order and Confirmatory orders was that certain entities (clients) had continuously made profits and certain entities (clients) had continuously made losses by reversing their trades or

executing reversal trades in various individual Stock Options contracts on BSE's Stock Options segment. In the Interim order, these reversal trades were also referred to as "non-genuine trades". Reversal trades executed by clients through broker have been classified as those trades in which an entity (client) reverses its buy or sell positions in a contract with subsequent sell or buy positions with the same counterparty during the same day.

4. Subsequent to passing of aforementioned Interim order against 59 persons/entities, SEBI passed an Interim order dated February 17, 2016 against 22 Trading Members ("Brokers") in the same matter of Illiquid Stock Options. However, the said order was set aside by Hon'ble Securities Appellate Tribunal ("**SAT**") vide its orders dated February 25, 2016, March 04, 2016, March 09, 2016, March 14, 2016, March 15, 2016, March 18, 2016 and April 05, 2016. Pursuant to appeal, in terms of order of Hon'ble Supreme Court dated July 01, 2016, SEBI passed order no. WTM/RKA/ISD/94/2016 dated August 12, 2016 in the matter stating, inter alia, that a final view for appropriate action be taken after completion of ongoing investigation in the matter.

5. Investigation was carried out in the instant matter for the period April 01, 2014 – September 30, 2015 (hereinafter referred to as "**IP/ Investigation Period**"), which is same as the examination period referred in the Interim Order dated February 17, 2016 in respect of Brokers in the matter of Illiquid Stock Options.

6. Trade data of BSE's Stock Options segment during the I.P. for the Illiquid Stock Options were analyzed to identify reversal trades. Pursuant to analysis it was observed that a total of 2,91,744 non-genuine trades were executed by 14,720 entities through 192 Brokers that resulted in reversal trades during the I.P. Trade data pertaining to these 2,91,744 non-genuine trades formed the source data for the case against brokers.

7. Subsequently, SEBI had initiated Adjudication Proceedings in respect of 4A Securities Limited (hereinafter referred to as "**Noticee**") under Section 15HB of SEBI Act, 1992 for not exercising care and diligence in the conduct of its business

while dealing with its clients in violation of Schedule II A (2) of Code of Conduct for Stock Brokers r/w Regulation 9 (f) of the SEBI (Stock Brokers) Regulations, 1992 (hereinafter referred to as "**Broker Regulations**").

B. APPOINTMENT OF ADJUDICATING OFFICER

8. Ms. Maninder Cheema, CGM, SEBI was appointed as Adjudicating Officer under Section 15-I of the SEBI Act read with Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as "**Adjudication Rules**"), vide communique dated September 17, 2021 to inquire into and adjudge under section 15HB of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act**"), the aforesaid alleged violations by the Noticee. Pursuant to the transfer of Ms. Maninder Cheema, Dr. Anitha Anoop, CGM, SEBI was appointed as Adjudicating Officer vide Communique dated June 07 2022. Pursuant to the transfer of Dr. Anitha Anoop, undersigned was appointed as Adjudicating Officer ("AO") vide communique dated September 05, 2022.

C. SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

9. A Show Cause Notice No. EAD5/MC/PR/2022/21760 dated May 24, 2022 (hereinafter referred to as '**SCN**') was issued and sent to Noticee under Rule 4(1) of the Adjudication Rules to show cause as to why an inquiry should not be initiated against Noticee and penalty, if any, not be imposed upon it under the provision of Section 15HB of SEBI Act for the aforesaid violation alleged to have been committed by it.

10. The allegations levelled against Noticee in the SCN are briefly stated as under:

a) *BSE had issued notice to all the Trading Members (brokers) casting an obligation on the broker to, inter alia, monitor and report reversal of trades in derivatives segment. BSE notice no 20130307-21 (addressed to all the trading members) dated March 07, 2013 pertaining to "e-Boss", inter alia, indicated the list of alerts that will be generated by BSE which includes reversal of trades in derivatives segment. Further, in terms of the aforesaid notice every broker was necessarily required to frame a surveillance policy, inter alia, covering suspicious/manipulative activity identification and reporting process.*

b) *The aforesaid BSE notice also casts obligation on the Trading Member (Broker) to monitor and report alerts specifically mentioning the following:*

"

.....
The trading members are hereby further informed that the aforementioned transactional alerts are indicative in nature and the trading members can derive their own alerts in addition to the said transactional alerts as per their surveillance policy.

