BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/KS/VC/2020-21/7594]

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

In respect of

Shriram Insight Share Brokers Ltd.

SEBI Registration No. INZ000216238

In the matter of Shriram Insight Share Brokers Ltd.

BACKGROUND OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**"), conducted a comprehensive onsite inspection of the broking operations of Shriram Insight Share Brokers Ltd. (hereinafter referred to as "**SISBL / Noticee**"). The period of inspection was from February 01, 2012 to October 25, 2013 (hereinafter referred to as "**IP**").

2. Based on the findings of inspection, SEBI initiated adjudication proceedings against the Noticee under the provisions of Section 15HB of the SEBI Act, 1992 (hereinafter referred to as "**SEBI Act**") for the alleged violations of the provisions of the below mentioned SEBI Regulations and Circulars:

   (a) SEBI Circular CIR/DNPD/7/2011 dated August 10, 2011 read with NSE Circular NSE/INSP/19583 dated December 14, 2011;

   (b) NSE circular NSE/ INSP/20638 dated April 26, 2012 and Clause A(5) of the code of conduct specified under schedule II read with Regulation 9 of the SEBI (Stock Brokers & Sub-Brokers) Regulations, 1992 (hereinafter referred to as "**Stock Broker Regulations**"); and

   (c) SEBI Circular no. SEBI/MRD/SE/SU/Cir-15/04 dated March 19, 2004

<u>APPOINTMENT OF ADJUDICATING OFFICER</u>

3. Shri Suresh Gupta was appointed as the Adjudicating Officer vide Order dated June 15, 2016 under Section 19 read with Section 15-I(1) of the SEBI Act read with Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as '**Adjudication Rules'**) to inquire into and adjudge under Section 15HB of SEBI Act for the above alleged violations committed by the Noticee. Thereafter, the Competent Authority appointed Shri Jeevan Sonparote as the Adjudicating Officer in the matter. Subsequently, the undersigned was appointed as the Adjudicating Officer vide order dated December 26, 2019.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. A Show Cause Notice ref. EAD-3/JS/GSS/Shriram Insight/14576/2019 dated June 11, 2019 (hereinafter referred to as '**SCN**') was issued by the erstwhile Adjudicating Officer to the Noticee under Rule 4(1) of the Adjudication Rules to show-cause as to why an inquiry should not be initiated against the Noticee and why penalty should not be imposed upon the Noticee under Section 15HB of the SEBI Act for the violations alleged to have been committed by the Noticee.

5. The following violations were alleged in the SCN to have been committed by the Noticee:

   (a) *Securities and Exchange Board of India (SEBI) conducted an onsite inspection of the Noticee for a period from February 01, 2012 till October 25, 2013 (inspection period). Pursuant to inspection, it was observed that in F & O segment there was difference between margins reported by the member and actually collected/available margin for a client.*

   (b) *Summary of details of wrong reporting / non-collection of margins by broker is given below:*

Sl. No.	Date	UCC	Name	NSE Span Margin Required (Rs.)	Total Collected (Rs.)	Margin reported to Exchange (Rs.)	Difference (reported-collected) (Rs.)	Comments
1	28-Feb-13	W114K840	KUNWAR PANKAJ KUMAR SINGH	1472530	388822.10	6701542.86	6701542.86	Wrong Reporting

2	28-Feb-13	W114S1555	SARASWATI SINGH	569860	-3621378.51	6378621.49	6378621.49	Wrong Reporting
3	28-Feb-13	A102K76	KVRK V PRASAD	392578	-705186.03	748950.15	1454136.18	Wrong Reporting
4	8-May-13	W114A1	AMITA SINGH	1741923	-2354214.00	6278336.2	8632550.20	Wrong Reporting
5	13-May-13	W114A1	AMITA SINGH	1291770	-2197976.59	6437923.11	8635899.7	Wrong Reporting
6	13-May-13	A108B19	BHAVAN KUMAR	1070380	969708.69	1376529.24	406820.55	Wrong Reporting
7	16-Aug-13	W114K840	KUNWAR PANKAJ KUMAR SINGH	6574585	-191752.71	11505589.09	11697341.80	Wrong Reporting

(c) *From above, it is clear that there are 7 instances in F& O segment where there is difference in amount of margin available and amount of margin reported as per the data provided by the member.*

(d) *Here, it may be pertinent to draw attention towards SEBI circular no. CIR/DNPD/7/2011 dated August 10, 2011 on short / non-collection of client margin which reads as "Stock Exchanges shall levy penalty as specified in the circular, on trading members for short collection/ non-collection of margins from clients in Equity and Currency Derivatives segments " The circular further reads as "If during inspection it is found that a member has reported falsely the margin collected from clients, the member shall be penalised 100% of the falsely reported amount along with suspension of trading for 1 day in that segment."*

(e) *Further, NSE circular no. NSE/INSP/19583 dated December 14, 2011 on clarification on Margin collection and reporting, which reads as 'The Sign off* *date shall be 5 working days after the trade date i.e. members are allowed to upload client margin reporting file up to T+5 working days. In case of any errors in the file, the members would be able to correct the same and upload the same on the CIM/ extranet server with incremental batch number any time prior to Trade date +5 working days.'' The circular further says that in case of short / non-reporting of client margin funding 'The penalty shall be payable within 10 working days of last working day of the trading month.'*

(f) Therefore, from above it is clear that it is mandatory for all trading / clearing members to report details of such margins collected on an upfront basis to the Clearing Corporation and any kind of short / non-reporting of client margin funding to the clearing corporation, attracts appropriate penalty under NSE rules and regulations.

