BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. Order/AN/PR/2024-25/31019]

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

In respect of:

Brickwork Ratings India Private Limited
PAN: AADCB3136C
SEBI Registration No. IN–CRA–005–2008

In the matter of inspection of Brickwork Ratings India Private Limited.

A. BRIEF BACKGROUND

1. Securities and Exchange Board of India ('SEBI', in short) conducted inspection of Brickwork Ratings India Private Limited (hereinafter also referred as 'Noticee'/ 'Brickwork'/ 'entity'/ 'CRA) to inter-alia examine whether the books of accounts, records and other documents which were relevant to Credit Rating Agencies were being maintained in the manner required, and whether the provisions of SEBI Act, 1992, SEBI (Credit Rating Agencies) Regulations, 1999 ('CRA Regulations') and guidelines/circulars issued there under from time to time were complied with. The period covered under the inspection was from February 01, 2022, to November 30, 2023 ('Inspection Period' / 'IP', in short). Further, wherever deemed necessary, reference had been made to outside this period

2. Pursuant to the inspection, findings of the inspection were communicated by SEBI to Brickwork vide letter dated February 26, 2024. Brickwork submitted their reply to the observations of SEBI vide their letter dated March 17, 2024 and emails dated March 20, 2024. Thereafter, SEBI conducted Post

Inspection Analysis (PIA) with respect to SEBI findings vis-à-vis the reply of Brickwork.

3. Pursuant to the PIA, SEBI inter alia observed and alleged that the Noticee was in violation of provisions of securities laws as stated below and therefore, SEBI initiated Adjudication Proceedings in respect of the Noticee under Section 15 I of the Securities and Exchange Board of India Act, 1992 ('SEBI Act, 1992', in short):

 3.1. Regulation 27(1) of SEBI (Credit Rating Agencies) Regulations, 1999; Regulation 13 read with clause 14 of code of conduct under third schedule of SEBI (Credit Rating Agencies) Regulations, 1999 ('CRA Regulations'/ 'SEBI CRA Regulations, 1999', in short).

 3.2. Regulation 13 read with clause 2, 4 and 12 of code of conduct under third schedule of SEBI (Credit Rating Agencies) Regulations, 1999; Clause 26.4.1.8 and Clause 26.4.3.3 of SEBI Master circular SEBI/HO/DDHS/DDHS-POD2/P/CIR/2023/111 dated July 03, 2023.

 3.3. Regulation 16(1) of SEBI (Credit Rating Agencies) Regulations, 1999; Regulation 24(2) of SEBI (Credit Rating Agencies) Regulations, 1999; Regulation 13 read with clause 3 of code of conduct under third schedule of SEBI (Credit Rating Agencies) Regulations, 1999.

 3.4. Regulation 24(2) of SEBI (Credit Rating Agencies) Regulations, 1999; Regulation 24(7) of SEBI (Credit Rating Agencies) Regulations, 1999; Regulation 13 read with clause 8 of code of conduct under third schedule of SEBI (Credit Rating Agencies) Regulations, 1999; Clause 7.5.1 read with Annexure 11, Clause 9.1.1 and Clause 27.3.4 of SEBI operational circular SEBI/HO/DDHS/DDHS-RACPOD2/P/CIR/2023/6 dated January 06, 2023; Clause 7.5.1 read with Annexure 11, Clause 9.1.1 and Clause 27.3.4 of SEBI Master circular SEBI/HO/DDHS/DDHS-POD2/P/CIR/2023/111 dated July 03, 2023.

 3.5. Regulation 13 read with clause 8 of code of conduct under third schedule of SEBI (Credit Rating Agencies) Regulations, 1999; Clause

1(B) and Clause 2(A)(III) of SEBI Circular SEBI/ HO/ MIRSD/ MIRSD4/ CIR/P/ 2017/71 dated June 30, 2017.

3.6. Regulation 13 read with clause 8 of code of conduct under third schedule of SEBI (Credit Rating Agencies) Regulations, 1999; Clause 1(B) and Clause 2(A)(III) of SEBI Circular SEBI/ HO/ MIRSD/ MIRSD4/ CIR/P/ 2017/71 dated June 30, 2017; Clause 9.2 and clause 27.3.4 of SEBI operational circular SEBI/HO/DDHS/DDHS-RACPOD2/P/CIR/2023/6 dated January 06, 2023.

3.7. Regulation 15(2) of SEBI (Credit Rating Agencies) Regulations, 1999; Regulation 24(2) of SEBI (Credit Rating Agencies) Regulations, 1999; Clause 2(A)(II) of SEBI circular SEBI/ HO/ MIRSD/ MIRSD4/ CIR/ P/ 2017/ 71 dated June 30, 2017; and Clause 27.3.3 of SEBI Master circular SEBI/HO/DDHS/DDHS-POD2/P/CIR/2023/111 dated July 03, 2023.

B. APPOINTMENT OF ADJUDICATING OFFICER

4. Whereas, the Competent Authority was prima facie of the view that there were sufficient grounds to adjudicate upon the alleged violation by the Noticee, as stated above and therefore, in exercise of the powers conferred under Section 15-I of the SEBI Act, 1992 and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (SEBI Adjudication Rules' in short), read with Section 19 of the SEBI Act, 1992, the Competent Authority appointed the undersigned as Adjudicating Officer vide order dated April 19, 2024, to inquire into and adjudge under Section 15HB of the SEBI Act, 1992 for the aforesaid alleged violation by the Noticee. The said proceedings of appointment were communicated to the undersigned vide Communique dated April 29, 2024.

C. SHOW CAUSE NOTICE, REPLY AND HEARING

5. A Show Cause Notice bearing reference No. *SEBI/HO/EAD/EAD5/P/OW/2024/21826/1* dated July 04, 2024 (**'**SCN**'**) was duly served upon the Noticee in terms of Rule 4(1) of SEBI Adjudication Rules vide Speed Post Acknowledgment Due (SPAD) inter alia to show cause as to why inquiry should not be held and penalty, if any, be not imposed under Section 15HB of the SEBI Act, 1992 for the alleged violations by the Noticee, as stated.

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

'…

4. Findings and Observations by SEBI and Alleged Violation thereto in respect of the Noticee:

4.1. Rating of securities issued by borrower of promoter of CRA

It was stated that Brickwork was allegedly in violation during the course of inspection as Brickwork rated three entities which were borrower of its promoter, namely, TVS Credit Services Limited, Kosamattam Finance Limited and Dhani Loans and Services Limited, and Brickwork did not have any mechanism in place to ensure the compliance of the conditions with regards to rating of securities issued by a borrower of the CRA's promoter.

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

4.1.1. *Regulation 27(1) of CRA Regulations read as under:*

"27. (1) No credit rating agency shall, rate a security issued by an entity, which is;- (a) a borrower of its promoter; or
(b) a subsidiary of its promoter; or
(c) an associate of its promoter, if
(i) there are common Chairman, Directors between credit rating agency and these entities.
(ii) there are common employees.
(iii) there are common Chairman, Directors, Employees on the rating committee."

4.1.2. *Regulation 13 read with Clause 14 of Code of Conduct of CRA Regulations states the following:*

"A credit rating agency shall maintain an appropriate level of knowledge and competence and abide by the provisions of the Act, regulations and circulars, which may be applicable and relevant to the activities carried on by the credit rating agency. The credit rating agency shall also comply with award of the Ombudsman passed under the Securities and Exchange Board of India (Ombudsman) Regulations, 2003".

4.1.3. *During the course of Inspection, Brickwork was asked, vide email dated February 08, 2024 to provide mechanism for checking whether its rated entity is not the borrower of its promoter (Canara Bank) for compliance with Regulation 27 of CRA Regulations. Brickwork replied as below vide email dated February 09, 2024:*

For securities that are dealt with by SEBI, we have not rated the securities of the client in which Canara Bank is an investor. At the time of taking up an NCD mandate and rating of proposed NCDs, BWR will not be aware of the details of the investor.

Concerning Bank Loan Ratings, we were not aware that we should not be accepting mandates where the lender was Canara Bank. Neither Canara Bank nor RBI has pointed this out in the past so many years. Hence we have not put any checking mechanism in place.

4.1.4. *Further, SEBI observed from the PRs available on the website of Brickwork that in the below cases, the rated entities had outstanding bank loans facility from Canara Bank (Promoter of Brickwork). However, Brickwork had still rated the debt securities of these entities:*

Issuer Name	*PR Date*
TVS Credit Services Limited	*December 15, 2022 and February 17, 2022*
Kosamattam Finance Limited	*March 23, 2022 ; June 30, 2022 and July 28, 2023*
Dhani Loans and Services Limited	*April 26, 2022*

4.1.5. *In this regard, Brickwork submitted their reply to the observations of SEBI, pursuant to which SEBI conducted Post Inspection Analysis (PIA) with respect to SEBI findings vis-à-vis the reply of Brickwork wherein it was inter alia observed and/ or alleged as follows:*

4.1.5.1. Brickwork has withdrawn the rating of the three entities which are borrower of promoter (Canara Bank).

4.1.5.2. The ratings were assigned as Brickwork had interpreted that the restriction contained in (a) (b) and (c) of Regulation 27(1) of CRA Regulations, would apply only in case any of the criteria's under (i), (ii) or (iii) are also attracted.

4.1.5.3. However, from the reading of Regulation 27(1), it is clearly understood that a CRA cannot rate security issued by borrower of its promoter. Further, the criteria mentioned under (i), (ii) or (iii) are applicable in case of associate of its promoter.

4.1.5.4. It was further stated that although Brickwork had submitted that it has put in a system to verify whether a client is a borrower of promoter or not, Brickwork was allegedly in violation during the course of inspection as

- *Brickwork rated three entities which are borrower of its promoter, namely, TVS Credit Services Limited, Kosamattam Finance Limited and Dhani Loans and Services Limited.*
- *Brickwork did not have any mechanism in place to ensure the compliance of the conditions with regards to rating of securities issued by a borrower of the CRA's promoter.*

4.1.6. *In view thereof, it is alleged that Noticee had violated provisions of Regulation 27(1) of SEBI (Credit Rating Agencies) Regulations, 1999 and Regulation 13 read with clause 14 of code of conduct under third schedule of SEBI (Credit Rating Agencies) Regulations, 1999.*

4.2. Discrepancy in disclosure of Cumulative Default Rates (CDRs) and average rating transition rate for listed and proposed to be listed securities

4.2.1. *It was observed that the static pool for calculation of CDRs and average rating transition rate of listed or proposed to be listed for FY 2022-23 with INC includes data of following instrument which were not securities as defined in clause(h) of section 2 of the Securities Contracts (Regulation) Act, 1956.*

Company Name	*Instrument*
The Bombay Dyeing and Manufacturing Company Ltd.	*Fixed Deposit*
SRS Real Infrastructure Ltd.	*Fixed Deposit*
Transcorp International Ltd	*Fixed Deposit*
Sambandam Spinning Mills Ltd.	*Fixed Deposit*

4.2.2. *Further, it was observed that the static pool for calculation of CDRs and average rating transition rate of listed or proposed to be listed for FY 2022-23 without including INC includes data of following instrument which are not securities as defined in clause(h) of section 2 of the Securities Contracts (Regulation) Act, 1956*

Company Name	*Instrument*
The Bombay Dyeing and Manufacturing Company Ltd.	*Fixed Deposit*
SRS Real Infrastructure Ltd.	*Fixed Deposit*

4.2.3. *It was stated by SEBI that Brickwork had admitted its lapse in calculating CDR and average rating transition rate for listed or proposed to be listed securities.*
In this regard, following was inter alia observed and/or alleged by SEBI:

4.2.4. *Regulation 13 read with Clause 2 of Code of Conduct of CRAs Regulations states that:*
"A credit rating agency, in the conduct of its business, shall observe high standards of integrity, dignity and fairness in the conduct of its business."

4.2.5. *Regulation 13 read with Clause 4 of Code of Conduct of CRAs Regulations states that:*
"A credit rating agency shall at all times exercise due diligence, ensure proper care and exercise independent professional judgment in order to achieve and maintain objectivity and independence in the rating process".

4.2.6. *Regulation 13 read with Clause 12 of Code of Conduct mentioned in third schedule of CRA Regulations states as below:*
"A credit rating agency shall not make any untrue statement, suppress any material fact or make any misrepresentation in any documents, reports, papers or information furnished to the board, stock exchange or public at large".

4.2.7. *Clause 26.4.1.8 of SEBI Master circular dated July 03, 2023 states that*
In addition to disclosure on cumulative default rates (CDR) which includes non-cooperative issuers and various types of credit ratings, CRAs from Financial year 2022-2023, shall also disclose, separately, two other CDRs limited to credit ratings of securities that are listed, or proposed to be listed, on a recognized stock exchange
CDR (ii), wherein ratings of non-cooperative issuers shall be included in the cohort under the rating category in which the instrument is currently being rated.
CDR (iii), wherein ratings of non-cooperative issuers shall be excluded in the cohort under the rating category in which the instrument is currently being rated.

4.2.8. *Clause 26.4.3.3 of the SEBI Master Circular dated July 03, 2023 states that:*
"Therefore, in addition to the disclosure of rating transitions para 26.4.2 of master circular, CRAs shall also disclose two additional and separate rating transition matrices (limited to credit ratings of securities that are listed, or proposed to be listed, on a recognized stock exchange) using the following definition of static pool:
a. Static Pool: Ratings outstanding for each category at the beginning of any financial year. It shall exclude ratings that have been withdrawn or ratings of non-cooperative issuers during the financial year. Ratings downgraded to D shall be treated as default for the rest of the financial year. Ratings which are upgraded from D shall be considered as new rating for the relevant subsequent static pools.
b. Static Pool: Ratings outstanding for each category at the beginning of any financial year. It shall include ratings that have been withdrawn or ratings of non-cooperative issuers during the financial year. Ratings downgraded to D shall be treated as default for the rest of the financial year. Ratings which are upgraded from D shall be considered as new rating for the relevant subsequent static pools."

4.2.9. *During the course of inspection, it was observed that Brickwork had disclosed two CDRs and average rating transition rate separately for listed or proposed to be listed securities for the FY 2022-23. Further, Brickwork had shared the details of monthly static pool for the CDR and average transition rate disclosure of listed or proposed to be listed securities vide email dated February 09, 2024.*

4.2.10. *On perusal of the static pool of listed securities, it was observed that the static pool for calculation of CDRs and average rating transition rate of listed or proposed to be listed for FY 2022-23 with INC included data of following instrument which were not securities as defined in clause(h) of section 2 of the Securities Contracts (Regulation) Act, 1956.*

Company Name	*Instrument*	*PR*	*Rating*
The Bombay Dyeing and Manufacturing Company Ltd.	*Fixed Deposit*	*December 29, 2022*	*BBB+*
SRS Real Infrastructure Ltd.	*Fixed Deposit*	*June 29, 2022*	*D*
Transcorp International Ltd	*Fixed Deposit*	*December 29, 2022*	*BBB-*
Sambandam Spinning Mills Ltd.	*Fixed Deposit*	*September 12, 2022*	*BB+*

4.2.11. *Further, it was observed that the static pool for calculation of CDRs and average rating transition rate of listed or proposed to be listed for FY 2022-23 without including INC included data of following instrument which were not securities as defined in clause(h) of section 2 of the Securities Contracts (Regulation) Act, 1956.*

Company Name	*Instrument*	*PR*	*Rating*
The Bombay Dyeing and Manufacturing Company Ltd.	*Fixed Deposit*	*December 29, 2022*	*BBB+*
SRS Real Infrastructure Ltd.	*Fixed Deposit*	*June 29, 2022*	*D*
Transcorp International Ltd	*Fixed Deposit*	*December 29, 2022*	*BBB-*

4.2.12. *In view of the above, SEBI noted that Brickwork had allegedly failed to exercise due diligence in calculating CDR and average rating transition rate for listed or proposed to be listed securities as it included such instruments which does not fall under the definition of securities for the purpose of calculation.*

4.2.13. *In this regard, Brickwork submitted their reply to the observations of SEBI, pursuant to which SEBI conducted Post Inspection Analysis (PIA) with respect to SEBI findings vis-à-vis the reply of Brickwork wherein it was inter alia observed and/ or alleged as follows:*

4.2.13.1. *Brickwork had admitted its lapse in calculating CDR and average rating transition rate for listed or proposed to be listed securities.*

4.2.13.2. *Further, Brickwork, being a SEBI registered CRA, was expected to exercise due diligence and not make any misrepresentation in any document/disclosure. However, it appeared that Brickwork had allegedly failed to do so while calculating its CDR and transition rate. In view of the above, the reply of Brickwork that Brickwork had not violated SEBI's Regulations / Circulars was not accepted by SEBI.*

4.2.14. *In view thereof, it is alleged that Noticee had violated provisions of Regulation 13 read with clause 2, 4 and 12 of code of conduct under third schedule of SEBI (Credit Rating Agencies) Regulations, 1999 and Clause 26.4.1.8 and Clause 26.4.3.3 of SEBI Master circular SEBI/HO/DDHS/DDHS-POD2/P/CIR/2023/111 dated July 03, 2023.*

4.3. *Delay in annual surveillance/review of rating*

4.3.1. *It was observed that there was delay of 2 to 124 days in review of rating in 362 instances during the period of inspection.*

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

4.3.2. *Regulation 16(1) and 16(3) of CRA Regulations states as below:*
16(1)"Every credit rating agency shall carry out periodic reviews of all published ratings during the lifetime of the securities, unless the rating is withdrawn, subject to the provisions of regulation 16(3).
…..

[(3) A credit rating agency shall not withdraw a rating so long as the obligations under the security rated by it are outstanding, except where the company whose security is rated is wound up or merged or amalgamated with another company, or as may be specified by the Board from time to time.

4.3.3. *Regulation 24(2) of CRA Regulations states as below:*
"Every credit rating agency shall, in all cases, follow a proper rating process"

4.3.4. *Clause 3 of Code of Conduct read with Regulation 13 of CRA Regulations states the following:*
"A credit rating agency shall fulfill its obligations in a prompt, ethical and professional manner"

4.3.5. *Clause B(II) of Annexure A of SEBI Circular SEBI/HO/MIRSD/MIRSD4/CIR/P/2016/119 dated November 01, 2016 and Clause 6.3 of Operational Circular for CRAs dated January 06, 2023 and Clause 6.3 of Master Circular for CRAs dated July 03, 2023 inter-alia requires CRAs to specify Policy regarding monitoring and review of ratings, including the timelines within which such review is to be completed in its Operations Manual/Internal governing document.*

4.3.6. *In this regard, the Rating process Manual (RPM) of Brickwork dated August 30, 2023 inter-alia mentioned the following under the section of "Surveillance/ Review of the Ratings / Material Events Requiring Review":*
"Once a rating is in the public domain, BWR shall keep the rating under surveillance/monitoring as long as the instrument is outstanding or until the rating is withdrawn. Annual review of such ratings in case of Bonds/NCD and Bank Loan Ratings shall necessarily be made. A review can also be made at a shorter frequency, based on occurrence of early warning signals or material events..."

4.3.7. *During the course of inspection, on the perusal of PIQ reply submitted vide email dated January 16, 2024 by Brickwork and Annexure 14.5 of PIQ reply dated January 12, 2024 by Brickwork and copy of Annexure 14.5 of it was observed that there was delay in conducting annual surveillance in rating of NCDs in 362 instances with delay ranging from 2 to 124 days.*

4.3.8. *Further, on the perusal of website of Brickwork, it was observed that Brickwork has conducted annual review in the below case with a delay of 118 days:*

Name of the Issuer	*Type of Instrument*	*Issue Size (INR Crs.)*	*Date of Last review(PR date)*	*Due Date of Review*	*Actual Date of Review*	*Delay in days*
IIFL Finance Limited	*NCDs*	*2012.27*	*August 05, 2022*	*August 05, 2023*	*December 01, 2023*	*118*

4.3.9. *In view of the above, SEBI noted that Brickwork had allegedly failed to conduct annual review within the timelines prescribed in its internal Rating Process Manual (RPM) in the instant cases and thus failed to follow a proper rating process.*

4.3.10. *It was further stated that enquiry proceedings were initiated against Brickwork leading to cancellation of its registration certificate vide SEBI order dated October 06, 2022 whereby one of the findings was delay in review of rating in one instance. However, in the instant inspection, it was again observed that Brickwork had failed to conduct the annual review within timeline in the 212 instances.*

4.3.11. *In this regard, Brickwork submitted their reply to the observations of SEBI, pursuant to which SEBI conducted Post Inspection Analysis (PIA) with respect to SEBI findings vis-à-vis the reply of Brickwork wherein it was inter alia observed and/ or alleged as follows:*

4.3.11.1. *Brickwork has specified 12 months as the period within which it has to review the outstanding ratings, however, it appears that Brickwork has not strictly adhere to the specified timeline as CRA Regulations and Circulars issued thereunder do not specify outer limit for such timeline and give CRAs to freehand to decide such timeline.*

4.3.11.2. *However, it is to be noted that such timeline specified by CRAs should be in compliance with existing SEBI Regulations. In regard to review of rating, Regulation 55 of SEBI (LODR) Regulations, 2015 already specify that a SEBI registered CRA shall review credit rating of non-convertible securities issued by listed entity at least once a year.*

4.3.11.3. *Hence, Brickwork's claim that annual review of rating specified in its OPM is not mandatory to follow may be rejected as LODR regulations mandates review of rating assigned to non-convertible securities of listed entity at least once a year.*

4.3.11.4. *Further, Brickwork submitted that its operations were impacted by SEBI Order dated October 06, 2022 and subsequent developments which led to delay in carrying out annual review.*

4.3.11.5. *It is to be noted that regulatory actions are issued to entities for its non-compliance of various regulations and deficiency observed in the various processes run by the entity. The purpose of it to improve compliance by regulated entities and prevent any wrongdoings and non-compliance.*

4.3.11.6. *Thus, the claim by Brickwork that regulatory actions was the reason for delay in carrying out annual review of rating may not be accepted as via the regulatory action it is expected of an entity to act in prompt manner to take corrective action and prevent repetition of such non-compliance.*

4.3.11.7. *It is further stated that enquiry proceedings were initiated against Brickwork leading to cancellation of its registration certificate vide SEBI order dated October 06, 2022 whereby one of the findings was delay in review of rating in one instance. However, in the instant inspection, it is again observed that Brickwork has failed to conduct the annual review in 212 instances (out of 362 instances). In view of the above, the reply of Brickwork was not accepted by SEBI.*

4.3.12. *In view thereof, it is alleged that Noticee had violated provisions of Regulation 16(1) of SEBI (Credit Rating Agencies) Regulations, 1999; Regulation 24(2) of SEBI (Credit Rating Agencies) Regulations, 1999 and Regulation 13 read with clause 3 of code of conduct under third schedule of SEBI (Credit Rating Agencies) Regulations, 1999.*

4.4. *Failure to conduct annual surveillance/review of rating*

4.4.1. *It was observed that in one instance, namely, Edel Land Limited, the annual review was not conducted by Brickwork which was due on October 07, 2023.*

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

4.4.2. *Regulation 16(1) and 16(3) of CRA Regulations states as below:*
16(1)"Every credit rating agency shall carry out periodic reviews of all published ratings during the lifetime of the securities, unless the rating is withdrawn, subject to the provisions of regulation 16(3).
…..
[(3)A credit rating agency shall not withdraw a rating so long as the obligations under the security rated by it are outstanding, except where the company whose security is rated is wound up or merged or amalgamated with another company, or as may be specified by the Board from time to time.

4.4.3. *Regulation 24(2) of CRA Regulations states as below:*
"Every credit rating agency shall, in all cases, follow a proper rating process"

4.4.4. *Further, Clause 3 of Code of Conduct read with Regulation 13 of CRA Regulations states the following:*
"A credit rating agency shall fulfill its obligations in a prompt, ethical and professional manner"

4.4.5. *Clause 6.3 of Master Circular for CRAs dated July 03, 2023 inter-alia requires CRAs to specify Policy regarding monitoring and review of ratings, including the timelines within which such review is to be completed in its Operations Manual/Internal governing document.*

4.4.6. *In this regard, the Rating process Manual (RPM) of Brickwork inter-alia mentioned the following under the section of "Surveillance/ Review of the Ratings / Material Events Requiring Review":*

'…Once a rating is in the public domain, BWR shall keep the rating under surveillance/monitoring as long as the instrument is outstanding or until the rating is withdrawn. Annual review of such ratings in case of Bonds/NCD and Bank Loan Ratings shall necessarily be made. A review can also be made at a shorter frequency, based on occurrence of early warning signals or material events…'

4.4.7. *During the course of inspection, it is observed that Brickwork has failed to conduct annual surveillance in the below case:*

Name of issuer	*Type of instrument*	*Issue size (INR Crores)*	*Date of Last review (PR date)*	*Due date of review*
Edel Land Limited	*Principal Protected Market Linked Debentures*	*625*	*October 07, 2022*	*October 07, 2023*

4.4.8. In view of the above, SEBI noted that Brickwork had allegedly failed to conduct annual review as per its operational manual in the instant case and thus failed to follow a proper rating process.

4.4.9. It was further stated that an enquiry proceedings were initiated against Brickwork leading to cancellation of its registration certificate vide SEBI order dated October 06, 2022 whereby one of the findings was delay in review of rating in one instance. However, in the instant inspection, it was again observed that Brickwork has failed to conduct the annual review in the case of Edel land limited.

4.4.10. In this regard, Brickwork submitted their reply to the observations of SEBI, pursuant to which SEBI conducted Post Inspection Analysis (PIA) with respect to SEBI findings vis-à-vis the reply of Brickwork wherein it was inter alia observed and/ or alleged as follows:

4.4.10.1. Brickwork had specified 12 months as the period within which it had to review ratings outstanding, however, it appeared that Brickwork had not strictly adhere to the specify timeline as CRA Regulations and Circulars issued thereunder do not specify outer limit for such timeline and give CRAs to freehand to decide such timeline.

4.4.10.2. However, it was to be noted that such timeline specified by CRAs should be in compliance with existing SEBI Regulations. In regard to review of rating, Regulation 55 of SEBI (LODR) Regulations, 2015 already specify that a SEBI registered CRA shall review credit rating of non-convertible securities issued by listed entity at least once a year.

4.4.10.3. Hence, Brickwork's claim that annual review of rating specify in its OPM was not mandatory to follow may be rejected as LODR regulations mandates review of rating assigned to non-convertible securities of listed entity at least once a year.

4.4.10.4. Further, the change in analyst and other issues highlighted by Brickwork appeared to be internal operation matter of Brickwork which was to be addressed by Brickwork itself.

4.4.10.5. Further, Brickwork, being a SEBI registered CRA, was expected to fulfill its obligations in a prompt, ethical and professional manner. However, it appears that Brickwork has failed to do so which led to its failure to conduct annual review of Edel Land Limited.

4.4.10.6. It was further stated that enquiry proceedings were initiated against Brickwork leading to cancellation of its registration certificate vide SEBI order dated October 06, 2022 whereby one of the findings was delay in review of rating in one instance. However, in the instant inspection, it was again observed that Brickwork has failed to conduct the annual review in the case of Edel land limited.

4.4.10.7. In view of the above, the reply of Brickwork that SEBI may not consider this as a violation of any of its Regulations was not accepted by SEBI.

4.4.11. In view thereof, it is alleged that Noticee had violated provisions of Regulation 16(1) of SEBI (Credit Rating Agencies) Regulations, 1999; Regulation 24(2) of SEBI (Credit Rating Agencies) Regulations, 1999 and Regulation 13 read with clause 3 of code of conduct under third schedule of SEBI (Credit Rating Agencies) Regulations, 1999.

4.5. Delay in recognition of default

4.5.1. It was observed that in the case of Tridhaatu Renovators Private Limited ("Tridhaatu"), Brickwork had failed to downgrade Tridhaatu's rating to default (D) within the stipulated two working days following default intimation by Debenture Trustee (DT) on February 07, 2023. There was a delay of 191 working days in recognizing default by Brickwork.

4.5.2. Brickwork had admitted its lapse with regards to delay in the recognition of default.

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

4.5.3. Regulation 24(2) of SEBI CRA Regulations states as below,
"(2) Every credit rating agency shall, in all cases, follow a proper rating process."

4.5.4. Regulation 24(7) of SEBI CRA Regulations states as below,
"(7) Every credit rating agency, shall, while rating a security, exercise due diligence in order to ensure that the rating given by the credit rating agency is fair and appropriate."