……

Monitoring and reporting:
1. For effective monitoring, Trading Member shall:
a. Frame a surveillance policy covering:
i….
ii….
iii. Suspicious / Manipulative activity identification and reporting process.
iv…..

b. The surveillance policy of the Trading Member shall be approved by its Board (in case of corporate trading member), Partners (in case of partnership firms) or Proprietor (in case of sole proprietorship firm) as the case may be.
c. A quarterly MIS shall be put up to the Board (in case of corporate trading member), Partners (in case of partnership firms) or Proprietor (in case of sole proprietorship firm) on the number of alerts pending at the beginning of the quarter, generated during the quarter, disposed off during the quarter and pending at the end of the quarter. Reasons for pendency shall be discussed and appropriate action taken. Also, the Board (in case of corporate trading member), Partners (in case of partnership firms) or Proprietor (in case of sole proprietorship firm) shall be apprised of any exception noticed during the disposition of alerts.
d. The surveillance process shall be conducted under overall supervision of its Compliance Officer.
e. Designated directors / partners / proprietor / Compliance Officer would be responsible for all surveillance activities carried out by the Trading Member and for the record maintenance and reporting of such activities.

2. Internal auditor of Trading Member shall review the surveillance policy, its implementation, effectiveness and review the alerts generated during the period of audit. Internal auditor shall record the observations with respect to the same in their report."

c) *However, as informed by BSE vide email dated November 06, 2020, no broker had reported any suspicious transactions to exchange being executed on Stock Options segment of BSE during I.P. None of the brokers generated any alerts or reported any reversal of trades executed by their respective clients.*

d) *Without a system in place to identify repeated trade reversals between the same clients, the brokers facilitated those clients in executing fraudulent transactions in the stock market who transferred profits and losses to each other in a pre-meditated manner.*

e) *Trade data pertaining to these 2,91,744 non-genuine trades formed the source data for the instant case against stock brokers. Total number of contracts during the I.P. was 23,885 contracts. The details of trading in such 23,885 contracts are shown in table below:*

Table 1 - Details of trading in all contracts of BSE' Stock Options segment during the I.P.

Particulars	***TOTAL***
Number of contracts	*23,885*
Total Number of entities	*21,652*
Number of trades	*3,58,372*
Number of Non genuine trades	***2,91,744***
Number of entities involved in executing non genuine trades	***14,720***
Number of Brokers through which non-genuine trades were executed	***192***

f) *On analyzing the source data, the data was segregated based on scenarios so as to identify scenario-wise violations by a Broker and the details are given below:*

Scenario	Particulars	Count of Brokers	Total number of non-genuine trades (both client and counterparty client)	Cumulative non-genuine trades through Brokers after removing duplicates (same broker for both clients)	As a % of total transactions
1	Same Broker for both clients on both legs of trade reversal	19	8,528	4,264	0.74
2	Different Broker for both clients on both legs of trade reversal	189	5,74,900	5,74,900	99.25
3	Trade reversals involving three Brokers	8	60	59	0.01
	Total	**192***	**5,83,488**	**5,79,223**	**100**

Note – There are 3 unique brokers appearing in Scenario 1 and the remaining 16 brokers of Scenario 1 are overlapping with 189 unique brokers appearing in Scenario 2. Accordingly, total Brokers through whom 2,91,744 non-genuine trades have been executed is 3+189 = 192 brokers. Names of 8 brokers appearing in scenario 3 are overlapping with names appearing in either Scenario 1 or Scenario 2.

g) *The non-genuine reversal trades by Noticee was falling in the Scenario 2 as described above.*

Scenario 2: Different Broker for both clients on both legs of trade reversal

h) *In the instant scenario, two clients execute reversal trade through two different Brokers. For the sake of clarity, a contract is shortlisted (i.e. "JPPW15JAN10.00CEW1") and trades that were executed in this contract on January 01, 2015 is shown below:*