(g) Therefore, difference of margin amount available and amount of margin reported by the member has resulted in the violation of SEBI circular no. CIR/DNPD/7/2011 dated August 10, 2011 read with NSE circular no. NSE/INSP/19583 dated December 14, 2011 and Clause A(5) of the code of conduct specified under schedule II read with Regulation 9 of Stock Broker Regulations.

(h) It was further observed during the inspection that clients were having huge amount of long, pending dues to the Noticee. It was further observed that the Noticee was charging 'Penal charges from client' for late payment of aforementioned dues. However, it was observed that during the same period for which the 'Penal charges' were being levied by the Noticee, it had also allowed those clients to make net purchases for which the pay in obligations

were met by the Noticee itself. Therefore, it is construed that the Noticee (broker) was basically funding the clients' trades and charging interest in the garb of 'late payment charges'. It is further observed that the Noticee has earned Rs. 4.04 crore during 2012-13 and Rs. 2.34 crore in the first six months of 2013-14 from the aforesaid 'late payment charges'.

(i) In this regard, it is pertinent to draw attention towards NSE circular no. NSE/INSP/20638 dated April 26, 2012 on client funding, which reads as "No funding if debit balances arises on account of non-payment by the client for less than 5 trading days." It further says that "If debit balances are for more than 5 trading days and further exposure is granted, it would be considered as funding." In view of above, it is clear that the Noticee has funded client's trades and has thus violated NSE/INSP/20638 dated April 26, 2012 and Clause A(5) of the code of conduct specified under schedule II read with Regulation 9 of Stock Broker Regulations.

(j) During the course of inspection, it was observed that in many instances the maintenance margin maintained by the Noticee (broker) for the client was much below the stipulated 40%. Some of the instances are given below in the tabular form:

Sr. no.	Client name	Client code	Date	Amount of margin funding in Rs. (A)	Value of client's stock as collateral in Rs. **(B)**	Margin funding as % of client's collateral C= (A / B * 100)	Maintenance margin for client (D)=(100-C)
1	Vinod Prem Khetan	B314V20	03/05/2013	1397817.62	1316340.00	106	-6
			30/09/2013	1318662.00	1316340.00	100	0
			28/02/2013	1469816.00	1316340.00	112	-12

2	Ravindra Kumar Thakur	M201R37	03/05/2013	554186.10	659984.20	84	16
			28/02/2013	613110.00	659984.20	93	7
3	Sourav Pal Chowdhury	W105S654	03/05/2013	151050.00	151050.00	100	0
4	Amitava Dey	W106A1077	30/09/2013	240700.00	242180.00	99	1
5	Bibhas Kumar Bhowmick	W2B4	28/02/2013	149800.00	149800.00	100	0
6	D Subramanyam	A602D7	20/06/2013	78262.50	78262.50	100	0
7	Kajal Sanyal	W116K385	20/06/2014	40447.20	47051.32	86	14
8	Omprakash Narayandas Mundhada	B701O1	20/06/2013	185773.00	185773.00	100	0
9	Prakash Shankar Patil	B338P4	21/08/2013	36648.70	51520.00	71	29
10	Sushil Kumar Singh	V206S2	21/08/2013	67136.50	67136.50	100	0

(k) Here, reference may be drawn towards SEBI circular no. SEBI/MRD/SE/SU/Cir-15/04 dated March 19, 2004 on margin funding, which has inter alia stipulated that the initial and maintenance margin for the client shall be a minimum ot 50% and 40% respectively, to be paid in cash.

For this purpose;

i. "Initial margin" would mean the minimum amount, calculated as a percentage of the transaction value, to be placed by the client, with the broker, before the actual purchase. The broker may advance the balance amount to meet full settlement obligations, *ii. "Maintenance margin" would mean the minimum amount, calculated as a percentage of the market value of the securities, calculated with respect to the last trading day's closing price, to be maintained by the client with the broker.*

(l) In light of above, it is clear that maintenance margin maintained by the Noticee (broker) for the client below the stipulated 40% has violated SEBI circular no. SEBI/MRD/SE/SU/Cir-15/04 dated March 19, 2004.

(m) The Noticee is, thus, called upon to show cause as to why an inquiry should not be held against you in terms of Rule 4 of the Adjudication Rules and penalty be not imposed under section 15HB of the SEBI Act and Section 23-D of the SCRA, upon you for the aforesaid alleged violations.

6. The SCN issued to the Noticee was sent via Speed Post Acknowledgement Due. The Noticee, vide its letter dated July 16, 2019 submitted its reply to the SCN. The Noticee made the following submissions in its reply:

a) With reference to the point raised in the SCN alleging wrong reporting of margin to the Exchange in Derivatives Segment, we would like to state that as a regular practice, we have a process to collect the required margin from clients. In the cited instances also we have collected the required margin from the clients within stipulated time and mode specified by the Exchanges and the same has been reported to the Exchanges. We would like to add that a "Total collected" column in the table given by the board is not tallying with the record uploaded to the Exchange as inspection team has only consider the "FNO Settlement Ledger *balance" and has not taken into account "FNO Margin Ledger balance", "FNO Shares Margin" and "FDR submitted by the client as margin issued in favour of NSCCL". "Margin reported to Exchange" (by broker) column in the table given by the board is consist of the "FNO Settlement Ledger balance" + "FNO Margin Ledger balance" + "FNO Shares Margin" + "FDR submitted by the client as margin issued in favour of NSCCL". In all the seven instances referred in the table summation of the above components are tallying with the margin reported amount. So there is no wrong reporting / non collection of margins as alleged by the Board. The case wise details containing the margin collection from the clients are attached SISBL ANNEXURE - A.*