4.5.5. Regulation 13 read with Clause 8 of Code of Conduct of CRA Regulations states as below
"A credit rating agency shall keep track of all important changes relating to the client companies and shall develop efficient and responsive systems to yield timely and accurate ratings. Further a credit rating agency shall also monitor closely all relevant factors that might affect the creditworthiness of the issuers."

4.5.6. Clause 7.5.1 read with Annexure 11 of SEBI Operational circular for CRAs dated January 06, 2023 (updated as on February 03, 2023) and SEBI Master circular for CRAs dated July 03, 2023 state as below with regards to instrument-wise definition of default:
"7.5 At least, the following rating criteria shall be formulated by each CRA and should be reviewed periodically, criteria on:
Default recognition (Definition of default to be followed by all CRAs is provided in the Annexure 11)
……..

Annexure 11

Instrument-wise definition of default

Financial Instrument	Rating scale	Definition of Default
Debentures/Bonds	Long Term	A delay of 1 day even of 1 rupee (of principal or interest) from the scheduled repayment date.
…..	…………	………

4.5.7. Clause 9.1.1 of SEBI operational circular dated January 06, 2023 (updated as on February 03, 2023) and SEBI Master circular for CRAs dated July 03, 2023 state as below:
"9.1. Monitoring of repayment schedules
9.1.1. CRAs have to be proactive in early detection of defaults/ delays in making payments. In this regard, CRAs are required to track the servicing of debt obligations for each securities rated by them, ISIN-wise, and look for potential deterioration in financials which might lead to defaults/ delays, particularly before/ around the due date(s) for servicing of debt obligations, on the basis of monitoring of indicators including, but not restricted to, the following:
9.1.1.1. Earnings Before Interest, Taxes, Depreciation, and Amortization (EBITDA) not being sufficient to meet even the interest payments for last 3 years
9.1.1.2. Deterioration in liquidity conditions of the Issuer
9.1.1.3. Abnormal increase in borrowing cost of the Issuer
9.1.1.4. Any other information indicating deterioration in credit quality/ debt servicing capability of the Issuer.

4.5.8. Clause 27.3.4 of SEBI operational circular dated January 06, 2023 (updated as on February 03, 2023) and SEBI Master circular for CRAs dated July 03, 2023 inter alia requires CRAs to disseminate information regarding default by issuer within the following timelines:

Scenario	Timeline – immediately but not later than
Intimation from Issuer/ Debenture Trustee/ Bankers of the Issuer regarding delay in servicing debt obligation	2 working days of intimation

4.5.9. During the course of inspection, it was observed from the Centralized database for Corporate Bonds ("Database") that the issuer Tridhaatu Renovators Private Limited ("Tridhaatu") had listed bond with ISIN INE00VH07017 rated by Brickwork which had the following payment dates.

Issuer Name	ISIN	Type of Payment	Due date
Tridhaatu Renovators Private Limited	INE00VH07017	Coupon	March 31, 2022
		Principal	February 06, 2023

4.5.10. On the perusal of the email communications submitted by Brickwork, it was observed that Vistra ITCL (India) Limited, the Debenture Trustee (DT), of the above issuance had sent an email to Brickwork on February 07, 2023 intimating about the default in redemption payment due on February 06, 2023 for the above ISIN of Tridhaatu.

4.5.11. Hence, in accordance with SEBI guidelines, Brickwork was obligated to downgrade the rating to default (D) within 2 working days of being intimated of the default on February 07, 2023. However, Brickwork did not downgrade the rating to D until November 30, 2023, resulting to a delay of 191 working days. The details of rating action taken by Brickwork are outlined below:

Issuer Name	ISIN	Due date of Payment	Date of Default intimation (Email by DT)	PR date downgrading rating to D	Delay in default recognition (after 2 working days timeline)
Tridhaatu Renovators Private Limited	INE00VH07017	February 06, 2023	February 07, 2023	November 20, 2023	191

4.5.12. To the above observation, Brickwork had inter-alia replied as below vide email dated February 02, 2024:

With regard to redemption of NCD falling due on Feb 06, 2023, the email from DT Vistara conveying the default was inadvertently missed by the Rating Team on account of reasons beyond the control of the Team as the concerned Analyst had left and there was a delay in reallocation of the case due to attrition with many Analysts leaving BWR at the same time during this period.

4.5.13. *In view of the above, SEBI noted that Brickwork had allegedly failed to exercise due diligence to promptly downgrade Tridhaatu's rating to default (D) within the stipulated two working days following default intimation in the instant case. Further, the prolonged delay of 191 working days in recognizing default raises concerns about the effectiveness of Brickwork's rating process in monitoring debt servicing and credit worthiness of the rated entities.*

4.5.14. *It was further stated that enquiry proceedings were initiated against Brickwork leading to cancellation of its registration certificate vide SEBI order dated October 06, 2022 whereby one of the findings was delay in recognition of default in two instances. However, in the instant inspection, it was again observed that Brickwork had failed to recognize the default within timeline in the case of Tridhaatu Renovators Private Limited.*

4.5.15. *In this regard, Brickwork submitted their reply to the observations of SEBI, pursuant to which SEBI conducted Post Inspection Analysis (PIA) with respect to SEBI findings vis-à-vis the reply of Brickwork wherein it was inter alia observed and/ or alleged as follows:*

4.5.15.1. *Brickwork has admitted its lapse with regards to delay in the recognition of default.*

4.5.15.2. *It is further stated that an enquiry proceedings were initiated against Brickwork leading to cancellation of its registration certificate vide SEBI order dated October 06, 2022 whereby one of the findings was delay in recognition of default in two instances. However, in the instant inspection, it was again observed that Brickwork had failed to recognize the default within timeline in the case of Tridhaatu Renovators Private Limited.*

4.5.15.3. *In view of the above, the reply of Brickwork that SEBI should not treat this as a violation of any of the regulations / circulars was not accepted by SEBI.*

4.5.16. *In view thereof, it is alleged that Noticee had violated provisions of Regulation 24(2) of SEBI (Credit Rating Agencies) Regulations, 1999; Regulation 24(7) of SEBI (Credit Rating Agencies) Regulations, 1999; Regulation 13 read with clause 8 of code of conduct under third schedule of SEBI (Credit Rating Agencies) Regulations, 1999; Clause 7.5.1 read with Annexure 11, Clause 9.1.1 and Clause 27.3.4 of SEBI operational circular SEBI/HO/DDHS/DDHS-RACPOD2/P/CIR/2023/6 dated January 06, 2023 and Clause 7.5.1 read with Annexure 11, Clause 9.1.1 and Clause 27.3.4 of SEBI Master circular SEBI/HO/DDHS/DDHS-POD2/P/CIR/2023/111 dated July 03, 2023.*

4.6. *Delay in conducting review of rating in case of Material Event in the case of India Power Corporation Limited*

4.6.1. *It was observed that in the case of India Power Corporation Limited, there was a delay in carrying the material event review beyond 7 days which was in violation of SEBI guideline of reviewing the material event within 7 days of its occurrence.*

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

4.6.2. *Regulation 13 read with Clause 8 of Code of Conduct of CRA Regulations states as below*

"A credit rating agency shall keep track of all important changes relating to the client companies and shall develop efficient and responsive systems to yield timely and accurate ratings. Further a credit rating agency shall also monitor closely all relevant factors that might affect the creditworthiness of the issuers."

4.6.3. *Clause 1(B) of SEBI Circular SEBI/ HO/ MIRSD/ MIRSD4/ CIR/P/ 2017/71 on Monitoring and Review of Ratings by Credit Rating Agencies (CRAs) dated June 30, 2017 and clause 9.2 of SEBI operational circular for CRAs dated January 06, 2023 states as below:*

"I. CRAs shall carry out a review of the ratings upon the occurrence of or announcement/ news of material events including, but not restricted to, the following:

a. Quarterly/ Half-yearly/ Annual results

b. Merger/ Demerger/ Amalgamation/ Acquisition

c. Corporate debt restructuring, reference to BIFR and winding-up petition filed by any party /creditors.

...

…

II. CRAs shall publish on their website press release regarding the rating action (including reiteration of existing rating), if warranted, immediately, but not later than 7 days of occurrence of the said event."

4.6.4. *Clause 2(A)(III) of SEBI Circular SEBI/ HO/ MIRSD/ MIRSD4/ CIR/P/ 2017/71 on Monitoring and Review of Ratings by Credit Rating Agencies (CRAs) dated June 30, 2017 and clause 27.3.4 of SEBI operational circular for CRAs dated January 06, 2023 states as below:*

Dissemination of Press Release on CRA's website and intimation of same to Stock Exchange/ Debenture Trustee in case of event based review:

Scenario	*Timeline-immediately but not later than*
…..	*…*
Material Events requiring review (as stated in point 1B	*7 working days of occurrence of the event*

4.6.5. *It was observed that in the case of India Power Corporation Limited ("India Power") , SREI Infrastructure Finance Ltd (SIFL) made a disclosure dated June 13, 2022 on stock exchange that the Administrator of SREI Equipment Finance Ltd (SEFL) received an initial report from BDO India LLP (BDO), indicating that there are certain transactions which are fraudulent in nature, as per Section 66 of the Code. Basis the investigation and observations of BDO, the Administrator had filed an application in respect of disbursements made to certain entities, referred to as the Power Trust group of entities, before the Kolkata bench of the National Company Law Tribunal (NCLT) under Section 60(5) and Section 66 of the Code on June 10, 2022. The application had been filed against 14 respondents, including India Power Corporation Limited.*

4.6.6. *On basis of the above disclosure made by SIFL, Brickwork considered the same as a material event and carried out a review. The date of RCM for the said instance was held on June 28, 2022 and PR was disclosed on July 12, 2022, which is after 7 working days of occurrence of material event. This is not in line with SEBI guidelines which requires CRAs to publish on their website press release regarding the rating action (including reiteration of existing rating), if warranted, immediately, but not later than 7 days of occurrence of the said event.*

4.6.7. *During onsite inspection, Brickwork vide email dated February 02, 2024 inter-alia submitted as that An update regarding SIFL was put up to the RCM on 21 Jun 2022 i.e. within 7 days, by the concerned rating team. RCM while taking note of the development, advised, "As BWR rated entity India Power Corporation Ltd figured in the fraudulent list of RBI appointed administrator M/s BDO India LLP, the respective rating team was advised to look into the issue and place a note to the CRC immediately." However, no documentary evidence in this regard was submitted by Brickwork.*

4.6.8. *The delay in conducting material event review by Brickwork in the above two mentioned cases is summarized as under*

Issuer Name	*Type of Material event*	*Date of intimation/Stock exchange disclosure (Material event trigger date)*	*Date of PR*	*Delay in days*
India Power Corporation Limited.	*Public Disclosure by SIFL to Stock Exchange of report from BDO India, LLP indicating certain fraudulent transactions.*	*June 13, 2022*	*July 12, 2022*	*13*

4.6.9. *In view of the above, SEBI noted that there was an alleged delay in carrying the material event review beyond 7 days at two instances by Brickwork in the instant cases which is in violation of SEBI guideline of reviewing the material event within 7 days of its occurrence.*

4.6.10. *It was further stated that an enquiry proceedings were initiated against Brickwork leading to cancellation of its registration certificate vide SEBI order dated October 06, 2022 whereby one of the findings was delay in material event review in one instance. However, in the instant inspection, it was again observed that Brickwork had failed to carry out material event review within timeline in the case of GMR Enterprises Private Limited for the material event triggered on December 01, 2022.*

4.6.11. *In this regard, Brickwork submitted their reply to the observations of SEBI, pursuant to which SEBI conducted Post Inspection Analysis (PIA) with respect to SEBI findings vis-à-vis the reply of Brickwork wherein it was inter alia observed and/ or alleged as follows:*

4.6.12. *Brickwork as part of reply to Pre-Inspection Questionnaire submitted the details of ratings action carried out during the inspection period, upon the occurrence of material events requiring review.*

4.6.12.1. *The details inter-alia included India Power Corporation Limited with the following information:*

- *Type of Instrument: Non-Convertible Debentures*
- *Issue Size: 2000 Crore*

- *Rating prior to revision: BWR A -/Stable*
- *Date of Rating prior to revision (Press Release): April 18, 2022*
- *Rating Action: Downgrade*
- *Revised Rating: BWR BBB -/Stable*
- *Date of Rating Committee Meeting: June 28, 2022*
- *Date of Occurrence of Material Event: June 13, 2022*
- *Nature of Material Event: Public Disclosure by Company to Stock Exchange of report from BDO India, LLP indicating certain fraudulent transactions.*
- *Date of Revision in Rating (Press Release): July 12, 2022*

4.6.12.2. *BDO India LLP (BDO), the Administrator of SREI Equipment Finance Limited (SEFL), filed an application in respect of disbursement made to certain entities, which were reported as fraudulent, under Section 60(5) and Section 66 of Insolvency and Bankruptcy Code, 2016 (IBC).*

4.6.12.3. *IPCL was among the list of entities against whom the application was filed.*

4.6.12.4. *The filing of an application before NCLT under Section 60(5) and Section 66 of IBC should be considered as material event by CRAs because:*

- *The NCL proceedings can significantly impact the company's financial health, solvency and overall stability.*
- *The outcome of proceedings may affect the company's ability meet its financial obligations, including debt repayment.*
- *The company may be exposed to other regulatory risks which could impact the company's financial health. In the instant case, the company is under regulatory risk as it is a power distribution company, which is a regulated business with tariffs being determined by West Bengal Electricity Regulatory Commission.*
- *There is increased Management Risk as the Directors and employees may be personally held liable for any wrong actions. Further, NCLT findings reflect on the Board's decisions and governance framework of the company.*

4.6.12.5. *Brickwork has considered the filing of application before NCLT under Section 60(5) and 66 as Material Event as evident from the reply of PIQ.*

4.6.12.6. *However, review in the said instance was not concluded within 7 working days from the occurrence of Material Event on June 13, 2022 when the said filing came to the notice of Brickwork*

4.6.12.7. *SEBI Circular dated June 30, 2017 and SEBI operational circular for CRAs dated January 06, 2023 mandate the CRAs to publish on their website press release regarding the rating action, if warranted, immediately, but not later than 7 days of occurrence of the material event.*

4.6.12.8. *In the instant case, the press release was published on July 12, 2022, which was beyond 7 working days from the occurrence of the material event.*

4.6.12.9. *It was further stated that enquiry proceedings were initiated against Brickwork leading to cancellation of its registration certificate vide SEBI order dated October 06, 2022 whereby one of the findings was delay in material event review in one instance. However, in the instant inspection, it was again observed that there was delay in material event review in the case of India Power Corporation Limited (IPCL) for the material event triggered on June 13, 2022.*

4.6.12.10. *In view of the same, the submission of Brickwork that there was no violation of the regulations as alleged by SEBI, was not accepted by SEBI.*

4.6.13. *In view thereof, it is alleged that Noticee had violated provisions of Regulation 13 read with clause 8 of code of conduct under third schedule of SEBI (Credit Rating Agencies) Regulations, 1999 and Clause 1(B) and Clause 2(A)(III) of SEBI Circular SEBI/ HO/ MIRSD/ MIRSD4/ CIR/P/ 2017/71 dated June 30, 2017.*

4.7. *Failure to review rating in case of Material Event*

4.7.1. *It was observed that Brickwork has failed to conduct material event review in the case of case of Clix Capital Services Private Limited ("Clix") and Manappuram Finance Limited ("Manappuram") at 4 instances*

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

4.7.2. *Regulation 13 read with Clause 8 of Code of Conduct of CRA Regulations states the following*

> *"A credit rating agency shall keep track of all important changes relating to the client companies and shall develop efficient and responsive systems to yield timely and accurate ratings. Further a credit rating agency shall also monitor closely all relevant factors that might affect the creditworthiness of the issuers."*

4.7.3. *Clause 1(B) of SEBI Circular SEBI/ HO/ MIRSD/ MIRSD4/ CIR/P/ 2017/71 on Monitoring and Review of Ratings by Credit Rating Agencies (CRAs) dated June 30, 2017 and clause 9.2 of SEBI operational circular for CRAs dated January 06, 2023 states as below:*

"I. CRAs shall carry out a review of the ratings upon the occurrence of or announcement/ news of material events including, but not restricted to, the following:

a. <u>Quarterly/ Half-yearly/ Annual results</u>

b. Merger/ Demerger/ Amalgamation/ Acquisition

c. Corporate debt restructuring, reference to BIFR and winding-up petition filed by any party /creditors.

...

…

II. CRAs shall publish on their website press release regarding the rating action (including reiteration of existing rating), if warranted, immediately, but not later than 7 days of occurrence of the said event."

4.7.4. *Clause 2(A)(III) of SEBI Circular SEBI/ HO/ MIRSD/ MIRSD4/ CIR/P/ 2017/71 on Monitoring and Review of Ratings by Credit Rating Agencies (CRAs) dated June 30, 2017 and clause 27.3.4 of SEBI operational circular for CRAs dated January 06, 2023 states as below:*

Dissemination of Press Release on CRA's website and intimation of same to Stock Exchange/ Debenture Trustee in case of event based review:

Scenario	*Timeline-immediately but not later than*
…..	*…*
Material Events requiring review (as stated in point 1B	*7 working days of occurrence of the event*

4.7.5. *Further, Brickwork has internal policy on material event which is also included in Para 20.4 and 20.5 of its Operational Manual which inter-alia states that:*

Material Events: Further, if any material event occurs during the life-time of a rating, the Analyst should quickly carry out a review and come to a view on a possible rating action. <u>It is mandatory to carry out a rating review on occurrence of material events within the stipulated Regulatory timelines in the case of all the entities.</u>

Such "Material Events" could be the following (please note the list is indicative and not exhaustive):

- *<u>Quarterly / Half Yearly / Annual Results</u>*
- *Merger / Demerger /Amalgamation / Acquisition*
- *Corporate Debt Restructuring, reference to NCLT and winding up petition filed by any party/creditors.*
- *Significant decline in share prices/bond prices of the issuer or group companies, which is not linked to overall market movement*
- *Significant increase in debt level or cost of debt of the issuer company*
- *Losses, sharp revenue de-growth etc., based on publicly disclosed financial statement, which are not in line with CRA's earlier estimates*
- *Granting, withdrawal, surrender, cancellation or suspension of key licenses or regulatory approvals.*
- *Disruption/commencement/postponement of operations of any unit or division of the company*
- *Any attachment or prohibitory orders against the Issuer*
- *Any rating action taken by an International Rating Agency with respect to rating assigned to the Issuer/instruments issued by the Issuer.*
- *Sharp deviation in bond spreads of securities vis-avis relevant benchmark yield*

The Borrowers/Issuers are mandated to provide such information in terms of the Rating Agreement signed with BWR, as per the Rating Letters. Apart from this, Analysts or CPs should be watching public space for such information on a regular basis, review the rating, and take a rating action, if required. Any rating action should get immediately published, in terms of prescribed timelines. In some

situations, BWR may issue a Press Release, even if there is no rating action, indicating that the specific material event has been analysed, and in the opinion of BWR, it does not warrant a rating action.
….'

4.8. *Clix Capital Services Private Limited ("Clix")*

4.8.1. *During the course of inspection, it is observed from the Stock Exchange website that Clix Capital Services Private Limited ("Clix") has disclosed its annual financial results on May 30, 2022 and May 26, 2023. It may be noted that disclosure of financial results is in nature of a material event and as per SEBI circular, Brickwork is required to carry the material event review and issue the press release, if warranted, within 7 days from occurrence of the material event.*

4.8.2. *On seeking details of review /action taken on the above disclosure by Clix, Brickwork replied as below vide email dated February 15, 2024.*

Clix Capital Services P Ltd is an unlisted entity, and the bonds issued by it were listed on NSE. In both instances, the results (announced on 30 May 2022 & 26 May 2023 respectively) no alerts were received from any source, including the rated entity on account of the entity being unlisted.

At the time of the annual review/surveillance of the rating on 25 Aug 2022, the results -annual for FY22 and Q1FY 23 - were examined in detail. The rating downgrade was on account of the decrease in the loan book and the weakened financial profile and asset quality. The NCD was due for maturity on 26 June 2023 and redeemed on the due date. The rating was withdrawn on account of full redemption on 31 Aug 2023 after receipt of the necessary documents in accordance with the extant policy and guidelines. At that time, the financials were not examined as the redemption was in full and the rating was being withdrawn."

4.8.3. *In view of the above, SEBI noted from the reply of Brickwork that it allegedly failed to track the material event (annual results) in the instant case despite clix disclosing the annual results on the stock exchange website at two instances.*

Manappuram Finance Limited ("Manappuram")

4.8.4. *It was observed that Manappuram had disclosed its financial results on May 18, 2022 and quarterly results on February 03, 2023 which are in nature of a material events.*

4.8.5. *On seeking the details of review on the disclosures made by Manappuram, Brickwork replied as below vide email dated February 14, 2024.*
The then analyst followed up with the company about the declaration of the Q4 FY22 results on 12 May 2022. The mail sent by the analyst is attached. The analyst had already resigned and was on her last working days with BWR. The results declared on 18 May 2022 were missed by her as she was on her way out. The case was reallocated to another analyst on 06 June 2022. As the annual review of the ratings had already been done, the declaration of the results escaped attention.

The results were inadvertently not put up to the rating committee. The unaudited results for Q3FY23 were taken into consideration at the time of the annual review of the ratings on 21 March 2023. BWR was in discussions with the company for the annual review from Feb 2023 onwards.

4.8.6. *In view of the above, SEBI noted from the reply of Brickwork that it had allegedly failed to track the material event (annual results and quarterly results) in the instant case despite Manappuram disclosing the financial results on the stock exchange website at two instances.*

4.8.7. *The details of instances where Brickwork has failed to conduct material event review is summarized as under:*

Issuer Name	*Type of Material event*	*Date of intimation/Stock exchange disclosure (Material event trigger date)*
Clix Capital Services Private Limited ("Clix")	*Disclosure of Annual results*	*May 30, 2022*
Clix Capital Services Private Limited ("Clix")	*Disclosure of Annual results*	*May 26, 2023*
Manappuram Finance Limited ("Manappuram")	*Disclosure of Annual results*	*May 18, 2022*
Manappuram Finance Limited ("Manappuram")	*Disclosure of quarterly results*	*February 03, 2023*

4.8.8. *In view of the above, SEBI noted that Brickwork had missed the disclosure of financial results which is a material event and thus failed to access its impact on the rating in the instant cases which is in violation of SEBI guideline regarding material event review.*

4.8.9. *It was further stated that enquiry proceedings were initiated against Brickwork leading to cancellation of its registration certificate vide SEBI order dated October 06, 2022 whereby one of the findings was delay in material event review in one instance. However, in the instant inspection, it was again observed that Brickwork had failed to carry out material event review in the case of Clix Capital Services Private Limited ("Clix") and Manappuram Finance Limited ("Manappuram") for the material event triggered on May 26, 2023 and February 03, 2023, respectively.*

4.8.10. *In this regard, Brickwork submitted their reply to the observations of SEBI, pursuant to which SEBI conducted Post Inspection Analysis (PIA) with respect to SEBI findings vis-à-vis the reply of Brickwork wherein it was inter alia observed and/ or alleged as follows:*

Clix Capital Services Private Limited ("Clix"):

4.8.10.1. *Brickwork had failed to track the disclosure of annual results in two instances and its submission that no alert was received as it was equity unlisted may not be accepted as the disclosures were available on stock exchange website which Brickwork had failed to track.*

4.8.10.2. *Further, Brickwork itself had submitted that at the time of the annual review/surveillance of the rating on 25 August 2022, the rating was downgraded due to the decrease in the loan book and the weakened financial profile and asset quality as evident from a scrutiny of the annual results for FY22 and Q1FY 23.*

4.8.10.3. *Hence, Brickwork's further submission that the non-examination of the results did not impact the market and redemptions were not impacted even after the rating downgrade, was not accepted by SEBI.*

Manappuram Finance Limited ("Manappuram"):

4.8.10.4. *Brickwork had admitted its lapse with regards to failure to conduct material event review in the instant case.*

4.8.10.5. *Brickwork further submitted that an oversight had happened purely due to circumstances beyond the control of the rating team/organization due to the extraordinarily adverse circumstances triggered by the adverse regulatory action.*

4.8.10.6. *However, it was to be noted that regulatory actions are issued to entities for its non-compliance of various regulations and deficiency observed in the various processes run by the entity. The purpose of it is to improve compliance by regulated entities and prevent any wrongdoings and non-compliance.*

4.8.10.7. *Thus, the claim by Brickwork that regulatory actions was the reason for such failure in carrying out material event review was not accepted by SEBI as via the regulatory action it is expected of an entity to act in prompt manner to take corrective action and prevent repetition of such non-compliance.*

4.8.10.8. *It was further stated that an enquiry proceedings were initiated against Brickwork leading to cancellation of its registration certificate vide SEBI order dated October 06, 2022 whereby one of the findings was delay in material event review in one instance. However, in the instant inspection, it was again observed that Brickwork had failed to carry out material event review in the case of Clix Capital Services Private Limited ("Clix") and Manappuram Finance Limited ("Manappuram") for the material event triggered on May 26, 2023 and February 03, 2023, respectively.*

4.8.10.9. *In view of the above, the reply of Brickwork that SEBI ought not to consider this as a violation of the Regulations / Circular was not accepted by SEBI.*

4.8.11. *In view thereof, it is alleged that Noticee had violated provisions of Regulation 13 read with clause 8 of code of conduct under third schedule of SEBI (Credit Rating Agencies) Regulations, 1999; Clause 1(B) and Clause 2(A)(III) of SEBI Circular SEBI/ HO/ MIRSD/ MIRSD4/ CIR/P/ 2017/71 dated June 30, 2017 and Clause 9.2 and clause 27.3.4 of SEBI operational circular SEBI/HO/DDHS/DDHS-RACPOD2/P/CIR/2023/6 dated January 06, 2023.*

4.9. *Delay in release of Press Release*

4.9.1. *It was observed that Brickwork had failed to adhere to the timeline with respect to disclosure of press release for the periodic surveillance in the cases of - Whispering Heights Real Estate Private Limited and India Power Corporation Ltd.*

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

4.9.2. *Regulation 15(2) of CRA Regulations states as below:*

(2) Every credit rating agency shall disseminate information regarding newly assigned ratings, and changes in earlier rating promptly through press releases and websites, and, in the case of securities issued by listed companies, such information shall also be provided simultaneously to the concerned regional stock exchange and to all the stock exchanges where the said securities are listed.