Table 3

SL. NO.	CLIENT PAN	CLIENT NAME	CP PAN	CP CLIENT NAME	ORDER TIME	CP ORDER TIME	TRADE TIME	TRADE RATE	TRADED QTY	MEMBER NAME	CP MEMBER NAME
1	AAGFC5601H	Chanakya Broking Company	BSUPS7339K	Vitrag R Sheth	11:40:42	11:40:42	11:40:42	1.2	90000	Skung Tradelink Ltd	Prudent Broking Services Pvt.Ltd.
2	BSUPS7339K	Vitrag R Sheth	AAGFC5601H	Chanakya Broking Company	11:41:03	11:41:03	11:41:03	2.8	90000	Prudent Broking Services Pvt.Ltd.	Skung Tradelink Ltd
3	AAGFC5601H	Chanakya Broking Company	BSUPS7339K	Vitrag R Sheth	11:42:48	11:42:48	11:42:48	1.3	90000	Skung Tradelink Ltd	Prudent Broking Services Pvt.Ltd.
4	BSUPS7339K	Vitrag R Sheth	AAGFC5601H	Chanakya Broking Company	11:43:15	11:43:14	11:43:15	2.8	90000	Prudent Broking Services Pvt.Ltd.	Skung Tradelink Ltd
5	AAGFC5601H	Chanakya Broking Company	BSUPS7339K	Vitrag R Sheth	11:43:54	11:43:54	11:43:54	1.3	15000	Skung Tradelink Ltd	Prudent Broking Services Pvt.Ltd.
6	BSUPS7339K	Vitrag R Sheth	AAGFC5601H	Chanakya Broking Company	11:44:17	11:44:17	11:44:17	2.8	15000	Prudent Broking Services Pvt.Ltd.	Skung Tradelink Ltd

i) *It is observed from the above table that:*

   i. *In total 6 trades were executed in the contract "JPPW15JAN10.00CEW1" on January 01, 2015. Trade reversals are executed between clients Chanakya Broking Company and Vitrag R Sheth through Brokers Skung Tradelink Ltd and Prudent Broking Services Pvt. Ltd. respectively.*

   ii. *Total number of non-genuine trades that were executed in the contract "JPPW15JAN10.00CEW1" were 6 (trades shown at S. No. 1 to 6 at Table 3) and total artificial volume generated through such non genuine trades was 3,90,000 units.*

iii. *The Broker-wise contribution to number of non-genuine trades and artificial volume in the above contract is as shown below:*

Table 4

S. No.	***Entity Name***	***Artificial volume through non genuine trades***	***Number of Non genuine trades***
1	*Skung Tradelink Ltd*	*3,90,000*	*6*
2	*Prudent Broking Services Pvt. Ltd.*	*3,90,000*	*6*
Total		***7,80,000***	***12***

j) *Trade reversals were executed by Chanakya Broking Company through Broker Skung Tradelink Ltd through same modus operandi on 3 instances on a same day. In a similar manner, Trade reversals were executed by Vitrag R Sheth through Broker Prudent Broking Services Pvt. Ltd. on 3 instances on a same day. Despite the repeated reversals of identical quantity and with more than 100% difference in price in less than a minute, the brokers through whom such transactions went through failed to notice them immediately or even much after the said transactions as they did not have any system in place to identify trade reversals. Though the broker may not know the counterparty client or counterparty broker in a transaction, however, the fact that certain quantity transacted by his client is getting reversed within the same day in a repeated manner should have alerted the brokers concerned.*

k) *Without a system in place to identify repeated trade reversals between the same clients, the broker facilitated its clients in executing fraudulent transactions in the stock market in a pre-meditated manner.*

l) *Since Skung Tradelink Ltd and Prudent Broking Services Pvt. Ltd. did not take necessary steps to generate alerts by putting a system in place to detect and curb reversal of trades, both Skung Tradelink Ltd and Prudent Broking Services Pvt. Ltd. failed to exercise care and diligence in the conduct of business while dealing with its respective clients.*

m) *Upon analyzing all the 5,74,900 non-genuine trades in the instant scenario, it was observed that there were 189 unique brokers through whom clients had executed trade reversals. On further analysis, it was observed that there were 14,333 clients who had executed trade reversals in various combinations among each other.*

n) *It was observed that there were numerous instances of single reversal trades in various contracts. It was felt that benefit of doubt can be given to the broker for single instances of trade reversal identified in a particular contract of a particular scrip amongst the numerous trades executed by the clients registered with the broker. Hence a cut off of at least 4 or more transactions (2 cycles of reversals between the same set of PAN numbers) on the same day in a particular contract between two unique PAN numbers was applied and it was observed that there are 5,316 unique set of PAN numbers who have executed repeated reversals with at least 4 transactions or more through 125 different Brokers including the Noticee.*

o) *Hence, it is alleged that Noticee, being one of the aforementioned 125 brokers, failed to exercise care and diligence in the conduct of business while dealing with its clients and therefore not in compliance with Schedule II A (2) of the Code of Conduct for Stock Brokers r/w regulation 9 (f) of the Broker Regulation.*

