BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/SV/AJ/2024-25/30659]

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 BY ADJUDICATING OFFICERS), RULES, 1995 in respect of:

Suresh Rathi Securities Private Limited	**Suresh Rathi Securities Private Limited**
Registered Office: 11 / 12 Mithila Apartments , Co-Op Hsg.Soc. Ltd. Opp. Jankalyan Bank, J.B Nagar, Andheri(E), Mumbai - 400059 Email: neelam@sureshrathi.in; lalit@sureshrathi.in	**Corporate Office:** Mahesh Hostel Complex, Chopasani Road, Bombay Motors Circle Jodhpur

in the matter of Suresh Rathi Securities Private Limited

BACKGROUND OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') conducted a thematic inspection with respect to 'Common mobile number and email id linked to multiple UCC' and also to check compliance with the provisions of SEBI Act, 1992 ("hereinafter referred to as "**SEBI Act, 1992**"), in the matter of **Suresh Rathi Securities Private Limited** (hereinafter referred to as (**SRSPL/ You / Noticee /Trading Member/Stock Broker**'). The said inspection was conducted on October 16, 2023 and October 17, 2023. The inspection period spanned from April 01, 2022 to August 31, 2023 (hereinafter referred to as '**Inspection Period'**) The Noticee is a SEBI-registered Stock Broker, having SEBI registration number INZ000165734. Noticee is a trading member of BSE and NSE.

2. The findings/ observations made during the course of inspection were communicated to the Noticee by SEBI vide its letter dated December 26, 2023.
3. Based on the findings of the inspection and the replies of the Noticee dated January 09, 2024, SEBI observed certain non-compliances, *inter-alia,* of:

3.1 SEBI Circular no. SEBI Circular No. MIRSD/Cir-26/2011 dated December 23, 2011 read with SEBI circular no. MIRSD/Cir-23/2011 dated December 2, 2011 and SEBI circular MIRSD/Cir-5/2012 dated April 13, 2012, read with Clause 33.2, 22.6, 20.1 and 20.4 of SEBI Master Circular SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023;

3.2 Clause 31 SEBI Master Circular SEBI/HO/MIRSD/MIRSD-SEC-5/P/CIR/2023/022 dated February 03, 2023; Clause 22.3 of SEBI Master Circular SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023.

4. SEBI initiated adjudication proceedings against the Noticee under Section 15HB of SEBI Act, 1992 for the alleged violations of the provisions of Stock Brokers Regulations, 1992 and applicable SEBI Circulars.

APPOINTMENT OF ADJUDICATING OFFICER

5. The undersigned was appointed as Adjudicating Officer (AO) vide order dated April 16, 2024, under Section 15-I 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 1995') to inquire into and adjudge under the provisions of Section 15HB of the SEBI Act, 1992, the various violations of aforesaid provisions, alleged to have been committed by Noticee.

SHOW CAUSE NOTICE, REPLY AND HEARING

6. Show Cause Notice No. SEBI/HO/EAD-8/SKV/AJ/2024/15260/1-2 dated April 25, 2024 (hereinafter referred to as "**SCN**") was issued to the Noticee in terms of Section 15-I of the SEBI Act, 1992 and Rule 4 of Adjudication Rules, to show cause as to why an inquiry should not be held against it and why penalty, if any, under Section 15HB of SEBI Act, 1992 be not imposed on the Noticee.

7. Details of the findings of the inspection and the reply of the Noticee dated January 09, 2024 vi-i-vis the said violations alleged and comments thereon as depicted in the SCN are as below:

Sr. No.	Findings of Inspection	Reply of Noticee	Comments
A	KYC Verification – (Details are mentioned in **Annexure 5)**. In case of KYCs verified the following violations were observed:		
a	Non - dispatch of a copy of complete client registration documents to the clients within 7 days of upload of UCC (50 clients)	During inspection, POD's of 5 clients out of 50 were submitted to the inspection team. The remaining PODs of 45 clients were attached. Noticee has a practice of sending complete client registration documents to clients within 7 days of uploading of the UCC. Only in the case of 3 clients, there was an inadvertent delay in sending documents. There are no complaints from clients about non-receipt of documents.	In 18 cases, there was no violation of dispatch of client registration documents However, in 26 cases, date of dispatch was over-written and hence the same could not be acceptable as proof of delivery. In 6 cases, proof of delivery was not received from the broker. Therefore, Noticee has apparently committed violation with respect to non-dispatch of client registration documents within 7 days of upload of UCC for 32 clients