4.9.3. *Regulation 24(2) of CRA Regulations states as below:*

"Every credit rating agency shall, in all cases, follow a proper rating process"

4.9.4. *Clause 2(A)(II) of SEBI circular SEBI/ HO/ MIRSD/ MIRSD4/ CIR/ P/ 2017/ 71 dated June 30, 2017 and Clause 27.3.3 of SEBI Master circular dated July 03, 2023 stipulates as below with regards to the timeline for dissemination of Press Release in the case of Periodic surveillance:*

Periodic Surveillance

Scenario	*Timeline - immediately but not later than*
Dissemination of Press Release on CRA's website and intimation of same to Stock Exchange/	*5 working days of Rating Committee Meeting*

Whispering Heights Real Estate Private Limited ("Whispering"):

4.9.5. *During the course of inspection, it was observed that Brickwork had revised the rating of NCDs of Whispering Heights Real Estate Private Limited ("Whispering") vide press release dated November 28, 2023. However, on perusal of Rating Committee Note, it was observed that the Rating Committee Meeting (RCM) took place on November 09, 2023. Hence, there was a delay in the release of PR beyond 5 working days of RCM.*

India Power Corporation Ltd ("India Power"):

4.9.6. *Similarly, it was observed that Brickwork had revised the rating of NCDs of India Power Corporation Ltd ("India Power") vide press release dated July 12, 2022. However, on perusal of minutes of Rating Committee Note, it was observed that the Rating Committee Meeting (RCM) took place on June 28, 2022. Hence, there was a delay in the release of PR beyond 5 working days of RCM.*

4.9.7. *The summary of the delay in PR by Brickwork in periodic surveillance cases was summarized as below:*

Issuer name	*Instrument*	*Amount (INR Crs)*	*Date of RCM*	*Date of PR*
Whispering Heights Real Estate Private Limited	*NCDs*	*156*	*November 09, 2023*	*November 28, 2023*
India Power Corporation Ltd	*NCDs*	*4*	*June 28, 2022*	*July 12, 2022*

4.9.8. *In view of the above, SEBI noted that Brickwork had failed to adhere to the timeline with respect to disclosure of press release for the periodic surveillance in the instant cases.*

4.9.9. *It was further stated that enquiry proceedings were initiated against Brickwork leading to cancellation of its registration certificate vide SEBI order dated October 06, 2022 whereby one of the findings was delay in publishing of Press release (PR) pursuant to the meeting of the rating committee in one instance. However, in the instant inspection, it was again observed that Brickwork had failed to publish the PR within timeline in the case of Whispering Heights Real Estate Private Limited for the RCM held on November 09, 2023.*

4.9.10. *In this regard, Brickwork submitted their reply to the observations of SEBI, pursuant to which SEBI conducted Post Inspection Analysis (PIA) with respect to SEBI findings vis-à-vis the reply of Brickwork wherein it was inter alia observed and/ or alleged as follows:*

4.9.10.1. *Brickwork has admitted its lapse for delay in releasing the PR withing the stipulated timeline from the date of Rating Committee meeting (RCM) in both the instances.*

4.9.10.2. *In view of the above, the reply of Brickwork that the minor unintentional delay should not to be considered as a violation of the SEBI Regulations, may not be accepted.*

4.9.10.3. *It was further stated that enquiry proceedings were initiated against Brickwork leading to cancellation of its registration certificate vide SEBI order dated October 06, 2022 whereby one of the findings was delay in publishing of Press release (PR) pursuant to the meeting of the rating committee in one instance. However, in the instant inspection, it was again observed that Brickwork had failed to publish the PR within timeline in the case of Whispering Heights Real Estate Private Limited for the RCM held on November 09, 2023.*

4.9.10.4. *In view of the above, the reply of Brickwork that minor unintentional delay, should not to be considered as a violation of the SEBI Regulations, was not accepted by SEBI.*

4.9.11. *In view thereof, it is alleged that Noticee had violated provisions of Regulation 15(2) of SEBI (Credit Rating Agencies) Regulations, 1999; Regulation 24(2) of SEBI (Credit Rating Agencies) Regulations, 1999; Clause 2(A)(II) of SEBI circular SEBI/ HO/ MIRSD/ MIRSD4/ CIR/ P/ 2017/ 71 dated June 30, 2017; and Clause 27.3.3 of SEBI Master circular SEBI/HO/DDHS/DDHS-POD2/P/CIR/2023/111 dated July 03, 2023*

…'

7. Vide email and letter dated July 24, 2024, Noticee submitted its reply to the SCN through its Authorised Representative i.e. Samvad Partners.

8. In the interest of principles of natural justice, vide Hearing Notice dated August 27, 2024, an opportunity of hearing was afforded to the Noticee on September 03, 2024. On the scheduled date of hearing i.e. September 03, 2024, the Noticee availed the opportunity of hearing through its Authorised Representatives (ARs) viz., Mrs. Savani Gupte, Partner, Samvad Partners, Mr. Lalit Munshi, Principal Associate, Samvad Partners, Ms. Aliya Tabassum, Associate, Samvad Partners, Mrs. Sangeeta Kulkarni, Executive Director,

Brickwork, Mr. Ritaban Basu, Head-Rating Models and Policy, Brickwork (Authorisation letter dated July 22, 2024). During the hearing, the ARs relied upon and reiterated the submissions made vide Noticee's reply dated July 24, 2024. The ARs sought time to make further submissions as final and complete submissions to be made in respect of the Noticee in the instant proceedings, accordingly time till September 13, 2024 was allowed. Vide email and letter dated September 13, 2024, Noticee filed its post hearing submissions.

9. Vide email dated August 22, 2024, office of Adjudicating Officer was informed that the Noticee had filed settlement Application for the instant Adjudication Proceedings on August 22, 2024. In this regard, during the hearing on September 03, 2024, the ARs inter alia stated that the Noticee was contemplating withdrawing the Settlement Application filed in the instant matter. Further in this regard, vide email dated September 11, 2024, concerned department of SEBI informed the office of Adjudicating Officer that the settlement application to settle instant Adjudication Proceedings was withdrawn by the Noticee.

10. The key submissions made by the Noticee vide emails and letters dated July 24, 2024 and September 13, 2024 as reply and additional submissions to the SCN, respectively, are as under:

Submissions dated July 24, 2024:

'…

Brief Background

6. *During the period between 22 January 2024 to 25 January 2024, an inspection was conducted by SEBI for the period 1 February 2022 to 30 November 2023 ("Inspection Period"). The findings of the inspection were communicated to the Noticee for its comments on 26 February 2024 and the Noticee furnished its replies to the observations on 17 March 2024 and 20 March 2024 ("Reply to Observations"). Thereafter, the Noticee was served with an Administrative Warning dated 26 March 2024. The Noticee has taken due cognizance of the Administrative Warning and took necessary steps to address the concerns raised by SEBI in the Administrative Warning. Accordingly, vide its letter dated 17 April 2024, the Noticee submitted an action taken report to SEBI, with respect to the issues highlighted by SEBI in the Administrative Warning. In its report, the Noticee set out, in detail, the remedial measures taken to overhaul its complete process and procedures in line with the observations and suggestions made by SEBI. Further, as also directed in the Administrative Warning, the observations of the inspection were also placed before the Board of Directors of the Noticee for their comments, and the extract of the minutes of the Board Meeting was also shared with SEBI on 20 June 2024. The Noticee craves leave to refer and rely upon all the above-mentioned documents, as and when the need so arises.*
7. *Thereafter, the learned Adjudicating Officer ("AO") issued the captioned SCN dated 4 July 2024, under Inquiry Rules, read with Section 15-I of SEBI Act, recommending imposition of penalty under Section 15HB of the SEBI Act. The SCN was received by the Noticee on 8 July 2024.*

Preliminary Submissions

8. *At the outset, it is submitted that the Ld. AO has arrived at the findings in the SCN without considering all material facts, as more particularly stated in the Reply to Observations by our client, and more particularly detailed hereinbelow. Additionally, the Ld. AO has also failed to consider the various remedial steps already taken by Brickwork, thereby achieving the very purpose of conducting an inspection. It is a settled law that the purpose of inspection is not punitive but to merely to make the intermediary comply with the procedural requirements.*

9. It further bears mentioning that the findings/observations of the Ld. AO in the said SCN are subsumed in and stand remedied by the Noticee's compliances of the directions contained in the 13 September 2023 order of the Ld. Whole Time Members, SEBI ("Ld. WTM"), passed in a previous inspection. The Ld. WTM, on 13 September 2023, passed an order containing various directions to be complied with by the Noticee, in terms of its processes and management, and had restricted the Noticee from onboarding new clients and taking up new mandates from existing clients, till complete compliance. Pursuant to the aforesaid, SEBI conducted an inspection in the month of February 2024 (i.e. after the Inspection Period in the current SCN) to verify compliance of the directions in its 13 September 2023 order. Thereafter, vide letter dated 26 March 2024, SEBI held the Noticee to be in sufficient compliance of all of SEBI's directions, thereby permitting the Noticee to continue its operations without any restrictions. It is submitted that the observations/findings of the Ld. AO in the current SCN are subsumed in the directions already issued by SEBI in its 13 September 2023 Order, which now stand complied with as per SEBI's letter of 26 March 2024. Since the object of inspection is remedial and not punitive, it is submitted that the instant proceedings be dropped without imposing any penalty on the Noticee. A copy of the Ld. WTM's order of 13 September 2023 is hereto annexed as Annexure – A, a copy of SEBI's letter of 26 March 2024 is annexed as Annexure – B, and a table showing how each observation as contained in the present SCN is subsumed in the compliance of the directions contained in the 13 September 2023 order, is annexed as Annexure – C.

10. In addition to the above, the Noticee has over the past 2 years, taken number of remedial measures to assuage regulatory concerns. The Noticee has formulated and implemented various measures and operational changes to strengthen their rating and compliance processes, including but not limited to the following:

a. The Noticee has taken several steps to build a culture of compliance, including weekly trainings on sectors, rating process, quality and the rating software. Noticee has also made it mandatory for employees to know all the regulations and have made daily email tips, quizzes on the OPM and policies a regular practice.

b. To enhance compliance and foster a performance-driven culture, the Noticee has implemented a Staff Accountability Policy and developed new Key Performance Indicators ("KPI"). These KPIs emphasize compliance and quality as critical components of the rating team's performance evaluation.

c. With the objective of improving the quality of the workforce, the Noticee has made several critical hirings in the past few months:

i. In February 2024 the Noticee engaged 2 external members, both senior bankers, to be Chairman and Alternate Chairman of the Central Rating Committee, which is the highest Rating Committee.

ii. The Noticee has also hired a Compliance Officer (with CS and legal qualification having around 20 years of experience), HR Head, 2 Sector Heads, 1 MIS Head and around 10 experienced Rating analysts.

d. As a step towards expanding its operations, Noticee has already opened a branch office in Mumbai and is planning to open one in Delhi shortly.

e. The Noticee has invested heavily in software development and brought in tremendous number of processes under automation. In fact, the Noticee sincerely believes that by 2025, the Noticee will probably have the highest levels of automation in the industry. While the Noticee's entire focus for automation had been for bank loan ratings thus far, in 2024, Noticee has also taken substantial steps in focusing on automation of the NCD process, as well. The Noticee has already completed approximately 70% automation and is in the final stages of completely automating the NCD workflow by September 2024. With this automation, the Noticee expects to close all the process related gaps that were observed in the inspections.

f. Following are a brief list of automations completed to streamline processes, compliance and improve the quality of rating:

i. The models of the Noticee are now hosted in the internal Rating software which does not allow analysts to make any changes to be made in the weights of parameters or any changes to the methodology, for that matter. Also, it mandates that all the parameters have to be necessarily scored without which the system will not allow computation of scores and hence rating. This ensures sanctity and uniformity of rating methodology across analysts.

ii. Additionally, the Noticee has developed a software module to streamline the rating committee flow and capture all the observations and feedback of the rating committee members.

iii. The review of the rating models has been completed and only minor optional improvements have been suggested by the third-party firm. Noticee is yet to act on the same since the third-party firm is also currently conducting an independent testing of the existing models to ascertain the accuracy of output of those models. Changes, if any, will be discussed post the report from the consultant and appropriate action will be taken accordingly.

iv. The Securitization Model has been developed in December 2023 and implemented in 2024, after due discussion with the Criteria Committee. The model standardized the parameters and benchmarks for use in case of securitization rating.

The above would also cover all the observations/findings of the Ld. AO in the said SCN. In any event, the Noticee has also set out the remedial measures, specific to each observations/finding in the foregoing paragraphs.

11. Thus, in light thereof, no further imposition of penalty, as suggested in the said SCN is warranted, under the SEBI Act and/or under any other regulations/circulars, issued by SEBI.

Response to the findings of the inspection in the SCN

12. RATING OF SECURITIES ISSUED BY BORROWER OF PROMOTER OF CRA [Paragraph 4.1 of the SCN]

a) *Observations/findings of SEBI as per the SCN:*

i) SEBI has observed that in three instances, Brickwork has rated entities, namely TVS Credit Services Limited, Kosamattam Finance Limited and Dhani Loans and Services Limited, which had outstanding bank loan facilities from the promoter of the Noticee i.e. Canara Bank.

ii) SEBI has recorded (though not appreciated) the Noticee's response inter alia that the ratings of the 3 issuers have now been withdrawn; that the Noticee's understanding of Section 27(1) of CRA Regulations was such that the restrictions contained in (a), (b) and (c) of Regulation 27(1) would apply only in cases when any of the criteria's under (i), (ii) or (iii) are also attracted; and that the Noticee has now put in place a system to verify whether a client is a borrower of a promoter or not.

iii) SEBI has however observed that in the three cases there was a violation of Regulation 27(1), holding that a CRA cannot rate securities of an issuer who are a borrower of its promoter. SEBI has also observed that at the relevant time the Noticee did not have any mechanism to ensure compliance with Regulation 27(1) of the CRA Regulations.

iv) Based on the above, SEBI has held that the Noticee has violated Regulations 27(1) of CRA Regulations and Regulation 13 read with Clause 14 of the Code of Conduct under third schedule of CRA Regulations.

b) *Response of Noticee:*

i) At the outset, the Noticee is grateful for the said clarification provided by SEBI with respect to the applicability of Regulation 27(1) of CRA Regulations. In fact, after this issue was raised by SEBI in the Observations initially sent to the Noticee on 26 February 2024, the Noticee has implemented a robust automated mechanism in its software which would ensure that entities who are borrowers of Canara Bank are not onboarded as clients The Business Development team while opening a mandate on Noticee's software (B-CRISP), will have to answer the question "Is this client a current borrower of Canara Bank?". If they select "Yes", they will not be able to move further and create the mandate. A screenshot of B-CRISP software of the Noticee showing the same is annexed as Annexure – "D". Even with respect to surveillance mandates, the QR team raises the alarm in case the issuer is a borrower of our Promoter i.e. Canara Bank, and accordingly appropriate action is taken.

ii) It is further imperative to mention that despite the Noticee stating that all the bank loan ratings of the 3 issuers i.e. TVS Credit Services Limited, Kosamattam Finance Limited and Dhani Loans and Services Limited, have been withdrawn, the Ld. AO has still held the Noticee to be in violation of Regulation 27(1). In addition to the same, while at the time of inspection, the Noticee may have not had a mechanism in place to verify whether a client is a borrower of Noticee's promoter, however, subsequently, the Noticee has put in a place a robust automated mechanism to ensure compliance of Regulation 27(1) of the CRA Regulations.

iii) This has been set out in detail in Para 3 of Noticee's Reply to Observations. However, despite considering the same, SEBI has held the Noticee to be in violation of Regulation 27(1) of CRA Regulations. This is against the very intent and purpose of inspection, as the purpose of inspection is remedial and not punitive, which the Noticee has already remedied to ensure that no such alleged lapses happen in future.

iv) In addition to the above, Noticee had also informed SEBI that the Noticee has educated all its business development members and analyst not to accept mandates of securities from clients who are borrowers of Brickwork's Promoter, and to verify this information before accepting mandates of such securities.

v) Therefore, in view of the above, it is clear that the said inadvertent error was not intentional and has occurred due to some ambiguity in interpretation of the regulations. It further bears mentioning that no market wide impact has been caused due to the said inadvertent error on the part of the Noticee. These are minor operational errors which ought not to be escalated to such regulatory proceedings.

vi) It is thus once again submitted that the said finding should be not considered as a violation on part of the Noticee, and the same be dropped against the Noticee, in light of the remedial steps taken and already implemented to prevent a repetition of the incident.

vii) Should SEBI have any additional recommendations for remedies that Brickwork could adopt as part of its preventive measures, Brickwork is entirely prepared to comply with them.

13. DISCREPANCY IN DISCLOSURE OF CUMULATIVE DEFAULT RATES (CDR's) AND AVERAGE RATING TRANSITION RATE FOR LISTED AND PROPOSED TO BE LISTED SECURITIES [Paragraph 4.2 of the SCN]

a) Observations/findings of SEBI as per SCN:

i) It is observed by SEBI that during the inspection, Noticee had disclosed two CDRs and average rating transition rate separately for listed or proposed to be listed securities for the FY 2022-23.

ii) SEBI observed that static pool for calculation of CDRs and average rating transition rate of listed or proposed to be listed for FY 2022-23 with INC, included date of instruments, as stated below, which were not securities as defined in Clause (h) of Section 2 of Securities Contracts (Regulation) Act, 1956 ("SCRA"):

Company Name	Instrument	PR	Rating
The Bombay Dyeing and Manufacturing Company Ltd.	Fixed Deposit	December 29, 2022	BBB+
SRS Read Infrastructure Ltd.	Fixed Deposit	June 29, 2022	D
Transcorp International Ltd.	Fixed Deposit	December 29, 2022	BBB-
Sambandam Spinning Mills Ltd.	Fixed Deposit	September 12, 2022	BB+

iii) SEBI also observed that the static pool for calculation of CDRs and average rating transition rate of listed or proposed to be listed for FY 2022-23 without including INC includes data of certain instruments, as stated below, which are not securities as defined in clause (h) of Section 2 of the SCRA:

Company Name	Instrument	PR	Rating
The Bombay Dyeing and Manufacturing Company Ltd.	Fixed Deposit	December 29, 2022	BBB+
SRS Read Infrastructure Ltd.	Fixed Deposit	June 29, 2022	D
Transcorp International Ltd.	Fixed Deposit	December 29, 2022	BBB-

iv) In view of the above, SEBI has arrived at the finding that the Noticee has admitted to the lapse and has failed to exercise due diligence and should not have made such misrepresentation in any document/disclosure. SEBI has thus held the Noticee to be in violation of the provisions of Regulation 13 read with clause 2,4 and 12 of Code of conduct under third schedule of SEBI (Credit Rating Agencies) Regulations, 1999 and Clause 26.4.1.8 of SEBI Master Circular dated 3rd July 2023.

b) Response of Noticee:

i) At the outset, it is denied that the Noticee has violated Regulation 13 read with clause 2, 4 and 12 of Code of conduct under third schedule of SEBI (Credit Rating Agencies) Regulations, 1999 and Clause 26.4.1.8 of SEBI Master Circular dated 3rd July 2023.

ii) It is submitted that SEBI has not taken into consideration the response given by the Noticee in Para 13 of the Reply to Observations. As stated therein, the inadvertent inclusion of Fixed Deposits in the calculation of Static Pool INC has no material impact on the calculation of CDR. Below is the comparison of the previously reported CDR for FY 2022-23 (where inadvertently, Fixed Deposits were also included) with the re-computed CDR after removing the said issuances:

Long Term Long Run (LTLR) CDR for listed and to be listed securities including INC

…

Long Term Long Run (LTLR) CDR for listed and to be listed securities excluding INC:

….

iii) Noticee submits that SEBI has not taken the above into consideration while arriving at its finding in the SCN. It is further submitted that on the perusal of the above information, the following observations can be made based on the analysis:

a. There is no change in calculated CDRs in most of the rating grades.
b. In the CDR including INC, there is a slight improvement in the calculated values in the BBB grade when the stated issuances are removed from the cohort. Hence, the reported number was more conservative than what should have been.
c. In the CDR excluding INC, for the BBB grade, there is a marginal increase of 0.29% in the CDR values due to the above-mentioned adjustment.
d. The above clearly showcases that this was an inadvertent and operational error, with no adverse impact.

iv) Thus, in view of the above, the Noticee submits that the same be taken into consideration, and the said alleged observation/finding ought not to be considered as a violation of Regulation 13 read with clause 2, 4 and 12 of Code of *conduct under third schedule of SEBI (Credit Rating Agencies) Regulations, 1999 and Clause 26.4.1.8 of SEBI Master Circular dated 3rd July 2023.*

v) *Noticee also submits that the same is a minor operational/procedural error on part of the Noticee, which was inadvertent and unintentional. No market wide impact or any loss to the investor has been caused. Thus, for this reason also, the said observation/finding be dropped.*

vi) *Remedial Measures:*

   a. *Kindly note that the Noticee has now ensured, and it is continuously training its analysts and other personnel to be extremely vigilant and exercise due diligence in calculating CDR and its rates.*

   b. *Noticee has also put in place a process to ensure filtering of data to exclude any instruments which are not securities as defined in clause(h) of section 2 of the Securities Contracts (Regulation) Act, 1956, from the static pool. This change in code has been made in our software that creates the static pool automatically. This should ensure that the issue is not repeated.*

14. *DELAY IN ANNUAL SUREVILLANCE/REVIEW OF RATING [Paragraph 4.3 of the SCN]*

a) *Observations/findings of SEBI as per SCN:*

   i) *SEBI observed that the Noticee has delayed in conducting annual surveillance in rating NCDs in 362 instances with delay ranging from 2 to 124 days. Further, a perusal of Noticee's website by SEBI revealed that Brickwork had conducted an annual review for IIFL Finance Limited with a delay of 118 days.*

   ii) *In view of the same, SEBI held in its Inspection Report that the timelines prescribed in its internal Rating Process Manual ("RPM") in the mentioned cases were not followed and thus, the Noticee failed to follow a proper rating process.*

   iii) *SEBI considered Noticee's response to the observations, pursuant to which SEBI conducted a Post Inspection Analysis ("PIA") wherein it observed that the Noticee has failed to comply with the 12 moths time period within which it had to review outstanding ratings. However, the Noticee claimed that since the CRA Regulations and the relevant circulars do not specify an outer limit for such a timeline, it provides CRAs discretion to decide on the same.*

   iv) *However, in the SCN SEBI has now pointed out Regulation 55 of SEBI (LODR) Regulations, 2015 ("LODR Regulations"), which specifies the timeline for rating non-convertible securities of listed entities 'at least once a year'. Thus, SEBI has observed that the Noticee's claim that annual review of ratings specific in its OPM is not mandatory to follow may be rejected as LODR Regulations mandates review of rating assigned to non-convertible securities of listed entity at least once a year.*

   v) *Further, SEBI rejected Noticee's explanation that regulatory actions was the reason for delay in carrying out annual review of rating and stated that the purpose of the regulatory action is to ensure that the Noticee acts in a prompt manner to take corrective action and prevent repetition of such non-compliance.*

   vi) *SEBI also held that previously, proceedings were held against Noticee which led to cancelling of its registration certificate by SEBI vide order dated 6 October 2022, whereby one of the findings was delay in review of the rating in one instance. However, the Noticee had failed to conduct the annual review within timeline in 212 instances (out of 362 instances), as found again in the instant inspection.*

   vii) *Hence, SEBI held Noticee to be in violation of Regulation 16(1), Regulation 24 (2) and Regulation 13 read with clause 3 of code of conduct of CRA Regulations.*

b) *Response of Noticee:*

   i) *At the outset, the Noticee would like to reiterate that there has been no violation of SEBI regulations and/or circulars with respect to the findings made in relation to the delay in annual surveillance/review of rating.*

   ii) *From a bare perusal of the SCN it is evident that SEBI has not considered the circumstances and the remedial steps, already taken by the Noticee in relation to the said observations.*

   iii) *Further, even assuming that there has been such a delay, it is imperative to point out that the concerns highlighted by SEBI have already been remedied even to the satisfaction of SEBI, as is evident from SEBI's own letter on compliance dated 26 March 2024 as elaborated hereinbefore. SEBI has observed, in the SCN, that even previously, proceedings were held against Noticee which led to the cancellation order of 6 October 2022 (in the 3rd Inspection). However, while noting the proceedings in the 3rd Inspection, SEBI has not considered that in the same 3rd Inspection, the Hon'ble SAT had set aside the cancellation, and remitted the matter back to SEBI, and SEBI had passed detailed directions on 13 September 2023 for various changes to be carried out by the Noticee to address all the concerns highlighted in the 3rd Inspection. The said directions were complied with at the satisfaction of SEBI, which culminated in the 26 March 2024 letter of SEBI by which SEBI has permitted the Noticee to continue its operations without any restriction. Even apart from this, as also elaborated below, numerous additional remedial steps have been taken by the Noticee to avoid any future violations. Accordingly, since the object of inspection is remedial in nature, it is submitted that no penalty is warranted at all in the instant case.*

   iv) *In any event, the Noticee denies that there has been any violation. The Noticee submits that the CRA Regulations, of which the Noticee is held to be in violation of, nowhere prescribes any outer time limit for carrying out such periodic review/surveillance of ratings, nor does the SEBI Master Circular of 3 July 2023 and SEBI Circular SEBI/HO/MIRSD/MIRSD4/CIR/P/2016/119 dated 1 November 2016. To the contrary, the said circulars provide only broad guidelines, and pertinently point 1 of Annexure A to the 1 November 2016 Circular permits CRAs to formulate their own operating guidelines, criteria, policies, and procedure in relation to conduct surveillance of ratings.*

   v) *Moreover, even in cases where there may be a delay beyond what is prescribed in the Noticee's OPM, it is submitted that while the Noticee does strive to ensure compliance with the timelines in its OPMs the said timelines in OPMs cannot be equated to a regulatory requirement so as to hold Brickwork in violation of SEBI Circulars / Regulations. This has explicitly been observed by the Hon'ble Securities Appellate Tribunal ("Hon'ble SAT") in the Noticee's matter, in Order dated 6 June 2023, specifically in relation to surveillance mandates. The relevant extract of the 6 June 2023 order is set out hereinbelow:*

      "19. …we are of the opinion that the indicative timeline in an operational manual cannot be elevated to a statutory requirement and non-compliance of the timelines indicated in the internal manual cannot be a ground to impose a penalty. Further, the timelines are indicative in nature. They are not cast in stones and the completion of ratings depends on various factors which are supplied by third parties over whom the appellant has no control…"

   A copy of the Order dated 6 June 2023 of the Hon'ble SAT is hereto annexed and marked as Annexure – "E".

   vi) *Therefore, as observed by the Hon'ble SAT, SEBI ought to have also taken into consideration the delays caused by the parties in providing the relevant details, to enable the Noticee to complete the surveillance. These factors are beyond the control of CRAs, and thus such alleged lapses ought not be considered as violations.*

   vii) *Brickwork has incorporated provisions for annual surveillance in its Operations Policy Manuals / Rating Process Manuals ("OPMs/RPMs"), which are revised and updated from time to time. Copies of the OPMs have been routinely made available to and furnished to SEBI, during inspections and otherwise.*

   viii) *SEBI also ought to have considered that of a total of 204 rating team employees, around 150 rating team employees left the Noticee during the current inspection period. Further, over 90% of the exits comprised senior, experienced analysts with experience in the CRA industry and the Noticee, ranging from 2 years to 12 years. Noticee states that despite this, the subsequently onboarded employees were at the junior analyst level and required significant training to get familiarized with the credit rating processes and regulatory framework. The Noticee has consistently tried to* *ensure that adequate training is continuously provided to all employees for optimum utilization of resources and manpower in the best interest of the company, clients and the employees ensuring that all the compliances under SEBI are delt with efficiently.*

ix) As regards delay in review, in addition to the fact of significantly depleted manpower resources, the situation was further exacerbated as there was reluctance in providing information for review by many of the rated entities due to the unusual circumstances faced by the Noticee following SEBI's cancellation order including the continued restriction on onboarding new clients and mandates, and various circulars issued by Reserve Bank of India ("RBI") in relation to SEBI's order on cancellation of Noticee's license. This again resulted in delay in obtaining required information.

x) Further, SEBI's reliance on Regulation 55 of LODR Regulations, finds no reference in either the CRA Regulations, the Circular of 1 November 2016 or the Master Circular of 3 July 2023 or even SEBI's own Inspection Observations. In any event, the said LODR Regulations came into force in 2015, which is prior to the 1 November 2016 Circular and the 3 July 2023 Master Circular (hereinafter collectively referred to as the "Circulars"). Thus, the Noticee continued to be guided by the said Circulars. It is only for the first time in the SCN that SEBI has placed reliance on the LODR Regulations, with respect to timeline for completion of the surveillance of NCDs and no such observation was made by SEBI since the said LODR Regulations have come into effect.

xi) In any event, the Noticee has recently in May 2024 further amended its OPM, which came into effect from 1 June 2024, whereby in Clause 21, the Noticee has issued internal guidelines that the NCDs will be reviewed once every year and the gap between two consecutive press releases/rating rationales will not exceed 365 days. A copy of the relevant extract of the revised OPM of the Noticee is hereto annexed and marked as Annexure – "F".

Re: IIFL Finance Limited

xii) Further, with respect to the findings on IIFL, the Noticee reiterates what has been stated hereinabove.

xiii) In any event, the time taken for the surveillance of IIFL's NCDs can be explained. It submitted that the said company's financial results for Q1 for FY 2023 were noted by the respective Rating Committee which also oversees the review of the said rating. The Q1 results were noted on 10 August 2023, and based on the operational performance, it was accepted by the committee that there was no need for a change in rating. Hence, there was an internal review of the rating by the rating committee based on the quarterly results. The detailed review (annual surveillance) could not be completed in time due to a delay by the entity in providing the necessary information, other than the financials.

xiv) The entity also failed to provide time for a management discussion. In fact, it had been proposed to migrate the rating to the Issuer Not Cooperating Category, and the company had been duly informed about it. Post that, the company provided the information, and the detailed review was completed only on 1 December 2023.

xv) The results for Q2 of FY 2023-2024 results also considered at the time of review. As such, it is submitted that there was no delay in reviewing the rating as there were regular internal reviews based on quarterly results. It is also submitted that there was no change in the rating at the time of the annual review, and as such, the due rating process was followed.

