

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

Under Regulation 27 of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008 in respect of Fairwealth Securities Limited, a registered intermediary of SEBI.

1. Background

1.1. Fairwealth Securities Limited ("**FSL**") is a registered intermediary with SEBI in the following categories:

- a. a stock broker in equity, equity derivative and currency derivative segments of the National Stock Exchange ("**NSE**");
- b. a stock broker in equity, equity derivative and currency derivative segments of the Bombay Stock Exchange ("**BSE**");
- c. a stock broker in equity, equity derivative and currency derivative segments of the Metropolitan Stock Exchange of India ("**MSEI**") bearing Registration no. INZ000186238; and
- d. a depository participant of CDSL bearing Registration no. IN-DP-CDSL-393-2007.

1.2. The present matter, which is in respect of FSL, emanates from an interim report of NSE received by SEBI on October 10, 2019 ("**NSE Report**"), wherein observations had been made about the various irregularities noted in the working of FSL. Consequently, an *ad interim ex parte* order was passed by SEBI against FSL and thirteen other entities upon the finding that the entities were in prima facie violation of the SEBI (Brokers and Sub Brokers) Regulations, 1992 ("**Stock Brokers Regulations**"), SEBI (Intermediaries)

Regulations, 2008 (“**Intermediaries Regulations**”), SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (“**PFUTP Regulations**”), and circulars made thereunder (“**Interim Order**”).

1.3. Subsequently, on November 25, 2019 BSE appointed a forensic auditor, Sarath & Associates, to look into the working of FSL, pursuant to the directions contained in the Interim Order. A forensic audit report with respect to the working of FSL dated December 22, 2020 was submitted by BSE to SEBI (“**FAR**”). The scope of the audit was the examination of all books of account of FSL, including financial ledgers, banks statements, DP statements/ register of securities, financial statements/ trial balance, etc. gathered from the offices of FSL/ records available with the stock exchanges, for F.Y. 2016-17, 2017-18, 2018-19 till December 22, 2020 (“**Forensic Audit Period**”).

1.4. The FAR *inter-alia* brought out that in breach of the prevailing provisions of law FSL had carried out –

- a. unauthorised off-market transactions in clients’ accounts;
- b. unauthorised trading in clients’ accounts and misappropriation of clients’ securities;
- c. acts resulting in unavailability of securities;
- d. unauthorised pledging of clients’ securities;
- e. non-settlement of clients’ accounts;
- f. mis-utilisation of funds for own purposes/debit balance clients;
- g. misrepresentation in books of account and submission of incorrect net-worth certificate to stock exchange;
- h. failure to furnish documents to stock exchange and non-cooperation with the auditor;
- i. related party transactions; and

- j. purchased securities in un-registered client codes, non-segregation of funds/securities of clients, code of conduct violations and discrepancies in email IDs and mobile numbers in the data of clients.

2. Enquiry Proceedings against FSL

2.1. Consequent to the observations made in the FAR, Enquiry Proceedings were initiated against FSL, a registered intermediary, in terms of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008 ("**Intermediaries Regulations**"), by appointing a Designated Authority ("**DA**") in the matter.

2.2. Pursuant to the said appointment, the DA issued a Show Cause Notice dated September 29, 2021, with the documents relied upon including the FAR ("**SCN**"). The SCN alleged that FSL had violated the following provisions of law

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- SEBI Circular SMD/ SED/CIR/ 93/23321 dated November 18, 1993, SEBI Circular SEBI/HO/MIRSD/MIRSD2/ CIR/P /2016/95 dated September 26, 2016, SEBI Circular CIR/HO/ MIRSD /MIRSD2/CIR/P/2017/108 dated September 26, 2017, SEBI Circular CIR/HO/MIRSD/MIRSD2 /CIR/P/2017/124 dated November 30, 2017, SEBI Circular CIR/HO/MIRSD/MIRSD2/CIR/P/2018/09 dated January 11, 2018 for *unauthorised trading in clients' accounts and misappropriation of clients' securities*.
- SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993, SEBI Circular No SEBI/MRD/Policy/AT/Cir- 19/2004 dated April 21, 2004, SEBI Circular No. MRD/DoP/SE/Cir-11/2008 dated April 17, 2008 and SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 for *non-availability of clients' securities*.
- Section 13 and Section 18 of Securities Contracts (Regulation) Act, 1956 ("**SCRA, 1956**") read with Section 2(i) of SCRA, 1956 for *unauthorised off-market transactions in clients' accounts*.

- SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993, SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 for *unauthorised pledging of client securities*.
- SEBI Circular no. SEBI/MIRSD/SE/Cir-19/2009 dated December 03, 2009 for *non-settlement of clients' account*.
- SEBI Circular no. SMD/SED/CIR/93/23321 dated November 18, 1993 and SEBI Circular no. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 for *mis-utilisation of funds for own purposes/debit balance clients*.
- Rule 15 of the Securities Contract (Regulation) Rules, 1957 ("**SCRR, 1957**") and Regulation 17 of the Stock Brokers Regulations. Further, FSL has also violated Clause 6.1.1(j) of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2 /CIR/P/2016/95 dated September 26, 2016 for *misrepresenting books of account and submission of incorrect Net Worth Certificate to Exchange*.
- Regulation 21 of the Stock Brokers Regulations and Clause A(5) of Schedule II read with Regulation 9 (f) of Stock Brokers Regulations for *failure to furnish documents to exchange/auditor resulting in non-cooperation*.
- Section 12(1) of SEBI Act read with Rule 8 (1) (f) and 8 (3) (f) of SCRR, 1957 for *engaging in business other than securities through related party transactions*.
- Clause 2(B) of SEBI Circular CIR/MIRSD/15/2011 dated August 02, 2011 for *discrepancies in email IDs and mobile numbers in the data of clients*.
- SEBI Circular No. SMDRP/Policy/CIR-39/2001 dated July 18, 2001 and Clause A (2) & A (3) of Schedule II read with Regulation 9 (f) of Stock

Brokers Regulations for *purchase of securities in unregistered client code*.