			out of 50 sample clients.
b	Aadhar masking not done (20 clients)	The same has since been rectified.	Noticee submitted that Aadhaar masking was not done for 20 clients and admitted to rectify the Aadhaar masking. On verification, it was noted that Aadhaar masking was done for 16 out of 20 clients. However, compliance of the provisions post inspection period does not absolve the Noticee from the liability of non-compliance of provisions which persisted during the period of inspection.
c	MTF approval is by default signed for all the clients (59 clients)	In case of physical CRF quarterly, the MTF approval letter was in the non-mandatory section and was signed by the client at his own wish. Noticee has now separated the MTF approval letter under the heading 'Additional documents if the customer wishes to avail the facility'.	Noticee has apparently accepted existence of violation.

		In case of online account opening (EKYC) Noticee had conveyed the observation/finding to their vendor who was in the process of implementing it in the next version. Noticee submitted that it was in touch with the vendor to complete this.	
d	Blank Authority letter in favor of an Authorized Representative is by default signed. (59 clients)	In case of physical, Noticee has now separated the Authority letter under the heading 'Additional documents if the customer needs this, in exceptional cases. In case of online account opening (EKYC) Noticee had conveyed the observation/finding to their vendor who was in the process of implementing it in the next version. Noticee submitted that it was in touch with the vendor to complete this.	Noticee submitted that for physical account opening forms, they have separated authority letter under the heading 'Additional documents' and in case of online account opening they are in the process of modifying the same. The Noticee has apparently accepted the existence of violation.
e	Running account authorization has not been obtained correctly from clients who has opted for running account settlement (i.e opting for Monthly Running account settlement is not captured in the KYC document) (7 clients).	In case of physical CRF Quarterly settlement option was selected by clients themselves. In case of online account opening (EKYC) Noticee had conveyed the observation/finding to their vendor who was in the process of implementing it in the next version. Noticee	Noticee submitted that the clients themselves had selected quarterly settlement option in KYC document. However, it was observed that no option was given to the clients for monthly settlement. Therefore, the Noticee is

		submitted that it was in touch with the vendor to complete this.	apparently non-compliant with respect to the same. Further, Noticee has apparently accepted violation for online account opening. Thus, Noticee has apparently not obtained Running account authorization appropriately from clients who have opted for running account settlement for 7 sample clients.
B	Verification to check whether Margin requirement was in proportion to the income proof/ declared by client.		
a	During verification of income details as uploaded by stock broker on Exchange platform and margin/pay-in obligation of clients, it was observed that the stock broker had failed to perform client due diligence to identify source of funds w.r.t disproportionate trading activities with the declared income of clients in 12 instances pertaining to 9 UCCs. Details mentioned as per **Annexure 6**.	Ntoicee submitted that they closely knew the clients under observation and their financial capacity was in line with the allowed turnover. Updation of income range was inadvertently missed and the same has been now updated.	Noticee admitted to inadvertenly missing updation of income range and the same was subsequently updated. However, Noticee did not submit any evidence substantiating the new income range of 9 mentioned UCC /clients. Thus, Noticees reply in this regard is not acceptable.
b	It was observed that the stock-broker had no mechanism to monitor and report suspicious	No response	With respect to non-existence of mechanism to monitor and report

	transactions where trading of customer was not commensurate with income.		suspicious transactions in case of disproportionate trading, Noticee has not submitted any reply. Hence, it is inferred that that Noticee has no comments to offer in this regard and accepted the existence of violation during the inspection period.