Remedial Measures

xvi) The Noticee submits that the following steps have been taken to address the concerns raised by SEBI in relation to the delay in annual surveillance:

a. To ensure that there is continuity in a review process, the Noticee has ensured that there are at least two analysts appointed for a mandate.

b. The Noticee has been providing training to its analysts to familiarize them with the evolving regulatory and internal guidelines framework and the rating process.

c. The Noticee has ensured that adhering to the timelines is strictly embedded in its training processes.

d. Rating allocation unit has been advised to ensure appropriate workload balancing amongst analysts.

e. Adequate training in the internal rating workflow management software is being provided to every analyst.

f. The Noticee is making its best efforts to recruit experienced analysts with relevant experience to minimize lead time in handling the cases.

g. The Noticee has also hired various senior professionals since the lifting of the restrictions on 26 March 2024 i.e. a compliance officer, 2 sectoral heads, a MIS head and around 10 rating analysts. The Noticee has also opened a branch office in Mumbai and is planning to open one in Delhi shortly.

xvii) As stated above, the Noticee has also revised its OPM with respect to the review of ratings. As per the revised OPM, the review of ratings is done as follows:

a. For bonds and debentures, CP & CD program (and all forms of listed debt, regardless of the instrument name): once every 365 days (i.e. the no. of days between two consecutive press releases / rating rationales should not exceed 365 days (i.e. within 12 months).

b. For bank loan facilities: once every 455 days (i.e. the no. of days between the two consecutive press releases / rating rationales should not exceed 455 days (i.e., within 15 months).

c. In cases where the Noticee has outstanding ratings on both listed debt as well as bank loans, the review timeline shall not exceed 365 days (i.e. within 12 months) from the date of publishing the previous press release / rating rationale.

The above procedure is being strictly adhered to.

xviii) Thus, in light of the above, as the Noticee has already remedied the alleged lapse observed by SEBI, the said observation/finding against the Noticee ought to be dropped.

15. FAILURE TO CONDUCT ANNUAL SURVEILLANCE/REVIEW OF RATING [Paragraph 4.4 of the SCN]

a) *Observations by SEBI as per SCN:*

i) It was observed by SEBI that the Noticee allegedly failed to conduct annual surveillance in the case of Edel Land Limited as per its operational manual, and hence failed to follow a proper rating process.

ii) After the Noticee's response to the observations, SEBI conducted a PIA wherein it observed that Brickwork failed to comply with the 12 months time period within which it had to review outstanding ratings. However, Brickwork claimed that since the CRA Regulations and Circulars do not specify an outer limit for such a timeline, it provides CRAs a freehand to decide on the same.

iii) However, in the SCN SEBI has now pointed out Regulation 55 of LODR Regulations, which specifies the timeline for rating non-convertible securities of listed entities 'at least once a year'. Thus, SEBI has rejected the Noticee's explanation that the annual review of rating specified in the Noticee's OPM is not mandatory.

iv) Further, SEBI has also not accepted the Noticee's clarification about the impact of the change in analysts which lead to the alleged violation. SEBI has observed that this is an internal operation matter of the Noticee and that should have been addressed by the Noticee itself.

v) SEBI also observed that the Noticee being a CRA is expected to fulfil its obligations in a prompt, ethical and professional manner. However, the Noticee has failed to do so which led to the failure in conducting the annual review of Edel Land Limited.

vi) SEBI has further contended that previously, an enquiry proceeding was initiated against the Noticee leading to cancellation of its registration certificate vide order dated 6 October 2022, whereby one of the findings was delay in review of the rating in one instance. However, in the instant inspection, it was again observed that the Noticee failed to conduct the annual review in the case of Edel Land Limited.

vii) Hence, SEBI held that the Noticee was in violation of Regulation 16(1), Regulation 24 (2) and Regulation 13 read with clause 3 of code of conduct of CRA Regulations.

b) *Response of Noticee:*

i) At the outset, the Noticee reiterates what has been stated in Para 14(b) above, particularly that SEBI ought to take into account, the fact that the alleged violations are subsumed in the Noticee's compliance of SEBI's directions of 13 September 2023.

ii) The Noticee once again submits that SEBI Circulars i.e. circular dated 1 November 2016 and the Master Circular dated 3 July 2023, does not prescribe a time limit within which a CRA is required to complete the surveillance of the ratings. To the contrary, the said Circulars provides only broad guidelines, permitting CRAs to formulate their own operating guidelines., criteria, policies, and procedure in relation to conduct surveillance of ratings.

iii) Specifically in relation to the surveillance of securities of Edel Land Limited, while the Noticee had taken ample steps for the completion of the surveillance, however, the process was delayed due to various reasons which are beyond the Noticee's control, particularly, due to the abrupt exit of the analysts handling the mandate. In fact, this mandate has unfortunately seen a change of over 5 analysts and 2 rating team heads, due to which there has been an unintentional and inadvertent delay.

iv) Further, since the annual rating was not completed, the rating was shifted to an RNR Category as per our OPM. In any event, this delay is unintentional, not deliberate and has occurred due to extraneous reasons beyond Brickwork's control.

v) The Noticee had, in its Reply to the Observations, confirmed that the rating would be completed by the end of March 2024.The annual surveillance of Edel Land Limited has now been completed and the press release was made on 22 March 2024. In fact, there has been a material event-based review of the securities of Edel Land Limited, which is now called Ecap Equities Ltd., as RBI vide a Press Release 2024-2025/397 dated 29 May 2024, initiated supervisory Action against two Edelweiss group entities, ECL Finance Limited (ECL) and Edelweiss Asset Reconstruction Company Limited (EARCL), based on material supervisory concerns. Based on the same, the Noticee downgraded the rating and placed on rating watch vide its press release made on 7 June 2024. A copy of the press release made on 22 March 2024 and the press release made on 7 June 2024 are hereto annexed and marked as Annexure – "G".

vi) In addition to the above, as stated in detail in the remedial measures in Para 14(b)(vxii) the Noticee has also revised its OPM to ensure that the review of rating is completed within the time as more particularly prescribed therein, which is also in line with SEBI extant regulations.

vii) Therefore, in view of the above, as the same has already been remedied, and was, at best, inadvertent and unavoidable, the Noticee requests SEBI not to view this as a violation, and the said observation/finding be dropped from the SCN.

16. DELAY IN RECOGNITION OF DEFUALT [Paragraph 4.5 of the SCN]

a) *Observations by SEBI as per SCN:*

i) SEBI observed that Brickwork had failed to downgrade Tridhaatu Private Limited's ("Tridhaatu") rating within the stipulated two working days following default intimation by Debenture Trustee ("DT") on 7 February 2023. The delay with respect to recognising default is alleged to be of 191 working days.

ii) Clause 27.3.4 of SEBI operational circular dated 6 January 2023 (updated as on 3 February 2023) and SEBI Master Circular for CRAs dated 3 July 2023 inter alia requires CRAs to disseminate information regarding default by issuer within the following timelines:

Scenario	Timeline – Immediately but not later
Information from Issuer / Debenture Trustee / Bankers for the Issuer regarding delay in servicing debt obligation.	2 working days of intimation

iii) It was observed from the Centralized database for Corporate Bonds ("Database") that Thridhaatu had listed bond with ISIN INE00VH07017 rated by Brickwork, which had the following payment dates:

Issuer Name	ISIN	Type of Payment	Due Date
Tridhaatu Renovators Private Limited	INE00VH07017	Coupon	31 March 2022
		Principal	6 February 2023

iv) SEBI had observed that based on the information received from the Noticee, the DT had intimated the Noticee through an email about the default in redemption payment, which was due on 6 February 2023 for the ISIN of Thridhaatu, vide its email dated 7 February 2023.

v) SEBI has thus observed that the Noticee was obligated to downgrade the rating to default (D) within 2 workings days of being intimated of the default on 7 February 2023. However, the downgrading of the rating happened only on 20 November 2023, thereby resulting in a delay of 191 days.

vi) SEBI further observed that in a previous enquiry proceeding initiated against the Noticee which led to the cancellation of its registration certificate, vide order dated 6 October 2022, wherein one of the findings was delay in recognition of default in two instances. However, in the instant inspection, it was again observed that the Noticee has failed to recognize the default within the timelines in case of Tridhaatu.

vii) Hence, it is alleged that the Noticee is in violation of Regulation 24(2), Regulation 24(7), Regulation 13 read with clause 8 of code of conduct under third schedule of CRA Regulations; Clause 27.3.4 and Clause 7.5.1 read with Annexure 11 of SEBI Master circular for CRAs dated January 06, 2023 and July 03, 2023.

b) *Response of Noticee:*

i) From a perusal of the SCN, it appears that the response of the Noticee as stated in the Reply to Observations has not been considered in totality, and the Ld. AO has simply treated the same as an admission of default on part of the Noticee, without taking into account the circumstances in which such inadvertent error occurred.

ii) Further, even assuming that there has been such a delay, it is imperative to point out that the concerns highlighted by SEBI have already been remedied even to the satisfaction of SEBI, as is evident from SEBI's own letter on compliance dated 26 March 2024 as elaborated hereinbefore. SEBI has observed, in the SCN, that even previously, proceedings were held against Noticee which led to the cancellation order of 6 October 2022 (in the 3rd Inspection). However, while noting the proceedings in the 3rd Inspection, SEBI not considered that in the same 3rd Inspection, the Hon'ble SAT had set aside the cancellation, and remitted the matter back to SEBI, and SEBI had passed detailed directions on 13 September 2023 for various changes to be carried out by the Noticee to address all the concerns highlighted in the 3rd Inspection. The said directions were complied with at the satisfaction of SEBI, which culminated in the 26 March 2024 letter of SEBI by which SEBI has permitted the Noticee to continue its operations without any restriction. Even apart from this, as also elaborated below, numerous additional remedial steps have been taken by the Noticee to avoid any future violations. Accordingly, since the object of inspection is remedial in nature, it is submitted that no penalty is warranted at all in the instant case.

iii) At the risk of repetition, the reply of the Noticee is once again stated hereinbelow.

iv) The said inadvertent error was purely on account of high attrition of analysts and employees. Noticee states that in February 2023 (when the email from the debenture trustee was received in the above case), the Noticee was in the midst grappling with various challenges owing to the restriction on taking on new mandates and new clients as a result of the cancellation order of 6 October 2022 passed by SEBI (which was stayed by the Hon'ble SAT vide order of 14 October 2022 imposing certain restrictions on the Noticee).

v) At the relevant time i.e. in February 2023, Ms. Rutuja Sadanand Zajam was the analyst to whom Tridhaatu Renovators Pvt. Ltd., was assigned. On 3 February 2023, Ms. Rutuja Sadanand Zajam left the company. Due to the difficulties in attrition which were faced by Brickwork, there was an inadvertent delay / lapse in allocating this mandate of Tridhaatu to another / new analyst.

vi) Thus, amidst the leaving of the previous analyst and assignment of the this case to a new analyst, on 7 February 2023, when the DT sent an email to the Noticee at its generic id bwr-dt@brickworkratings.com, the said email was inadvertently missed. However, the same was taken into account at the time of conducting the annual surveillance on 17 November 2023, and the default was immediately recognized, and the rating was downgraded.

vii) It is submitted by the Noticee that the said lapse was purely unintentional and has not resulted in any market wide and/or any loss to the investors. Moreover, this lapse arose due to reasons beyond the Noticee's control and exclusively due to the difficulties that the Noticee was facing at the time in terms of lack of manpower, loss of business and inability to take on new mandates.

viii) In any event, as stated above, the whole purpose of a regulator conducting an inspection is remedial and not punitive. Thus, in respect thereof, the Noticee has since taken various remedial steps to ensure that such incidents are not repeated.

Remedial Measures:

ix) It is submitted that the Noticee, to ensure timely handling of rating actions, we have now set a new process and timelines for exit and reallocation as given below, which will be implemented with immediate effect:

a. All analysts of the Noticee have been asked to create folders for including all the client emails. Further, before any analyst leaves the organization, the analyst is required to ensure that the emails are uploaded in the database software maintained by the Noticee.

b. The exiting analyst is required to complete all the cases and file at least 5 working days before their last working day. If this is not done, the last working day (LWD) will be postponed to 5 working days after completion of cases and filing.

c. After filing, the QR team will email the analysts, their CP, Compliance, and HR confirming that all filing has been completed as required.

d. HR will communicate the last working day to the exiting analyst and their CP.

e. Rating Administration team will inform RAU to reallocate the cases to other analysts.

f. The exiting analyst will utilize the 5 days before exit for knowledge transfer and explain the specific case details to the new analyst.

g. The CP and the new analyst have to send an email to the Rating Administration that they have understood and have access to all the required information.

h. The compliance department will then send a final clearance email to HR, based on which the last working day process will be initiated.

x) Thus, in light of the above remedial measure undertaken by the Noticee, it is once again requested that the same not be treated as a violation of any of the regulations / circulars, specifically considering the extraordinary circumstances under which this lapse occurred as well as the remedial steps taken by the Noticee to ensure that such lapses are not repeated in the future. The Noticee thus submits that the said observation/finding be dropped from the SCN.

17. DELAY IN CONDUCTING REVIEW OF RATING IN CASE OF MATERIAL EVENT IN THE CASE OF INDIA POWER CORPORATION LIMITED [Paragraph 4.6 of the SCN]

a) *Observations by SEBI as per the SCN*

i) It was observed by SEBI that in the case of India Power Corporation Limited ("IPCL"), the Noticee has delayed in conducting the material event review beyond 7 days from the date of occurrence, which is a violation of SEBI guidelines.

ii) SEBI observed that as per clause 2(A)(III) of SEBI Circular on Monitoring and Review of Ratings by Credit Rating Agencies dated 30 June 2017 and clause 27.3.4 of SEBI operational circular for CRAs dated 6 January 2023 states as below:

Dissemination of Press Release on CRA's website and intimation of same to Stock Exchange / Debenture Trustee in case of event-based review:

Scenario	*Timeline-immediately but not later than*
……	*……*
Material Events requiring review (as stated in point 1B	*7 working days of occurrence of the event*

iii) It was observed that SREI Infrastructure Finance Ltd ("SIFL") made a disclosure on the stock exchange website on 13 June 2022 that the administrator of SIFL received a report from the BDO India, indicating that there are certain transactions which are fraudulent in nature, as per Section 66 of the Insolvency and Bankruptcy Code, 2016 ("Code"). Basis the investigation and observations of BDO, the administrator filed an application in respect of disbursements made to certain entities, referred to as the Power Trust group entities, before Kolkata Bench NCLT under Section 60(5) and 66 of the Code. The application was filed against 14 respondents, which included IPCL.

iv) SEBI after considering the response of the Noticee has observed that the same was considered as a material event by the Noticee and a review was carried out. The disclosure was made on 13 June 2022, the Noticee took this to the rating committee meeting ("RCM") on 28 June 2022, and the Press Release (PR) was made on 12 July 2022, which is beyond 7 working days from the date of occurrence of the material event.

v) It is SEBI's finding that the review of the said instance was not concluded within 7 working days from the occurrence of the material event on 13 June 2022, when the said filing came to the notice of the Noticee.

vi) SEBI has further held that as per the 30 June 2017 circular and SEBI operational circular for CRAs dated 6 January 2023 mandate the CRAs to publish on their website press release regarding the rating action, if warranted, immediately, but not later than 7 days of occurrence of the material event. However, in the instant case, the press release was published on 12 July 2022, which is beyond 7 working days from the occurrence of the material event.

vii) SEBI further states that enquiry proceeding was initiated against Brickwork leading to cancellation of its registration certificate vide order dated 6 October 2022, whereby one of the findings was delay in material review in one instance. However, in the instant inspection, it was again observed that there was delay in material event review in the case of IPCL for the material event triggered on 13 June 2022.

viii) SEBI thus did not accept the Noticee's submission that there was no violation of the regulations, as alleged by SEBI.

ix) *The Noticee was thus held to be violation of the provisions of Regulation 13 read with clause 8 of code of conduct of CRA Regulations, Clause 1(B) and Clause 2(A)(III) of the SEBI/HO/MIRSD/MIRSD4/CIR/P/2017/71 dated June 30, 2017.*

b) *Response of Noticee:*

i) *At the outset, the Noticee is grateful to SEBI for considering the Reply to Observations and the dropping the findings/observation in relation to GMR Enterprises Private Limited.*

ii) *Further, in relation to the findings/observation made in relation to IPCL, it is submitted that SEBI has not considered the Noticee's Reply to Observations in totality. The Noticee denies that there is any violation of the 30 June 2017 circular or at all.*

iii) *Even assuming that there has been such a delay, it is imperative to point out that the concerns highlighted by SEBI have already been remedied even to the satisfaction of SEBI, as is evident from SEBI's own letter on compliance dated 26 March 2024 as elaborated hereinbefore. SEBI has observed, in the SCN, that even previously, proceedings were held against Noticee which led to the cancellation order of 6 October 2022 (in the 3rd Inspection). However, while noting the proceedings in the 3rd Inspection, SEBI has not considered that in the same 3rd Inspection, the Hon'ble SAT had set aside the cancellation, and remitted the matter back to SEBI, and SEBI had passed detailed directions on 13 September 2023 for various changes to be carried out by the Noticee to address all the concerns highlighted in the 3rd Inspection. The said directions were complied with at the satisfaction of SEBI, which culminated in the 26 March 2024 letter of SEBI by which SEBI has permitted the Noticee to continue its operations without any restriction. Even apart from this, as also elaborated below, numerous additional remedial steps have been taken by the Noticee to avoid any future violations. Accordingly, since the object of inspection is remedial in nature, it is submitted that no penalty is warranted at all in the instant case.*

iv) *At the risk of repetition, the Noticee would like to once again state what was mentioned in the Reply to Observations, with regards to the findings of SEBI in case of IPCL:*

a. *There were no disclosures made either to the exchanges or to the Noticee about any updates or developments regarding the company.*

b. *It was only while regularly monitoring another Brickwork rated entity, i.e. SIFL (Outstanding rating of Brickwork D/ INC), Brickwork came across a disclosure, dated 13 June 2022 issued by SIFL wherein the Administrator of SIFL received an initial report from BDO India LLP (BDO), indicating that certain transactions are fraudulent in nature, mentioning that IPCL is also one of the parties.*

c. *Immediately, upon acquiring knowledge, an update regarding SIFL was put up to the RCM on 21 June 2022 (wrongly observed as 28 June 2022 in the SCN) i.e. within 7 working days, by the concerned rating team. RCM while taking note of the development advised that since IPCL figured in the fraudulent list as in the report prepared by BDO which was an RBI appointed administrator, the rating team should look into the issue and place a note to the Central Rating Committee immediately. A copy of the minutes of the RCM dated 21 June 2022 is annexed as Annexure – "H".*

d. *The concerned rating team of the Noticee took up the matter with IPCL immediately within 7 days of the material event, through telephone calls and emails including email dated 21 June 2022. After follow-up, IPCL shared its stand only on 21 June 2022 and 22 June 2022, providing a holding reply to seek necessary legal steps.*

e. *Further, only on 28 June 2022, IPCL shared a copy of the Petition filed by SIFL (through the administrator) and further advised that there is no mention of any transactions/ amounts transferred to IPCL and no other specific relief sought against IPCL. It was also advised that the company would bring the above facts to the notice of the Hon'ble Court in their written pleadings.*

f. *Keeping in view the complexity and sensitivity of the situation, it was deemed prudent by the rating team to seek an in-house legal opinion on 28 June 2022 before considering any rating action. A detailed note was then presented to the RCM on 28 June 2022. The RCM deliberated on the matter, and it was decided that the ratings be downgraded from Brickwork A-/Stable/A2 to Brickwork BBB-/A3/ RWNI.*

g. *However, on 29 June 2022, IPCL informed the Noticee that the Hon'ble NCLT had allowed 3 weeks' time for respondents including IPCL to submit their reply on the maintainability of SIFL application and that IPCL planned to submit its preliminary objection to contest the application against IPCL.*

h. *However, keeping in view of the rating action of steep downgrade from Brickwork A-/Stable/A2 to Brickwork BBB-/A3/ RWNI, the company was in constant discussions with the*
Noticee for not taking such action. However, since the Noticee was clear that the circumstances necessitated the rating downgrade, the dissemination of the Press release was done on 12 July 2022. Therefore, there was no delay in the action taken by Brickwork.

Remedial Measures:

v) *In any event, Brickwork submits that the CRO has now put in a practice of daily standup meetings by all Rating Heads to check for any material events or any other events that need immediate attention. This will ensure that no lapses occur, and immediate action is taken to abide by the timelines, in the strictest sense.*

vi) *The rating teams have also been strictly advised to keep a watch for material events in the rated entities and initiate action, as appropriate, strictly within stipulated timelines. Any failure on part of the rating teams to do so, will make them liable under the staff accountability policy, which has been strictly put into force. All violations are tracked in the Noticee's software and based on impact, action is taken including penalties and disciplinary action. The Compliance department has enforced the Staff accountability policy from March 2024. On a monthly basis an audit is conducted, and a warning mail is being sent to the rating team members who have defaulted, if any. From August onwards, penalties and disciplinary action will be initiated as per the policy.*

vii) *The Noticee has made it mandatory for all analysts to set up google alerts for all clients to get immediate information about material events.*

viii) *An early warning system has been put in place for the Rating team heads and the CRO, to get advance visibility about material events and defaults, and take suitable action to ensure timelines are met.*

ix) *The Rating software now also publishes other CRAs ratings on the analyst dashboard on a daily basis, to make it convenient for the analysts to monitor material events in a timely manner.*

x) *Event alerts such as OCRA, IBBS, FIMDA alerts, Share Price movement, NDS and Coupon Payments were being shared to the analysts by emails. Now all the event alerts are available to the entire rating team on their dashboard in real time.*

xi) *It is thus humbly submitted the above reply and the remedial steps be taken into consideration, and the same not to be viewed as any violation of the Regulations / Circulars on part of the Noticee. Accordingly, the said finding/observation be dropped from the SCN.*

18. *FAILURE TO REVIEW RATING IN CASE OF MATERIAL EVENT [Paragraph 4.7 of the SCN]*

a) *Observations/findings of SEBI as per SCN:*

i) *SEBI has observed during the inspection that Brickwork has failed to conduct material event review in the case of Clix Capital Services Limited ("Clix") and Manappuram Finance Limited ("Manappuram") at 4 instances.*

ii) *In case of Clix: During the course of inspection, SEBI has observed on the stock exchange website that Clix has disclosed its annual financial results on 30 May 2022 and 26 May 2023. SEBI held that these financial results of an entity are in* *the nature of material event, which as per Clause 1(B) and Clause 2(A) of SEBI circular SEBI/HO/MIRSD/MIRSD4/CIR/P/2017/71, Noticee is required to carry the material event review and issue the press release, if warranted, within 7 days from occurrence of the material event. SEBI, accordingly, after considering the response of the Noticee inter alia that no alert was received with respect to the disclosure of the annual results as Clix is an unlisted entity, did not accept the same. SEBI held that the Noticee failed to track the material event (annual results) even though Clix had disclosed the same on the stock exchange website on two instances.*

iii) *In case of Manappuram: SEBI observed that Manappuram had disclosed its financial results on 18 May 2022, and quarterly results on 3 February 2023, which are in the nature of material events. SEBI however observed that the Noticee failed to track the material event (annual results and quarterly results) in the instant case despite Manappuram disclosing the financial results on the stock exchange website. SEBI after considering the response of the Noticee in the Reply to Observations held that Noticee has admitted to the delay and that regulatory actions taken against the Noticee cannot be taken as a reason for such failure to carry out material event review.*

iv) *For both the above, SEBI has also observed that enquiry proceedings were initiated against the Noticee which led to cancellation of Noticee's license on 6 October 2022, whereby once of the findings was delay in material event review in one instance. However, the same has again been observed in the present inspection.*

v) *SEBI has thus held the Noticee to be in violation of Regulation 13 read with clause 8 of Code of Conduct of third schedule of CRA Regulations and Clause 1(B) and Clause 2(A) (III) of SEBI Circular dated 30 June 2017 and clause 9.2 and clause 27.3.4 of SEBI operational circular for CRAs dated 6 January 2023.*

b) *Response of Noticee:*

i) At the outset, it is denied that the Noticee has violated Regulation 13 read with clause 8 of Code of Conduct of third schedule of CRA Regulations and Clause 1(B) and Clause 2(A) (III) of SEBI Circular dated 30 June 2017 and clause 9.2 and clause 27.3.4 of SEBI operational circular for CRAs dated 6 January 2023.

ii) Further, it is imperative to point out that the concerns highlighted by SEBI have already been remedied even to the satisfaction of SEBI, as is evident from SEBI's own letter on compliance dated 26 March 2024 as elaborated hereinbefore. SEBI has observed, in the SCN, that even previously, proceedings were held against the Noticee which led to the cancellation order of 6 October 2022 (in the 3rd Inspection). However, while noting the proceedings in the 3rd Inspection, SEBI has not considered that in the same 3rd Inspection, the Hon'ble SAT had set aside the cancellation, and remitted the matter back to SEBI, and SEBI had passed detailed directions on 13 September 2023 for various changes to be carried out by the Noticee to address all the concerns highlighted in the 3rd Inspection. The said directions were complied with at the satisfaction of SEBI, which culminated in the 26 March 2024 letter of SEBI by which SEBI has permitted the Noticee to continue its operations without any restriction. Even apart from this, as also elaborated below, numerous additional remedial steps have been taken by the Noticee to avoid any future violations. Accordingly, since the object of inspection is remedial in nature, it is submitted that no penalty is warranted at all in the instant case.

iii) In case of Clix Capital: From a bare perusal of the SCN it appears that SEBI has not taken into consideration the response to the observation by the Noticee, as stated in the Reply to Observation. SEBI has considered that Clix is an unlisted entity, and that non-examination of the results did not impact the market and redemptions were not impacted, however, has rejected the said contention mainly on the grounds that the said annual results were available on the stock exchange website. SEBI, however, did not take into account that irrespective of the said annual results (which in any event were considered at the time of annual surveillance) the NCDs of Clix were redeemed on the due date, thereby causing no loss to the investors. Accordingly, the rating was withdrawn due to full redemption on 31 August 2023 after receipt of the necessary documents in accordance with the extant policy and guidelines. At that time, the financials were examined as the redemption was in full and the rating was being withdrawn. It is once again submitted that the non-examination of the results did not impact the market and redemptions were not impacted after the rating downgrade.

iv) In the case of Manappuram:

a. As stated in the Reply to Observations, there was a genuine practical difficulty at the Noticee's end as the analyst, Ms. Meeru Jain, who had followed up with Manappuram about the declaration of the Q4 FY22 results on 12 May 2022, had subsequently tendered her resignation and her last working day with Brickwork was 27 May 2022. While the results were declared by Manappuram on 18 May 2022, the same were missed by the said analyst due to oversight. Thereafter, the case was relocated to another analyst, by which time the annual review of the rating was already done and the declaration of the results escaped attention of the new analyst as well.

b. The same was purely on account of the oversight and change of hands, that the results were inadvertently not put up to the rating committee. The unaudited results for Q3FY23 were taken into consideration at the time of annual review of the ratings on 21 March 2023. It is submitted that the investments were not public issues, and the issuers met their repayment obligations in time. Thus, no market wide impact was caused nor any loss to the investors.

c. Noticee submits that the said oversight has happened purely due to circumstances beyond the control of the rating team/organization due to the extraordinarily adverse circumstances triggered by the adverse regulatory action.

d. The Ld. AO, in the said SCN has stated regulatory actions cannot be considered a reason for failure in carrying out material event review. It is however imperative to mention that before the Noticee could come out of the impact of COVID-19, SEBI on 6 October 2022 cancelled Noticee's license, which was nothing less than a death penalty. It was only on 6 June 2023 that the Hon'ble SAT set aside SEBI's order of 6 October 2022, even post which, the restrictions on the Noticee to take up any new clients and new mandates from existing clients continued till 26 March 2024. Amidst this period, the Noticee saw a huge attrition in the company, because of which these inadvertent errors have happened. SEBI thus ought to consider the extraordinary circumstance through which the Noticee has gone through in the past 2 years.