b) *Therefore SISBL has not violated SEBI Circular No CIR/DNPD/7/2011 Dated August 10, 2011 read with NSE Circular No. NSE/INSP/19583 Dated December 14, 2011 and Clause A (5) of the code of conduct specified under schedule (ii) read with Regulation 9 of Stock Broker Regulations.*

c) *With reference to the Point No 9 of the show cause notice, we Shriram Insight would humbly state that it has been alleged that SISBL has indulged in fund-based activity and thereby earned late payment charges, but there is no case reference in support of the charge. In this regards we would like to draw attention towards referred inspection for the period from February, 1st 2012 to October 25, 2013 mentioned in the Point No. 2 of said SCN.*

d) *Before proceeding with the case wise explanation, we would first like to again narrate that it is our policy to collect upfront margin from each and every client before punching of order irrespective of exchange or segment. Further daily limits are a multiples of the net surplus (summation of fund and stock after haircut value)* *calculated from the risk matrix where only the multiples can vary on different market factors whereas the net surplus amount is always as per the accounts. In other words, it can be described that allowable exposure on Tth day is calculated based on client's deposits vis-a-vis open position up to T+2+5 days. We do not have any terminal & branch wise limit concept for trading i.e. limit is client wise only and monitored & calculated centrally.*

e) *Based on the above policy of providing exposure to the clients we would like to further elucidate that we do not allow fresh exposure to clients with debit balance beyond T+2+5 days unless and until there is a confirmed delivery sell or a positive fund inflow by way of cheque and or electronic fund transfer.*

f) *However, for the said inspection we were in receipt a communication from the Board vide Reference No SEBI/ERO/OW/M.6047/2014 dated September 26, 2014 (Copy of the same is attached as Exhibit - A), where in Para No. 5.3 referred to the same allegation along with particular instances. Accordingly, case wise replies were given to the Board. We are sharing the updated response shared with the Board previously, which shall address the matter.*

g) *Now we are hereby attaching the case wise explanation and the financial ledgers of the instances cited by the inspection team.*

h) *Thus, contrary to the alleged violation mentioned in the point no. 9 of the SCN, SISBL has not funded the clients trade and charging interest thereto in the grab of "late payment charges" and allowed fresh exposure to the clients with negative fund balance beyond T+2+5 days.*

i) Therefore SISBL has not violated NSE Circular No NSE/INSP/20638 Dated April 26, 2012 and Clause A(5) of the Code of Conduct specified under Schedule II read with Regulation 9 of Stock Broker Regulations.

j) With reference to the Point No 11 of the show cause notice, we confirm that margin funding allowed to those clients who have signed margin funding agreement and placed fund margin minimum to the extent of 50% as initial margin. Those clients also maintained the maintenance margin of 40% with Shriram Insight Share Brokers Ltd. Both initial margin and maintenance margin were calculated as a percentage of the market value (last trading day's closing price) of the securities.

k) In reply to the cited example in the SCN, we would like to state the followings:

- *The value of the collateral under column "Value of client's stock as collateral in Rs. (B)" is not tallying with our record. The actual value of the client's stock as collateral and the details containing the quantity and market value (last trading day's closing price) of the securities is attached for your perusal.*
- *Secondly we would like to draw your attention towards the specific example of Mr. Amitava Dey (Code: W106A1077) where the date of funding showing 30/09/2013, in this context we would like to state that SISBL has not funded this client on 30/09/2013. It is pertinent to mention here that the actual funding amount mentioned in the letter is tallying with funding done on 02/09/2013. Therefore, we have given the details of funding as on 02/09/2013.*

l) From the above explanation and annexure it is clear that SISBL maintained the maintenance margin of 40%, calculated as a percentage of the market value (last trading day's closing price) of the securities except one case of Mr. Kajal Sanyal (W116K385) where the maintenance margin was 38.44% (on 20/06/2013 and not on 20/06/2014 which is mentioned in the observation report), subsequently the appropriate action has been taken to increases the margin above 40%.

m) Therefore, Shriam Insight Share Brokers Ltd has not violated the SEBI circular no. SEBI/MRD/SE/SU/Cir-15/04 dated March 19, 2004.

7. Subsequently, upon my appointment as Adjudicating Officer, a letter dated January 06, 2020 was sent to the Noticee providing it an opportunity to make additional submissions with respect to the SCN, if any. Further, an opportunity of personal hearing was also provided to the Noticee on January 21, 2020. Noticee, at the time of hearing, made additional submissions wherein it contended the following:

    a. As per the circular of SEBI dated 14.12.2001, the margin may consist of the following:

    - *Unencumbered funds/securities in the account of the client for which the client has given POA in favour of the member allowing the member to transfer the same for the purpose of margin.*
    - *Bank guaranties issued by approved banks.*
    - *Fixed deposits issued by approved banks and discharged in favour of the member.*

b. All the 7 instances mentioned in the show-cause notice of wrong reporting/non collection were based on erroneous understanding and considering only the amount lying in FNO settlement ledger. The show-cause notice failed to consider the amount in FNO margin ledger balance, securities balance and fixed deposit.

c. SISBL has submitted a detailed statement of the total margin collected in respect of each of the 7 instances along with the documentary proof in the reply to the inspection report and in the reply to the show-cause notice. The same is enclosed herein.

d. From the above, it is clear that SISBL has not failed to collect the margin and has not wrongly reported the margin collected to the Exchange.

e. Though in the show-cause notice no instances of funding of clients trade and charging interest was mentioned, the inspection report carried 11 such instances.

f. In response to the instances pointed out in the inspection report, SISBL presented a detailed statement and clarified that SISBL has not permitted further debit after T+2+5 days in respect of clients who have debit balances already. The same was reiterated in the reply to the show-cause notice as well.

g. In the show-cause notice, NSE circular dated 26.04.2012 was relied upon and it is alleged that SISBL has violated the said circular. In this regard, it is relevant to note that the following flow from the circular:

I. A trading member is permitted to fund in connection with or incidental to or consequence upon the securities business.