8. In view of the foregoing, (viz. point 7 A and B), it is noted that apparently there is violation in significant number of samples verified and Noticee has accepted the existence of gaps in many observations. This points out that the Noticee apparently had not implemented proper systems during the inspection period. Also, the Noticee apparently had no mechanism to monitor and report suspicious transactions during the inspection period. Hence, it is alleged that Noticee has violated the following provisions:
   i. SEBI Circular No. MIRSD/Cir-26/2011 dated December 23, 2011 read with SEBI circular no. MIRSD/Cir-23/2011 dated December 2, 2011
   ii. SEBI circular MIRSD/Cir-5/2012 dated April 13, 2012, read with Clause 33.2,22.6,20.1 and 20.4 of SEBI Master Circular SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023
   iii. Clause 31 of SEBI Master Circular SEBI/HO/MIRSD/MIRSD-SEC-5/P/CIR/2023/022 dated February 3, 2023 and
   iv. Clause 22.3 of SEBI Master Circular SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023

9. The aforesaid SCN was issued through Speed Post Acknowledgement Due (hereinafter referred to as "**SPAD**") and vide digitally signed email to the Noticee. Vide email dated May 14, 2024, the Noticee sought extension of time till May 25, 2024 to file the response to the SCN. The request of the Noticee for extension of time to file its reply was acceded to by the AO. Vide email dated May 24, 2024, the Noticee forwarded letter dated May 24, 2024 in response to the SCN.

10. In compliance with the principles of natural justice, an opportunity of personal hearing was granted to the Noticee on June 12, 2024 at 03:00 p.m. Vide email dated June 05, 2024, the Noticee requested the personal hearing to the preponed to June 11, 2024 (2 pm or 4 pm) as their authorized representative was not available on June 12, 2024. The hearing was postponed to June 13, 2024 at 11:00 a.m. Vide email dated June 07, 2024, the Noticee requested to restore the hearing on June 12, 2024 as per the notice. On behalf of the Noticee, Mr. Ravi Ramiya, Authorised Representative and Mr. Lalit Mundra, Director, attended the hearing in person while Ms. Neelam Ingle Compliance Officer attended the hearing via Cisco webex link. They submitted that they would be relying upon their reply dated May 24, 2024 filed in response to the SCN. Further, time was sought till June 14, 2024 to submit an additional reply. The request of the AR was considered and time to file additional written submissions in the matter by June 14, 2024 was granted. Noticee duly submitted an additional reply vide email dated June 14, 2024.

11. Referring to the SCN, the Noticee denied all allegations made against it in the Notice and stated nothing contained in the SCN shall be treated to have been admitted on account of non-traverse except where the same is expressly admitted in the its reply of May 24, 2024.

12. Further, the Noticee stated that in view of their submissions, they have conducted business and operations in bonafide manner and in compliance with applicable Regulations and Circulars issued by SEBI and have not acted in disregard of statutory compliances. Noticee has not committed any violations, warranting initiation of any further proceedings and therefore prayed that no action be taken in the matter.

CONSIDERATION OF ISSUES AND FINDINGS

**Issue No. I - ** Whether the Noticee is in violation of the provisions of SEBI Circular no. SEBI Circular No. MIRSD/Cir-26/2011 dated December 23, 2011 read with SEBI circular no. MIRSD/Cir-23/2011 dated December 2, 2011 and SEBI circular MIRSD/Cir-5/2012 dated April 13, 2012, read with Clause 33.2, 22.6, 20.1 and 20.4 of SEBI Master Circular SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023 and Clause 31 SEBI Master Circular SEBI/HO/MIRSD/MIRSD-SEC-5/P/CIR/2023/022 dated February 03, 2023; Clause 22.3 of SEBI Master Circular SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023.

Issue No. II If yes, whether the failure, on the part of the Noticees would attract monetary penalty under Section 15HB of the SEBI Act, 1992?

Issue No. III If yes, what would be the quantum of monetary penalty that should be imposed upon the Noticees taking into consideration the factors stipulated in Section 15J of the SEBI Act read with Rule 5(2) of the Adjudication Rules?