- Clause 2.5 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 for *pledging of clients' securities from other than clients' accounts*.
- Clause 2.5.5 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 for *details of client's securities pledged not being sent to the clients*.
- clause A (1) and A (5) of the Code of Conduct prescribed for the stock brokers under the Stock Brokers Regulations for *carrying out disproportionate cash transactions denoting erosion of fairness and integrity in the business*.
- SEBI Circular no. SMD/SED/CIR/93/23321 dated 18 Nov, 1993 read with SEBI/MRD/SE/Cir- 33/2003/27/08 dated Aug 27, 2003 for *salary paid to employees from client account*.
- Clauses A(1), A(2) & A(5) of Code of Conduct as provided under Schedule II read with Regulation 9 of the Stock Brokers Regulations. Further, FSL is also alleged to have violated Section 12A of SEBI Act, 1992 r/w Regulation 3(d), 4(1),4(2)(f), 4(2)(p) and 4(2)(m) of SEBI PFUTP Regulations for *all the violations as narrated above*.

2.3. It is noted that the SCN was sent by SPAD to the address of the Noticee as provided by it to SEBI: 651-652, Udyog Vihar, Phase- V, Gurgaon, Haryana-122001. The SCN returned to SEBI undelivered with the comment, "Ghar chod gaya". The SCN was also emailed to the email ID: compliance@fairwealth.in, however the said mail bounced back. Subsequently, a notice was published in the Hindustan Times' Delhi edition of April 22, 2022 (English daily), notifying the Noticee of the SCN issued to it, with the intimation that an opportunity of personal hearing had been scheduled before the DA on May 13, 2022. A

similar notice, containing the above-mentioned details, were also published in the Hindi dailies, Dainik Jagran (Delhi edition of April 22, 2022) and Gurgaon Mail (April 22, 2022 edition).

2.4. It is noted that the Noticee vide email dated May 05, 2022 (from gaba.dhirender@gmail.com) had requested for extension of the hearing scheduled for May 13, 2022 citing medical reasons and asked for extension of two months. By way of email dated May 27, 2022, Noticee was informed that since considerable time had elapsed, extension request for two months could not be granted. The Noticee vide the said email was provided another hearing opportunity on June 03, 2022 and was given time till May 31, 2022 to file its reply. The Noticee was also informed that if no reply was received or no appearance was made on the scheduled date of hearing, the matter shall be decided based on material available on record. The above-mentioned email was delivered to the email ID: gaba.dhirender@gmail.com.

2.5. No reply was submitted by the Noticee in response to the allegations made in the SCN. Also, no appearance was entered by the Noticee on the scheduled date of hearing.

2.6. Consequently, the DA enquired into the above-mentioned violations *ex-parte*, and in his report dated June 24, 2022 ("**Enquiry Report**"), found that FSL had contravened the provisions as enumerated at 2.2 above.

2.7. In view of the same, the DA in terms of Regulation 26(1) of the Intermediaries Regulations recommended that the Certificate of Registration of FSL be cancelled.

3. Post - enquiry SCN dated July 19, 2022.

3.1. After considering the Enquiry Report, Post-enquiry SCN dated July 19, 2022 bearing No. SEBI/HO/EFD1/DRA3/P/OW/2022/29403/1 under Regulation 27(1) of the Intermediaries Regulations was issued to FSL (enclosing therewith a copy of the Enquiry Report), whereby FSL was called upon to show cause

as to why action as recommended by the DA or any other direction should not be passed against it in terms of Regulation 27 of the Intermediaries Regulations, as deemed fit ("**Post-enquiry SCN**").

3.2. It is noted from records that the Post-enquiry SCN was sent by SPAD to the address of the Noticee as provided by it to SEBI: 651-652, Udyog Vihar, Phase- V, Gurgaon, Haryana- 122001. The Post-enquiry SCN returned to SEBI undelivered with the comment, "Ghar chod gaya". Consequently, affixture of the Post-enquiry SCN was carried out at the above-mentioned address of FSL on August 07, 2022.

3.3. Pursuant to the service of the Post-enquiry SCN, a personal hearing was scheduled for May 23, 2023 in respect of the Noticee. In this regard, a Hearing Notice dated April 21, 2023 was issued to the Noticee by SPAD at the afore-mentioned address for intimating the details of the said personal hearing. The Hearing Notice also returned to SEBI undelivered. Consequently, affixture of the Hearing Notice dated April 21, 2023 was carried out at the above-mentioned address of FSL on May 12, 2023. However, even after the service of the Hearing Notice dated April 21, 2023, no appearance was entered by the Noticee in the personal hearing scheduled for May 23, 2023.

3.4. In the interests of natural justice, another opportunity of personal hearing was granted to the Noticee on July 13, 2023 at 2.30 pm. The Hearing Notice dated July 03, 2023 was issued to the Noticee by SPAD at the afore-mentioned address for intimating the details of the said personal hearing. The Hearing Notice returned to SEBI undelivered. Also, the Hearing Notice was sent by email at the address: gaba.dhirender@gmail.com, which belonged to Dhirender Gaba, the MD of FSL. However, no response was received in respect of the said Hearing Notice. Consequently, affixture of the Hearing Notice dated July 03, 2023 was carried out at the above-mentioned address of FSL on July 12, 2023.

3.5. As already bought out, in response to the SCN, the Noticee neither filed any reply nor entered appearance during the personal hearing before the DA. Similarly, in respect of the Post-enquiry SCN, the Noticee has neither filed any reply nor entered appearance during the personal hearings granted.

3.6. In this context, reliance is placed on the observations of the Hon'ble SAT in *Sanjay Kumar Tayal & Ors. vs. SEBI* (Order dated February 11, 2014 in Appeal No. 68 of 2013), wherein it was observed: "... Appellants have neither filed reply to show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted charges levelled against them in the show cause notices." Accordingly, I find that the Noticee is not interested in participating in the present proceeding before me. Even though the Noticee has remained *ex parte*, I nonetheless find it relevant that I should be guided by the documents available on record as laid down by the Hon'ble SAT in *Shri B. Ramalinga Raju vs. SEBI* (Order dated May 12, 2017 in Appeal No. 286 of 2014). Accordingly, I shall proceed in respect of the Noticee on the basis of the material on record.

4. Consideration of Issues and Findings

Allegation 1 – Unauthorised off-market transactions in clients' accounts

4.1. It was alleged in the SCN that during the period, 2016-17 to 2019-20 off-market transactions were effected in respect of the securities of the clients of FSL, without their knowledge and permission. It has also been alleged in the SCN that these securities, upon being transferred from the clients to FSL, were transferred to Fairwealth Financial Services Limited ("**FFSL**"), which is an NBFC and related to FSL. The DA in the Enquiry Report has concluded that FSL had carried out unauthorised off-market transactions in its clients' accounts.

4.2. In this regard, it is noted from records that there were no client contract notes evidencing the off-market transfer of securities of the clients. This led to the inference that the off-market transfer of securities of clients were done without their knowledge and permission.