II. A trading member is permitted to charge delayed payment charges or interest charges for the funds deployed by the member at the rate(s) consented by the client.

III. If further exposure is granted to the client from the 6th day from the date of pay-in, then such debit balance would be construed as violation relating to funding i.e. if no further exposure is permitted to the client from the 6th day of pay-in, there is no prohibition to collect late payment charges/interest charges till the debit balance is paid by the client, which may incidentally result in earning late payment charges to the member.

h. Hence, it is submitted the allegation in the show-cause notice that SISBL has earned a sum of Rs.4.04 Crores during the financial year 2012-13 and Rs.2.34 Crores during the first 6 months of financial year 2013-14 are per se not bad in law and is not a violation of the above said circular. The question of violation of the said circular comes only when the conditions stated in the said circular for collection of delayed payment charges or interest charges is not followed. It is not the case in the show-cause notice that SISBL collected interest payment charges or delayed payment charges in excess of the rates consented to by the client.

i. The only allegation in the show-cause notice is that SISBL has permitted further exposure when there are outstanding debits. This allegation is factually incorrect, as the inspection report did not consider the margin account positive fund balance and erroneously come to the conclusion that further exposure is *permitted when there is outstanding debits. This fact was presented in the reply to the inspection report and in the reply to the show-cause notice.*

j. *As explained above, SISBL has not permitted any further exposure when there is a outstanding debit to a client and charged late payment charges as per the rates consented to by the client, SISBL has not violated the said circular.*

k. *The show-cause notice states that there were many instances the maintenance margin was not maintained by SISBL. The show-cause notice further list out 11 such instances.*

l. *In the inspection report also this observation was made for which SISBL has given a detailed reply. In the said reply, it was specifically stated that the value of client's stock of collateral is not tallying with the value of collateral as per the records of SISBL. In the reply submitted in response to the show-cause notice also, this fact of the value of client's collateral stated in the show-cause notice is not tallying with the value of collateral as per the records of SISBL was reiterated.*

m. *Therefore, to state that SISBL failed to maintain a minimum 40% of maintenance margin is factually incorrect. In the reply to the show-cause notice, SISBL given a detailed statement of the actual value of collateral in respect of each of such 11 instances and if the correct value of collateral is considered, SISBL maintained in all the instances a minimum of 40% is maintained and in fact, in most of the situation it was 50% and above. It may be stated in 1 stray incident, wherein the margin funding was an insignificant amount of Rs.40,447/-, the maintenance margin was 39%, a shortfall of insignificant 1%.*

n. In view of the above, this allegation of failure to maintain the minimum 40% maintenance margin is factually incorrect, the same may kindly be dropped.

8. I further note that Mr. R Thiagarajan, Chartered Accountant along with Mr. Amit Shankar Gupta, Director of SISBL, appeared as Authorized Representatives (**ARs**) of the Noticee. The ARs reiterated the submissions made vide letters dated July 16, 2019 and January 21, 2020. The ARs requested for time to make additional submissions as well as a subsequent opportunity of personal hearing. Accordingly, the Noticee was given time till January 31, 2020 to submit its reply. Further, the Noticee was given another opportunity of personal hearing on February 07, 2020.

9. The Noticee made additional submissions dated February 07, 2020 at the time of personal hearing wherein the Noticee further contended that:

   a. The maintenance margin calculation on the basis of the last trading day's closing price is enclosed along with the client wise script given as margin and the screen shot for a few script to support that the working considered in the statement is the last trading day's closing price.

   From the statements, it is submitted the following emerge:

   i. As the difference was just 1 trading day, the value of collateral held by SISBL did undergo only very marginal variation. In all the 11 instances listed in the show-cause notice, SISBL maintained a margin of more than 40% and actually *in most of the cases close to/more than 50%, except in 1 instance, the maintenance margin was 38.50%, a shortfall of just 1.50% and the amount involved was Rs.40,447/- only.*

ii. *In view of the above on facts, there is no violation of non-maintenance of maintenance margin by SISBL.*

b. *As regards, margin in F&O segment, the following documents are produced:*

i. *Statement of client wise margin collected and reported.*

ii. *As stated in the reply to the inspection report, reply to show-cause notice and in my previous written submission, only F&O settlement ledger balance was considered and other securities and fixed deposit margins were omitted. If those are also considered, there is no wrong reporting or non-collection of margin in F&O segment.*

iii. *From the statement, you may notice, out of the 7 instances, only in respect of 3 instances, a part of the margin was in the form of fixed deposit.*

iv. *In the 3 instances in respect of which fixed deposit is used is for 2 clients i.e. Kunwar Pankaj Kumar Singh and Saraswati Singh. Enclosed here is the client registration form along with the KYC form of Kunwar Pankaj Kumar Singh and certificates from a Company Secretary that the FD holder is a related party as permitted under the circular of NSE dated 14.11.2011. Also enclosed here is the client registration form along with the KYC form of Saraswati Singh and a certificate from the Chartered Accountant that the FD holder is a related party as permitted under the said circular of NSE.*

v. *In view of the above, I submit that there is no violation of either wrong reporting or non collection of margin in F&O segment.*

c. Lastly, I reiterate the oral submission made in the previous hearing with regard to the delay in the issue of show-cause notice, which are enumerated as under:

i. The inspection was carried out in October 2013 for the period 01.01.2012 to 25.10.2013. The finding of the inspection report was given to SISBL on 26.09.2014, for which SISBL submitted a detailed reply dated 10.11.2014. The inspection report stated deficiencies on various matters. The reply of SISBL addressed/clarified each of the deficiency stated in the inspection report.