11. The SCN was sent to Noticee through Speed Post Acknowledgement due (herein after referred to as '**SPAD**') and digitally signed email dated May 24, 2022 at its email id: dineshgupta@4agroup.co.in and the SCN was duly served on Noticee. Noticee was given twenty one (21) days' time to make its submissions in respect of the allegations made in the SCN. However, no reply was received from Noticee.

12. Vide email dated June 24, 2022, Hearing Notice dated June 24, 2022 was sent to the Noticee wherein he was inter alia advised to file its reply to SCN by July 01, 2022 and Noticee was granted an opportunity of hearing on July 07, 2022.

However, it is noted that Noticee neither submitted its reply to the SCN nor appeared for the hearing on the scheduled hearing date.

13. Thereafter, vide letter dated November 30, 2022, Noticee was informed regarding SEBI settlement scheme for Stock Brokers, 2022 framed by SEBI in terms of Regulation 26 of the SEBI (Settlement Regulations), 2018 wherein SEBI had introduced a onetime opportunity of settlement to all stock brokers through whom trade reversals were executed by various clients/proprietary trades executed by the Stock Broker in the Illiquid Stock Options segment of BSE during the IP and against whom enforcement proceedings has been approved or initiated and are pending. The aforesaid letter dated November 30, 2022 was sent and duly served to the Noticee through SPAD at its address: *G-3, Sector-3, Noida, Uttar Pradesh-201301*. The aforesaid settlement scheme had commenced on December 19, 2022 and ended on January 19, 2023. However, it is noted that Noticee has not availed the aforesaid onetime opportunity of settlement provided by SEBI to stock brokers.

14. In view of the above, vide Hearing Notice dated March 04, 2023, Noticee was granted an opportunity of personal hearing before the undersigned on March 10, 2023 and Noticee was advised to file its reply to SCN latest by March 08, 2023. The aforesaid Hearing Notice was duly served on the Noticee through SPAD on March 13, 2023. However, it is noted that the Noticee has neither attended the hearing on the scheduled date nor submitted its reply to SCN.

15. Considering the fact that sufficient opportunities have been granted to Noticee to represent its case and that principles of natural justice have been complied with but Noticee has neither filed any reply nor availed the opportunity of personal hearing despite being granted opportunities for the same. Therefore, the matter shall be proceeded with on the basis of material available on record in terms of Rule 4(7) of the SEBI Adjudication Rules.

16. In absence of any response from the Noticee to the SCN, it may be presumed that the Noticee has admitted to the charges levelled against it. In this regard, reliance is placed on the order of Hon'ble Securities Appellate Tribunal (hereinafter referred

to as '**SAT**') in the matter of Classic Credit Ltd. v. SEBI [2007] 76 SCL 51 (SAT - MUM) wherein it was, *inter alia*, held that – *"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*". Similarly, the Hon'ble SAT in the case of Sanjay Kumar Tayal & Ors. v. SEBI (in appeal No. 68/2013) decided on February 11, 2014, also 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 charges levelled against them in the show cause notices*".

17. In view of the aforesaid judgements of the Hon'ble SAT, the matter is being proceeded in respect of the Noticee based on the material available on record in the absence of any reply from the Noticee.

D. CONSIDERATION OF ISSUES, EVIDENCE AND FINDINGS

18. The issues that arise for consideration in the present case are:

Issue No.1 Whether Noticee has violated Schedule II A (2) of Code of Conduct for Stock Brokers read with Regulation 9(f) of the SEBI (Stock Brokers) Regulations, 1992?

Issue No.2 Does the violation, if any, attract monetary penalty under Section 15HBof SEBI Act?

Issue No.3 If the answer to issue no. 2 is in affirmative, then what should be the quantum of monetary penalty?

19. Before proceeding, it is pertinent to refer to the relevant provision of the Broker Regulations which was in force at the time of impugned transactions, which are reproduced as under:

Relevant provisions of Broker Regulations:

Conditions of registration.