4.3. Additionally, these securities were in turn transferred by FSL to FFSL. Again records reveal that there was no documentary evidence to show the basis of the off-market transactions between FSL and FFSL. The FAR specifically mentions that there was no formal agreement/power of attorney enabling the transfer of such securities between FSL and FFSL. It is further mentioned in the FAR that during the visit to the FSL back office, the Director of FSL failed to submit/produce any documentary evidence in support of the off-market transactions between FSL and FFSL.

4.4. In this regard, reference is made to Section 2 (i) of the SCRA, 2016. The said section defines spot delivery contract to include *actual delivery of securities and the payment of a price therefor either on the same day as the date of the contract or on the next day, the actual period taken for the despatch of the securities or the remittance of money*. Thus, a spot delivery contract *per force* requires the actual delivery of securities and the payment of a price for such securities either on the same day as the date of the contract or on the next day.

4.5. In the instant case, FSL transferred the securities to FFSL without any consideration as required under Section 2(i) of SCRA, 1956.

Allegation 2 – Unauthorised trading in clients’ accounts and misappropriation of Clients’ Securities

4.6. It was alleged in the SCN that FSL had carried out unauthorised transfer of clients’ securities to its accounts, and thereafter sold the said securities through related entities, namely, Aagas Software Solutions Pvt. Ltd., Katashraj Securities Pvt. Ltd., Reets Plastics Pvt. Ltd. , Shyam Sunder Jolly, Chahek

Housing Pvt. Ltd., Fairwealth Financial Services and Fairwealth Commodity Broking Pvt. Ltd. The DA in his Enquiry Report has found that there had been unauthorised trading in clients' accounts and misappropriation of clients' securities.

4.7. By way of the above allegations, two specific facts have been asserted by SEBI in the SCN: a) FSL had unauthorisedly/illegally come in possession/ownership of client securities and b) the sale of securities were carried out by entities who did not own such securities.

4.8. Before considering the said finding of the DA, it is relevant to establish if the above-mentioned entities were related entities of FSL.

4.9. In this regard reference is made to Section 2 (76) of the Companies Act, 2013, which defines 'related party'. The said definition is reproduced hereunder:

" (76) "related party", with reference to a company, means—

(i) a Director or his relative;

(ii) a key managerial personnel or his relative;

(iii) a firm, in which a Director, manager or his relative is a partner;

(iv) a private company in which a Director or manager is a member or Director;

(v) a public company in which a Director or manager is a Director or holds along with his relatives, more than two per cent of its paid-up share capital;

(vi) any body corporate whose Board of Directors, managing Director or manager is accustomed to act in accordance with the advice, directions or instructions of a Director or manager;

(vii) any person on whose advice, directions or instructions a Director or manager is accustomed to act: Provided that nothing in sub-clauses

(vi) and (vii) shall apply to the advice, directions or instructions given in a professional capacity;

(viii) any company which is—

(A) a holding, subsidiary or an associate company of such company; or

(B) a subsidiary of a holding company to which it is also a subsidiary;

(ix) such other person as may be prescribed”.

4.10. The FAR has noted that Shripad Sadanand Desai, a Director of FSL also held Directorships in Aagas Software Solutions Pvt. Ltd., Reets Plastics Pvt. Ltd. and Chahek Housing Pvt. Ltd. Thus, by virtue of Section 2 (76) (iv) of the Companies Act, 2013, Aagas Software Solutions Pvt. Ltd., Reets Plastics Pvt. Ltd. and Chahek Housing Pvt. Ltd. were related parties of FSL.

4.11. Similarly, Dhirender Gaba and Naveen Gaba became Directors of Katashraj Securities Pvt. Ltd on May 19, 2017 and June 19, 2017 respectively. Thus, by virtue of Section 2 (76) (iv) for the predominant portion of the Forensic Audit Period (FYs 2016-17, 2017-18, 2018-19 and 2019-20 till December 22, 2020) Katashraj Securities Pvt. Ltd was a related party of FSL.

4.12. Further as regards FFSL, it is noted from the documents available on MCA website that both Dhirender Gaba and Naveen Gaba were Directors in FFSL and held substantial shareholding in the said company exceeding 2%, much like FSL. So, by virtue of Section 76(2)(v) of the Companies Act, 2013, FFSL was a related party of FSL. With regard to FCBL, it is stated that Dhirender Gaba, Naveen Gaba and FSL were the three predominant shareholders. So by virtue of Section 2 (76) (iv) of the Companies Act, 2013 FCBL was a related party of FSL. Similarly, Shyam Sunder Jolly was a Director of FSL. So by virtue of Section 2(76) (i) Shyam Sunder Jolly was a related party of FSL.

- 4.13. The relationship between FSL and the above-mentioned entities having been established, reference is made to the FAR, which records the *modus operandi* adopted by FSL in the misappropriation of the securities of its clients. Through off-market transactions, securities of clients were transferred to any of the 44 DEMAT accounts of FSL, after which the securities were moved to the 'pool account' of FSL, and thereafter sold in the securities market by FSL through related entities.
- 4.14. It is noted from records that the forensic auditors could not find any trading instructions/contract notes in support of the transfer of securities from the accounts of clients to FSL. So, as brought out, the off-market transactions by way of which FSL came to hold the securities of its clients were done in an unauthorised and illegal manner.
- 4.15. It has been brought out in the FAR that once FSL came to hold the securities, it sold them through its related entities. In this regard, FAR records the comparison of the details as appearing in the Register of Securities with that of the Holding Statements, in respect of the entities through which the securities were sold. A Register of Securities is a register maintained by a stock-broker reflecting the securities sold/bought and the remaining balance in respect of each of its clients. A Holding Statement provides the summary of all the securities held in a particular DEMAT account on a specified date, with bifurcation showing the status of those securities maintained by Depositories (CDSL/NSDL).
- 4.16. The comparison of the details as appearing in the Register of Securities with that of the Holding Statements is revealing. It has been brought out in the FAR that, in comparison to the Register of Securities, 63 entities including the 5 entities named herein had sold 1640 excess securities, valued at Rs. 103,19,81,911 as on October 01, 2019, beyond their holdings as recorded in

the Holding Statements. A summary of the sale of securities in excess of their holdings as reflected in the Holding Statements is provided hereunder:

Table – 1

S. No	Client Code	Name	No of Excess Securities Sold	Value of such securities (Rs.)
1	DLFF555	Katashraj Securities Pvt. Ltd	182	29,81,74,855.30
2	UPFFR794	Reets Plastics Pvt. Ltd	412	22,81,60,881.35
3	DLFFS289	Shyam Sunder Jolly	281	21,29,15,353.40
4	DLFF1166	Chahek Housing Pvt.Ltd	357	18,96,04,150.90
5	DLFF1094	Aagas Software Solutions Pvt. Ltd.	243	7,42,21,143.15
6	DLFFM001	Fairwealth Commodity Broking Pvt.. Ltd.	5	20,06,000.00
7	DLFF02	Fairwealth Financial Services Ltd.	15	16,15,468.55
8	DLPMS1	Fairwealth Securities Limited	1	5,37,550.00
9	Other 55 Clients of FSL		144	2,47,46,508.91
TOTAL			1640	1,03,19,81,911.56

4.17. So, the fact that these entities were able to dispose securities over and above the number reflected in their Holding Statements clearly denotes that they had sold securities that did not belong to them.

4.18. In this regard, reference is made to SEBI Circular No. SMD /SED/CIR/ 93/ 23321 dated November 18, 1993. It is relevant to refer to Clause 2 of the said circular, which states that --

“it shall be compulsory for all Member brokers to keep separate accounts for client's securities and to keep such books of accounts, as may be necessary, to distinguish such securities from his/their own securities. Such accounts for client's securities shall, inter-alia provide for the following: -

- a. Securities received for sale or kept pending delivery in the market;*
- b. Securities fully paid for, pending delivery to clients;*
- c. Securities received for transfer or sent for transfer by the Member, in the name of client or his nominee(s);*
- d. Securities that are fully paid for and are held in custody by the Member as security/margin etc. Proper authorization from client for the same shall be obtained by Member;*
- e. Fully paid for client's securities registered in the name of Member, if any, towards margin requirements etc.”*

Similarly, reference is also made SEBI Circular No. SEBI/HO/MIRSD/ MIRSD2 /CIR/P /2016 /95 dated September 26, 2016. In this regard, reference is made to Clause 2.4.3 of the Annexure to the Circular, which reads as:

“Transfer of securities between “Name of the Stock Broker - Client Account” and individual client's BO account, “Name of the Stock Broker - Pool Account” and “Name of the Stock Broker - Collateral Account” is permitted. Transfer of securities between “Name of the Stock Broker - Client Account” to “Name of the Stock Broker - Proprietary Account” is permitted only for legitimate purposes such as, implementation of any Government/Regulatory directions or orders, in case of erroneous transfers pertaining to client's securities, for meeting legitimate dues of the stock broker, etc. For such transfer of securities, stock broker shall maintain a stock transfer register clearly indicating the day-wise details of securities transferred.”

- 4.19. From the above the following are noted : a) a stock broker is under obligation to keep separate accounts for client's securities and to maintain books to

distinguish such securities from his own securities and b) transfer of securities from the Client Account to the stock broker's own account is permitted only for legitimate purposes such as, implementation of any Government/Regulatory directions or orders, in case of erroneous transfers pertaining to client's securities, for meeting legitimate dues of the stock broker, etc. In the present matter, it has been demonstrated that FSL did not ensure that securities of clients were appropriately segregated and distinguished from its own securities. On the contrary, FSL not only failed to ensure segregation but also appropriated the securities of the clients as its own. Further, as has been brought out, FSL through off-market transactions transferred securities of clients to its own accounts, without any of the grounds mentioned in the SEBI Circular of September 26, 2016.

4.20. Thus, I find that FSL by misappropriating clients' securities has violated SEBI Circular No. SMD /SED/CIR/ 93/ 23321 dated November 18, 1993 and SEBI Circular No. SEBI/HO/MIRSD/ MIRSD2 /CIR/P /2016 /95 dated September 26, 2016.

4.21. Additionally, it has also been alleged that not only did FSL misappropriate the securities of its clients as its own but also traded such securities without authorisation of its clients. In this regard, the SCN alleged that FSL had violated SEBI Circular CIR/HO/ MIRSD /MIRSD2/ CIR/P/2017/108 dated September 26, 2017, SEBI Circular CIR/HO/MIRSD/MIRSD2 /CIR/P/2017/124 dated November 30, 2017 and SEBI Circular CIR/HO/MIRSD/MIRSD2/CIR/P/2018/09 dated January 11, 2018.

4.22. In this regard, reference is made to Clause III of SEBI Circular CIR/HO/ MIRSD /MIRSD2/ CIR/P/2017/108 dated September 26, 2017, which states that –

“ all brokers shall execute trades of clients only after keeping evidence of the client placing such order, it could be, inter alia, in the form of:

a. Physical record written & signed by client,

- b. Telephone recording,*
- c. Email from authorized email id,*
- d. Log for internet transactions,*
- e. Record of SMS messages,*
- f. Any other legally verifiable record.*

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

From the above, it is evident that a stock broker is under obligation to maintain evidence with respect to the placing of orders on behalf of the clients.

4.23. Also, reference is made to SEBI Circular CIR/HO/MIRSD/MIRSD2 /CIR/P/2017/124 dated November 30, 2017 and SEBI Circular CIR/H0/MIRSD/MIRSD2/CIR/P/2018/09 dated January 11, 2018 which provide that brokers should execute trades of clients only after keeping evidence of the client placing such order.

4.24. As stated in the preceding paragraphs, FSL was not able to provide any instructions/contract notes pursuant to which off-market transactions were effected between the clients and FSL. Accordingly, I find that FSL has violated instructions contained in SEBI Circular CIR/HO/ MIRSD /MIRSD2/ CIR/P/2017/108 dated September 26, 2017, SEBI Circular CIR/HO/MIRSD/MIRSD2 /CIR/P/2017/124 dated November 30, 2017 and SEBI Circular CIR/H0/MIRSD/MIRSD2/CIR/P/2018/09 dated January 11, 2018.

Allegation 3 – Non-availability of securities.

4.25. It was brought out in the SCN that the value of securities appearing in the RoS of FSL, as on October 01, 2019, amounted to Rs. 105,13,22,497.68; whereas the securities appearing in the name of FSL's clients' in the Holding Statements, during the period of audit, were valued at only Rs. 15,10,48,996.43. In view of the same, it was alleged in the SCN that the RoS demonstrated a shortfall in the securities of clients of FSL by Rs. 90,02,73,501.25. The DA upon consideration of the above-mentioned allegations has concluded in the Enquiry Report that the documents reflected that securities of the clients of FSL were missing.