13. The text of SEBI Circulars mentioned above, is available at/reproduced below:

    a. https://www.sebi.gov.in/legal/circulars/dec-2011/guidelines-in-pursuance-of-the-sebi-kyc-registration-agency-kra-regulations-2011-and-for-in-person-verification-ipv-_21803.html;

    b. https://www.sebi.gov.in/legal/circulars/dec-2011/the-securities-and-exchange-board-of-india-kyc-registration-agency-regulations-2011_21544.html;

    c. https://www.sebi.gov.in/legal/circulars/apr-2012/uploading-of-the-existing-clients-kyc-details-in-the-kyc-registration-agency-kra-system-by-the-intermediaries_22562.html;

    d. SEBI Master Circular SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023

    Simplification and Rationalization of Trading Account Opening Process

    20.1.SEBI has devised the uniform documentation to be followed by all the stock brokers / trading members; a copy thereof to be provided by them to the clients. The details of such documents are listed below:

    20.1.1 Index of documents giving details of various documents for client account opening process: Annexure-7

    20.1.2 Client Account Opening Form in two parts:

    20.1.2.1 Know Your Client (KYC) form capturing the basic information about the client and instruction/check list to fill up the form:

    The KYC template finalised by Central Registry of Securitization and Asset Reconstruction and Security interest of India (CERSAI) and as specified by SEBI through various circulars issued from time to time, shall be used by the registered intermediaries as Part I of AOF for individuals and legal entities.

20.1.2.2 Document capturing additional information about the client related to trading account:

Annexure-8

20.1.3 Document stating the Rights & Obligations of stock broker, and client for trading on exchanges (including additional rights & obligations in case of internet / wireless technology based trading): Annexure-9

20.1.4 Uniform Risk Disclosure Documents (for all segments / exchanges): Annexure-10

20.1.5 Guidance Note detailing Do's and Don'ts for trading on exchanges: Annexure-11

20.4. The client will now be required to sign only on one document i.e. Account Opening Form. Further, in the same form, the client shall continue to put his signatures instead of saying 'yes' or 'tick mark' while indicating preferences for trading in different exchanges / segments, in accordance with existing requirements. However, in case the investor wants to avail Running Account facility, execute Power of Attorney, Demat Debit and Pledge Instruction etc., he would have to give specific authorization to the stock broker in order to avoid any dispute in the future.

22.3. The stock broker shall have documentary evidence of financial details provided by the clients who opt to deal in the derivative segment. In respect of other clients, the stockbroker shall obtain the documents in accordance with its risk management system.

22.6.A copy of all the documents executed by client shall be given to him, free of charge, within seven days from the date of execution of documents by the client. The stockbroker shall take client's acknowledgement for receipt of the same.

33.2

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

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

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

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

33.2.4 Stock Brokers shall ensure that separate mobile number/E-mail address is uploaded for each client. However, under exceptional circumstances, the stockbroker may, at the specific written request of a client, upload the same mobile number/E-mail address for more than one client provided such clients belong to one family. 'Family' for this purpose would mean self, spouse, dependent children and dependent parents.

e. SEBI Master Circular SEBI/HO/MIRSD/MIRSD-SEC-5/P/CIR/2023/022 dated February 03, 2023

Suspicious Transaction Monitoring and Reporting

31. Registered Intermediaries shall ensure that appropriate steps are taken to enable suspicious transactions to be recognized and have appropriate procedures for reporting suspicious transactions. While determining suspicious transactions, registered intermediaries shall be guided by the definition of a suspicious transaction contained in PML Rules as amended from time to time.

14. The aforesaid alleged violations, if established, make Noticees liable for monetary penalty under Section 15 HB of the SEBI Act, which read as under:

SEBI Act, 1992

Penalty for contravention where no separate penalty has been provided.

15HB. *Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been* *provided, shall be [1][liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees].*

Issue No. I - Whether the Noticee is in violation of the provisions of SEBI Circular no. SEBI Circular No. MIRSD/Cir-26/2011 dated December 23, 2011 read with SEBI circular no. MIRSD/Cir-23/2011 dated December 2, 2011 and SEBI circular MIRSD/Cir-5/2012 dated April 13, 2012, read with Clause 33.2, 22.6, 20.1 and 20.4 of SEBI Master Circular SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023 and Clause 31 SEBI Master Circular SEBI/HO/MIRSD/MIRSD-SEC-5/P/CIR/2023/022 dated February 03, 2023; Clause 22.3 of SEBI Master Circular SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023.

15. The allegations made in the SCN and replies filed by the Noticees vide letter dated May 24, 2024 and June 14, 2024 by the Noticee along with my findings are dealt with separately in the sub-paragraphs:

A. KYC Verification:

15.1. **Non - dispatch of a copy of complete client registration documents to the clients within 7 days of upload of UCC (50 clients)**

Allegation in the SCN:

15.1.1 During the course of the inspection, in 18 cases, there was no violation of dispatch of client registration documents;

15.1.2 However, it was observed that in 26 cases, date of dispatch was over-written and hence the same could not be acceptable as proof of delivery.