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

SCHEDULE II

CODE OF CONDUCT FOR STOCK BROKERS

A. General

(2) *Exercise of due skill and care: A stock-broker shall act with due skill, care and diligence in the conduct of all his business*

Issue No. I- Whether Noticee has violated Schedule II A (2) of Code of Conduct for Stock Brokers read with Regulation 9(f) of the Broker Regulations?

It was alleged in the SCN that Noticee had failed to exercise care and diligence in the conduct of its business while dealing with its clients and therefore, it was alleged that Noticee has violated Schedule II A (2) of Code of Conduct for Stock Brokers read with Regulation 9(f) of the Broker Regulations.

20. It is noted from the Investigation Report that a total of 12 repeated trade reversal transactions were executed by clients through Noticee as Broker and an artificial volume of 6,76,692 units were generated through such repeated trade reversals. The details of such transactions/trades are given below:

Sl. No.	Trade Date	Client Name	CP Client Name	Order Time	CP Order Time	Trade Time	Traded Qty	Name of the Contract	Member Name	CP Member Name
1	24/06/2014	RITUDHARA TRADERS PRIVATE LIMITED	P M TRADERS& HOLDINGS PVT LTD	14:47:12.070844	14:47:13.956760	14:47:13.956760	1,00,000	IDBI14JUN100.00PE	4A SECURITIES LIMITED	LALIT KUMAR TULSHYAN

Sl. No.	Trade Date	Client Name	CP Client Name	Order Time	CP Order Time	Trade Time	Traded Qty	Name of the Contract	Member Name	CP Member Name
2	24/06/2014	RITUDHARA TRADERS PRIVATE LIMITED	P M TRADERS& HOLDINGS PVT LTD	14:47:00.952970	14:47:13.956760	14:47:13.956760	1,00,000	IDBI14JUN100.00PE	4A SECURITIES LIMITED	LALIT KUMAR TULSHYAN
3	24/06/2014	P M TRADERS& HOLDINGS PVT LTD	RITUDHARA TRADERS PRIVATE LIMITED	14:44:33.208180	14:28:17.896769	14:44:33.208180	1,00,000	IDBI14JUN100.00PE	LALIT KUMAR TULSHYAN	4A SECURITIES LIMITED
4	24/06/2014	P M TRADERS& HOLDINGS PVT LTD	RITUDHARA TRADERS PRIVATE LIMITED	14:44:33.208180	14:28:22.769693	14:44:33.208180	1,00,000	IDBI14JUN100.00PE	LALIT KUMAR TULSHYAN	4A SECURITIES LIMITED
5	25/06/2015	MATRIX VYAPAAR PRIVATE LIMITED	PAWAN KUMAR CHANDAK	11:36:12.853845	11:36:12.871068	11:36:12.871068	9,173	GMRI15JUN10.00CE	4A SECURITIES LIMITED	SKUNG TRADELINK LTD
6	25/06/2015	MATRIX VYAPAAR PRIVATE LIMITED	PAWAN KUMAR CHANDAK	11:48:32.780286	11:48:32.794625	11:48:32.794625	9,173	GMRI15JUN10.00CE	4A SECURITIES LIMITED	SKUNG TRADELINK LTD
7	25/06/2015	PAWAN KUMAR CHANDAK	MATRIX VYAPAAR PRIVATE LIMITED	11:48:20.462197	11:48:20.450236	11:48:20.462197	9,173	GMRI15JUN10.00CE	SKUNG TRADELINK LTD	4A SECURITIES LIMITED
8	25/06/2015	PAWAN KUMAR CHANDAK	MATRIX VYAPAAR PRIVATE LIMITED	11:35:58.302824	11:35:58.268944	11:35:58.302824	9,173	GMRI15JUN10.00CE	SKUNG TRADELINK LTD	4A SECURITIES LIMITED
9	26/05/2014	JUGAL KISHORE GUPTA	RITUDHARA TRADERS PRIVATE LIMITED	14:08:25.648756	14:07:32.516753	14:08:25.648767	60,000	UNIT14MAY16.00PE	LALIT KUMAR TULSHYAN	4A SECURITIES LIMITED
10	26/05/2014	RITUDHARA TRADERS PRIVATE LIMITED	JUGAL KISHORE GUPTA	14:12:27.311973	14:12:14.495805	14:12:27.311992	60,000	UNIT14MAY16.00PE	4A SECURITIES LIMITED	LALIT KUMAR TULSHYAN
11	26/05/2014	RITUDHARA TRADERS PRIVATE LIMITED	JUGAL KISHORE GUPTA	14:09:07.780450	14:08:49.321004	14:09:07.780466	60,000	UNIT14MAY16.00PE	4A SECURITIES LIMITED	LALIT KUMAR TULSHYAN
12	26/05/2014	JUGAL KISHORE GUPTA	RITUDHARA TRADERS PRIVATE LIMITED	14:12:06.351527	14:10:21.550638	14:12:06.351539	60,000	UNIT14MAY16.00PE	LALIT KUMAR TULSHYAN	4A SECURITIES LIMITED