4.26. In this regard, the value of securities appearing in the name of FSL under various Client IDs in the RoS are provided hereunder:

Table – 2

Value of securities as per RoS of FSL (As on October 01, 2019)	105,13,22,497.68
DP ID: 12049100 Client ID: 00000042	5,94,82,376.13
DP ID: 12049100 Client ID: 00332924	4,49,27,512.79
DP ID: 12049100 Client ID: 00576358	2,45,27,933.87
DP ID: 12049100 Client ID: 00321840	1,95,86,333.08
DP ID: 12049100 Client ID: 00000135	7,83,173.55
DP ID: 12049100 Client ID: 00078901	5,91,865.31
DP ID: 11000011 Client ID: 00016400	5,86,014.90
DP ID: 12049100 Client ID: 00000116	5,00,000
DP ID: 12049100 Client ID: 00005304	63,786.80
Total Fairwealth Securities Ltd. holding as per CDSL records	15,10,48,996.43
Total value of securities unavailable as on October 01, 2019	90,02,73,501.25

- 4.27. Thus, it is evident that securities worth Rs. 90,02,73,501.25 belonging to clients of FSL were missing, and could not be accounted for. Thus, from the shortfall in the number of securities belonging to FSL's clients, it is inferred that the missing securities had been misappropriated by FSL.
- 4.28. In this regard, it has already been brought out that under SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993, a stock broker was under obligation to keep separate accounts for client's securities and to maintain books to distinguish such securities from his own securities. Further, reference is made to SEBI Circular No. MRD/DoP/SE/Cir-11/2008 dated April 17, 2008. The said circular requires that brokers should have adequate systems and procedures in place to ensure that client collateral was not used for any purpose other than meeting the concerned client's margin. This was in clear breach of the obligations prescribed in the above-mentioned circulars.
- 4.29. Additionally, it was alleged in the SCN that FSL had violated SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016. The SCN has made specific mention that the above circular required *"brokers to maintain a stock transfer register clearly indicating the day-wise details of securities transferred"* The said obligation is contained in clause 2.4.3. of the said Circular. Accordingly, it would be appropriate to reproduce the said provision for reference: *"Transfer of securities between "Name of the Stock Broker - Client Account" to "Name of the Stock Broker - Proprietary Account" is permitted only for legitimate purposes such as, implementation of any Government/Regulatory directions or orders, in case of erroneous transfers pertaining to client's securities, for meeting legitimate dues of the stock broker, etc. For such transfer of securities, stock broker shall maintain a stock transfer register clearly indicating the day-wise details of securities transferred."* Thus as per the said clause transfer of securities from the client account to the stock broker's proprietary account can be done only for legitimate purposes as specified in the circular. It is inferred that the transfers were not for any of the legitimate purposes.

4.30. Further, it was alleged in the SCN that FSL had violated SEBI Circular No SEBI/MRD/Policy/AT/Cir-19/2004 dated April 21, 2004. The same finds concurrence in the Enquiry Report.

4.31. From a perusal of the said circular, it is seen that the circular has been addressed to Stock Exchanges and Depositories, and is with respect to the settlement of transactions in case of holidays. The circular provides the guidelines to facilitate the smooth completion of settlement process and help members of the Stock Exchanges meet their obligations in a timely manner. The advisory contained in the said Circular is with respect to the Stock Exchanges/Depositories to adhere to. Evidently FSL is not a Stock Exchange or a Depository. In view of the same, it cannot be said that FSL has violated the said circular in respect of this specific allegation.

Allegation 4 – Unauthorised pledging of clients' securities

4.32. It was alleged in the SCN that FSL had pledged the securities of clients with various banks and NBFCs and raised funds, without the authorisation of the clients. In this regard, the SCN has alleged that FSL had violated SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016. The DA, pursuant to consideration of the said allegation, has found that there was unauthorised pledging of clients' securities by FSL.

4.33. It is stated that the issue involved here has two aspects: a) the pledging of securities and b) the funds raised pursuant to the pledging of securities.

4.34. The FAR notes that upon examination of the books of account of FSL (collected from its back office on March 03, 2020), it was observed that FSL had pledged the securities to various NBFCs/FIs. However, the details of the securities pledged and the details of the funds raised as a consequence of such pledging, were not available.

4.35. Accordingly, data of securities pledged by FSL of its clients on four different dates viz., 31.12.2017, 31.03.2018, 30.06.2018 and 31.01.2019, were sought from BSE and analysed. The details of such analysis, as captured in the FAR, are provided hereunder:

Table – 3

Particulars	Value in Crore (Rs.)			
	31.12.2017	31.03.2018	30.06.2018	31.01.2019
Value of Securities Pledged as per the Holding Statement (A)	94.38	71.71	60.52	44.20
No. of Clients	11,301	11,775	9,612	7,286
Securities Pledged as of Debit Clients (B)	56.65	65.86	55.29	44.20
Securities Pledged as of Credit Clients (C)	37.73	5.85	5.22	-
Total Debtors (D)	24.45	36.65	18.43	25.51
Total Derivative Margin Obligations (E)	8.01	-	1.52	2.43
Total Obligation (F)= (D + E)	32.46	36.65	19.94	28.95
Excess Pledge of Debit Clients (G)	24.19	29.20	35.34	15.25
Total Excess Pledge (C + G)	61.92	35.06	40,57	15.25

4.36. From the above, it is noted that – a) on all four dates FSL had pledged the securities of debit balance clients in excess of their obligations and b) FSL had pledged the securities of credit balance clients.

4.37. Additionally, it is noted from the FAR that data was sought from the Depositories i.e., CDSL and NSDL regarding the pledge of securities by FSL

and its sister concern, FFSL. The year-wise cumulative pledge of securities from 2016-17 to 2019-20 by these two entities is tabulated hereunder:

Table – 4

S. No.	Financial Year	Amount received from pledging of securities (in Rs. crore)
1.	2016-17	442
2.	2017-18	683
3.	2018-19	684
4.	2019-20	204

4.38. Even though this data did not bifurcate whether the securities pledged were that of the clients or FSL's own, the sheer value of the securities substantiates the findings as gathered from the data provided by BSE in respect of client securities.

4.39. In this regard, reference is made to Clause 2.5 of the Annexure to SEBI Circular SEBI/HO/ MIRSD/ MIRSD2/CIR/ P/2016/95 dated September 26, 2016, whereby stock brokers are required to ensure that pledging of securities is done only of those clients who have a debit balance in their ledger and the funds raised against such pledged securities for a client should not exceed the debit balance in their ledger.