ii. There was no response from SEBI for the next 4&1/2 years.

iii. A letter was issued to SISBL from SEBI dated 22.02.2019, ought to be after considering the reply of SISBL to the inspection report submitted on 10.11.2014 advising NSE, BSE and MSEIL to issue warning letter to SISBL on one issue. There is no reference with regard to any other issue stated in the inspection report, for which as stated above, SISBL gave a detailed reply. Hence, SISBL have every reason to believe that SEBI is satisfied with the response of SISBL on every other issue.

iv. Subsequently, SEBI issued a show-cause notice dated 11.06.2019, almost after 6 years of inspection and almost after 5 years of response of SISBL to the inspection report.

v. In view of the above facts, notwithstanding the merits of the issues stated in the show-cause notice and the reply of SISBL, the show-cause notice may kindly be dropped.

10. During the course of hearing on February 07, 2020, the ARs reiterated the above submission of the Noticee along with earlier submissions dated July 16, 2019 and January 21, 2020.

CONSIDERATION OF ISSUES AND FINDINGS

11. I have carefully perused the charges levelled against the Noticee, its replies dated July 16, 2019, January 21, 2020 and February 07, 2020 as well as the documents / material available on record. The issues that arise for consideration in the present case are :

    (a) Whether the Noticee has violated the following SEBI Regulations and SEBI Circulars:

        i. SEBI Circular CIR/DNPD/7/2011 dated August 10, 2011 read with NSE Circular NSE/INSP/19583 dated December 14, 2011,

        ii. NSE circular NSE/ INSP/20638 dated April 26, 2012 and Clause A(5) of the code of conduct specified under schedule II read with Regulation 9 of the Stock Broker Regulations; and

        iii. SEBI Circular no. SEBI/MRD/SE/SU/Cir-15/04 dated March 19, 2004.

    (b) Do the violations, if any, attract monetary penalty under Section 15HB of the SEBI Act?

    (c) If so, what would be the quantum of monetary penalty that can be imposed on the Noticee after taking into consideration the factors mentioned in section 15J of the SEBI Act?

12. Before proceeding further, I note that the Noticee has not raised any objection on the documentary evidences relied upon and supplied to it.

13. The first allegation against the Noticee was that, on 7 different occasions, the Noticee had wrongly reported the margins collected by it from the clients to the exchanges. The details of the said instances are as below:

Table 1

Sl. No.	Date	UCC	Name	NSE Span Margin Required (Rs.)	Total Collected (Rs.)	Margin reported to Exchange (Rs.)	Difference (reported-collected) (Rs.)	Comments
1	28-Feb-13	W114K840	KUNWAR PANKAJ KUMAR SINGH	1472530	388822.10	6701542.86	6701542.86	Wrong Reporting
2	28-Feb-13	W114S1555	SARASWATI SINGH	569860	-3621378.51	6378621.49	6378621.49	Wrong Reporting
3	28-Feb-13	A102K76	KVRK V PRASAD	392578	-705186.03	748950.15	1454136.18	Wrong Reporting
4	8-May-13	W114A1	AMITA SINGH	1741923	-2354214.00	6278336.2	8632550.20	Wrong Reporting
5	13-May-13	W114A1	AMITA SINGH	1291770	-2197976.59	6437923.11	8635899.7	Wrong Reporting
6	13-May-13	A108B19	BHAVAN KUMAR	1070380	969708.69	1376529.24	406820.55	Wrong Reporting
7	16-Aug-13	W114K840	KUNWAR PANKAJ KUMAR SINGH	6574585	-191752.71	11505589.09	11697341.80	Wrong Reporting

14. In this regard, I note that SEBI circular no. CIR/DNPD/7/2011 dated August 10, 2011 mentions the following on short/non-collection of client margins:

"*Stock Exchanges shall levy penalty as specified in the circular, on trading members for short collection/ non-collection of margins from clients in Equity and Currency Derivatives segments."*

The circular further reads as - "*If during inspection it is found that a member has reported falsely the margin collected from clients, the member shall be penalised 100% of the falsely reported amount along with suspension of trading for 1 day in that segment.*"

15. In this regard, I note from the Table 1 that it is alleged that the Noticee wrongly reported the margin collected from clients on 7 instances wherein the difference between the actual margin available with the Noticee and the wrongly reported margin was in the range of Rs. 14.54 lakh to Rs. 1.17 crore.

16. In this regard, the Noticee has contended that the margin, calculated by SEBI during inspection, is calculated only on the basis of F&O settlement ledger balance and other securities and fixed deposit margins were omitted. In this regard, the Noticee has contended the following:

    - In case of Kunwar Pankaj Kumar Singh (Client code: W114K840), other than F&O Settlement ledger balance of Rs. 3,88,822.10, the FNO Margin Ledger available balance of Rs. 3,12,720.76 and Fixed Deposit of Rs. 60,00,000 was available with it as on February 28, 2013. Thus, total margin available with the Noticee was Rs. 67,01,542.86.