Remedial Measures:

v) The Ld. AO ought to have also considered the various remedial measures already undertaken by the Noticee, which would serve the very purpose of an inspection. The same are once again set out hereinbelow for ease of reference.

a. As stated above in Paragraphs 17(b)(v) to 17(b)(xi), the Noticee has already put in place a strict process which would ensure continuity when analysts leave the organization in order to prevent such misses from happening in future.

b. To ensure that no misses happen, the Noticee has made suitable amendments in the OPM to the effect that it is mandatory to carry out a rating review on occurrence of material events within the stipulated Regulatory timelines in the case of all the entities. i.e., unlisted entities, listed entities and entities whose securities are listed/proposed to be listed. The Noticee is also in the process of updating its software to include the same i.e. to track unlisted companies whose securities/debt are listed /proposed to be listed on the stock exchange.

c. Any failure to do so, will make the concerned rating team member/analyst liable under the staff accountability policy, which has been strictly put into force. All violations are tracked in the Noticee's software and based on impact, action is taken including penalties and disciplinary action. The Compliance department has enforced the Staff accountability policy from March 2024. On a monthly basis an audit is conducted, and a warning mail is being sent to the rating team members who have defaulted, if any. From August onwards, penalties and disciplinary action will be initiated as per the policy.

d. Further, as the Noticee has recently been allowed to carry on with its operations without any restrictions vide SEBI's letter of 26 March 2024, the Noticee is in the process of hiring various senior level analysts, to ensure such issues *related to manpower and personnels would not happen in future. As on date, as stated above, the Noticee has already hired a few senior level employees i.e. a compliance office, 2 sectoral heads, a MIS head, HR head and around 10 rating analysts.*

vi) *In light of the above, it is submitted that the said finding/observation ought not to be considered as a violation on part of the Noticee, and the same be dropped from the SCN.*

19. DELAY IN RELEASE OF PRESS RELEASE [Paragraph 4.8 of the SCN]]

a) *Observations/findings of SEBI as per SCN:*

i) *SEBI observed that Brickwork failed to adhere to the timeline with respect to disclosure of press release for the periodic surveillance in the cases of – Whispering Heights Real Estate Private Limited ("Whispering") and IPCL.*

ii) *As per Clause 2(A)(II) of SEBI Circular dated 30 June 2017 and Clause 27.3.3 of the SEBI Master Circular dated 3 July 2023, the timeline for dissemination of Press Release in the case of Periodic Surveillance is as below:*

Periodic Surveillance

Scenario	*Timeline-Immediately but not later than*
Dissemination of Press Release on CRA's website and intimation of same to stock exchange	*5 working days of Rating Committee Meeting*

iii) *SEBI however observed that the summary of the delay in PR by the Noticee in periodic surveillance cases was as under:*

Issuer Name	*Instrument*	*Amount (in Cr)*	*Date of RCM*	*Date of PR*
Whispering Heights Real Estate Private Limited	*NCDs*	*156*	*9 November 2023*	*28 November 2023*
India Power Corporation Ltd.	*NCDs*	*4*	*28 June 2022*	*12 July 2022*

iv) *In view of the above, SEBI observed that the Noticee had failed to adhere to the timeline with respect to the disclosure of press release for the periodic surveillance in the instant cases.*

v) *SEBI also refused to accept the Noticee's contention that minor unintentional delays should not be considered as a violation of the SEBI Regulations.*

vi) *SEBI further stated that enquiry proceeding was initiated against Brickwork leading to cancellation of its registration certificate vide order dated 6 October 2022, whereby one of the findings was delay in publishing of Press Release pursuant to the meeting of the rating committee in one instance. It was found again in the instant inspection that Brickwork failed to do the same in the case of Whispering.*

vii) *Hence, it is alleged by SEBI that the Noticee had violated provisions of Regulation 15(2) and Regulation 24(2) of the CRA Regulations, 1999; Clause 1(B), Clause 2(A)(II) of SEBI Circular dated 30 June 2017 and Clause 27.3.3 of SEBI Master circular dated 3 July 2023.*

b) *Response of Noticee:*

i) *It is imperative to point out that the concerns highlighted by SEBI have already been remedied even to the satisfaction of SEBI, as is evident from SEBI's own letter on compliance dated 26 March 2024 as elaborated hereinbefore. SEBI has observed, in the SCN, that even previously, proceedings were held against Noticee which led to the cancellation order of 6 October 2022 (in the 3rd Inspection). However, while noting the proceedings in the 3rd Inspection, SEBI not considered that in the same 3rd Inspection, the Hon'ble SAT had set aside the cancellation, and remitted the matter back to SEBI, and SEBI had passed detailed directions on 13 September 2023 for various changes to be carried out by the Noticee to address all the concerns highlighted in the 3rd Inspection. The said directions were complied with at the satisfaction of SEBI, which culminated in the 26 March 2024 letter of SEBI by which SEBI has permitted the Noticee to continue its operations without any restriction. Even apart from this, as also elaborated below, numerous additional remedial steps have been taken by the Noticee to avoid any future violations. Accordingly, since the object of inspection is remedial in nature, it is submitted that no penalty is warranted at all in the instant case.*

ii) *It appears that the contentions of the Noticee, as stated in the Reply to Observations have not been considered by SEBI in totality. SEBI has, simply taking the Noticee's reply as an admission to the alleged default, dismissed the same, and held the Noticee to be in violation of the SEBI circulars dated 30 June 2017 and Master Circular dated 3 July 2023. However, at the risk of repetition, the Noticee is once again setting out hereinbelow its response in relation to both the cases.*

In case of Whispering Heights Real Estate Private Limited ("Whispering")

iii) *In the present case, the rating committee had approved the rating of the entity at its meeting on 9 November 2023, while advising the team to obtain a few minor clarifications for better representation in the rationale. However, due to unexpected leave of absence of the analyst and some delay in submission of the clarifications by the company, there was a minor delay in finalization of the rating rationale and acknowledgment of the same by the rated entity. This has resulted in an unintentional delay of 13 days in publication of the rating rationale.*

India Power Corporation Ltd ("IPCL")

iv) *In the said case, keeping in view the rating action of steep downgrade from Brickwork A-/Stable/A2 to Brickwork BBB-/A3/ RWNI, the company was in constant discussions with the Noticee for not taking such action. The rating team had then explained to the issuer that under the circumstances, the Noticee, as a CRA, was required to take cognizance of the event, which further necessitated the rating action. Finally, since the Noticee was clear that the circumstances necessitated the rating downgrade, the dissemination of the Press release was done on 12 July 2022.*

v) *The same resulted in an unintentional delay of 4 days (total of 9 days delay less 5 days permitted to issue the press release) in publication of the rating rationale. In any event, the publication of the said press release was occasioned due to the Noticee exercising due diligence, as the material event had come to Noticee's attention under a separate public announcement made for some other issuer of the Noticee, as more particularly explained in Paragraph 17(b) above.*

Remedial Measures

vi) *In any event, to avoid any misses and to ensure strict adherence to the SEBI guidelines/circular, the rating teams have been duly sensitised of the said issues. Various remedial steps have been taken and processes implemented to ensure that such delays are not repeated. Some instances of rating process improvements are set out hereinbelow:*

a. *The Noticee has put in place a strict staff accountability policy where all violations are tracked in our software and based on impact, action is taken including penalties and disciplinary action. The Compliance department has enforced the Staff accountability policy from March 2024. On a monthly basis an audit is conducted, and a warning mail is being sent to the rating team members who have defaulted. From August onwards, penalties and disciplinary action will be initiated as per the policy.*

b. *Since the past 8 months, the Noticee has dedicated trainings on Fridays to educate the rating team on compliance, rating methodologies, and sector-specific ratings.*

c. *In May 2024, the Noticee has introduced trainings on Wednesday specifically to educate the analytical team on the new modules and improvements in the Rating software. These are all online trainings conducted by Sector Heads and senior members, who answer all doubts of the rating team.*

vii) Brickwork has put in place regular /monthly reviews by the CRO for ensuring timely completion of surveillance, material events recognition, default recognitions by the rating team etc. Timeline adherence is also a part of the KPIs of the rating team. Any unjustified delays result in taking action against the respective rating team as per our staff accountability policy.

viii) In view of the above, the purpose of the inspection in achieved by the Noticee remedying the same, to ensure that such alleged lapses do not happen in future. Therefore, the same ought not to be considered as a violation on part of the Noticee and be dropped from the SCN.

20. Further, as already stated above, SEBI has also, with respect to the findings in Paragraphs 4.3 to 4.8, taken a stand that the findings/observations stated therein are repeated violations, which was also observed by SEBI in the previous inspection proceedings while passing the Order dated 6 October 2022, cancelling the Noticee's license. In this regard, it is imperative to reiterate that the Noticee had appealed against the 6 October 2022 order of SEBI before the Hon'ble SAT, and the said cancellation order was immediately stayed by the Hon'ble SAT vide order dated 14 October 2022. The Hon'ble SAT had thereafter finally heard and set-aside SEBI's order of 6 October 2022, inter alia holding that the said violations observed by SEBI are routine operational errors which have unnecessarily been escalated into regulatory proceedings and had thereafter remitted the matter back to SEBI to decide on the quantum of penalty, which can be any order other than an order for cancellation. The Ld. WTM had thereafter, vide its order of 13 September 2023 issued various directions inter alia in relation to broad basing the board of the Noticee, making various managerial changes, conducting training etc., to ensure such violations do not happen in future, and had restrained SEBI from onboarding any new clients or taking any new mandates from existing clients. The Noticee thereafter complied with all the said directives, and vide order dated 26 March 2024, SEBI has held the Noticee to be in compliance of the same and has permitted the Noticee to function without any restrictions. Thus, by virtue of the said compliance, and the stand taken by SEBI that the findings/observations in the current inspection are similar to the ones observed in the previous inspection (which culminated in the Ld. WTM's Order of 13 September 2023), the observations/findings made in current SCN would also get subsumed under the compliance of the various directives made by the Noticee of the Ld. WTM's Order of 13 September 2023, as also highlighted in the preliminary submissions. In this regard, a tale setting out how each observation of the current SCN gets subsumed under the compliance of the directives passed by the Ld. WTM in the 13 September 2023 order, is already annexed at Annexure – "C". Thus, on this count alone, no further penalty ought to be imposed against the Noticee to the alleged violations set out in the SCN, and the said proceedings be dropped.

21. It is further submitted that the Noticee has already suffered huge losses and a direct/indirect suspension of the license since October 2022 (since the cancellation under the previous inspection). It is only on 26 March 2024 that SEBI has permitted the Noticee to function without any restrictions, prior to which the Noticee was not permitted to take up any new assignments from existing clients and any new clients. Even the financial institutions were reluctant in accepting any ratings issued by the Noticee, which essentially forms 90% of the business of the Noticee. It was only on 10 July 2024 that the RBI retained the accreditation of the Noticee as an External Credit Assessment Institution and issued a circular to all Scheduled Commercial Banks in this regard. The previous restrictions imposed have severely impacted the financials, and the reputation of the Noticee in the market, and almost all the senior employees of the Noticee have left the organisation. The Noticee is however taking all efforts to gain normalcy. However, at this stage, imposition of any further penalty on the Noticee under Section 15HB of the SEBI Act, would be completely unwarranted, and would be irretrievably prejudicial to the Noticee. A copy of RBI's letter retaining the Noticee's accreditation, and the circular issued to all scheduled commercial banks by RBI, are attached as Annexure – "I".

22. Be that as it may, and without prejudice to the above, it is further submitted that none of the findings in the SCN set out that the alleged violations by the Noticee are deliberate and/or that any of the alleged violations have caused any loss to any person and/or any market wide impact. Thus, considering the same, it is reiterated that no penalty, whatsoever, is warranted.

23. It is also submitted that the purpose of the inspection is not punitive, but inspections are conducted to enable the CRA to consistently improve its process add activities. It is shown that the Noticee has constantly endeavoured to follow the spirit of the regulations and law applicable to it and where there has been non-compliance, it has been technical or trivial in nature and is because of no fault of the Noticee, or circumstances beyond the control of the Noticee. In any event, it is reiterated that SEBI does not have to examine the appropriateness off the ratings issued by the Noticee and can only see if the activities of the Noticee prejudicial to the welfare of the market at large. Towards this, it is important to point out that nowhere in the SCN has SEBI held that the Noticee's actions were responsible for any harm to investors and other participants in Indian markets. In addition, the Hon'ble SAT in Religare Securities vs. SEBI (Appeal No. 23 of 2011, Order dated 16 June 2011), set aside the order of the Adjudicating Officer which imposed a penalty of Rs. 3 Lakhs on Religare Securities, observing as below:

"It must be remembered that the purpose of carrying out inspection is not punitive and the object is to make the intermediary comply with the procedural requirements in regard to the maintenance of records. We also cannot lose sight the fact that every minor discrepancy/irregularity found during the course of inspection is not culpable and the object of inspection could well be achieved by pointing out the irregularities/deficiencies to the intermediary at the time of inspection and making it compliant. This will, of course, depend on the nature of the irregularity noticed and we hasten to add a caveat that it is not being suggested that if any serious lapse is found during the course of the inspection, the Board should not proceed against the delinquent."

24. Thus, in light of the above, and as noted by the Ld. AO in the SCN, the Noticee has already taken substantial remedial steps to ensure that no such alleged discrepancies are found in any future inspections, which squarely serves the purpose of SEBI conducting an inspection. The Noticee has already overhauled its systems and continues to make further improvements in its internal processes/systems, templates, internal protocols, etc. While it is the Noticee's submission that the compliance of the Ld. WTM's Order of 13 September 2023 would subsume all the findings/observations made in the current SCN, even the remedial actions taken by the Noticee will ensure that the lapses similar to ones pointed out in the SCN are not repeated. Accordingly, no further action is warranted against the Noticee under the Inquiry Regulations, as the purpose of inspection i.e. to ensure compliance has already been achieved.

25. It is submitted that the findings show that there was no malice on the part of the Noticee for the violations and these violations happened inadvertently and were largely clerical and technical in nature. No substantive harm has been caused to anyone as a result of these alleged violations and accordingly the recommendations as to the suspension is liable to be rejected.

26. In light of the above, it is submitted that the SCN ought to be rejected and the instant proceedings be dropped. The Noticee indeed deserves to be given an opportunity of being heard, which is hereby sought. The Noticee is keen to explain the position to SEBI and put these proceedings behind it and move forward constructively.

27. Without prejudice to the above, the Noticee is also simultaneously filing a Settlement Application under the Securities and Exchange Board of India (Settlement Proceedings) Regulations, 2018, and requests that no further order be passed in furtherance to the said SCN and the Enquiry Report, until the said Settlement Application is decided.

...'

Additional submissions dated September 13, 2024:

'…

Preliminary Submissions

7. *At the outset, Brickwork would like to submit that no action and/or penalty is warranted against Brickwork, for the alleged violations as set out in the SCN inter alia in light of the various remedial already taken by Brickwork, which would ensure that no such alleged lapses happen in future. In addition to this, it is also Brickwork's submission that the findings/observations of the Ld. AO in the said SCN, are either subsumed and/or stands remedied by Brickwork's compliance of the 13 September 2023 Order of the Ld. Whole Time Member, SEBI ("Ld. WTM").*
8. *It is imperative to highlight that Brickwork has, over the past 2 years, taken number of remedial measures to assuage regulatory concerns. Brickwork has formulated and implemented various remedial and operational changes to strengthen compliance processes and ratings, which inter alia includes strengthening the staff accountability policy, regular training and tests of the analysis, broad basing its board, revamping its internal software to bring about a complete automation of processes etc. The various remedial measures taken by Brickwork are briefly set out below, and in detail with responses to each alleged violations in the Reply to SCN. Certain general remedial steps taken by Brickwork are set out in the outset submissions in paragraph 10, p. 5 of the Reply to SCN.*
9. *In this regard, Brickwork would like to rely upon the judgment of the Hon'ble Securities Appellate Tribunal ("SAT") passed in the matter of Religare Securities Limited vs. Securities and Exchange Board of India, dated 16th June 2011, that the purpose of inspection is not punitive, but inspections are conducted to enable an intermediary to constantly improve its process. In this decision, the Hon'ble SAT held that:*

   "5. It must be remembered that the purpose of carrying out inspection is not punitive and the object is to make the intermediary comply with the procedural requirements in regard to the maintenance of records. We also cannot lose sight the fact that every minor discrepancy/irregularity found during the course of inspection is not culpable and the object of inspection could well be achieved by pointing out the irregularities/deficiencies to the intermediary at the time of inspection and making it compliant. This will, of course, depend on the nature of the irregularity noticed and we hasten to add a caveat that it is not being suggested that if any serious lapse is found during the course of the inspection, the Board should not proceed against the delinquent."
   (Emphasis Supplied)

A copy of the said judgment is at Sr. No. 1 of the Compilation of Judgments filed along with these submissions [see Paragraph 5 of the judgment].

10. *It is also imperative to mention that Brickwork has already overhauled its systems and processes, and continues to do so, which would ensure that no such alleged lapses, as set out in the SCN, happen in future, the whole purpose of inspection is achieved, and no further action is warranted.*
11. *It is also submitted that the SCN would in fact show that none of the alleged violations were deliberate and/or that there was any malice on part of Brickwork. At best, all these were procedural / technical lapses, which had inadvertently happened, and are trivial in nature. No harm, loss or prejudice has been caused to any investor and/or the market, as a result of these alleged violations and accordingly no penalty ought to be imposed. In this regard, Brickwork would like to rely on the judgment of the Hon'ble SAT passed in the matter of Satco Securities and Financial Services Ltd. v. Chairman, SEBI (MANU/SB/0056/2003) wherein the Hon'ble SAT held that that a pure technical lapse cannot be considered as a major failure to exercise due diligence and care to warrant a penalty. A copy of the judgment is annexed at Sr. No. 2 of the Compilation of Judgments filed along with these submissions. [see Paragraphs 60 and 61 of the judgment]*
12. *Further, Brickwork would also like to reply on the judgment of the Hon'ble Supreme Court passed in the matter of Hindustan Steel Limited vs. State of Orissa [(1969) 2 SCC 627], wherein it was held inter alia that the liability to pay penalty does not arise merely upon the proof of default. A penalty ordinarily cannot be imposed unless the party obliged either acted deliberately in defiance or law or was guilty of conduct. The Hon'ble Supreme Court also observed that even if a minimum penalty is prescribed, the authority competent to impose a penalty will be justified in refusing to impose penalty. The Hon'ble Supreme Court held:*

   "8. Under the Act penalty may be imposed for failure to register as a dealer: s. 9(1) read with s. 25(1)(a) of the Act. But the liability to pay penalty does not arise merely upon proof of default in registering as a dealer. An order imposing penalty for failure to carry out a statutory obligation is the result of a quasi criminal proceeding, and penalty will not ordinarily be imposed unless the party obliged either acted deliberately in defiance of law or was guilty of conduct contumacious or dishonest, or acted in conscious disregard of its obligation. Penalty will not also be imposed merely because it is lawful to do so. Whether penalty should be imposed for failure to perform a statutory obligation is a matter of discretion of the authority to be exercised judicially and on a consideration of all the relevant circumstances. Even if a minimum penalty is prescribed, the authority competent to impose the penalty will be justified in refusing to impose penalty, when there is a technical or venial breach of the provisions of the Act or where the breach flows from a bona fide belief that the offender is not liable to act in the manner prescribed by the statute. Those in charge of the affairs of the Company in failing to register the Company as a dealer acted in the honest and genuine belief that the Company was not a dealer. Granting that they erred, no case for imposing penalty was made out." *(Emphasis Supplied)*

   A copy of the said judgment is annexed at Sr. No. 3 of the Compilation of Judgments filed along with these submissions. [see Paragraph 8 of the judgment]
13. *The principles laid down in the case of Hindustan Steel (supra) have also been relied upon by the Hon'ble SAT in the matter of P.G. Electroplasts Ltd. vs. SEBI [2019 SCC OnLine SAT 148] wherein the Hon'ble SAT, had observed that since the appellant in that case had already undergone sufficient debarment pursuant to the orders of SEBI, it is a fit case not to impose any penalty at all. A copy of the said judgment is annexed at Sr. No. 4 of the Compilation of Judgments filed along with these submissions. [see Paragraphs 16 to 19 of the judgment].*
14. *In another case, the Hon'ble SAT in the matter of R.V. Lifestyle vs. SEBI, dated 15th May 2019, relying on the principles laid down in the matter of Hindustan Steel (supra) and Bharjtiya Steel Industries vs. Commissioner of Sales Tax [(2008) 11 Supreme Court Cases 617], had observed that the default is inadvertent and technical, and had thereafter substantially reduced the penalty from INR 1 Crore to INR 30 Lakh. A copy of the judgement passed in the matter of RV. Lifestyle (supra) is annexed at Sr. No. 5 [see Paragraphs 7 to 9 of the judgment], and a copy of the judgment in the matter of Bharjatiya Steel Industries (supra) is annexed at Sr. No. 6 [see Paragraphs 15, 19 and 22 of the judgement], of the Compilation of Judgments filed along with these submissions.*
15. *In addition to the above, Brickwork would further like to submit that alleged discrepancies in relation to the delay / failure in conducting annual surveillance pertain to an alleged violation of the internal Operating Manual of Brickwork. In this regard, reference may be made to SAT's decision in Brickwork's own case in an earlier inspection that stated that indicative timelines in an operational manual cannot be elevated to a statutory requirement and non-compliance of a*

timeline indicated in the internal manual cannot be a ground to impose penalty. [Copy of the Order of the Hon'ble SAT is at Annexure – E p. 69 of Reply to SCN] The relevant portion of the judgment reads as follows:

"12. …In this regard we are of the opinion that the indicative timelines in an operational manual cannot be elevated to a statutory requirement and non-compliance of the timelines indicated in the internal manual cannot be a ground to impose a penalty. Further, the timeline are indicative in nature. They are not cast in stones and the completion of ratings depends on various factors which are supplied by third parties over whom the appellant has no control…" *(Emphasis Supplied)*

16. *In any event, these procedural lapses, too, will not occur in the future in light of the remedial steps already taken by Brickwork.*

17. *In addition to the above, it is also submitted that in the previous inspection conducted by SEBI during the period starting from 1 October 2018 to 30 November 2019, the same had culminated in an order dated 13 September 2023 of the Ld. WTM, by which SEBI had directed Brickwork to make various changes at the management level, as well as in its processes, including training of key officers and rating analysts, composition of internal committees etc, so as to ensure compliance with SEBI regulations. Brickwork diligently implemented all the said directions issued by SEBI, and by its letter dated 26 March 2024 [See letter at Annexure – B, p. 60 of the Reply to SCN] SEBI confirmed Brickwork's compliance with each direction and permitted Brickwork to also take up fresh mandates and onboard new clients. It is Brickwork's respectful submission that the observations of the Ld. AO in the instant SCN would also get subsumed in the directions passed by SEBI on 13 September 2023, which stood complied vide SEBI's letter dated 26 March 2024. Therefore, since the object of inspection is remedial and not punitive, it is submitted that the instant proceedings be dropped without imposing any penalty on Brickwork.*

18. *It may also be not out of place to mention that Brickwork has already suffered huge losses and a direct/indirect suspension of the license since October 2022 (since the cancellation under the previous inspection). It is only on 26 March 2024 that SEBI has permitted the Noticee to function without any restrictions, prior to which the Noticee was not permitted to take up any new assignments from existing clients and any new clients. Even the financial institutions were reluctant in accepting any ratings issued by the Noticee, which essentially forms 90% of the business of the Noticee. It was only on 10 July 2024 [See Annexure – I, p. 126 of the Reply to SCN] that the RBI retained the accreditation of the Noticee as an External Credit Assessment Institution and issued a circular to all Scheduled Commercial Banks in this regard. The previous restrictions imposed have severely impacted the financials, and the reputation of the Noticee in the market, and almost all the senior employees of the Noticee have left the organisation. The Noticee is however taking all efforts to gain normalcy. However, at this stage, imposition of any further penalty on the Noticee under Section 15HB of the SEBI Act, would be completely unwarranted, and would be irretrievably prejudicial to the Noticee. [see Paragraph 21, p. 44 of the Reply to SCN]*

Responses to the Observations

19. *Be that as it may, and without prejudice to the submissions made above, while the Noticee has dealt with each observation in detail in the Reply to the SCN, the Noticee is once again setting out hereinbelow a summary of its response on merits against each of the alleged violations/ observations made in the SCN.*

I. RATING OF SECURITIES BY BORROWED OF PROMOTER OF THE CRA [Paragraph 4.1 of the SCN]

(i) Charges in the First SCN: Please refer to paragraph 4.1.6 (p.6 of the SCN).

(ii) Findings of the SCN: SEBI has observed that in three instances Brickwork has rated entities, namely TVS Credit Services Limited, Kosamattam Finance Limited and Dhani Loans and Services Limited, which had outstanding bank loan facilities from the promoter of Brickwork i.e. Canara Bank.

SEBI has also observed that at the relevant time Brickwork did not have any mechanism to ensure compliance with Regulation 27(1) of the CRA Regulations. Based on this, SEBI held that Brickwork has violated Regulations 27(1) of CRA Regulations and Regulation 13 read with Clause 14 of the Code of Conduct under third schedule of CRA Regulations.

(iii) Brickwork's Response: Please refer to paragraph 12(b)(i to vii) at Pg. 8 and 9 of the Reply to SCN.

a) Brickwork once again urges SEBI to appreciate that this error arose due to Brickwork's interpretation of Regulation 27(1) of the CRA Regulations that, the restriction to rate the borrowers of the CRA's promoter (Canara Bank) would arise only when the criteria under (i) or (ii) or (iii) of Regulation 27 (1) was also attracted (i.e. when there are common directors, employees etc.).

b) While this was Brickwork's understanding, immediately after SEBI first raised this issue to Brickwork in the Observations on 26 February 2024, Brickwork implemented a robust automated mechanism in its software which would ensure that Development team while opening a mandate on Brickwork's software (B-CRISP), will have to answer the question "Is this client a current borrower of Canara Bank?". If they select "Yes", they will not be able to move further and create the mandate. The QR team also raises the alarm in case the issuer is a borrower of our Promoter i.e. Canara Bank, and accordingly appropriate action is taken. [See Annex. D, p. 68 of the Reply to SCN, for the screenshot of Brickwork's software].

c) Brickwork had also informed SEBI that Brickwork has educated all its business development members and analyst not to accept mandates of securities from clients who are borrowers of Brickwork's Promoter, and to verify this information before accepting mandates of such securities.

d) In any event, the bank loan ratings of all the 3 issuers have been withdrawn on the following dates – (a) TVS Credit – 15.12.2022; (b) Kosamattam Finance – 8.07.2023; and (c) Dhani Loans – 15.07.2023.

e) In addition to the above, Brickwork would also like to inform that in the recent Annual Geneal Meeting of Brickwork held on 28 August 2024, it was discussed and approved to allot certain preferential shares to the existing shareholders. Thus, by virtue of the said preferential allotment, the shareholding of Canara Bank has come down to 9.88%. As a corollary, Canara Bank shall thereafter not be considered as a "promoter" as per Regulation 27(1) of CRA Regulations. A copy Board Resolution dated 12 September 2024 approving the allotment of preferential shares, a copy of the certificate of Brickwork showing the shareholding pre and post preferential allotment, and a copy of the certificate from the Company Secretary certifying the capital structure and shareholding of Brickwork pre and post preferential allotment, are hereto collectively annexed and marked as Annexure – A (Colly.).

f) In light of the above, it is submitted that the same was an inadvertent error and was not intentional. In fact, the confusion arose purely on account of an ambiguity in the interpretation of the regulations. Hence, finding should be dropped especially in light of remedial steps already implemented to prevent repetition of the incident. It is also not out of place to mention that no market wide impact was caused.

(iv) Remedial Measures: In any event, as mentioned above, Brickwork has taken the remedial measures elaborated above to ensure that this violation does not arise in the future.

II. DISCREPANCY IN DISCLOSURE OF CUMULATIVE DEFAULT RATES (CDR'S) AND AVERAGE RATING TRANSITION RATE FOR LISTED AND PROPOSED TO BE LISTED SECURITIES [Paragraph 4.2 of the SCN]

(i) Charges in the SCN: Refer to paragraph 4.2 at Pg. 6 of the SCN.

(ii) Findings of the SCN:

- *a) During the inspection, SEBI noted that for FY 2022-2023 in the static pool for calculating CDRs and the average rating transition rate, Brickwork had included instruments (fixed deposits) that do not qualify as securities under Clause (h) of Section 2 of the Securities Contracts (Regulation) Act, 1956 ("SCRA"). This was observed in 4 instances for cases including INC and for 3 instances for cases excluding INC.*
- *b) The Ld. AO has arrived at a finding that Brickwork has admitted to the lapse and has failed to exercise due diligence and should not have made such misrepresentation in any document/disclosure.*
- *c) SEBI has thus held Brickwork to be in violation of the provisions of Regulation 13 read with clause 2, 4 and 12 of Code of conduct under third schedule of SEBI CRA Regulations, 1999 and Clause 26.4.1.8 of SEBI Master Circular dated 3 July 2023.*

(iii) Brickwork's response: Refer to paragraph 13(b) (i to v) at Pg. 11 of the Reply to SCN.