15.1.3 In 6 cases, proof of delivery was not received from the broker.

Reply of Noticee

15.1.4 SEBI was satisfied with evidence for 18 instances.

[1] Substituted for the words "liable to a penalty which may extend to one crore rupees" by the Securities Laws (Amendment) Act, 2014, w.e.f. 08-09-2014

15.1.5 For 26 instances, SEBI has mentioned that since the POD had some overwriting the same was not accepted. Please find annexed herewith the confirmation from the Courier Agency whereby it is confirmed that the documents were delivered to clients.

15.1.6 For 6 instances, we had annexed the evidences during inspection itself, but the same appear to have been missed out. Please find annexed the acknowledgements for these instances.

Findings

15.1.7 The Noticee, annexed a letter dated May 05, 2024 from the courier company, Pavan Couriers and Logistics, who provided details confirming delivery of consignment to the respective 26 clients in time and apologized for the inconvenience caused to the Noticee due to overwriting by their staff. In view of the same, the submission of the Noticee is accepted.

15.1.8 Noticee has claimed that in respect of 6 instances they had submitted evidences during the inspection itself and the same appears to be have been missed out. Vide letter dated May 24, 2024, the Noticee submitted POD in respect of 6 instances. In view of the same, the submission of the Noticee is therefore accepted.

15.1.9 Thus, the allegation of non-dispatch of client registration documents is not established.

15.2. **Aadhaar masking not done (20 clients)**

Allegation in SCN

15.2.1 During the inspection, Noticee submitted that Aadhaar masking was not done for 20 clients and admitted to rectify the Aadhaar masking. On verification, it was noted that Aadhaar masking was done for 16 out of 20 clients.

Reply of Noticee

15.2.2 *Noticee submitted that this* observation *was rectified during the inspection but the SCN records that they were completed for 16 out of 20 SCN instances and not for all 20 instances. Further, the SCN also records that post inspection compliance does not absolve us from the liability of non-compliance.*

15.2.3 *Further, Noticee sumitted that the* rectification *was done for all 20 instance and copies thereof are annexed.*

15.2.4 *Noticee has put in place the* process *for masking Aadhaar for all clients.*

15.2.5 *Noticee relied upon the judgement of* Hon'ble *SAT in the case of IDBI Trusteeship Service Limited vs SEBI Appeal no. 186 of 2023 dated February 22, 2023 and UPPSE Securities Limited vs SEBI, Appeal No. 109 of 2011 decided on July 025, 2011 and IFCI Financial Services Limited – Adjudication Order No. EAD/AO-NP/JR/39/2017 dated May 22, 2017*

Findings

15.2.6 As observed from the submissions of the Noticee vide email/letter dated May 24, 2024 and as admitted by the Noticee, Aadhaar masking rectification was done post inspection. Aadhaar masking has been mandated to prevent unauthorised access to sensitive information and to reduce the risk of identity theft and misuse. Hence, compliance of the provisions post the inspection period does not absolve the Noticee from the liability of non-compliance of provisions which existed during the period of inspection. While I observe that the Noticee has taken steps to rectify its error post observation in the inspection report, during the interim there was always a possibility of misuse of its client's sensitive information. Given the need to maintain the confidentiality of the information, the contention of the Noticee that there need not be any consequence due to the fact that rectification was done post inspection cannot be accepted.

15.2.7 Thus, the allegation of not masking the Aadhaar of its clients stands established.

15.3. **MTF approval is by default signed for all the clients (59 clients)**

Allegation in the SCN

15.3.1 It was observed during the inspection that MTF approval was signed by default for 59 clients.

Reply of Noticee

15.3.2 In case of physical forms, we have marked the MTF consent as "Voluntary" and the clients who do not want to avail the facility may choose to not sign the MTF form.

15.3.3 This is in line with the SEBI Circular No. CIR/MIRSD/16/2001 dated August 22, 2011, where it has been specifically instructed by SEBI to mark documents as "Voluntary" for the documents and consents that are not mandatory but are discretionary at the option of the client.