- In case of Saraswati Singh (Client code: W114S1555), other than F&O Settlement ledger balance of Rs. -36,21,378.51, a Fixed Deposit of Rs.1,00,00,000 was available with it as on as on February 28, 2013. Thus, total margin available with the Noticee was Rs. 63,78,621.49.
- In case of KVRKV Prasad (Client code: A102K76), other than F&O Settlement ledger balance of Rs. -7,05,186.03, Share margin of Rs. 14,54,136.18 was available with it as on February 28, 2013. Thus, total margin available with the Noticee was Rs. 7,48,950.15.
- In case of Amita Singh (Client code: W114A1), other than F&O Settlement ledger balance of Rs. -23,54,214, Share margin of Rs. 47,51,093.20 was available with it as on May 08, 2013. Thus, total margin available with the Noticee was Rs. 23,96,879.21.
- In case of Amita Singh (Client code: W114A1), other than F&O Settlement ledger balance of Rs. -21,97,976.59, Share margin of Rs. 47,54,442.70 was available with it as on May 13, 2013. Thus, total margin available with the Noticee was Rs. 25,56,466.11.
- In case of Bhavan Kumar (Client code: A108B19), other than F&O Settlement ledger balance of Rs. 9,69,708.69, FNO Margin Ledger balance of Rs. 4,06,820.55 was available with it as on May 13, 2013. Thus, total margin available with the Noticee was Rs. 13,76,529.24.

- In case of Kunwar Pankaj Kumar Singh (Client code: W114K840), other than F&O Settlement ledger balance of Rs. -1,91,752.71, Fixed Deposit of Rs. 84,31,942.00 and Shares Margin of Rs. 32,65,399.80 was available with it as on August 16, 2013. Thus, total margin available with the Noticee was Rs. 1,15,05,589.09.

17. In this regard, I note that, vide Circular dated December 14, 2011, National Stock Exchange (**NSE**) has allowed brokers to include Margin collected/available in approved form from entities related to the client such as spouse, dependent children and parents with clients in the calculation of margin for the purpose of margin reporting to the exchange. However, the same is required to be certified by independent professionals including Chartered Accountant with specific authorization/consent to use such margin for the purpose of the said client. The said approved margin list includes Fixed Deposit (**FD**), unencumbered securities, etc.

18. In this regard, I note that, in case of Kunwar Pankaj Kumar Singh, mentioned at S. No. 1 in Table 1, two FDs ref. 00085050013493 and 00085050013501 of Rs. 30,00,000/- each, drawn in favour of the Noticee, were available with the Noticee. The said FDs were created by Mr. Brajesh Kumar Singh (PAN: AIRPS4266R). The Noticee has also submitted a certificate dated January 07, 2012 of S D Basu & Co., Company Secretaries & CFC, wherein it was certified

that the Mr. Brajesh Kumar Singh is a relative of Kunwar Pankaj Kumar Singh and FDs are eligible to be taken for margin purposes for the said client. Further, the Noticee has also submitted the accounts statements of Kunwar Pankaj Kumar Singh showing a funds margin balance of Rs. 3,12, 720.76 on February 28, 2013. Therefore, I am of the view that the Noticee did not wrongly report the margin in this case.

19. Further, for S. No. 7 in Table 1 regarding the same client, the Noticee has also submitted copies of two FDs ref. no. 911040014918457 and 9114040014920964 of Rs. 42,15,971 each for the purpose of margin calculation. The said FDs were created by Mr. Brajesh Kumar Singh. The Noticee has also submitted a certificate dated July 17, 2013 by S D Basu & Co., Company Secretaries & CFC, wherein it was certified that the Mr. Brajesh Kumar Singh is a relative of Kunwar Pankaj Kumar Singh and, therefore, the said FDs are eligible to be taken for margin purposes for the said client.

20. I note that in case of S. No. 2 at Table 1 of Saraswati Singh, one FD ref. 00084600040183 of Rs. 1,00,00,000/-, drawn in favour of the Noticee, wasavailable with the Noticee. The said FD was created by Mr. Akhilesh Kumar Singh (PAN: ALAPS8581R). The Noticee has also submitted a certificate dated March 17, 2012 of Datta Roy & Associates, Chartered Accountants wherein it was certified that the Mr. Akhilesh Kumar Singh is a

relative of Saraswati Singh and, FDs are eligible to be taken for margin purposes for the said client.

21. I also note that, in case of S. No. 4 and 5 at Table 1 for the client Amita Singh, the Noticee, in its letters dated July 16, 2019 and January 21, 2020, had submitted that an FD ref. no. 911040014918457 for Rs. 38,81,457 was available with it in addition to a shares margin of around Rs. 47.50 lakh . The said FD was created by Mr. Brajesh Kumar Singh. I note that the said FD ref. no. 911040014918457 has also been shown as margin for Kunwar Pankaj Kumar Singh on August 16, 2013 in the Noticee's letters. Subsequently, the Noticee in the annexure to its letter dated February 07, 2020 has only shown a shares margin of around Rs. 47.50 lakh in respect of the said client and no FD margin has been shown. The Noticee has also submitted in the said annexure to the said letter that the margin collected in the said two instances was Rs. 23,96,879.20 and Rs. 25,56,466.41 respectively. However, as noted in the inspection report and the SCN that the amount of margin reported to the exchanges on these two instances was Rs. 62,78,336.20 and Rs. 64,37,923.11 respectively. Therefore, I note that the Noticee had wrongly reported the collected margin to the exchanges in the said two instances.

22. I note that for the rest of the clients mentioned in the Table 1, the Noticee has submitted a 'statement of F&O share movement report' showing details of

shares available in their accounts for margin purpose and their margin values after applying the haircuts. I note that the same are matching with the margin value contended by the Noticee.

23. In view of the above, I find that the Noticee had admittedly wrongly reported the collected margin to the exchanges in two instances and, therefore, the allegation of violation of the provisions of SEBI Circular CIR/DNPD/7/2011 dated August 10, 2011 read with NSE Circular NSE/INSP/19583 dated December 14, 2011 against the Noticee stands established.