4.40. It has already been brought out in Table–3 that FSL had pledged the securities of credit balance clients and, in case of debit balance clients, the funds raised from the pledging were in excess of their obligations. The total excess pledge of securities by FSL as on 31.12.2017, 31.03.2018, 30.06.2018 and 31.01.2019 were respectively Rs. 61.92 crore, Rs 35.06 crore, Rs 40.57

crore and Rs 15.25 crore. Thus, it is evident that FSL has violated SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

4.41. With respect to the second aspect of the issue i.e., the funds raised pursuant to the pledging of securities, it was gathered from the books of account and the details received from the Depositories, that FSL had pledged securities with various NBFCs/ Banks/ FIs viz. Kotak Mahindra Bank, HDFC Bank, Aditya Birla Finance Ltd, IIFL Wealth Ltd, Globe Fin Cap Ltd, ILFS Financial Services Ltd and Edelweiss Custodian Services Ltd. and availed overdraft/Loan Against Security facility with them.

4.42. The FAR notes that since FSL had not provided information in respect of the pledging of securities, bank statements were sought from the above entities. In this regard, the transactions between Aditya Birla Finance Ltd, IL&FS Financial Services Limited, ECL Finance Limited, Kotak Mahindra Bank Ltd, IIFL Wealth Finance Limited, HDFC Bank Ltd, and Globe Fincap Limited on one hand and the two major accounts of FSL (A/c. No. 01722650000184 & 9511123079 held with Kotak Mahindra Bank) on the other are tabulated below:

Table – 5

Sl. No.	Movement of funds between accounts	Period	Amount (Rs.)
1.	ECL Finance Ltd to FSL(A/c. No. 0184)	29/09/2017-25/09/2019	60,25,50,000
	FSL(A/c. No. 0184) to ECL Finance Ltd	04/10/2017-25/09/2019	47,63,10,060
2.	Aditya Birla Finance Ltd to FSL(A/c. No. 0184)	-	-
	FSL(A/c. No. 0184) to Aditya Birla Finance Ltd.	11/05/2016-31/07/2018	9,54,73,889
3.	IL & FS Financial Services Limited to FSL(A/c. No. 0184)	17/05/2016-15/12/2016	90,324
	FSL(A/c. No. 0184) to IL&FS Financial Services Limited	11/05/2016-31/07/2018	9,54,73,889
4.	IIFL Wealth Finance Limited to FSL(A/c. No. 0184)	27/03/2017-25/05/2017	4,40,00,000
	FSL(A/c. No. 0184) to IIFL Wealth Finance Limited	06/05/2017-28/06/2018	4,66,86,907
5.	Globe Fincap Ltd. to FSL(A/c. No. 0184)	31/05/2018	9,320
	Globe Fincap Ltd. to FSL(A/c. No.3079)	25/04/2017-18/05/2017	6,50,00,000

4.43. Thus, the movement of funds from these entities, with whom FSL had pledged the securities of its clients clearly shows that the funds raised from the pledging of client securities were appropriated by FSL. Further, the FAR notes that funds raised by FFSL upon pledging of securities with ECL Finance Ltd were transferred to a bank account No.09582540006005 maintained with Kotak Mahindra Bank. This bank account, however, was not in the books of account (Trial Balance) of FSL for all the three years of the account.

4.44. Reference, therefore, is again made to Clause 2.5 of the Annexure to SEBI Circular SEBI/HO/ MIRSD/ MIRSD2/CIR/ P/2016/95 dated September 26, 2016 which provides that funds raised against pledged securities should be credited only to the bank account named as “Name of the Stock Broker - Client Account”. However, as would be evident from the above, instead of the funds being credited to the client’s account the same was credited to FSL’s account. This is a clear violation of SEBI Circular SEBI/HO/ MIRSD/ MIRSD2/CIR/ P/2016/95 dated September 26, 2016. Additionally, since FSL appropriated the funds of the clients, when it was under obligation to segregate its funds from that of its clients, it has also violated SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993.

Allegation 5 – Details of client’s securities pledged not sent to the clients

4.45. It was alleged in the SCN that FSL had not communicated the details of clients’ securities pledged to the clients thereby violating Clause 2.5.5 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016. The DA in the Enquiry Report has concluded that there was no communication addressed to the clients by FSL providing details of the pledge of their securities.

4.46. As has already been elaborated in the preceding paragraphs, FSL had *inter alia* pledged securities through its group company, FFSL. Also, funds raised from the pledging of clients’ securities were credited to other bank accounts and not to a specified account. Furthermore, no record was found to suggest that the client whose shares had been pledged had been informed of such pledge and the funds raised as a consequence of the same. On the contrary, it has been established that FSL indulged in the unauthorised pledging of the securities of the clients.

4.47. Accordingly, I find that FSL has violated Clause 2.5 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

Allegation 6 – Non Settlement of clients’ accounts

4.48. It was alleged in the SCN that FSL had failed to settle the funds and securities of clients in a timely manner. In this respect, it has been alleged that FSL has violated SEBI Circular No. SEBI/MIRSD/SE/Cir-19/2009 dated December 03, 2009. The DA in the Enquiry Report has concluded that there was non-settlement of clients’ accounts.

4.49. In this respect, reference is made to the FAR. It is noted that the auditor was provided data for two quarters of FY 2019-20 by FSL. From the said data, it was noted that funds and securities had not been settled for Q1 and Q2 of FY 2019-20. The details as revealed in the FAR are provided hereunder:

Table – 6

Details	Amount of funds not settled (Rs.)	Value of securities not settled (Rs.)
Related Parties /Directors/Group Cos.		
Q1 FY2019-20	79,46,806	31,70,817
Q2 FY2019-20	79,46,821	25,64,543
TOTAL	1,58,93,627	57,35,360
Clients		
Q1 FY2019-20	1,83,79,446	8,64,60,571
Q2 FY2019-20	1,82,14,133	11,44,67,908
TOTAL	3,65,93,579	20,09,28,479

4.50. It is noted from the above that the total amount of clients' funds that was not settled was Rs. 3.65 Crore and the total amount of clients' securities that was not settled was Rs. 20.09 Crore in the first two quarters of FY 2019-20.