15.3.4 Without prejudice to the forgoing the clients who want to avail the MTF Facility have to provide deposit for availing the facility and cannot do it by simply giving consent for the same. This ensures that whether the KYC is done with physical mode or electronic mode, the facility can't be activated without deposit and therefore the signature no way adversely affects the client in any manner.

15.3.5 None of the said 59 clients gave the deposit towards MTF, and thus no trade of MTF was done in these accounts. Ledgers of all 59 clients were annexed towards confirmation.

15.3.6 Even further the option is now provided in the EKYC journey and we have also restructured the physical KYC to give one more alert that MTF is voluntary. Copy of form and screenshots of EDKY journey annexed.

Findings

15.3.7 I observe from the submission of the Noicee that the clients who wish to avail the MTF facility have to provide a deposit, which enables them to avail the said facility. Failure to do so denies them the use of this facility notwithstanding their given consent. It is therefore a corollary that irrespective of KYC being done in the physical or electronic mode, MTF cannot be activated without the deposit and hence presence or absence of their signature does not adversely impact the client. On perusal of the ledgers of the 59 clients submitted by the Noticee, I note that none of the said clients had provided the deposit towards MTF. I am therefore inclined to accept the contention of the Noticee and also note Noticees submission that for both physical and EKYC needful has been done to ensure compliance.

15.3.8 Thus, in light of the above I am inclined to accept the contention of the Noticee.

15.4. **Blank Authority letter in favour of an Authorized Representative is by default signed. (59 clients)**

Allegation in the SCN

15.4.1 It was observed that blank authority letter in favor of an Authorized Representative was signed by default in respect of 59 clients.

Reply of Noticee

15.4.2 … for physical forms the documents are specifically marked "Voluntary" and the client has to give it only if he intends to appoint someone. For clients who keep it blank but sign, it we strike through the same for client's safety.

15.4.3 Blank authority letter in EKYC being blank and digitally signed is in itself an evidence that no one has been appointed as these documents are non-tamperable and nothing can be changed after signature and hence no issue can be found with bank authority letter in the EKYC.

Findings

15.4.4 I observe from the Noticees's reply to the observation in the inspection that in case of physical, Noticee has now separated the Authority letter under the heading 'Additional documents if the customer needs this, in exceptional cases. Further, in case of online account opening (EKYC) Noticee had conveyed the observation/finding to their vendor who was in the process of implementing it in the next version. Noticee submitted that it was in touch with the vendor to complete this.

- In its reply to the SCN the Noticee has submitted that in physical forms, it has specifically marked the document as voluntary wherein the client has to fill the document only if appointing an Authorised Representative (AR). The Noticee has provided a sample copy of a physical letter where the client has signed the document but has not filled in the name of the AR and left the space blank; Noticee has struck off the document to prevent an misuse / for the clients safety. However, there is no evidence to show at what stage the Noticee had struck of the document i.e. post issuance of SCN or post inspection. Notwithstanding the same, if the

Noticee had struck off the document post issuance of SCN or post inspection, it would still point to a violation at the time of inspection. Hence, the contention of the Noticee vis-i-vis physical KYC, is not accepted. In view of the above, the instant allegation stands established.

15.4.5 Further, Noticee submitted that in EKYC even if the document is blank yet digitally signed, it indicates that no AR has been appointed and once it is digitally signed, it becomes tamper proof. In, view of the same I am inclined to accept the contention of the Noticee.

15.4.6 I also note that the Noticee has submitted that now it ensures due compliance in both physical and online account opening.

15.5. **Running account authorization has not been obtained correctly from clients**

Allegation in the SCN

15.5.1 It was observed during the inspection that the Running account authorization had not been obtained correctly from those clients who had opted for running account settlement (i.e opting for Monthly Running account settlement is not captured in the KYC document) (7 clients).

Reply of Noticee

15.5.2 We have modified the EKYC client registration journey and allow the clients to select the option for monthly / quarterly settlement. Screenshots of the relevant page of the EKYC journey is annexed.