Sl. No.	Trade Date	Client Name	CP Client Name	Order Time	CP Order Time	Trade Time	Traded Qty	Name of the Contract	Member Name	CP Member Name
Total traded quantity/ Total artificial volume generated							676692			

21. It is noted from the above table that the trades involve 3 contracts and for each contract two clients executed reversal trades through two different brokers wherein Noticee was Broker for one leg of the transaction/trade. It is observed that on June 24, 2014, in the contract viz. IDBI14JUN100.00PE, four (4) non-genuine trades (2 cycles of reversal) were executed between clients, Ritudhara Traders Private Limited and P M Traders & Holdings Private Limited through Brokers, 4A Securities Limited i.e. Noticee and Lalit Kumar Tulshyan respectively and through these 4 non-genuine trades artificial volume of 4,00,000 units were generated. Similarly, eight (8) non-genuine trades (4 cycles of reversal) were executed by clients through Noticee as Broker in other two (2) contracts which created an artificial volume of 2,76,692 units. Therefore, it is noted that a total of twelve (12) non-genuine trades (6 cycles of reversal) were executed by clients through Noticee as Broker and an artificial volume of 6,76,692 units were generated in 3 contracts during the IP.

22. It is noted that BSE vide Notice No. 20130307-21 dated March 07, 2013 addressed to all Trading Members of BSE having subject "Surveillance Obligations for Trading Members" pertaining to "e-Boss" *inter alia* provided an indicative list of alerts that will be generated by BSE which includes reversal of trades in cash and derivative segment. Further, the aforesaid Notice of BSE casts obligation on the Trading Member (Broker) to monitor and report alerts specifically mentioning the following:

> *"*
>
> *.....*
>
> *The trading members are hereby further informed that the aforementioned transactional alerts are indicative in nature and the trading members can derive their own alerts in addition to the said transactional alerts as per their surveillance policy.*
>
> *....."*
>
> *"......*

Monitoring and reporting:

1. For effective monitoring, Trading Member shall:

a. Frame a surveillance policy covering:

i….

ii….

iii. Suspicious / Manipulative activity identification and reporting process.

iv…..

b. The surveillance policy of the Trading Member shall be approved by its Board (in case of corporate trading member), Partners (in case of partnership firms) or Proprietor (in case of sole proprietorship firm) as the case may be.

c. A quarterly MIS shall be put up to the Board (in case of corporate trading member), Partners (in case of partnership firms) or Proprietor (in case of sole proprietorship firm) on the number of alerts pending at the beginning of the quarter, generated during the quarter, disposed off during the quarter and pending at the end of the quarter. Reasons for pendency shall be discussed and appropriate action taken. Also, the Board (in case of corporate trading member), Partners (in case of partnership firms) or Proprietor (in case of sole proprietorship firm) shall be apprised of any exception noticed during the disposition of alerts.

d. The surveillance process shall be conducted under overall supervision of its Compliance Officer.

e. Designated directors / partners / proprietor / Compliance Officer would be responsible for all surveillance activities carried out by the Trading Member and for the record maintenance and reporting of such activities.

2. Internal auditor of Trading Member shall review the surveillance policy, its implementation, effectiveness and review the alerts generated during the period of audit. Internal auditor shall record the observations with respect to the same in their report."

…."

23. Therefore, it is noted that in terms of the aforesaid notice, Noticee was necessarily required to frame a surveillance policy, *inter alia*, covering suspicious/manipulative activity identification and reporting process. Further, it is noted that vide email dated November 06, 2020, BSE had confirmed that no broker including Noticee had reported any suspicious transactions to BSE being executed on Stock Options segment of BSE during the IP.