4.51. In this regard, reference is made to SEBI Circular No. SEBI/MIRSD/SE/Cir- 19/2009 dated December 03, 2009 which provides that the settlement of funds/securities should be done within 24 hours of the payout. Though, Clause 12 of Annexure A of SEBI Circular No. SEBI/MIRSD/SE/Cir- 19/2009 dated December 03, 2009, provides an exception to this rule that a client may specifically authorise the stock broker to maintain a running account subject, *inter alia* to actual settlement of funds and securities by the broker, at least once in a calendar quarter or month, depending on the preference of the client. It is noted from the details provided that FSL had not done the same thereby violating SEBI Circular No. SEBI/MIRSD/SE/Cir- 19/2009 dated December 03, 2009.

Allegation 7 – Mis-utilisation of funds for own purposes/debit balance clients

4.52. It was alleged in the SCN that FSL had misutilised clients' funds for own purposes or for debit balance clients. In this regard, it has been alleged that FSL has violated SEBI Circular No. SMD/SED/CIR/93/23321 dated November 18, 1993 and Circular No. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016. The DA has in the Enquiry Report concluded that there had been mis-utilisation of funds by FSL for its own purposes/debit balance clients.

4.53. It is stated that SEBI has laid down principles in its circular No. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated 26.09.2016, on enhanced supervision of stock brokers and depository participants, at point No. 3.3.1 for ascertaining the shortfall of funds in respect of stock brokers. Adopting the said criteria, the FAR has examined whether there was a shortfall of funds at FSL's end. The details of the said calculation are provided hereunder:

Table – 7

Code	Particulars	Amount (in Rs. crore)
A	Aggregate of fund balances available in all Client Bank Accounts, including the Settlement Account of STOCK EXCHANGES	1.70
B	Aggregate value of collateral deposited with clearing corporations and/or clearing member	3.48
C	Aggregate value of Credit Balances of all clients as obtained from trial balance across Stock Exchanges	57.48*
G	DIFFERENCE [(A+B)-C]	(52.30)
D	Aggregate value of Debit Balances of all clients as obtained from trial balance across Stock Exchanges	(25.05)
H	Amount of client funds used for own purpose	(27.25)

**Note: The credit balance of the clients refers to the FSL clients who has the financial credit balances of Rs 57.48 crore as per the FSL books of account. The amounts shown under the table of 'non-availability of funds' were valued and arrived at as on 01.10.2019.*

4.54. As may be seen from the above, the total shortfall of funds was Rs. 52.30 crore. The inference is that clients' funds had been utilised for other purposes i.e. used either for settlement obligations of debit balance clients or for FSL's own purposes.

4.55. During the forensic audit, details of certain properties emerged. The FAR notes, based on the Trial Balances that were part of the books of account of FSL, that FSL had seven properties and eleven cars, approximately amounting

to Rs. 12-13 crore. Complete details of the properties of FSL could not be ascertained during the process of forensic audit as necessary documents had not been provided by FSL.

4.56. The properties owned by FSL, as brought out in the FAR, are listed hereunder:

Table – 8

S. No.	Description
1.	Flat at 61-A in Gurgaon.
2.	Property in Cosmopolitan developed by M3M India Ltd.
3.	Property in Golf Estate developed by M3M India Ltd.
4.	Flat in Palm Beach Residency, Navi Mumbai.
5.	Flat bearing no. D-12 in Raheja in Sector 31, Gurgaon.
6.	Property in Vasant Kunj, New Delhi.
7.	Property developed by DLF New Gurgaon Homes Developers Pvt. Ltd.

4.57. In this regard, the FAR has also brought out that the Fixed Assets schedule of the Audited Balance Sheet did not contain the details of the properties and cars owned by the FSL.

4.58. Additionally, it has been brought out in the FAR that FSL had also raised loans against these properties from various banks and Financial Institutions and had made payments for servicing these loans. The FAR notes that an amount of Rs. 46.86 crore had been paid during the forensic audit period by FSL for servicing various loans, including loans taken with respect to certain properties listed before, namely, Dewan Housing with respect to the property in Vasant Kunj, Kotak Mahindra Bank with respect to the property in Golf Estate developed by M3M India Ltd.), ICICI Bank with respect to the flat in Palm Beach Residency and Dewan Housing with respect to the property in Raheja in Sector 31, Gurgaon.

4.59. It is noted that FSL had no other major source of income except from the brokerage it earned from the trading activity and of its clients and profits it earned out of the trading activity. Since FSL did not have any other sources of income, the acquisition of assets as aforesaid demonstrates the misutilisation of funds raised out of the trading business and misappropriation of funds.

4.60. Reference is also made to SEBI Circular No. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016, which provides that transfer of funds from “Name of Stock Broker - Client Account” to “Name of Stock Broker - Proprietary Account” is permitted only for legitimate purposes, such as, recovery of brokerage, statutory dues, funds shortfall of debit balance clients which has been met by the stock broker, etc. For such transfer of funds, stock broker shall maintain daily reconciliation statement clearly indicating the amount of funds transferred.

4.61. From the facts narrated, it has been brought out that funds have been drawn from client's account other than for payment to or on behalf of client or for payment of a debt due to the stock broker from client. Also, the shortfall in funds as brought out denotes that the transfer of funds from the client account has not been for legitimate purposes. In view of the same, I find that FSL has violated SEBI Circular No. SMD/SED/CIR/93/23321 dated November 18, 1993 and SEBI Circular No. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

Allegation 8 – Salary of employees paid from clients’ accounts and excessive cash transactions

4.62. It was alleged in the SCN that salary of employees of FSL were paid from a client account bearing No. 0678230000947 maintained with HDFC Bank. The DA in his findings has concluded that salaries to employees had been paid out of the said client account.

4.63. In this respect, reference is made to SEBI Circular No. SMD/SED/CIR/93/23321 dated November 18, 1993. Clause 1 of the said circular *inter alia* requires brokers to keep client funds and own funds in separate accounts. Further, no money should be drawn from client's account other than for payment to or on behalf of client or for payment of a debt due to the stock broker from client or as otherwise provided therein

4.64. It was also alleged in the SCN that actions of FSL, especially large instances of cash deposits and cash withdrawals from its bank account(s), denoted a failure of integrity and fairness in carrying out its business thereby violating clause A (1) and A (5) of the Code of Conduct prescribed for the Stock brokers under the Stock Brokers Regulations. The DA in the Enquiry Report has also found merit in the said allegation.