24. The second allegation against the Noticee is that it had allowed its debit balance clients to trade beyond T+2+5 days despite not maintaining fund balance in their ledger accounts. It was further observed that the Noticee had earned Rs. 4.04 crore during 2012-13 and Rs. 2.34 crore in the first six months of 2013-14 from 'late payment charges'. The instances of debit balances, as enumerated in the inspection report, wherein the Noticee allegedly allowed clients to trade beyond T+2+5 days despite having negative balance in their respective accounts are as below:

Table 2

S. No.	Client Code	Late payment charges		Balance as on starting date (Rs.)	Balance as on end date (Rs.)	Net purchase during the period (Rs.)
		Period	Amount (Rs.)			
1	C201V4	09/04/2012 to 15/04/2012	1123.95	22,12,595	-80,29,414	1,02,46,524.78

2		23/04/2012 to 30/04/2012	2043.14	-37,37,399	-93,66,468	56,29,069.05
3		01/06/2012 to 10/06/2012	1193.61	-66,70,083.88	-73,63,029.03	6,92,945.15
4	C507G3	16/04/2012 to 22/04/2012	817.59	-58	-20167.02	220109.02
5	C508A15	16/04/2012 to 22/04/2012	67.26	-1,27,233.05	-63,64,732.46	62,37,499.41
6		25/06/2012 to 30/06/2012	514.81	-3,12,588.84	-66,15,957	63,03,368.16
7	D601R53	10/12/2012 to 16/12/2012	845.87	-8,85,937.23	-10,25,555.59	139618.36
8	A101J42	01/06/2013 to 09/06/2013	7902.10	4003203.0	3617001.0	386202.27
9		22/04/2013 to 30/04/2013	3249.02	-30,23,500	-27,35,964	2,87,536.91
10	T103T185	19/08/2013 to 25/08/2013	2803.87	-447676.49	-11,62,251.39	714574.90
11		16/09/2013 to 22/09/2013	3392.31	-307318.12	-16,24,366.25	1317048.13

25. In this regard, the Noticee has contended that the allegation is factually incorrect, as the inspection report did not consider the margin account positive fund balance and erroneously come to the conclusion that further exposure is permitted when there is outstanding debits. The Noticee further contended that it had not permitted any further exposure when there was an outstanding debit to a client and charged late payment charges as per the rates consented to by the client.

26. In this regard, I note that the NSE circular dated 26.04.2012 mentions the following:

- A trading member is permitted to fund in connection with or incidental to or consequence upon the securities business.

- A trading member is permitted to charge delayed payment charges or interest charges for the funds deployed by the member at the rate(s) consented by the client.

- If further exposure is granted to the client from the 6th day from the date of pay-in, then such debit balance would be construed as violation relating to funding i.e. if no further exposure is permitted to the client from the 6th day of pay-in, there is no prohibition to collect late payment charges/interest charges till the debit balance is paid by the client, which may incidentally result in earning late payment charges to the member.

27. Thus, I note that a broker is allowed to fund its clients for any purpose which is incidental to or consequence upon securities business. However, the said funding is allowed only to the extent that the client has to clear out the debit balance within T+2+5 days. In the event the client fails to clear debit balance within T+2+5 days, a broker is not allowed to grant further exposure to the said

client. Further, for the said funding, the broker is allowed to charge delayed payment charges.

28. In this regard, I note that the Noticee has contended that in all those instances, the inspection report did not consider the margin account positive fund balance available for each client and erroneously come to the conclusion that further exposure is permitted when there is outstanding debits. The Noticee has also given explanation on case wise basis and submitted account statements of client equity settlement account & equity margin account. After considering the margin account positive fund balance available for each client, I note that the debit balance does not occur on first day of the relevant period given in each instance. I also note that, after taking into account balance in the margin account, the debit balance in these accounts has occurred on a later date in the relevant period given in each instance. As result, I note that, in none of the cases, further trading exposure was granted by the Noticee to its clients beyond T+2+5 days in the relevant period given in each instance. I also note that NSE circular NSE/ INSP/20638 dated April 26, 2012 allows member brokers to charge delayed payment charges or interest charge for the funds deployed by the member at the rate/s consented by the client. In view of the same, I find that the allegation of violation of the provisions of NSE circular NSE/ INSP/20638 dated April 26, 2012 and Clause A(5) of the code of conduct

specified under schedule II read with Regulation 9 of the Stock Broker Regulations against the Noticee is not established.

29. The third allegation against the Noticee is that, while granting the funding to its clients, the Noticee failed to maintain 40% maintenance margin in the records of its clients. In this regard, the following instances have been brought out in the Inspection Report:

Table 3

Sr. no.	Client name	Client code	Date	Amount of margin funding in Rs. (A)	Value of client's stock as collateral in Rs. (B)	Margin funding as %of client's collateral C= (A / B * 100)	Maintenance Margin for client (D)=(100-C)
1	Vinod Prem Khetan	B314V20	03/05/2013	1397817.62	1316340.00	106	-6
			30/09/2013	1318662.00	1316340.00	100	0
			28/02/2013	1469816.00	1316340.00	112	-12
2	Ravindra Kumar Thakur	M201R37	03/05/2013	554186.10	659984.20	84	16
			28/02/2013	613110.00	659984.20	93	7
3	Sourav Pal Chowdhury	W105S654	03/05/2013	151050.00	151050.00	100	0
4	Amitava Dey	W106A1077	30/09/2013	240700.00	242180.00	99	1
5	Bibhas Kumar Bhowmick	W2B4	28/02/2013	149800.00	149800.00	100	0
6	D Subramanyam	A602D7	20/06/2013	78262.50	78262.50	100	0
7	Kajal Sanyal	W116K385	20/06/2014	40447.20	47051.32	86	14
8	Omprakash Narayandas Mundhada	B70101	20/06/2013	185773.00	185773.00-/ >	100	0