Findings

15.5.3 I observe from the submission of the Noticee, in its reply to the findings of the inspection vide email dated January 09, 2024

- with respect to physical settlement option, Noticee submitted that the clients themselves had selected quarterly settlement option in the KYC documents. No mention has been provided in respect of the monthly option. Further, Noticee has remained silent / not provided any proof vis-i-vis physical settlement option its reply to the SCN vide email/letter dated May 24, 2024.

- with respect to online account opening (EKYC), Noticee it has submitted that it has shared the observation post inspection with their vendor and the vendor was in the process of implementing it. Vide its reply to the SCN dated May 24, 2024, Noticee admitted to modification of the EKYC client registration to allow clients to select the option for monthly / quarterly settlement. Therefore, the Noticee has accepted the violation for online account opening. However, vis-à-vis the observation in the inspection report, the Noticee has taken rectifying steps / improved procedure for better compliance.

15.5.4 Thus, the allegation of Running account authorization had not been obtained correctly from those clients who had opted for running account settlement is established

In view of the above, (viz point 15.4, 15.5) it was observed that the Noticee had violated Clause 20.4 and Clause 22.1 of SEBI Master Circular SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023.

B. Verification to check whether Margin requirement was in proportion to the income proof/ declared by client

15.6. **Verification of KYC income range and margin requirement**

Allegation in SCN

15.6.1 During verification of income details as uploaded by stock broker on Exchange platform and margin/pay-in obligation of clients, it was observed that the stock broker had failed to perform client due diligence to identify source of funds w.r.t disproportionate trading activities with the declared income of clients in 12 instances pertaining to 9 UCCs.

15.6.2 Further, it was observed that the stock-broker had no mechanism to monitor and report suspicious transactions where trading of customer was not commensurate with income.

Reply of Noticee

15.6.3 *We have a through process of due-diligence of clients wherein we screen all our clients on a daily basis and if any adverse order is issued by any authority then the client is immediately restricted from trading with us.*

15.6.4 *As regards the updation of income, we had carried out the same annually however, income updataion for few clients got missed, inadvertently.*

15.6.5 *We have additionally adopted SMS based automated system for income updation. Now the income and other details of the clients are regularly updated.*

15.6.6 *Further it may be appreciated that our team is in constant touch with the clients as these are introduced by our tranches or Authorized Persons and in all such cases we are in the know of the wherewithal of the clients.*

15.6.7 *Above all no adverse information can be drawn from the observations as all the clients have complied with the margin and pay-in obligations through their respective accounts and no third party payment is accepted by us.*

Findings

15.6.8 As submitted vide email/letter dated May 24, 2024, Noticee has admitted to inadvertently missing updation of income range. Noticee submitted that they had additionally adopted SMS based automated system for income updations and now, income and details of the clients are regularly updated. Their branches or Authorised Representatives introduce clients and the Noticee is in the know of the wherewithal of these clients. Further, all the clients have complied with the margin and pay-in obligations through their respective accounts and no third party payment is accepted by the Noticee. However, the Noticee has not submitted any evidence substantiating the new income range of the 9 UCCs. Therefore, the reply of the Noticee in this regard is not acceptable. However, bearing in mind that the Noticee has taken steps to rectify the error post inspection by additionally adopting an SMS based automated system; the same shall be treated as a mitigating factor.

15.6.9 Thus, the allegation that the stockbroker had failed to perform client due diligence to identify source of funds w.r.t disproportionate trading activities with the declared income of clients stands established. Noticee is in violation of Clause 22.3 of SEBI Master Circular SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023.

15.7. **No mechanism to monitor and report suspicious transactions where trading of customer was not commensurate with income.**

Allegation in SCN

15.7.1 It was observed that the stock-broker had no mechanism to monitor and report suspicious transactions where trading of customer was not commensurate with income.

Reply of Noticee

15.7.2 We have a process of generating alerts for PMLA and the same is done through Trackwizz software, a leading PMLA compliance software. Screenshots of sample alerts and their closure including some related to income being commensurate to the business for the relevant period are annexed herewith.

15.7.3 Further, we had also filed Suspicious Transaction Report with FIU and the copy thereof is annexed herewith. This substantiates that we have a process of filing STR when the case warrants and therefore the observations in the SCN appears to be different from the facts.