- *a) Brickwork denies that the abovementioned regulations have been violated.*
- *b) SEBI has not taken into consideration Brickwork's response in Para 13 of the Reply to Observations. As stated therein, the inadvertent inclusion of Fixed Deposits in the calculation of Static Pool INC has no material impact on the calculation of CDR.*
- *c) Brickwork has provided a comparison of the previously reported CDR for FY 2022-23 with the re-computed CDR after removing the said issuances [Paragraph 13(b) p. 11 of the Reply to the SCN]. The comparative tables show that a) there is no change in calculated CDRs in most of the rating grades, b) In the CDR including INC, when the stated issuances are removed, there is a slight improvement in the calculated values in the BBB grade. Hence, the reported number was in fact more conservative than what should have been; and c) In the CDR excluding INC, for the BBB grade, there is a marginal increase of 0.29% in the CDR values due to the above-mentioned adjustment.*
- *d) In any event, this was an inadvertent operational error, with no adverse impact, either on the market or the investors. These are minor operational/procedural errors, which ought no to be escalated to regulatory proceedings, and thus, should be dropped.*
- *e) Be that as it may, Brickwork has now corrected the said disclosures, and the revised CDR has been updated on Brickwork's website. A copy of the revised CDR for the listed securities, including INC customers as well as excluding INC customers, as updated on Brickwork's website, is hereto annexed and marked as Annexure – B. The same can also be accessed from Brickwork's website on the following link - brickworkratings.com/SEBI-Apr2022-Mar2023.aspx*

(iv) Remedial measures – Refer to paragraph 13(b)(vi) of the Reply to SCN:

- *a) Automation of the Process: Brickwork has made a change in the software, where the static pool is created automatically. This ensures that any instruments which are not securities as per the SCRA are excluded.*
- *b) Brickwork is also continuously training its analysts to avoid such errors.*

III. DELAY IN ANNUAL SURVEILLANCE/REVIEW OF RATING OF NCDs [Paragraph 4.3 of the SCN]

(i) Charges in the SCN: Refer to paragraph 4.3 at Pg. 10 of the SCN.

(ii) Findings of the SCN:

- *a) SEBI has arrived at a finding that Brickwork has delayed in conducting annual surveillance in rating Non-Convertible Debentures ("NCD") in 212 instances with delay ranging from 2 to 124 days. Further, Brickwork's website showed that they had conducted an annual review for IIFL Finance Limited with a delay of 118 days.*
- *b) SEBI refused to accept Brickwork's explanation that since the CRA Regulations and the relevant circulars do not specify an outer limit for such a timeline and that it provides CRAs discretion to decide on the same. SEBI has now (for the first time in this SCN) pointed out that Regulation 55 of the SEBI (LODR) Regulations, 2015 ("LODR Regulations"), require a CRA to review NCDs 'at least once a year'.*
- *c) In view of the above, SEBI held Brickwork to be in violation of Regulation 16(1), Regulation 24 (2) and Regulation 13 read with clause 3 of code of conduct of CRA Regulations.*

(iii) Brickwork's Response: [Paragraph 14(b) of the Reply to SCN]

- *a) Brickwork reiterates that the CRA Regulations do not prescribe any outer time limit for carrying out such periodic review /surveillance of ratings*
  - *Pertinently, Regulation 16(1) of the CRA Regulations provides that "every credit rating agency shall carry out periodic reviews of all published ratings during the lifetime of securities."*
  - *Further, neither the SEBI Master Circular of 3 July 2023, 6 January 2023 nor 1 November 2016 prescribes any such timeline for the periodic surveillance.*
  - *SEBI's reliance on Regulation 55 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations 2015 ("LODR Regulations") which states that a CRA shall review credit rating of non-convertible securities at least one a year does not find any reference in the CRA Regulations or in any Circular or even in SEBI's own inspection observations. In any event, the LODR Regulations is of the year 2015 and was in place prior to the SEBI circular dated 1 November 2016.*
- *b) The relevant SEBI circular dated 1 November 2016 at Annexure A point 1 permits CRAs to formulate their own policies and procedure in relation to surveillance of ratings. In view of SEBI's requirement for periodic surveillance, Brickwork's Operations Policy Manuals ("OPMs") provided that annual review of ratings would be undertaken. Further the OPMs (prior to the recent amendment) provided a further period of 1 months after the 12-month period, in case annual surveillance rating was not completed in the 12 -month period. In majority of the cases, the annual surveillance was carried out within this 13-month period.*
- *c) While Brickwork does strive to ensure compliance with the timelines in its OPM, the said timelines cannot be equated to a regulatory requirement so as to hold Brickwork in violation of SEBI Circulars / Regulations. This has explicitly been observed by the Hon'ble SAT in the Brickwork's matter, in para 19 of Order dated 6 June 2023, "that indicative timeline in an operational manual cannot be elevated to a statutory requirement…and the completion of ratings depends on various 2 September 2024 factors which are supplied by third parties over whom the appellant has no control." [Annexure E, p.69*

of Reply to SCN]. Thus, SEBI ought to have considered the delays caused by parties in providing relevant details, to enable Brickwork to complete the surveillance. These factors are beyond the control of CRAs and hence such alleged lapses ought not to be considered as violations.

d) It is further important to mention that SEBI has itself referenced the previous 3rd inspection period during which SEBI had initially cancelled the registration of Brickwork, stating that even in that inspection concerns of delay in review of ratings was noted. However, SEBI ought to also consider that the very same proceedings culminated in SEBI's order dated 13 September 2023 directing Brickwork to make various operational and other changes to ensure that the alleged violations are not repeated. SEBI has vide its letter dated 26 March 2024 confirmed compliance with all such directions which also subsume the alleged violations. This shows that the concerns highlighted by SEBI in this SCN have already been remedied even to the satisfaction of SEBI, as is evident from SEBI's own letter on compliance dated 26 March 2024.

e) SEBI ought to appreciate the practical problems faced by the CRA during the relevant time which caused certain delays beyond 12 months in annual surveillance, which beyond Brickwork's control. This included senior analysts leaving, 150 rating team employees leaving during the current inspection period. [Reply to the SCN, Paragraph 14 (b) (viii) p.18]

f) IIFL Finance Limited ("IIFL"): The surveillance of IIFL's NCDs took time due to the entity's delay in providing necessary information. The annual surveillance was due in August 2023. The Rating Committee noted the Q1 results of the company on 10 August 2023 and based on operational performance, it was found that there was no need to change the rating. Therefore, an internal review of the rating by the rating committee based on the quarterly results. The detailed annual review was completed on 1 December 2023, after the entity provided the required information (other than financials). Regular reviews ensured no delay, and the rating remained unchanged, adhering to due process.

g) In any event, no market wide impact and/or loss has been caused to the investors.

(iv) Remedial Measures: - Paragraph 14(b)(xvi) of the Reply to SCN

a) In May 2024, Brickwork has further amended its OPM – NCDs will be reviewed once every year and gap between two consecutive press releases will not exceed 365 days. [See Annexure F p. 84 at. p. 91 of the Reply to SCN]

b) To ensure continuity, there are at least two analysts appointed for a mandate.

c) Training is provided to analysts to familiarize themselves with evolving regulatory and internal guidelines, framework and rating processes.

d) Recruiting of experienced analysts and senior professionals – already hired 2 sectoral heads, a MIS head and around 10 rating analysts.

IV. FAILURE TO CONDUCT ANNUAL SURVEILLANCE/REVIEW OF RATING: [Paragraph 4.4 of the SCN]

(i) Charges in the SCN: Refer to paragraph 4.4 at Pg. 14.

(ii) Findings of the SCN:

a) SEBI observed that Brickwork failed to conduct annual surveillance in one case i.e. Edel Land Limited as per its OPM, and hence failed to follow a proper rating process.

b) SEBI further held that Brickwork has failed to adhere to its internal timelines and has refused to accept Brickwork's contention that the said timelines were not to be strictly adhered to as the CRA Regulations and Circulars do not specify any outer limit.

c) SEBI has further relied on Regulation 55 of LODR Regulations, which specifies that a CRA ought to review NCDs issued by a listed entity at least once a year.

d) In view of the above, SEBI has held Brickwork to be in violation of Regulations 16(1), 24(2) and 13 of CRA Regulations.

(iii) Brickwork's Response: [Paragraph 15(b) of the Reply to the SCN]

a) Brickwork reiterates that neither the CRA Regulations nor the SEBI Circulars prescribe a time limit within which a CRA is required to complete the periodic review / surveillance of the ratings.

b) Reference can be made to SAT's order of 6 June 2023 passed in the matter of Brickwork Ratings, which also states that indicative timelines in an operational manual cannot be elevated to a statutory requirement and non-compliance of a timeline indicated in the internal manual cannot be a ground to impose penalty is already covered and reiterated. LODR point is also reiterated.

c) Specifically in relation to the surveillance of securities of Edel Land Limited, SEBI ought to appreciate that while Brickwork had taken ample steps for the completion of the surveillance, however, the process was delayed due to various reasons which are beyond Brickwork's control, particularly, due to the abrupt exit of the analysts handling the mandate. In fact, this mandate has unfortunately seen a change of over 5 analysts and 2 rating team heads, due to which there has been an unintentional and inadvertent delay.

d) Further, since the annual rating was not completed, the rating was shifted to an RNR Category as per our OPM. In any event, this delay is unintentional, not deliberate and has occurred due to extraneous reasons beyond Brickwork's control.

e) Brickwork had, in its Reply to the Observations, confirmed that the rating would be completed by the end of March 2024. The annual surveillance of Edel Land Limited has now been completed and the press release was made on 22 March 2024. In fact, there has been a material event-based review of the securities of Edel Land Limited, which is now called Ecap Equities Ltd., as Reserve Bank of India ("RBI") vide a Press Release 2024-2025/397 dated 29 May 2024, initiated supervisory Action against two Edelweiss group entities, ECL Finance Limited (ECL) and Edelweiss Asset Reconstruction Company Limited (EARCL), based on material supervisory concerns. Based on the same, Brickwork downgraded the rating and placed on rating watch vide its press release made on 7 June 2024.

f) Since the violation has already been remedied, Brickwork requested SEBI to drop the above finding from the SCN.

(iv) Remedial Measure: The remedial measures taken for this are the same as set out in paragraph 14(b)(vxii) of the Reply to SCN.

V. DELAY IN RECOGNITION OF DEFUALT [Paragraph 4.5 of the SCN]

(i) Charges in the SCN: Please refer to paragraph 4.5.1 (Pg. 17) of the SCN.

(ii) Findings in the SCN:

a) SEBI observed that Brickwork had failed to downgrade Tridhaatu Private Limited's ("Tridhaatu") rating within the stipulated two working days following default intimation by Debenture Trustee ("DT") on 7 February 2023. The delay with respect to recognising default is stated to be of 191 working days.

b) *SEBI has also observed that from the Centralized database for Corporate Bonds ("Database") that Tridhaatu had listed bond with ISIN INE00VH07017 rated by Brickwork, the DT had intimated the Brickwork through an email about the default in redemption payment, which was due on 6 February 2023 for the ISIN of Tridhaatu, vide its email dated 7 February 2023.*

c) *SEBI observed that the Brickwork was obligated to downgrade the rating to default (D) within 2 workings days of being intimated of the default on 7 February 2023. However, the downgrading of the rating happened only on 20 November 2023, thereby resulting in a delay of 191 days.*

d) *Based on this, SEBI held that Brickwork has violated Regulation 24(2), Regulation 24(7), Regulation 13 read with clause 8 of code of conduct under third schedule of CRA Regulations; Clause 27.3.4 and Clause 7.5.1 read with Annexure 11 of SEBI Master circular for CRAs dated 6 January 2023 and 3 July 2023.*

(iii) *Brickwork's Response: Please refer to paragraph 16 (b) at p. 25 to 27 of the Reply to SCN.*

a) *SEBI first raised this issue to Brickwork in the Observations on 26 February 2024 and upheld their observations against Brickwork without considering the complete explanation of Brickwork*

b) *The error was inadvertent and was purely on account of high attrition of analysts and employees, at the relevant time i.e. in February 2023, Ms. Rutuja Sadanand Zajam was the analyst to whom Tridhaatu, was assigned. On 3 February 2023, Ms. Rutuja Sadanand Zajam left the company. Brickwork states that on 7 February 2023 (when the email from the debenture trustee was received in the above case), Brickwork was in the midst grappling with various challenges owing to the restriction on taking on new mandates and new clients as a result of the cancellation order of 6 October 2022 passed by SEBI.*

c) *In light thereof, Brickwork was faced with various difficulties especially with respect to attrition, therefore there was an inadvertent delay / lapse in allocating this mandate of Tridhaatu to another / new analyst. Thus, amidst the leaving of the previous analyst and assignment of this case to a new analyst, on 7 February 2023, when the debenture trustee sent an email to Brickwork at its generic id , the said email was inadvertently missed. However, the same was taken into account at the time of conducting the annual surveillance on 17 November 2023, and the default was immediately recognized, and the rating was downgraded.*

d) *Brickwork stated that the said lapse unintentional and this lapse arose due to reasons beyond Brickwork's control and exclusively due to the difficulties that Brickwork was facing at the time in terms of lack of manpower, loss of business and inability to take on new mandates.*

e) *In fact, it appears that the response of Brickwork as stated in the Reply to Observations has not been considered in totality, and the Ld. AO has simply treated the same as an admission of default on part of Brickwork, without taking into account the circumstances in which such inadvertent error occurred.*

f) *Hence, finding should be dropped as in light of remedial steps already implemented to prevent repetition of the incident. Also, no market wide impact has been caused; considering the extraordinary circumstances under which this lapse occurred which ought not to be escalated to regulatory proceedings.*

(iv) *Remedial Measures – Paragraph 16(b)(ix) of the Reply to SCN:*

a) *Brickwork has strengthened its internal policies, and extant instructions have been given to all the analysts to strictly adhere to all the regulatory timelines.*

b) *Further, the unique circumstances in February 2023 arose in the wake of SEBI's cancellation of Brickwork's licence, as a direct result of a lag created when an analyst left the organisation and a delay in allotting to the mandate to a new analyst. Brickwork has now revamped its internal procedure for handover and relieving of employees and has set up a robust mechanism for the same, which is set out in detail in paragraph 16(b)(ix) (a to h) at p.27 of the Reply to SCN.*

c) *In fact, as mentioned even in the Reply to the SCN, 2 analysts are appointed to ensure continuity. Further, completion of all case files at least 5 working days prior to the last date has been made mandatory. If this is not complied with, the last date of the employee is postponed to 5 days after the completion of the case filing.*

VI. *DELAY IN CONDUCTING REVIEW OF RATING IN CASE OF MATERIAL EVENT IN THE CASE OF INDIA POWER CORPORATION LIMITED [Paragraph 4.6 of the SCN]*

(i) *Charges in the SCN: Refer to paragraph 4.6 at Pg. 21 of the SCN.*

(ii) *Findings of the SCN:*

a) *SEBI has alleged that there was a delay of 13 days in the press release post a material event in the case of India Power Corporation Limited ("IPCL").*

b) *On 13 June 2022 SREI Infrastructure Finance Ltd ("SIFL") made a disclosure to the stock exchanges regarding a report of BDO LLP indicating fraudulent transactions under Section 66 of IBC. The disclosure mentioned that an application in respect of disbursements made to various entities which included IPCL was also made by the administrator, and this according to SEBI, was a material trigger event and the press release of downgrading should have been issued within 7 working days, but was instead issued on 12 July 2022 i.e., with a delay of 13 working days.*

c) *Brickwork stated that in the inspection, it was observed that there was delay in material event review in the case of IPCL for the material event triggered on 13 June 2022 which was previously observed in past inspections. SEBI thus did not accept Brickwork's submission that there was no violation of the regulations, as alleged by SEBI.*

d) *Based on this, SEBI held that Brickwork was in violation of the provisions of Regulation 13 read with clause 8 of code of conduct of CRA Regulations, Clause 1(B) and Clause 2(A)(III) of the SEBI/HO/MIRSD/MIRSD4/CIR/P/2017/71 dated 30 June 2017.*

(iii) *Brickwork's Response: Refer to paragraph 17(b) (i to iv) at Pg. 30 of the Reply to SCN.*

a) *Brickwork stated that there were no disclosures made either to the exchanges or to Brickwork about any updates or developments regarding the company i.e. IPCL. It was only while regularly monitoring another Brickwork rated entity, i.e. SIFL (Outstanding rating of Brickwork D/ INC), Brickwork came across a disclosure, dated 13 June 2022 issued by SIFL wherein the Administrator of SIFL received an initial report from BDO India LLP (BDO), indicating that* *certain transactions are fraudulent in nature, mentioning that IPCL is also one of the parties. Immediately on obtaining such knowledge, Brickwork took the following steps:*

- *Update regarding SIFL was put up to the RCM on 21 June 2022 (wrongly observed as 28 June 2022 in the SCN) i.e. within 7 working days, by the concerned rating team.*
- *RCM advised that since IPCL figured in the fraudulent list as in the report prepared by BDO which was an RBI appointed administrator, the rating team should look into the issue and place a note to the Central Rating Committee immediately.*
- *The rating team of Brickwork took up the matter with IPCL immediately within 7 days of the material event, through telephone calls and emails including email dated 21 June 2022.*
- *IPCL shared its stand only on 21 June 2022 and 22 June 2022, providing a holding reply to seek necessary legal steps.*
- *On 28 June 2022, IPCL shared a copy of the Petition filed by SIFL (through the administrator) and further advised that there is no mention of any transactions/ amounts transferred to IPCL and no other specific relief sought against IPCL.*
- *On 28 June 2022 keeping in view the complexity and sensitivity of the situation, rating team sought an in-house legal opinion before considering any rating action. A detailed note was then presented to the RCM on 28 June 2022. The RCM deliberated on the matter, and it was decided that the ratings be downgraded from Brickwork A- /Stable/A2 to Brickwork BBB-/A3/ RWNI.*
- *On 29 June 2022, IPCL informed Brickwork that the Hon'ble NCLT had allowed 3 weeks' time for respondents including IPCL to submit their reply on the maintainability of SIFL application and that IPCL planned to submit its preliminary objection to contest the application against IPCL.*
- *However, keeping in view of the rating action of steep downgrade from Brickwork A-/Stable/A2 to Brickwork BBB-/A3/ RWNI, the company was in constant discussions with Brickwork for not taking such action.*
- *Since, Brickwork was clear that the circumstances necessitated the rating downgrade, the dissemination of the Press release was done on 12 July 2022. Therefore, there was no delay in the action taken by Brickwork.*

b) Hence, Brickwork had exercised due diligence, before rating, and this instance should not be considered as a violation of the timeline. In any event, no impact on the market and remedial steps taken to ensure that this does not get repeated.

(iv) Remedial Steps: Paragraph 17(v) to (xi) of the Reply to SCN

a) Brickwork has put in a practice to have daily stand-up meetings by rating heads for material events.

b) Rating teams have been advised to keep a watch for material events and initiate action strictly within the applicable timelines.

c) Staff accountability policy introduced March 2024– where any failure to detect material event or to take timely action will make them internally accountable and lead to disciplinary action. On a monthly basis an audit is conducted, and a warning email is sent to rating team members.

d) All analysts have been advised to have mandatory google and other event alerts.

e) Early warning system put in place for rating team heads and CRO to get visibility on material events and defaults and to ensure timelines are met.

f) Rating software also publishes other CRAs ratings on the analysts' dashboard on a daily basis.

g) Event alerts such as from OCRA, IBBI, FIMDA, Share price movements, NDS and coupon payments are available to the entire rating teams on the dashboard, on real time basis.

VII. FAILURE TO REVIEW RATING IN CASE OF MATERIAL EVENT [Paragraph 4.7 of the SCN]

(i) Charges in the SCN: Refer to paragraph 4.7 at Pg. 26.

(ii) Findings of the SCN: SEBI has observed that Brickwork is in breach for not reviewing a rating in case of material event in the following 2 cases (Clix Capital and Mnnapuram):

a) In case of Clix Capital Services Limited ("Clix"): SEBI observed that the stock exchange website of Clix has disclosed its annual financial results on 30 May 2022 and 26 May 2023, both of which were considered as a material event. Brickwork was required to carry out the material event review and issue the press release within 7 days from the date of occurrence of the material event.

b) In case of Manappuram Finance Limited ("Manappuram"): SEBI observed that Manappuram had disclosed its financial results on 18 May 2022, and quarterly results on 3 February 2023, which are in the nature of material events. Brickwork however, failed to track the material event despite Manappuram disclosing the financial results on the stock exchange website.

c) SEBI held Brickwork to be in violation of Regulation 13 read with clause 8 of Code of Conduct of third schedule of CRA Regulations and Clause 1(B) and Clause 2(A) (III) of SEBI Circular dated 30 June 2017 and clause 9.2 and clause 27.3.4 of SEBI operational circular for CRAs dated 6 January 2023.

(iii) Brickwork's Response [Paragraph 18(b) of the Reply to SCN]

a) Brickwork denies that it has violated the abovementioned regulations.

b) SEBI has relied on and referenced the 6 October 2022 cancellation order but has at the same time overlooked the 13 September 2023 directions and the compliance by Brickwork which has culminated in the recent letter of 26 March 2024

c) In case of Clix Capital: Since the entity was an unlisted entity (while bonds issued were listed on the NSE), in the case of the annual financial result announced on 30 May 2022 and 26 May 2023, no alerts were received from any source, including the rated entity since the entity was unlisted.

- *For 30 May 2022 results - At the time of annual surveillance on 25 August 2022, the results for 2022 were examined in detail. Rating downgrade was done on account of decrease in the loan book and weakened financial profile as asset quality. Therefore, it has been remedied and is not a case of complete failure, and caused no adverse impact on investors.*

- *For 26 May 2023 results – NCD was due for maturity on 26 June 2023 and redeemed on due date. rating was withdrawn on 31 August 2023. No loss to investors.*

d) Irrespective of the said annual results (which in any event were considered at the time of annual surveillance) the NCDs of Clix were redeemed on the due date, thereby causing no loss to the investors.

e) In the case of Manappuram:

- *Financial results declared on 18 May 2022 - As stated in the Reply to Observations, there was a genuine practical difficulty at Brickwork's end as the analyst, Ms. Meeru Jain, who had followed up with Manappuram about the declaration of the Q4 FY22 results on 12 May 2022, had subsequently tendered her resignation when the results were declared by Manappuram on 18 May 2022. Hence, the same were missed by the said analyst due to oversight. Thereafter, the case was relocated to another analyst, by which time the annual review of the rating was already done on 21 March 2023, the declaration of the results escaped attention of the new analyst as well.*
- *Quarterly results on 3 February 2023 – the results were inadvertently not put up to the rating committee. However, the unaudited results for Q3 FY 2023 were taken into consideration at the time of annual review of the rating on 21 March 2023.*

f) In any event, the investments were not public, and the issuers met their payment obligations in time.

g) Thus, no market wide impact was caused nor any loss to the investors. SEBI also ought to consider the extraordinary circumstance through which the Brickwork has gone through in the past two years and drop the said finding.

(iv) Remedial Measures: Paragraph 18(b)(v), p. 37 of the Reply to SCN.

a) As stated in paragraph 17(b)(v) to (xi), Brickwork has put in a strict process which would ensure continuity when the analyst leaves the organization.

b) Suitable amendments to OPM – mandatory to carry out rating on occurrence of material event within the timelines.

c) Brickwork is in the process of updating its software to track unlisted companies whose securities / debt are listed / proposed to be listed on the stock exchanges.

d) Any violation of the above, rating team member/analyst will be liable under the staff accountability policy. All violations are tracked, and action is taken including penalties and disciplinary action.

e) As also stated above, Brickwork has already hired and is also in the process of further hiring senior personnel.

VIII. DELAY IN RELEASE OF PRESS RELEASE [Paragraph 4.8 of the SCN]

(i) Charges in the SCN: Refer to paragraph 4.8 at Pg. 32.

(ii) Findings of the SCN:

a) SEBI observed that Brickwork failed to adhere to the timeline with respect to disclosure of press release within 5 working days of the rating Committee Meeting, in the cases of Whispering Heights and IPCL.

b) SEBI refused to accept the Brickwork's contention that such minor delays should not amount to a violation of the SEBI Regulations, and alleged that Brickwork had violated provisions of Regulation 15(2) and Regulation 24(2) of the CRA Regulations, 1999; Clause 1(B), Clause 2(A)(II) of SEBI Circular dated 30 June 2017 and Clause 27.3.3 of SEBI Master circular dated 3 July 2023.

(iii) Brickwork's Response: [Paragraph 19(b) of the Reply to SCN]

a) In case of Whispering Heights: The rating committee had approved the rating of the entity at its meeting on 9 November 2023, while advising the team to obtain a few minor clarifications for better representation in the rationale. However, due to unexpected leave of absence of the analyst and some delay in submission of the clarifications by the company, there was a minor delay in finalization of the rating rationale and acknowledgment of the same by the rated entity. This has resulted in an unintentional delay of 13 days in publication of the rating rationale.

b) In case of IPCL: In the said case, keeping in view the rating action of steep downgrade from Brickwork A-/Stable/A2 to Brickwork BBB-/A3/ RWNI, IPCL was in constant discussions with Brickwork for not taking such action. The rating team had then explained to the issuer that under the circumstances, Brickwork, as a CRA, was required to take cognizance of the event, which further necessitated the rating action. Since Brickwork then became clear that the circumstances necessitated the rating downgrade, the dissemination of the Press release was done on 12 July 2022.

c) The same resulted in an unintentional delay of 4 days (total of 9 days delay less 5 days permitted to issue the press release) in publication of the rating rationale. In any event, the publication of the said press release was occasioned due to Brickwork exercising due diligence, as the material event had come to Brickwork's attention under a separate public announcement made for some other issuer of Brickwork, as more particularly explained in Paragraph 17(b) of the Reply to SCN.

(iv) Remedial Measures: Paragraph 19(b)(vi), pg. 42 of the Reply to SCN

a) As stated above, a strict staff accountability policy has been put in place where all violations are tracked.

b) Since past 8 months, Brickwork has dedicated training of staff on compliance, rating, methodologies and sector specific ratings.

c) Since May 2024, Brickwork has also introduced trainings on Wednesday to educate analytical team on the new modules and improvements in the rating software.

d) Monthly reviews by CRO have also been put into place to ensure timely completion of surveillance, material reviews, default recognition etc. focus on timeline adherence.