9	Prakash Shankar Patil	B338P4	21/08/2013	36648.70	51520.00	71	29
10	Sushil Kumar Singh	V206S2	21/08/2013	67136.50	67136.50	100	0

30. In this regard, the Noticee has admitted that, in one instance, there was a shortfall in the maintenance margin which was 38.50%, i.e., a shortfall of 1.50% and the amount involved was Rs.40,447/- . Other than the said one instance, the Noticee has contended that in rest of the above-mentioned cases, the maintenance margin of the clients listed in above table was well beyond the statutory limit of 40% of total margin funding. The Noticee, in its letter dated February 7, 2020, has submitted the following data in its reply:

Table 4

Sr. no.	Client code	Date	Amount of margin funding in Rs. (A)	Value of client's stock as collateral In Rs. (B)	Margin funding as % of client's collateral C= A/B*100)	Maintenance Margin for client (D)=(100-C)	SHRIRAM INSIGHT REPLY		
							Margin Funding Amount in Rs.	Value of Collateral in Rs.	Margin funding as % of client's collateral
1	B314V20	03/05/2013	-1397817.62	1316340.00	106	-6	1397817.62	3161123.10	44.22
		30/09/2013	-1318661.70	1316340.00	100	0	1318661.70	3110837.70	42.39
		28/02/2013	-1469816.04	1316340.00	112	-12	1469816.04	3081123.60	47.70
2	M201R37	03/05/2013	-554186.14	659984.20	84	16	554186.14	1155967.50	47.94
		28/02/2013	-613109.94	659984.20	93	7	613109.94	1259386.25	48.68
3	W105S654	03/05/2013	-151050.00	151050.00	100	0	151050.00	285000.00	53.00
4	W106A1077	02/09/2013	-240700.00	242180.00	99	1	240700.00	481400.00	50.00
5	W2G4	28/02/2013	-149800.00	149800.00	100	0	149800.00	297400.00	50.37
6	A602D7	20/06/2013	-78262.50	78262.50	100	0	78262.50	146625.00	53.38
7	W116K385	20/06/2013	-40447.24	47051.32	86	14	40447.24	65703.50	61.56
8	B70101	20/06/2013	-185773.00	185773.00	100	0	185773.00	460015.00	40.38
9	B338P4	21/08/2013	-36643.69	51520.00	71	29	36648.69	70760.00	51.79
10	V206S2	21/08/2013	-67136.50	67136.50	100	0	67136.50	116255.00	57.75

31. I also note that the Noticee has submitted a client-wise list of securities available with it for margin purpose. However, I note that the Noticee in its letter dated February 7, 2020 has stated that the above maintenance margin calculation is on the basis of last trading day's closing price. However, I note that the Noticee has taken the closing price of a particular share at the end of the same day for which the margin is being calculated.

32. I further note that SEBI Circular no. SEBI/MRD/SE/SU/Cir-15/04 dated March 19, 2004 mandates that the initial and maintenance margin for the client shall be minimum of 50% and 40% respectively, to be paid in cash. The said requirement of initial margin to be paid in cash has been relaxed vide SEBI Circular CIR/MRD/DP/54/2017 dated June 13, 2017 wherein it was stated that: "*5. The initial margin payable by the client to the Stock Broker shall be in the form of cash, cash equivalent or Group I equity shares, with appropriate hair cut as specified in SEBI Master circular no. SEBI/HO/MRD/DP/CIR/P/2016/135dated December 16, 2016."*

    Therefore, during the inspection period, the maintenance margin had to be brought in by the client in cash. However, in the instant matter, I note from the reply of the Noticee that the maintenance margin has been collected from the securities provided by the client.

33. In view of the above, I find that the Noticee has failed to maintain the maintenance margin as specified under SEBI Circular no. SEBI/MRD/SE/SU/Cir-15/04 dated March 19, 2004 and has, therefore to this extent, violated the provisions of the said SEBI Circular no. SEBI/MRD/SE/SU/Cir-15/04 dated March 19, 2004.

34. The above violations, as brought out in the foregoing paragraphs, make the Noticee liable for monetary penalty under Section 15HB of the SEBI Act. Hon'ble Supreme Court of India in the matter of SEBI Vs. Shri Ram Mutual Fund [2006] 68 SCL 216(SC) held that - *"In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established and hence the intention of the parties committing such violation becomes wholly irrelevant…".* The text of Section 15HB of the SEBI Act is as below:

SEBI Act

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.

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

SEBI Act

Factors to be taken into account by the adjudicating officer.

15J. While adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely:-

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

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

(c) the repetitive nature of the default.

36. In the present matter, it is noted that no quantifiable figures are available to assess the disproportionate gain or unfair advantage made as a result of such default by the Noticee. Further from the material available on record, it may not be possible to ascertain the exact monetary loss to the investors /clients on account of default by the Noticee.

ORDER

37. Having considered all the facts and circumstances of the case, the material available on record, the factors mentioned in Section 15J of the SEBI Act and

in exercise of the powers conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules, I hereby impose a penalty of Rs. 2,00,000 (Rupees Two Lakh only) under Section 15HB of SEBI Act on the Noticee viz. Shriram Insight Share Brokers Ltd. I am of the view that the said penalty is commensurate with the lapse/omission on the part of the Noticee.

38. 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. In case of any difficulties in payment of penalties, the Noticee may contact the support at portalhelp@sebi.gov.in.

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

40. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is being sent to the Noticee viz. Shriram Insight Share Brokers Ltd. and also to the Securities and Exchange Board of India.

Date: April 30, 2020	**K SARAVANAN**
Place: Mumbai	**CHIEF GENERAL MANAGER &**
	ADJUDICATING OFFICER