Findings

15.7.4 I note from the submissions of the Noticee that they have provided screenshots of sample alerts and their closure including some related to the income being commensurate to the business of the client for the relevant period. Further, I also note that the Noticee has submitted that it has installed a software viz. Trackwizz for generating alerts for PMLA. Additionally, Noticee also provided a STR which was submitted to FIU. In view of the same, I am inclined to accept the submission of the Noticee.

Issue No. II If yes, whether the failure, on the part of the Noticees would attract monetary penalty under Section 15HB of the SEBI Act, 1992?

16 In view of the abovementioned observations and findings having considered all the facts and circumstances of the case, the material available on record including the submissions of the Noticee, I hold that the Noticee has violated provisions as mentioned below:-

- Clause 20.4, Clause 22.1 and Clause 22.3 of SEBI Master Circular SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023.

17 The violations established above, make the Noticee liable for monetary penalty under the provisions of Section 15HB of the SEBI Act.

The relevant provisions of the aforementioned Section 15HB of the SEBI Act reads as under:

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.

18. The Noticee has submitted that *"lapses pointed out in the Inspection Report are merely technical, venial and procedural in nature. As a result of the alleged violations, we have not made any gains or derived any unfair advantage. We are committed to complying with the law and request that the procedural lapses be seen in the context of our overall scale of operations handled and the various compliance measures adopted by us. Further on becoming aware of the stray instances pointed out during the course of inspection, we have immediately taken steps to rectify the same and avoid their recurrence in future."*

19. The Noticee also relied upon the orders passed by Hon'ble Securities Appellate Tribunal (SAT) in the matter of Chona Financial Services Pvt. Ltd. vs SEBI (Appeal No. 95 of 2003); order in the matter of Religare Securities Ltd. vs SEBI; order dated July 25, 2011 in the matter of UPSE Securities Ltd. vs. SEBI and SEBI order dated June 16, 2017 in the matter

of inspection of Indiabulls Mutual Fund passed by Adjudicating Officer, SEBI. I have perused and taken into note the aforementioned judgments/orders.

20. Notwithstanding the contention of the Noticee, since as has been brought out in the order various violations committed by the Noticee has been established, hence I hold that penalty is leviable on the Noticee. Here I place reliance upon the judgment of Hon'ble Supreme Court of India in the matter of *SEBI Vs. Shri Ram Mutual Fund [2006] 68 SCL 216(SC) which inter-alia has held that - "In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established and hence the intention of the parties committing such violation becomes wholly irrelevant...".*

Issue No. III If yes, what would be the quantum of monetary penalty that should be imposed upon the Noticees taking into consideration the factors stipulated in Section 15J of the SEBI Act read with Rule 5(2) of the Adjudication Rules?

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

15J – Factors to be taken into account by the adjudicating officer

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 investor/s as a result of the default;
c. the repetitive nature of the default

22. 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 the defaults by Noticee. Further, from the material available on record, it is not be possible to ascertain the exact

monetary loss to the investors /clients on account of default by Noticee. As regards the repetitive nature of the default, I do not find the Inspection having brought on record any regulatory action taken by SEBI in past against Noticee for the same violations as those observed in the instant inspection. However, I cannot ignore the fact that as a SEBI registered Intermediary, Noticee was under a statutory obligation to abide by the provisions of the SEBI Act, Rules and Regulations and Circulars/directions issued thereunder etc., which it failed to do. Such disregard for the provisions of law governing the functioning of intermediaries calls for an appropriate penalty which should act as a deterrent. However, bearing in mind that the Noticee has taken corrective action post inspection, the same is being taken as a mitigating factor while deciding the amount of penalty.

ORDER

23. Having considered all the facts and circumstances of the case, the material available on record, the submissions of the Noticees, 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 1995, I hereby impose a monetary penalty of INR 3,00,000/- (INR Three Lakh Only) on the Noticee under the provisions of Section 15HB of the SEBI Act.

24. I am of the view that the said penalty is commensurate with the violations on the part of the Noticees.

25. The Noticees shall remit/pay the said amount of penalty within 45 days of receipt of this order through the 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.

26. In terms of Rule 6 of the Adjudication Rules, a copy of this order is sent to the Noticee and to the Securities and Exchange Board of India.

Date: August 12, 2024
Place: Mumbai

SHASHI KUMAR VALSAKUMAR
ADJUDICATING OFFICER