20. *Thus, in light of the above, it is respectfully submitted that all the above alleged violations were either procedural or trivial in nature and does not warrant any action against Brickwork. In any event, in light of the substantial remedial action already taken by Brickwork, all the alleged violations stand remedied, and the purpose of inspection stands achieved. Thus, for this reason also, no further action is warranted.*

21. *Further, as also contended by SEBI in paragraph 4.3 to 4.8 of the SCN, the findings / observations stated therein are repeated violations, which were also observed by SEBI in the previous inspection proceedings while passing the Order dated 6 October 2022, cancelling Brickwork's license. While SEBI has merely observed these to be repeated, what SEBI has failed to consider is that Brickwork had appealed against the 6 October 2022 order of SEBI before the Hon'ble SAT, which was finally heard and set-aside vide Hon'ble SAT's order dated 6 June 2023 [See Annexure – E, p. 69 of Reply to SCN], inter alia holding that the said violations observed by SEBI are routine operational errors which have unnecessary been escalated into regulatory proceedings, and had thereafter remitted the matter back to SEBI to decide on the quantum of penalty, which can be any order other than an order for cancellation.*

22. *The said 6 June 2023 order thereafter culminated into an order dated 13 September 2023 of the Ld. WTM wherein various directions inter alia were passed in relation to broad basing the board of Brickwork, making various managerial changes, conducting training etc., to ensure such violations do not happen in future, and had restrained SEBI from onboarding any new clients or taking any new mandates from existing clients. Brickwork thereafter complied with all the said directives, and vide order dated 26 March 2024 [See Annexure B, p. 60 of Reply to SCN], SEBI has held Brickwork to be in compliance of the same and has permitted Brickwork to function without any restrictions. Thus, by virtue of the said compliance, and the stand taken by SEBI that the findings/observations in the current inspection are similar to the ones observed in the previous inspection (which culminated in the Ld. WTM's Order of 13 September 2023), the observations/findings made in current SCN would also get subsumed under the compliance of the various directives made by Brickwork of the Ld. WTM's Order of 13 September 2023, as also highlighted in the preliminary submissions. Thus, Brickwork on this count alone, states that no further penalty ought to be imposed against Brickwork to the alleged violations set out in the SCN, and the said proceedings be dropped.*

Conclusion

23. *Thus, in light of the above, it is humbly submitted that no penalty, whatsoever, is warranted against the Noticee, particularly considering the serious debilitating injury that has already been inflicted since the order of the cancellation passed by SEBI on 6 October 2022. The Noticee has been grappling with regulatory actions taken against the company by SEBI since 2022, due to which the Noticee is facing significant financial hardships. Should the Noticee be afforded the opportunity to recover its business operations, it will be able to implement the necessary remedial measures effectively.*

24. *As stated above, Brickwork has already taken substantial remedial steps to ensure that no such alleged discrepancies are found in any future inspections, which squarely serves the purpose of SEBI conducting an inspection. No malice, mala fide and/or any market wide impact / loss has been observed by SEBI in the SCN. Thus, considering the same, the present proceedings be disposed of without any further additional directions.*

25. *We would also like to point out that Brickwork had in relation to the said SCN also filed Settlement Application on 3 August 2024 ("Settlement Application") under the SEBI (Settlement Proceedings) Regulations, 2018 ("Settlement Regulations"). However, as indicated during the hearing, Brickwork internally decided to withdraw the said Settlement Application and had addressed a letter to the SEBI Settlement Division in this regard. SEBI vide email dated 11 September 2024 has confirmed that the Settlement Application of Brickwork stands withdrawn in terms of Regulation 7 of Settlement Regulations. A copy of the letter dated 4 September 2024 of Brickwork addressed vide email dated 9 September 2024 to SEBI, and SEBI's email of 11 September 2024 confirming the withdrawal of the Settlement Application, is hereto annexed and marked as Annexure – C.*

26. *We would like to thank the Ld. AO for providing a patient hearing to Brickwork.*

…'

D. CONSIDERATION OF ISSUES AND FINDINGS

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

Issue No. I: **Whether the Noticee had violated the provisions of CRA Regulations and SEBI circulars, as alleged?**

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

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

12. Before going into the merits of the case, it would be pertinent to firstly deal with the technical contentions raised by the Noticee as part of its replies dated July 24, 2024 and September 13, 2024. It is noted that, broadly speaking, the technical contentions by the Noticee raised in both the replies (also referred to as 'reply' unless context states otherwise) are contextually similar save for being differently worded and accordingly, for brevity, are being dealt together, as hereunder:

12.1. The Noticee, as part of its reply, had contended that *'…Ld. AO has also failed to consider the various remedial steps already taken by Brickwork, thereby achieving the very purpose of conducting an inspection. It is a settled law that the purpose of inspection is not punitive but to merely to make the intermediary comply with the procedural requirements…the Noticee has over the past 2 years, taken number of remedial measures to assuage regulatory concerns. The Noticee has formulated and implemented various measures and operational changes to strengthen their rating and compliance processes.*

In this regard, I note that the alleged violations pertain to the inspection period in the instant adjudication proceedings. Accordingly, any remedial steps which were taken afterwards, as contended, may at best be worthy of being taken as a mitigating factor.

12.2. The Noticee, as part of its reply, had placed reliance on Hon'ble Securities Appellate Tribunal order in the matter of Religare Securities Limited vs. Securities and Exchange Board of India, dated 16th June 2011, and contended that the purpose of inspection is not punitive, but inspections are conducted to enable an intermediary to constantly improve its process.

In this regard, in my opinion each case is peculiar in its facts and circumstances based on which the violations are ascertained. Whether adjudication proceedings are to be initiated in a case would depend on the facts and circumstances of each case. I also note that, initiation of Adjudication proceedings under the appropriate provisions of SEBI Act, 1992 is a prerogative of SEBI depending upon the outcome of such exercise viz., Inspection and findings thereof. It would also be relevant to state that the subject matter of instant proceedings are as per the Communique of appointment of AO, duly approved by the Competent Authority.

I also note from the text of Hon'ble SAT order dated 16.06.2011 that Hon'ble SAT had inter alia held that '... *This will, of course, depend on the nature of the irregularity noticed and we hasten to add a caveat that it is not being suggested that if any serious lapse is found during the course of the inspection, the Board should not proceed against the delinquent...*'. Further in this regard, I also note that the alleged violations in respect of the Noticee are of extant applicable provisions of law as are otherwise applicable to the entire category of intermediary viz., credit rating agency in the instant case, and not just about minor procedural aspects specific to the Noticee. It is also noted that in the instant proceedings, the alleged violation does not pertain to certain procedural requirements but inter alia about alleged violation of rating securities issued by borrower of promoter, discrepancy in disclosure of cumulative default rate etc. Accordingly, the contention of the Noticee in this regard are devoid of merit and hence cannot be accepted.

12.3. The Noticee, as part of its reply, had also contended that *'…At best, all these were procedural / technical lapses, which had inadvertently happened, and are trivial in nature. No harm, loss or prejudice has been caused to any investor and/or the market, as a result of these alleged violations and accordingly no penalty ought to be imposed…'.* In this regard, the Noticee placed reliance on Hon'ble SAT's order passed in the matter of Satco Securities and Financial Services Ltd. v. Chairman, SEBI (MANU/SB/0056/2003); Hon'ble Supreme Court Order passed in the matter of Hindustan Steel Limited vs. State of Orissa [(1969) 2 SCC 627]; P.G. Electroplasts Ltd. vs. SEBI [2019 SCC OnLine SAT 148]; Hon'ble SAT Order in the matter of R.V. Lifestyle vs. SEBI, dated 15th May 2019.

In this regard, I note that the contentions of the Noticee are in the nature of admission in so far as the Noticee has submitted that '…*At best, all these were procedural / technical lapses, which had inadvertently happened, and are trivial in nature…'.*

In my view, said contentions would not exempt the Noticee from complying with the extant applicable provisions of securities laws violated, which Noticees were required to comply with. As regards the contention inter alia about harm or loss caused to any investor, I note that the same may at best be worthy of being considered as mitigating factor

Further in this regard, I am of the opinion that facts and circumstances of each matter are unique in nature and are accordingly dealt with and decided. Hence, any generic parallel drawn would be devoid of merit. Further in this regard, I also note that the alleged violations in respect of the Noticee are of extant applicable provisions of law, and not just about minor procedural aspects specific to the Noticee. In view thereof, the contentions of the Noticee in this regard are devoid of merit and hence cannot be accepted.

12.4. The Noticee, as part of its reply, had also contended that '… *findings/observations of the Ld. AO in the said SCN are subsumed in and stand remedied by the Noticee's compliances of the directions contained in the 13 September 2023 order of the Ld. Whole Time Members, SEBI ("Ld.*

WTM"), passed in a previous inspection…which now stand complied with as per SEBI's letter of 26 March 2024…'

In this regard, I note that the Noticee has not demonstrated with relevant details and documents that the alleged violations in the instant proceedings were subsumed in the directions contained in the 13 September 2023 order by WTM. Further in this regard, I note that the contentions of the Noticee are out of context in so far as the inspection period covered in the said WTM order pertained to October 01, 2018 to November 30, 2019 whereas the Inspection period in the instant matter was February 01, 2022, to November 30, 2023. Accordingly, the instant adjudication proceedings deal with the alleged violations during inspection period February 01, 2022, to November 30, 2023.

Logically speaking, since the violations were observed during two different inspection for two different periods wherein the inspection leading to the WTM order pertained to a prior period (October 01, 2018 to November 30, 2019) than the inspection leading to instant proceedings (February 01, 2022, to November 30, 2023), had the findings in the instant proceedings been subsumed in the previous inspection and were remedied by the Noticee then, as contended, the same would not have been observed in the findings during the inspection in the instant proceedings.

Further in this regard, I note that Noticee has submitted Annexure C with respect to how each observation as contained in the present SCN is subsumed in the compliance of the directions contained in the 13 September 2023 order. In this regard, I note from Annexure C as submitted by the Noticee that the Noticee has assumed that all the alleged violations in the instant proceedings were subsumed under the direction of WTM order which inter alia reads as under:

> *'…*
> *The Noticee shall ensure that the person functioning as CRO has adequate experience in credit rating and risk management, and shall also undergo in-depth training by an entity not*

related/connected to the Noticee, to familiarize himself/ herself with the regulatory framework. Such person shall also ensure that systems and rating models are in place at the Noticee that are fully compliant with the CRA Regulations and Circulars issued thereunder. The CRO shall provide a certificate to SEBI evidencing compliance with this direction. The Noticee shall ensure that all the persons undertaking rating function, including the analysts, are adequately trained by an entity not related/connected to the Noticee, and be fully aware of the regulatory framework governing ratings. The Noticee shall also ensure that periodic workshops are conducted to ensure that personnel in the rating function are familiar with the changing regulatory requirements. The Noticee shall submit a certificate to SEBI, along with the details of the training programs conducted, stating the status of compliance with this direction.
…'

However, from the plain reading of the text above, it is noted that the same broadly speaking, mentions about training programs etc. and not per se about all the alleged violations being ascertained in the instant proceedings. I am of the view that Noticee had failed to demonstrate with relevant details and documents that all the alleged violations were subsumed more so alleged violations regarding Rating of securities issued by borrower of promoter of CRA and Discrepancy in disclosure of Cumulative Default Rates (CDRs) and average rating transition rate for listed and proposed to be listed securities**.**

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

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

Issue No. I: Whether the Noticee had violated the provisions of CRA Regulations and SEBI circulars, as alleged?

Rating of securities issued by borrower of promoter of CRA

14. It was inter alia observed and alleged that Brickwork rated three entities which were borrower of its promoter, namely, TVS Credit Services Limited, Kosamattam Finance Limited and Dhani Loans and Services Limited, and Brickwork did not have any mechanism in place to ensure the compliance of

the conditions with regards to rating of securities issued by a borrower of the CRA's promoter. In view thereof, it was alleged that Noticee had violated Regulation 27(1) of SEBI (Credit Rating Agencies) Regulations, 1999 and Regulation 13 read with clause 14 of code of conduct under third schedule of SEBI (Credit Rating Agencies) Regulations, 1999.

14.1. Here it would be relevant to refer to the text of the aforesaid provisions alleged to have been violated, which inter alia reads as under:

Regulation 27(1) of CRA Regulations read as under:

'…
27. (1) No credit rating agency shall, rate a security issued by an entity, which is;-
(a) a borrower *of its promoter; or*
(b) a subsidiary of its promoter; or
(c) an associate of its promoter, if
(i) there are common Chairman, Directors between credit rating agency and these entities.
(ii) there are common employees.
(iii) there are common Chairman, Directors, Employees on the rating committee
….'

Regulation 13 read with Clause 14 of Code of Conduct of CRA Regulations states the following:

'…
A credit rating agency shall maintain an appropriate level of knowledge and competence and abide by the provisions of the Act, regulations and circulars, which may be applicable and relevant to the activities carried on by the credit rating agency. The credit rating agency shall also comply with award of the Ombudsman passed under the Securities and Exchange Board of India (Ombudsman) Regulations, 2003.
…'

From the plain reading of the text above, I note that in terms of Regulation 27(1)(a) of the CRA Regulation, a credit rating agency is inter alia restricted from rating a security issued by a borrower of its promoter. Further, in terms of Regulation 13 read with Clause 14 of Code of Conduct of CRA Regulations, I note that a credit rating agency shall maintain an appropriate level of knowledge and competence and abide by the provisions of the Act, regulations and circulars, which may be applicable and relevant to the activities carried on by the credit rating agency.

14.2. In this regard, I note from material available on record that in the below mentioned instances, the entities rated by Brickwork had outstanding bank loans facility from Canara Bank ('Promoter of Brickwork' / 'promoter'). However, Brickwork had still rated the debt securities of these entities:

Issuer Name	PR* Date
TVS Credit Services Limited	December 15, 2022 and February 17, 2022
Kosamattam Finance Limited	March 23, 2022 ; June 30, 2022 and July 28, 2023
Dhani Loans and Services Limited	April 26, 2022

*:-Press Release

14.3. In this regard, I note that earlier, the Noticee had filed similar reply to SEBI in response to the findings of the inspection as it has filed during the instant proceedings, and there too the Noticee's reply was in nature of admission in so far as Noticee had submitted that *'…Brickwork has consistently ensured that it does not rate securities of the entities where the bar under 27 (1) (a), read with the criteria (i), (ii) and (iii) stands attracted….inadvertent error was not intentional and has occurred due to some ambiguity in interpretation of the regulations…'.*

14.4. Further in this regard, I note that the submissions of the Noticee, as part of its replies to the SCN, are also in the nature of admission in so far as the Noticee has inter alia submitted that *'…Noticee's understanding of Section 27(1) of CRA Regulations was such that the restrictions contained in (a), (b) and (c) of Regulation 27(1) would apply only in cases when any of the criteria's under (i), (ii) or (iii) are also attracted;…after this issue was raised by SEBI in the Observations initially sent to the Noticee on 26 February 2024, the Noticee has implemented a robust automated mechanism in its software which would ensure that entities who are borrowers of Canara Bank are not onboarded as clients…'* . and also submitted that '….*despite the Noticee stating that all the bank loan ratings of the 3 issuers …, have been withdrawn, the Ld. AO has still held the Noticee to be in violation of Regulation 27(1). In addition to the same, while at the time of inspection, the Noticee may have not had a mechanism in place to verify whether a client is a borrower of Noticee's promoter, however, subsequently, the Noticee has put in a place a robust automated mechanism to ensure compliance of Regulation 27(1) of the CRA Regulations…'*

14.5. As regards the contention of the Noticee that all the bank loan ratings of the 3 issuer were withdrawn and Ld. AO has still held the Noticee to be in violation of Regulation 27(1), firstly, I note that it is incorrect to construe that Noticee was held liable at the SCN stage because the SCN contained observations regarding alleged violations of the provisions of securities laws, as brought out in the foregoing, and was not a concluding stage to hold Noticee liable therein. Further, as regards any remedial steps taken by the Noticee post the observation of violations during the inspection period, the same may at best be worthy of being considered as mitigating factor. In view thereof, the contentions of the Noticee in this regard are devoid of merit and hence not acceptable.

Further in this regard, as regards understanding about Regulation 27(1) of CRA Regulations, I note that there is a mechanism made available by SEBI whereby eligible entities can seek informal guidance from SEBI by way of interpretive letters under the Securities and Exchange Board of India (Informal Guidance) Scheme, 2003. In this regard, the Noticee was at liberty to seek informal guidance under the scheme. In view thereof, the contentions of the Noticee in this regard are devoid of merit and hence cannot be accepted.

14.6. In view thereof, I find that the allegation that there was rating of securities issued by borrower of promoter of CRA in so far as Brickwork rated three entities which were borrower of its promoter, namely, TVS Credit Services Limited, Kosamattam Finance Limited and Dhani Loans and Services Limited, and Brickwork did not have any mechanism in place to ensure the compliance of the conditions with regards to rating of securities issued by a borrower of the CRA's promoter, stands established. Therefore, I hold that the Noticee had violated provisions of Regulation 27(1) of SEBI (Credit Rating Agencies) Regulations, 1999 and Regulation 13 read with clause 14 of code of conduct under third schedule of SEBI (Credit Rating Agencies) Regulations, 1999.

Discrepancy in disclosure of Cumulative Default Rates (CDRs) and average rating transition rate for listed and proposed to be listed securities

15. It was inter alia observed and alleged that Noticee had allegedly failed to exercise due diligence in calculating CDR and average rating transition rate for listed or proposed to be listed securities as it included such instruments which does not fall under the definition of securities for the purpose of calculation. In view thereof, it was alleged that Noticee had violated provisions of Regulation 13 read with clause 2, 4 and 12 of code of conduct under third schedule of SEBI (Credit Rating Agencies) Regulations, 1999 and Clause 26.4.1.8 and Clause 26.4.3.3 of SEBI Master circular SEBI/HO/DDHS/DDHS-POD2/P/CIR/2023/111 dated July 03, 2023.

15.1. Here it would be relevant to refer to the text of the aforesaid provisions alleged to have been violated, which inter alia reads as under:

Regulation 13 read with Clause 2 of Code of Conduct of CRAs Regulations:

"*A credit rating agency, in the conduct of its business, shall observe high standards of integrity, dignity and fairness in the conduct of its business.*"

Regulation 13 read with Clause 4 of Code of Conduct of CRAs Regulations:

"A credit rating agency *shall at all times exercise due diligence, ensure proper care and exercise independent professional judgment in order to achieve and maintain objectivity and independence in the rating process"*.

Regulation 13 read with Clause 12 of Code of Conduct mentioned in third schedule of CRA Regulations:

"A credit rating agency shall not make any untrue statement, suppress any material fact or make any misrepresentation in any documents, reports, papers or information furnished to the board, stock exchange or public at large*".*

Clause 26.4.1.8 of SEBI Master circular dated July 03, 2023:

In addition to disclosure on cumulative default rates (CDR) which includes non-cooperative issuers and various types of credit ratings, CRAs from Financial year 2022-2023, shall also disclose, separately, two other CDRs limited to *credit ratings of securities that are listed, or proposed to be listed, on a recognized stock exchange*

CDR (ii), wherein ratings of non-cooperative issuers shall be included in the cohort under the rating category in which the instrument is currently being rated.
CDR (iii), wherein ratings of non-cooperative issuers shall be excluded in the cohort under the rating category in which the instrument is currently being rated.

Clause 26.4.3.3 of the SEBI Master Circular dated July 03, 2023:

"Therefore, in addition to the disclosure of rating transitions para 26.4.2 of master circular, CRAs shall also disclose two additional and separate rating transition matrices (limited to credit ratings of securities that are listed, or proposed to be listed, on a recognized stock exchange) using the following definition of static pool:
***a. Static Pool:** Ratings outstanding for each category at the beginning of any financial year. It shall exclude ratings that have been withdrawn or ratings of non-cooperative issuers during the financial year. Ratings downgraded to D shall be treated as default for the rest of the financial year. Ratings which are upgraded from D shall be considered as new rating for the relevant subsequent static pools.*
***b. Static Pool:** Ratings outstanding for each category at the beginning of any financial year. It shall include ratings that have been withdrawn or ratings of non-cooperative issuers during the financial year. Ratings downgraded to D shall be treated as default for the rest of the financial year. Ratings which are upgraded from D shall be considered as new rating for the relevant subsequent static pools."*

From the plain reading of the text above, I note that in terms of Regulation 13 read with clause 2, 4 and 12 of Code of Conduct mentioned in third schedule of CRA Regulations, a credit rating agency shall observe high standards of integrity, dignity and fairness in the conduct of its business, exercise due diligence at all times, ensure proper care and exercise independent professional judgment in order to achieve and maintain objectivity and independence in the rating process, further, a credit rating agency shall not make any untrue statement, suppress any material fact or make any misrepresentation in any documents, reports, papers or information furnished to the board, stock exchange or public at large.

Further, in terms of Clause 26.4.1.8 of SEBI Master circular dated July 03, 2023, I note that, in addition to disclosure on cumulative default rates (CDR) which includes non-cooperative issuers and various types of credit ratings, CRAs from Financial year 2022-2023, shall also disclose, separately, two other CDRs limited to credit ratings of securities that are listed, or proposed to be listed, on a recognized stock exchange i.e. CDR wherein ratings of non-cooperative issuers shall be included in the cohort under the rating category in which the instrument is currently being rated and CDR wherein ratings of non-cooperative issuers shall be excluded in the cohort under the rating category in which the instrument is currently being rated.

Further in this regard, in terms of Clause 26.4.3.3 of the SEBI Master Circular dated July 03, 2023, I note that, in addition to the disclosure of rating transitions, CRAs shall also disclose two additional and separate rating transition matrices (limited to credit ratings of securities that are listed, or proposed to be listed, on a recognized stock exchange) using the definition of static pool provided therein i.e. one where it shall exclude ratings that have been withdrawn or ratings of non-cooperative issuers during the financial year and another where it shall include ratings that have been withdrawn or ratings of non-cooperative issuers during the financial year.

15.2. In this regard, I note from material available on record that the static pool for calculation of CDRs and average rating transition rate of listed or proposed to be listed for FY 2022-23 with INC (Issuer Not Cooperating), included data of following instrument which were not securities as defined in clause(h) of section 2 of the Securities Contracts (Regulation) Act, 1956.

Company Name	**Instrument**	**PR**	**Rating**
The Bombay Dyeing and Manufacturing Company Ltd.	Fixed Deposit	December 29, 2022	BBB+
SRS Real Infrastructure Ltd.	Fixed Deposit	June 29, 2022	D
Transcorp International Ltd	Fixed Deposit	December 29, 2022	BBB-
Sambandam Spinning Mills Ltd.	Fixed Deposit	September 12, 2022	BB+

15.3. In this regard, I also note from material available on record that the static pool for calculation of CDRs and average rating transition rate of listed or proposed to be listed for FY 2022-23 without including INC included data of following instrument which were not securities as defined in clause(h) of section 2 of the Securities Contracts (Regulation) Act, 1956.

Company Name	**Instrument**	**PR**	**Rating**
The Bombay Dyeing and Manufacturing Company Ltd.	Fixed Deposit	December 29, 2022	BBB+
SRS Real Infrastructure Ltd.	Fixed Deposit	June 29, 2022	D
Transcorp International Ltd	Fixed Deposit	December 29, 2022	BBB-

15.4. In this regard, I note that earlier, the Noticee had filed similar reply to SEBI in response to the findings of the inspection as it has filed during the instant proceedings, and there too the Noticee's reply was in nature of admission in so far as Noticee had submitted that *'…inclusion of the Fixed Deposits in the calculation of Static Pool INC, was done inadvertently due to an oversight…The above clearly showcases that this was an inadvertent error, operational error….'.*

15.5. Further in this regard, I note that the submissions of the Noticee, as part of its replies to the SCN, are also in the nature of admission in so far as the Noticee has submitted that '…*In the CDR including INC, there is a slight improvement in the calculated values in the BBB grade when the stated issuances are removed from the cohort. Hence, the reported number was more conservative than what should have been. In the CDR excluding INC, for the BBB grade, there is a marginal increase of 0.29% in the CDR values due to the above-mentioned adjustment. The above clearly showcases that this was an inadvertent and operational error, with no adverse impact.*

15.6. As regards the code of conduct, I note that a credit rating agency is required to inter alia exercise due diligence at all times and shall not make any untrue statement, suppress any material fact or make any misrepresentation in any documents, reports, papers or information furnished to the board, stock exchange or public at large. In the instant proceedings, as brought out above, the Noticee had included data of such instruments which were not securities and as also admitted by the Noticee, inclusion of such instrument altered the CDR and transition rates from what it should have been.

15.7. In view thereof, I find that the allegation that there was discrepancy in disclosure of Cumulative Default Rates (CDRs) and average rating transition rate for listed and proposed to be listed securities in so far as, stands established. Therefore, I hold that the Noticee had violated provisions of Regulation 13 read with clause 2, 4 and 12 of code of conduct under third schedule of SEBI (Credit Rating Agencies) Regulations, 1999 and Clause 26.4.1.8 and Clause 26.4.3.3 of SEBI Master circular SEBI/HO/DDHS/DDHS-POD2/P/CIR/2023/111 dated July 03, 2023.

Delay in annual surveillance/review of rating

16. It was inter alia observed and alleged that there was delay of 2 to 124 days in review of rating in 362 instances during the period of inspection by the Noticee. In view thereof, it was alleged that Noticee had violated provisions of Regulation 16(1) of SEBI (Credit Rating Agencies) Regulations, 1999; Regulation 24(2) of SEBI (Credit Rating Agencies) Regulations, 1999 and Regulation 13 read with clause 3 of code of conduct under third schedule of SEBI (Credit Rating Agencies) Regulations, 1999.

16.1. Here it would be relevant to refer to the text of the aforesaid provisions alleged to have been violated, which inter alia reads as under:

Regulation 16(1) and 16(3) of CRA Regulations inter alia reads as under:

'…

16(1)"Every credit rating agency shall carry out periodic reviews of all published ratings during the lifetime of the securities, unless *the rating is withdrawn, subject to the provisions of regulation 16(3).*

…..

[(3) A credit rating agency shall not withdraw a rating so long as the obligations under the security rated by it are outstanding, except where the company whose security is rated is wound up or merged or amalgamated with another company, or as may be specified by the Board from time to time.

Regulation 24(2) of CRA Regulations inter alia reads as under:

"Every credit rating agency *shall, in all cases, follow a proper rating process"*

Clause 3 of Code of Conduct read with Regulation 13 of CRA Regulations inter alia reads as under:

"A credit rating agency shall fulfill its obligations in a prompt, ethical and professional manner"

16.2. In this regard, I note from material available on record that the Rating process Manual (RPM) of Brickwork dated August 30, 2023 *inter-alia* mentioned the following under the section of "Surveillance/ Review of the Ratings / Material Events Requiring Review":

"Once a rating is in the public domain, BWR shall keep the rating under surveillance/monitoring as long as the instrument is outstanding or until the rating is withdrawn. Annual review of such ratings in case of Bonds/NCD and Bank Loan Ratings shall necessarily be made. A review can also be made at a shorter frequency, based on occurrence of early warning signals or material events..."

16.3. During the course of inspection, SEBI observed on the perusal of Preliminary Inspection Questionnaire ('PIQ') reply submitted vide email dated January 16, 2024 by Brickwork and Annexure 14.5 of PIQ reply dated January 12, 2024 by Brickwork that there was delay in conducting annual surveillance in rating of NCDs in 362 instances with delay ranging from 2 to 124 days.

Further, on the perusal of website of Brickwork, SEBI observed that Brickwork had conducted annual review in the below case with a delay of 118 days:

Name of the Issuer	Type of Instrument	Issue Size (INR Crs.)	Date of Last review(PR date)	Due Date of Review	Actual Date of Review	Delay in days
IIFL Finance Limited	NCDs	2012.27	August 05, 2022	August 05, 2023	December 01, 2023	118

16.4. In this regard, SEBI observed that Brickwork had allegedly failed to conduct annual review within the timelines prescribed in its internal Rating Process Manual (RPM) in the instant cases and thus allegedly failed to follow a proper rating process. Further, it was also observed that enquiry proceedings were initiated against Brickwork leading to cancellation of its registration certificate vide SEBI order dated October 06, 2022 whereby one of the findings was delay in review of rating in one instance. However, in the instant inspection, it was again observed by SEBI that Brickwork had failed to conduct the annual review within timeline in the 212 instances (out of 362 instances).

16.5. In this regard, the Noticee, as part of its replies to the SCN, had contended that *'…CRA Regulations, of which the Noticee is held to be in violation of, nowhere prescribes any outer time limit for carrying out such periodic review/surveillance of ratings, nor does the SEBI Master Circular of 3 July 2023 and SEBI Circular SEBI/HO/MIRSD/MIRSD4/CIR/P/2016/119 dated 1 November 2016…point 1 of Annexure A to the 1 November 2016 Circular permits CRAs to formulate their own operating guidelines, criteria, policies, and procedure in relation to conduct surveillance of ratings….'.*

The Noticee, as part of its replies to the SCN, had also contended that *'…timelines in OPMs cannot be equated to a regulatory requirement so as to hold Brickwork in violation of SEBI Circulars / Regulations. This has explicitly been observed by the Hon'ble Securities Appellate Tribunal ("Hon'ble SAT") in the Noticee's matter, in Order dated 6 June 2023, specifically in relation to surveillance mandates. The relevant extract of the 6 June 2023 order is set out hereinbelow:*

> *"19. …we are of the opinion that the **indicative timeline in an operational manual cannot be elevated to a statutory requirement** and non-compliance of the timelines indicated in the internal manual cannot be a ground to impose a penalty. Further, the timelines are indicative in nature. They are not cast in stones **and the completion of ratings depends on various factors which are supplied by third parties over whom the appellant has no control**…"*

In this regard, I note from the text of the alleged provisions, as brought out in the foregoing, that the credit rating agencies are inter alia required to carry out periodic reviews of all published ratings during the lifetime of the securities, unless the rating is withdrawn. Further the credit rating agencies are required to follow a proper rating process and shall fulfill its obligations in a prompt, ethical and professional manner. However, as contended by the Noticee, I note that the provisions alleged to have been violated do not prescribe any outer time limit for carrying out such periodic review/surveillance of ratings.

16.6. In view thereof, having regard to the contentions of the Noticee and order dated 6 June 2023 of Hon'ble SAT, I am of the view that the allegation that Noticee had violated provisions of Regulation 16(1), 24(2) of SEBI CRA Regulations, 1999 and Regulation 13 read with clause 3 of code of conduct under third schedule of SEBI CRA Regulations, 1999, does not stand established.