24. Therefore, it is noted that despite such reversal transactions were undertaken by clients through Noticee, Noticee failed to notice them immediately or even much after the said transactions, as they did not have any system in place to identify trade reversals. I also note that by not having a system in place to identify the reversal trades, Brokers allowed their clients to repeatedly execute reversal trades in a contract. Since, Noticee, who is the Broker, did not take necessary steps to generate alerts by putting a system in place to detect and curb reversal of trades, it is noted that Noticee has failed to exercise due care and diligence in the conduct of their business while dealing with their respective clients.

25. In view of the above, it is noted that a total of twelve (12) non-genuine trades (6 cycles of reversal) were executed by clients through Noticee as Broker and an artificial volume of 6,76,692 units were generated in 3 contracts during the IP. However, Noticee neither had a system to monitor such trading activities including the reversal trades nor reported the trades including the reversal trades to BSE in terms of the BSE Noticee dated March 07, 2013 as noted from BSE email dated November 06, 2020. Therefore, Noticee had failed to exercise care and diligence in the conduct of its business while dealing with its clients. Having regard to the facts and circumstances of the case, the material available on record, I hold that the allegation that Noticee has violated the provisions of Schedule II A (2) of Code of Conduct for Stock Brokers read with Regulation 9(f) of the Broker Regulations stands established.

<u>Issue No. 2- Does the violation attract monetary penalty under Section 15HB of SEBI Act?</u>

26. In this regard, I place reliance on the judgement of Hon'ble Supreme Court of India the matter of Chairman, SEBI Vs Shriram Mutual Fund {[2006]5 SCC 361} wherein Hon'ble Supreme Court 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. A breach of civil obligation which attracts penalty in the nature of fine under the provisions of the Act and the Regulations would immediately attract the levy of penalty irrespective of the fact whether contravention must made by the defaulter with guilty intention or not.''*

27. Therefore, in view of the above judgments and considering that Noticee violated the provisions of Schedule II A (2) of Code of Conduct for Stock Brokers read with Regulation 9(f) of the Broker Regulations, as established in the foregoing

paragraphs, I find that Noticee would be liable for monetary penalty under Section 15HB of the SEBI Act. The text of Section 15HB of the SEBI Act is reproduced below:

> **SECURITIES AND EXCHANGE BOARD OF INDIA 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.*
>
> *…."*

Issue No.3 - What should be the quantum of monetary penalty?

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

> **SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992**
>
> ***Factors to be taken into account while adjudging quantum of penalty.***
>
> ***Section 15J*** *- While adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely:-*
>
> > *(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;*
> > *(b) the amount of loss caused to an investor or group of investors as a result of the default;*
> > *(c) the repetitive nature of the default.*
>
> ***Explanation****- For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section.*

29. It is noted that the material available on record does not quantify any disproportionate gains or unfair advantage, if any, made by the Noticee and the losses, if any, suffered by the investors due to such violations on the part of the said Noticee. However, it is pertinent to note that the role of a Broker/Trading Member(TM) is crucial to the development of the securities market, as the broker is the first mile of contact for the majority of the investors. In this regard, the role of a Broker is crucial as a facilitator of investors into the securities market. So, it is of utmost importance that every Broker abides by the relevant regulations, provisions of SEBI/ Stock Exchange circulars and various guidelines issued by SEBI/ Stock Exchanges. The non-compliances on the part of the Noticee as brought out in the preceding paragraphs clearly shows that it has failed to exercise due care and diligence in the conduct of their business while dealing with their respective clients.

E. ORDER

30. Having considered all the facts and circumstances of the case, the material available on record, the factors mentioned in preceding paragraphs and in exercise of powers conferred upon me under Section 15-I of the SEBI Act 1992 read with Rule 5 of the Adjudication Rules, I hereby impose a penalty of Rs. 2,00,000/-(Rupees Two Lakhs only) on Noticee i.e. 4A Securities Limited, under the provision of Section 15HB of the SEBI Act. I am of the view that the said penalty is commensurate with the lapse/omission on the part of Noticee.

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

ENFORCEMENT → Orders → Orders of AO → PAY NOW

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

limited to recovery proceedings under section 28A of the SEBI Act for realization of the said amount of penalty along with interest thereon, *inter alia*, by attachment and sale of movable and immovable properties.

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

Place: Mumbai **AMAR NAVLANI**

Date: March 31, 2023 **ADJUDICATING OFFICER**