Failure to conduct annual surveillance/review of rating

17. It was inter alia observed and alleged that in one instance, namely, Edel Land Limited, the annual review was not conducted by Brickwork which was due on October 07, 2023. In view thereof, it was alleged that Noticee had violated provisions of Regulation 16(1) of SEBI (Credit Rating Agencies) Regulations, 1999; Regulation 24(2) of SEBI (Credit Rating Agencies) Regulations, 1999 and Regulation 13 read with clause 3 of code of conduct under third schedule of SEBI (Credit Rating Agencies) Regulations, 1999.

17.1. In this regard, as noted from material available on record, SEBI observed that the Rating process Manual (RPM) of Brickwork *inter-alia* mentioned the following under the section of "Surveillance/ Review of the Ratings / Material Events Requiring Review":

'…Once a rating is in the public domain, BWR shall keep the rating under surveillance/monitoring as long as the instrument is outstanding or until the rating is withdrawn. Annual review of such ratings in case of Bonds/NCD and Bank Loan Ratings shall necessarily be made. A review can also be made at a shorter frequency, based on occurrence of early warning signals or material events…'

17.2. Further, during the course of inspection, SEBI observed that Brickwork has failed to conduct annual surveillance in the below case:

Name of issuer	Type of instrument	Issue size (INR Crores)	Date of Last review (PR date)	Due date of review
Edel Land Limited	Principal Protected Market Linked **Debentures**	625	October **07**, 2022	October 07, 2023

17.3. In this regard, SEBI observed that Brickwork had allegedly failed to conduct annual review as per its operational manual in the instant case and thus failed to follow a proper rating process. It was further observed by SEBI that enquiry proceedings were initiated against Brickwork leading to cancellation of its registration certificate vide SEBI order dated October 06, 2022 whereby one of the findings was delay in review of rating in one instance. However, in the instant inspection, it was again observed that Brickwork has failed to conduct the annual review in the case of Edel land limited.

17.4. In this regard, the Noticee, as part of its replies to the SCN, had contended that *'…The Noticee once again submits that SEBI Circulars i.e. circular dated 1 November 2016 and the Master Circular dated 3 July 2023, does not prescribe a time limit within which a CRA is required to complete the surveillance of the ratings. To the contrary, the said Circulars provides only broad guidelines, permitting CRAs to formulate their own operating guidelines., criteria, policies, and procedure in relation to conduct surveillance of ratings….'*

In this regard, I note from the text of the alleged provisions, as brought out in the foregoing, that the credit rating agencies are inter alia required to carry out periodic reviews of all published ratings during the lifetime of the securities, unless the rating is withdrawn. However, as contended by the Noticee, I note that the provisions alleged to have been violated do not prescribe any outer time limit for carrying out such periodic review/surveillance of ratings. In this regard, I also take note of the submission of the Noticee that *'…The annual surveillance of Edel*

Land Limited has now been completed and the press release was made on 22 March 2024….'.

17.5. In view thereof, inter alia having regard to the contentions of the Noticee and order dated 6 June 2023 of Hon'ble SAT, I am of the view that the allegation that Noticee had violated provisions of 16(1) of SEBI CRA Regulations, 1999; Regulation 24(2) of SEBI CRA Regulations, 1999 and Regulation 13 read with clause 3 of code of conduct under third schedule of SEBI CRA Regulations, 1999, does not stand established.

Delay in recognition of default

18. It was inter alia observed and alleged that in the case of Tridhaatu Renovators Private Limited ("Tridhaatu"), Brickwork had failed to downgrade Tridhaatu's rating to default (D) within the stipulated two working days following default intimation by Debenture Trustee (DT) on February 07, 2023. There was a delay of 191 working days in recognizing default by Brickwork.

In view thereof, it was alleged that Noticee had violated provisions of Regulation 24(2) of SEBI (Credit Rating Agencies) Regulations, 1999; Regulation 24(7) of SEBI (Credit Rating Agencies) Regulations, 1999; Regulation 13 read with clause 8 of code of conduct under third schedule of SEBI (Credit Rating Agencies) Regulations, 1999; Clause 7.5.1 read with Annexure 11, Clause 9.1.1 and Clause 27.3.4 of SEBI operational circular SEBI/HO/DDHS/DDHS-RACPOD2/P/CIR/2023/6 dated January 06, 2023 and Clause 7.5.1 read with Annexure 11, Clause 9.1.1 and Clause 27.3.4 of SEBI Master circular SEBI/HO/DDHS/DDHS-POD2/P/CIR/2023/111 dated July 03, 2023.

18.1. In this regard, it is noted from material available on record that during the course of inspection, it was observed by SEBI from the Centralized database for Corporate Bonds ("Database") that the issuer Tridhaatu

Renovators Private Limited ("Tridhaatu") had listed bond with ISIN INE00VH07017 rated by Brickwork which had the following payment dates:

Issuer Name	ISIN	Type of Payment	Due date
Tridhaatu Renovators Private Limited	INE00VH07017	Coupon	March 31, 2022
		Principal	February 06, 2023

18.2. In this regard, upon the perusal of the email communications submitted by Brickwork, SEBI observed that Vistra ITCL (India) Limited, the Debenture Trustee (DT) in respect of security as mentioned in the table above, had sent an email to Brickwork on February 07, 2023 intimating about the default in redemption payment due on February 06, 2023 for the above ISIN of Tridhaatu. SEBI further observed that Brickwork was obligated to downgrade the rating to default (D) within 2 working days of being intimated of the default on February 07, 2023. However, Brickwork did not downgrade the rating to D until November 30, 2023, resulting in a delay of 191 working days. The details of rating action taken by Brickwork, as noted from material available on record, are as under:

Issuer Name	ISIN	Due date of Payment	Date of Default intimation (Email by DT)	PR date downgrading rating to D	Delay in default recognition (after 2 working days timeline)
Tridhaatu Renovators Private Limited	INE00VH07017	February 06, 2023	February 07, 2023	November 20, 2023	191

18.3. In this regard, I note that earlier, the Noticee had filed similar reply to SEBI in response to the findings of the inspection as it has filed during the instant proceedings, and there too the Noticee's reply was in nature of admission in so far as Noticee had submitted that *'….inadvertent delay occurred due to the difficulties faced by Brickwork on account of high attrition…'*.

18.4. In this regard, I note that the submissions of the Noticee, as part of its replies to the SCN, are also in the nature of admission in so far as the Noticee has submitted that '…*The said inadvertent error was purely on account of high attrition of analysts and employees…'*

In this regard, as regards the contention of Noticee with respect to attrition of employees etc. and remedial steps taken afterwards, I am of the view that the same may at best be worthy of being taken as a mitigating factor.

18.5. In view thereof, I find that the allegation that there was delay in recognition of default in so far as Brickwork had failed to downgrade Tridhaatu's rating to default (D) within the stipulated two working days following default intimation by Debenture Trustee (DT) on February 07, 2023 causing a delay of 191 working days in recognizing default by Brickwork, stands established. Therefore, I hold that the Noticee had violated provisions of Regulation 24(2) of SEBI (Credit Rating Agencies) Regulations, 1999; Regulation 24(7) of SEBI (Credit Rating Agencies) Regulations, 1999; Regulation 13 read with clause 8 of code of conduct under third schedule of SEBI (Credit Rating Agencies) Regulations, 1999; Clause 7.5.1 read with Annexure 11, Clause 9.1.1 and Clause 27.3.4 of SEBI operational circular SEBI/HO/DDHS/DDHS-RACPOD2/P/CIR/2023/6 dated January 06, 2023 and Clause 7.5.1 read with Annexure 11, Clause 9.1.1 and Clause 27.3.4 of SEBI Master circular SEBI/HO/DDHS/DDHS-POD2/P/CIR/2023/111 dated July 03, 2023.

Delay in conducting review of rating in case of Material Event in the case of India Power Corporation Limited

19. It was inter alia observed and alleged that in the case of India Power Corporation Limited, there was a delay in carrying the material event review beyond 7 days which was in violation of SEBI guideline of reviewing the

material event within 7 days of its occurrence. In view thereof, it was alleged that Noticee had violated provisions of Regulation 13 read with clause 8 of code of conduct under third schedule of SEBI (Credit Rating Agencies) Regulations, 1999 and Clause 1(B) and Clause 2(A)(III) of SEBI Circular SEBI/ HO/ MIRSD/ MIRSD4/ CIR/P/ 2017/71 dated June 30, 2017.

19.1. Here it would be relevant to refer to the text of the aforesaid provisions alleged to have been violated, which inter alia reads as under:

Clause 1(B) of SEBI Circular SEBI/ HO/ MIRSD/ MIRSD4/ CIR/P/ 2017/71 on Monitoring and Review of Ratings by Credit Rating Agencies (CRAs) dated June 30, 2017:

'…
B.Material Events requiring a review:
I. CRAs shall carry out a review of the ratings upon the occurrence of or announcement/ news of material events including, but not restricted to, the following:
a. Quarterly/ Half-yearly/ Annual results
b. Merger/ Demerger/ Amalgamation/ Acquisition
c. Corporate debt restructuring, reference to BIFR and winding-up petition filed by any party /creditors.
...
…
II. CRAs shall publish on their website press release regarding the rating action (including reiteration of existing rating), if warranted, immediately, but not later than 7 days of occurrence of the said event.
…'

Clause 2(A)(III) of SEBI Circular SEBI/ HO/ MIRSD/ MIRSD4/ CIR/P/ 2017/71 on Monitoring and Review of Ratings by Credit Rating Agencies (CRAs) dated June 30, 2017:

'…
2.Timelines of review and Press Releases:
…
Dissemination of Press Release on CRA's website and intimation of same to Stock Exchange/ Debenture Trustee in case of event based review:

Scenario	*Timeline-immediately but not later than*
…..	*…*
Material Events requiring review (as stated in point 1B	*7 working days of occurrence of the event*

…'

19.2. In this regard, I note from material available on record that in the case of India Power Corporation Limited ("India Power"), SREI Infrastructure Finance Ltd (SIFL) made a disclosure dated June 13, 2022 on stock exchange that the Administrator of SREI Equipment

Finance Ltd (SEFL) received an initial report from BDO India LLP (BDO), indicating that there were certain transactions which were fraudulent in nature, as per Section 66 of the Code. Basis the investigation and observations of BDO, the Administrator had filed an application in respect of disbursements made to certain entities, referred to as the Power Trust group of entities, before the Kolkata bench of the National Company Law Tribunal (NCLT) under Section 60(5) and Section 66 of the Code on June 10, 2022. The application had been filed against 14 respondents, including India Power Corporation Limited.

19.3. Further in this regard, SEBI observed that on basis of the above disclosure made by SIFL, Brickwork considered the same as a material event and carried out a review. The Rating Committee Meeting (RCM) for the said instance was held by Noticee on June 28, 2022 and Press Release was disclosed on July 12, 2022, which was after 7 working days of occurrence of material event. SEBI observed that this was not in line with SEBI guidelines which requires CRAs to publish on their website press release regarding the rating action (including reiteration of existing rating), if warranted, immediately, but not later than 7 days of occurrence of the said event.

19.4. SEBI further observed in this regard that during onsite inspection, Brickwork vide email dated February 02, 2024 *inter-alia* submitted that *An update regarding SIFL was put up to the RCM on 21 Jun 2022 i.e. within 7 days, by the concerned rating team. RCM while taking note of the development, advised, "As BWR rated entity India Power Corporation Ltd figured in the fraudulent list of RBI appointed administrator M/s BDO India LLP, the respective rating team was advised to look into the issue and place a note to the CRC immediately."* However, no documentary evidence in this regard was submitted by Brickwork.

19.5. The delay in conducting material event review by Brickwork in the above mentioned case, as noted from material available on record, was as under:

Issuer Name	**Type of Material event**	**Date of intimation/Stock exchange disclosure (Material event trigger date)**	**Date of PR**	**Delay in days**
India Power Corporation Limited.	Public Disclosure by SIFL to Stock Exchange of report from BDO India, LLP indicating certain fraudulent transactions.	June 13, 2022	July 12, 2022	13

19.6. In this regard, the Noticee, as part of its replies, had contended that *'…There were no disclosures made either to the exchanges or to the Noticee about any updates or developments regarding the company. It was only while regularly monitoring another Brickwork rated entity, i.e.* ***SIFL*** *(Outstanding rating of Brickwork D/ INC), Brickwork came across a disclosure, dated 13 June 2022 issued by SIFL…'* and that *'…Immediately, upon acquiring knowledge, an update regarding SIFL was put up to the RCM on 21 June 2022 (wrongly observed as 28 June 2022 in the SCN) i.e. within 7 working days, by the concerned rating team. RCM while taking note of the development advised that since IPCL figured in the fraudulent list as in the report prepared by BDO which was an RBI appointed administrator, the rating team should look into the issue and place a note to the Central Rating Committee immediately. A copy of the minutes of the RCM dated 21 June 2022 is annexed as Annexure – "H"…'*

In this regard, as regards the contention of the Noticee that Brickwork came across disclosure, dated 13 June 2022 only while regularly monitoring another Brickwork rated entity, i.e. SIFL, I note both, India Power and SIFL's securities were rated by the Noticee and if the disclosure regarding material event was not disclosed by India Power, the same was disclosed by SIFL. In this regard, I also note that in terms of SEBI Master Circular dated July 03, 2023, CRAs are required to monitor the Exchange website for disclosures made by the Issuer.

Further in this regard, I also note that the contentions of the Noticee are incomplete and vague in nature in so far as the Noticee has not submitted complete details along with relevant documents as to when it came to know about the material event regarding India Power, this becomes relevant, more so, considering that Noticee in its submissions had submitted that SIFL is a Brickwork rated entity and that SIFL had made a disclosure dated June 13, 2022.

Further in this regard, I note that the Noticee has neither denied nor disputed that the said event with regard to India Power Corporation Limited, as brought out in the foregoing, was a material event. I note that the Noticee has failed to demonstrate with relevant details and documents that the review of material event was carried by the Noticee within 7 days of its occurrence.

I also note that although the Noticee has contended that an update regarding SIFL was put up to the RCM on 21 June 2022 and alleged it to have been wrongly observed as 28 June 2022 in the SCN, however, on perusal of Annexure-H enclosed as minutes of the RCM dated 21 June 2022 with their reply (relevant extract which is reproduced below), I note that the same is dated as June 28, 2022 and not June 21, 2022).

(12) 120

ANNEXURE - H

Brickwork Ratings — SEBI Registered, RBI Accredited, NSIC Empanelled	CRC 28-June-2022
India Power Corporation Ltd	
Update	

Minutes of Central Rating Committee Meeting held on 28th June 2022

In view thereof, the contentions of the Noticee in this regard are devoid of merit.

19.7. In view thereof, I find that the allegation that there was delay in conducting review of rating in case of Material Event in the case of India Power Corporation Limited in so far as in the case of India Power Corporation Limited, there was a delay of 13 days in carrying the material event review, stands established. Therefore, I hold that the Noticee had violated provisions of Regulation 13 read with clause 8 of code of conduct under third schedule of SEBI (Credit Rating Agencies) Regulations, 1999 and Clause 1(B) and Clause 2(A)(III) of SEBI Circular SEBI/ HO/ MIRSD/ MIRSD4/ CIR/P/ 2017/71 dated June 30, 2017.

Failure to review rating in case of Material Event

20. It was inter alia observed that Brickwork had failed to conduct material event review in the case of case of Clix Capital Services Private Limited ("Clix") and Manappuram Finance Limited ("Manappuram") at 4 instances. In view thereof, it was alleged that Noticee had violated provisions of Regulation 13 read with clause 8 of code of conduct under third schedule of SEBI (Credit Rating Agencies) Regulations, 1999; Clause 1(B) and Clause 2(A)(III) of SEBI Circular SEBI/ HO/ MIRSD/ MIRSD4/ CIR/P/ 2017/71 dated June 30, 2017 and Clause 9.2 and clause 27.3.4 of SEBI operational circular SEBI/HO/DDHS/DDHS-RACPOD2/P/CIR/2023/6 dated January 06, 2023.

20.1. In this regard, as regards Clix Capital Services Private Limited ("Clix"), during the course of inspection, SEBI observed from the Stock Exchange website that Clix had disclosed its annual financial results on May 30, 2022 and May 26, 2023. SEBI observed that disclosure of financial results was in nature of a material event and as per SEBI circular, Brickwork was required to carry the material event review and issue the press release, if warranted, within 7 days from occurrence of the material event.

In this regard, I note that SEBI sought details of review /action taken by the Noticee on the above disclosure by Clix, to which Brickwork replied as under vide email dated February 15, 2024:

Clix Capital Services P Ltd is an unlisted entity, and the bonds issued by it were listed on NSE. In both instances, the results (announced on 30 May 2022 & 26 May 2023 respectively) no alerts were received from any source, including the rated entity on account of the entity being unlisted.

At the time of the annual review/surveillance of the rating on 25 Aug 2022, the results -annual for FY22 and Q1FY 23 - were examined in detail. The rating downgrade was on account of the decrease in the loan book and the weakened financial profile and asset quality.
The NCD was due for maturity on 26 June 2023 and redeemed on the due date. The rating was withdrawn on account of full redemption on 31 Aug 2023 after receipt of the necessary documents in accordance with the extant policy and guidelines. At that time, the financials were not examined as the redemption was in full and the rating was being withdrawn."

In this regard, SEBI observed that Noticee had allegedly failed to track the material event (annual results) in the instant case despite clix disclosing the annual results on the stock exchange website at two instances.

20.2. Further, as regards Manappuram Finance Limited ("Manappuram"), SEBI observed that Manappuram had disclosed its financial results on May 18, 2022 and quarterly results on February 03, 2023 which were in nature of a material events.

In this regard, I note that SEBI sought details of review /action taken by the Noticee on the above disclosure made by Manappuram, to which Brickwork replied as under vide email dated February 14, 2024:

The then analyst followed up with the company about the declaration of the Q4 FY22 results on 12 May 2022. The mail sent by the analyst is attached. The analyst had already resigned and was on her last working days with BWR. The results declared on 18 May 2022 were missed by her as she was on her way out. The case was reallocated to another analyst on 06 June 2022. As the annual review of the ratings had already been done, the declaration of the results escaped attention.

The results were inadvertently not put up to the rating committee. The unaudited results for Q3FY23 were taken into consideration at the time of the annual review of the ratings on 21 March 2023. BWR was in discussions with the company for the annual review from Feb 2023 onwards.

In this regard, SEBI observed that Noticee had allegedly failed to track the material event (annual results and quarterly results) in the instant case despite Manappuram disclosing the financial results on the stock exchange website at two instances.

20.3. The details of instances where Brickwork had failed to conduct material event review, as noted from material available on record, are as under:

Issuer Name	**Type of Material event**	**Date of intimation/Stock exchange disclosure (Material event trigger date)**
Clix Capital Services Private Limited ("Clix")	Disclosure of Annual results	May 30, 2022
Clix Capital Services Private Limited ("Clix")	Disclosure of Annual results	May 26, 2023
Manappuram Finance Limited ("Manappuram")	Disclosure of Annual results	May 18, 2022
Manappuram Finance Limited ("Manappuram")	Disclosure of quarterly results	February 03, 2023

20.4. In this regard, I note that the submissions of the Noticee as part of its replies to the SCN are in the nature of admission in so far as the Noticee has submitted as regards clix that *'…It is once again submitted that the non-examination of the results did not impact the market and redemptions were not impacted after the rating downgrade….',* and as regards mannappuram that *'…The same was purely on account of the oversight and change of hands, that the results were inadvertently not put up to the rating committee...'*

20.5. In this regard, the Noticee, as part of its replies, had contended that *'…SEBI, however, did not take into account that irrespective of the said annual results (which in any event were considered at the time of annual surveillance) the NCDs of Clix were redeemed on the due date, thereby causing no loss to the investors. Accordingly, the rating was withdrawn due to full redemption on 31 August 2023 after receipt of the necessary documents in accordance with the extant policy and guidelines….'* and that *'…It is submitted that the investments were not public issues, and the issuers met their repayment obligations in time. Thus, no market wide impact was caused nor any loss to the investors…'*

In this regard, I note that the contentions of the Noticee are out of context in so far as the instant allegation is about Noticee having failed to consider the material event for review of rating at the relevant time and not about redemption or withdrawal of rating as such. In view thereof, the contentions of the Noticee in this regard are devoid of merit and hence cannot be accepted.

20.6. In view thereof, I find that the allegation that Noticee had failed to conduct material event review in the case of case of Clix Capital Services Private Limited (“Clix”) and Manappuram Finance Limited (“Manappuram”) at 4 instances, stands established. Therefore, I hold that the Noticee had violated provisions of Regulation 13 read with clause 8 of code of conduct under third schedule of SEBI (Credit Rating Agencies) Regulations, 1999; Clause 1(B) and Clause 2(A)(III) of SEBI Circular SEBI/ HO/ MIRSD/ MIRSD4/ CIR/P/ 2017/71 dated June 30, 2017 and Clause 9.2 and clause 27.3.4 of SEBI operational circular SEBI/HO/DDHS/DDHS-RACPOD2/P/CIR/2023/6 dated January 06, 2023.

Delay in release of Press Release

21. It was inter alia observed and alleged that Noticee had failed to adhere to the timeline with respect to disclosure of press release for the periodic surveillance in the cases of -Whispering Heights Real Estate Private Limited and India Power Corporation Ltd. In view thereof, it was alleged that Noticee had violated provisions of Regulation 15(2) of SEBI (Credit Rating Agencies) Regulations, 1999; Regulation 24(2) of SEBI (Credit Rating Agencies) Regulations, 1999; Clause 2(A)(II) of SEBI circular SEBI/ HO/ MIRSD/ MIRSD4/ CIR/ P/ 2017/ 71 dated June 30, 2017; and Clause 27.3.3 of SEBI Master circular SEBI/HO/DDHS/DDHS-POD2/P/CIR/2023/111 dated July 03, 2023.

21.1. Here it would be relevant to refer to the text of the aforesaid provisions alleged to have been violated, which inter alia reads as under:

Regulation 15(2) of CRA Regulations inter alia reads as under:

'…

(2) Every credit rating agency shall disseminate information regarding newly assigned ratings, and changes in earlier rating promptly through press releases and websites, and, in the case of securities issued by listed companies, such information shall also be provided simultaneously to the concerned regional stock exchange and to all the stock exchanges where the said securities are listed.

…'

Regulation 24(2) of CRA Regulations inter alia reads as under:

"Every credit rating agency shall, in all cases, follow a proper rating process"

Clause 2(A)(II) of SEBI circular SEBI/ HO/ MIRSD/ MIRSD4/ CIR/ P/ 2017/ 71 dated June 30, 2017 and Clause 27.3.3 of SEBI Master circular dated July 03, 2023 as regards the timeline for dissemination of Press Release in the case of Periodic surveillance:

'…

Periodic Surveillance

Scenario	***Timeline - immediately but not later than***
Dissemination of Press Release on CRA's website and intimation of same to Stock Exchange/	*5 working days of Rating Committee Meeting*

…'

21.2. As regards Whispering Heights Real Estate Private Limited ("Whispering"), SEBI observed, that Brickwork had revised the rating of NCDs of Whispering Heights Real Estate Private Limited vide press release dated November 28, 2023. However, on perusal of Rating Committee Note dated November 29, 2023, it was observed that the Rating Committee Meeting (RCM) took place on November 09, 2023. Hence, there was a delay in the release of PR beyond 5 working days of RCM.

21.3. Further, as regards India Power Corporation Ltd ("India Power"), SEBI observed that Brickwork had revised the rating of NCDs of India Power Corporation Ltd ("India Power") vide press release dated July 12, 2022. However, on perusal of minutes of Rating Committee Note dated June 28, 2022 , it was observed that the Rating Committee Meeting

(RCM) took place on June 28, 2022. Hence, there was a delay in the release of PR beyond 5 working days of RCM.

21.4. The summary of the delay in Press Release by Brickwork in periodic surveillance case, as noted from material available on record, was as under:

Issuer name	**Instrument**	**Amount (INR Crs)**	**Date of RCM**	**Date of PR**
Whispering Heights Real Estate Private Limited	NCDs	156	November 09, 2023	November 28, 2023
India Power Corporation Ltd	NCDs	4	June 28, 2022	July 12, 2022

21.5. In this regard, I note that earlier, the Noticee had filed similar reply to SEBI in response to the findings of the inspection as it has filed during the instant proceedings, and there too the Noticee's reply was in nature of admission in so far as Noticee had submitted that '…*due to unexpected leave of absence of the analyst and some delay in submission of the clarifications by the company, there was a minor delay in finalization of the rating rationale and acknowledgment of the same by the rated entity. This has resulted in an unintentional delay of 13 days in publication of the rating rationale…' and as regards India Power that '…The delay of 5 working days in publication of the rating rationale may be condoned, in view of the circumstances explained….'*

21.6. In this regard, I note that the submissions of the Noticee, as part of its replies to the SCN, are also in the nature of admission in so far as the Noticee has submitted as regards Whispering that *'….This has resulted in an unintentional delay of 13 days in publication of the rating rationale…'* and as regards India Power that *'… The same resulted in an unintentional delay of 4 days (total of 9 days delay less 5 days permitted to issue the press release) in publication of the rating rationale…'.*

21.7. In view thereof, I find that the allegation that Noticee had failed to adhere to the timeline with respect to disclosure of press release for the periodic surveillance in the cases of - Whispering Heights Real Estate Private Limited and India Power Corporation Ltd, stands established. Therefore, I hold that the Noticee had violated provisions of Regulation 15(2) of SEBI (Credit Rating Agencies) Regulations, 1999; Regulation 24(2) of SEBI (Credit Rating Agencies) Regulations, 1999; Clause 2(A)(II) of SEBI circular SEBI/ HO/ MIRSD/ MIRSD4/ CIR/ P/ 2017/ 71 dated June 30, 2017; and Clause 27.3.3 of SEBI Master circular SEBI/HO/DDHS/DDHS-POD2/P/CIR/2023/111 dated July 03, 2023

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

22. Noticee had violated provisions of SEBI (Credit Rating Agencies) Regulations, 1999 and SEBI Circulars, as has been dealt with and established in the foregoing paragraphs.

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

> *"…In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established....."*

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

> *'…*
>
> ***Penalty for contravention where no separate penalty has been provided.***
>
> ***15HB.** Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.*
>
> *…'*

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

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

SEBI Act, 1992

'…

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.

….'

Note: for detailed/ complete /exact text of the provisions, relevant Acts, Circulars etc., may please be referred.

26. In the instant case, I note that the material available on record does not quantify any disproportionate gain or unfair advantage or consequent loss caused to investor or group of investors or profit made by the Noticee as a result of the violations committed by the Noticee. Further, as regards repetitive nature of default, I note from material available on record /SEBI website that Adjudication Orders dated August 31, 2018 and September 29, 2020 were passed in respect of Noticee imposing monetary penalty which were reduced by Hon'ble Securities and Appellate Tribunal. Further in this regard, I also note that SEBI order dated October 06, 2022 was passed in respect of the Noticee which was remitted to SEBI inter alia to pass a fresh order on the quantum of penalty other than the order of the cancellation of the license, pursuant to which SEBI order dated September 13, 2023 was passed in respect of Noticee. Further in this regard, I also note from material available on record that in the instant matter SEBI has inter alia observed repetitive nature in respect of four of the violations, as established in the

foregoing. In this regard, it is important to note that compliance with the provisions of the CRA Regulations and SEBI circulars as applicable in this case, was obligatory upon the Noticee, which the Noticee failed to, as dealt with and brought out in the foregoing and which SEBI is duty bound to enforce compliance of. I am of the view that such non-compliance accordingly needs to be dealt with suitable penalty.

E. ORDER

27. After taking into consideration the facts and circumstances of the case, material available on record, submissions made by the Noticee and also the factors mentioned in the preceding paragraphs, in exercise of the powers conferred upon me under section 15-I of the SEBI Act, 1992 read with Rule 5 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995, I hereby impose the following penalty, as per the table below, on the Noticee, for the aforementioned violations, as discussed in this order. In my view, the said penalty will be commensurate with the violations committed by the Noticee in this case:

Noticee Name	Penalty under Section	Penalty Amount (In Rs.)
Brickwork Ratings India Private Limited	15HB of the SEBI Act, 1992	Rs. 10,00,000/- (Rupees Ten Lakhs Only)

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

ENFORCEMENT > Orders > Orders of AO > PAY NOW

29. 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.

30. In terms of the provisions of Rule 6 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995, a copy of this order is being sent to the Noticee and also to the Securities and Exchange Board of India.

DATE: NOVEMBER 29 , 2024 **AMAR NAVLANI**
PLACE: MUMBAI **ADJUDICATING OFFICER**