4.65. In this regard, reference is made to the statements of the bank account bearing number 06782320000947 maintained with HDFC Bank. The said bank account is the client account and bore the name: M/S FAIRWEALTH SECURITIES LTD. – CLIENT A/C. Upon examination of the said bank statements, it is noted that on November 25, 2016 an amount of Rs. 15,000 was transferred to Niranjana J. The narration to the said transaction reads: “611256090296SALARY TO FW03633 NIRANJANA J”. So, the amount transferred to Niranjana J was the salary paid to him, and the same was paid from the client account. Additionally, it is noted that “SALARY” appears twenty-four times in the statements of the said bank account. Thus, the client account was used to pay salaries to employees of FSL, which was in contravention of the extant provisions of law.

4.66. It is noted from the SCN, based on the bank statements, that one of FSL's bank accounts, namely, account bearing No. 01722650000184 maintained with Kotak Mahindra Bank, saw a large number of cash deposits and withdrawals. During the period, April 13, 2016 to September 21, 2019 a total amount of Rs. 1,00,78,908 was withdrawn from the said bank account. Similarly, during the period, April 27, 2016 to November 24, 2016 cash deposits amounting to Rs. 43,32,500 were made in the said bank account.

4.67. It is noteworthy that cash deposits amounting to Rs 43 lakh were made in the said bank account in the space of seven months. Also, it is noted from the FAR that the bulk of the cash withdrawals from the said bank account happened between 2017 and 2019. It is not a mere coincidence that cash withdrawals happened during the same period when FSL was misusing the clients' securities by pledging them and selling them through other accounts.

4.68. In this regard, reference is made to clause A (1) and A (5) of the Code of Conduct prescribed for the Stock brokers under the Stock Brokers Regulations. Clause A (1) requires a stock-broker to maintain high standards of integrity, promptitude and fairness in the conduct of his business. Clause A (5) requires a stock broker to ensure compliance with all legal obligations at all times. From the facts narrated above, the natural inference is that funds raised by the sale/pledging of clients' securities were utilised through cash withdrawals. This showed a clear lack of integrity in the functioning of the broker who had been entrusted with the securities and funds of the clients, and was in clear violation of the extant legal provisions applicable to stock brokers. That being the case, Clause A (5) has also been violated by FSL since it is required to comply with the prevailing legal obligations at all times.

4.69. Additionally, reference is also made to SEBI Circular no. SEBI/MRD/SE/Cir-33/2003/27/08 dated August 27, 2003. The said circular requires brokers and sub-brokers not to accept cash from the client whether against obligations or as margin for purchase of securities and / or give cash against sale of securities

to the clients. Further, it is required that all payments shall be received / made by the brokers from / to the clients strictly by account payee crossed cheques / demand drafts or by way of direct credit into the bank account through EFT, or any other mode allowed by RBI. The brokers should accept cheques drawn only by the clients and also issue cheques in favour of the clients only, for their transactions. The facts as narrated above clearly show that the stipulations in the said Circular have not been adhered to by FSL.

Allegation 9 – Misrepresented books of account and incorrect net worth certificate submitted to exchange

4.70. It was alleged in the SCN that FSL had failed to maintain proper books of account and as such had misrepresented its net-worth in the certificate submitted to the exchange as on March 31, 2018. In this regard, it has been alleged in the SCN that FSL had violated Rule 15 of SCRR, 1957, Regulation 17 of the Stock Brokers Regulations and Clause 6.1.1(j) of Annexure to SEBI Circular SEBI/HO/MIRSD/MIRSD2 /CIR/P/2016/95 dated September 26, 2016 as it submitted incorrect/ wrong data to the exchange. The DA in the Enquiry Report has found FSL of having misrepresented its books of account and presenting incorrect net-worth certificate.

4.71. The FAR notes that the net-worth of FSL as on 31.03.2018, as per the Certificate submitted by it, was verified with the books of account collected from the back office of FSL during the audit. Upon examination, it was noted that FSL had mis-represented the long outstanding debtors (i.e., more than 90 days), the value of fixed assets, pledged securities, non-allowable securities and 30% of the marketable securities. In this respect, some of the specific observations relating to the books of account are provided hereunder:

- a. the fixed assets schedule of the Audited Balance Sheet was incorrect, as the schedule did not contain the properties and cars owned by FSL;

- b. FSL had several loans against the cars that it owned, and the value of such assets was not reduced from the net-worth calculation of FSL; and
- c. securities had been pledged by FSL with ECL Finance Ltd, Kotak Mahindra Bank and HDFC Bank, Global Finance Ltd during the period 2016-17 to 2019-20, however, the value of such pledged securities, which should have been reduced for the calculation of net-worth, was not considered.

4.72. In view of the said observations, a recalculation of the net-worth of FSL was undertaken. The details of the said recalculated net-worth in comparison to the CA certificate submitted by FSL to the exchanges, as appearing in the FAR, are provided hereunder:

Table – 9

PARTICULARS	31.03.2018	
	As Per CA Certificate (in Rs. Crore)	As per Books of Accounts (in Rs. Crore)
Capital +free reserves	16.15	16.15
Fixed Assets	(2.37)	(15.12)
(b) Pledged Securities	-	-
(c) Member's Card	-	-
(d) Non-allowable Securities (Unlisted Securities)	(1.28)	(1.28)
(e) Bad deliveries	-	-
(f) Doubtful Debts and advances*	-	(16.16)
(g) Prepaid Expenses and Losses	(0.27)	-
(h) Intangible Assets	-	(0.70)
(i) 30 % of marketable securities	-	-
	12	(13)

* Includes debts/advances overdue for more than three months or given to associates.

4.73. As may be seen from the above, the net-worth certificate as of March 31, 2018 submitted by FSL showed its net-worth to be Rs. 12 crore, whereas it in fact was negative by Rs 13 crore.

4.74. Further, it is noted from the FAR that the details of the properties owned by FSL, as contained in the books of account were in 'soft' form. However, there was no documentary evidence available for these properties at FSL's Gurgaon office premises. Similarly, more than 11 motor cars were acquired by FSL and some of these cars were acquired through bank loans. The repayments of these car loans were being made out of the funds raised from the trading activity of FSL. The complete details of the ledger accounts of the loan accounts or the bank loan account statements were required to verify the application of loan funds and sources of repayment. However, only FSL's Trial Balances were available at their back office.

4.75. Reference is made to Rule 15 of SCRR, 1957. The said provision mandates a stock broker to maintain and preserve the books of account and documents for a period of five years. A similar obligation for maintenance and preservation of books of account and documents is also contained in Regulation 17 of the SEBI (Stock-Brokers) Regulations, 1992. Further Clause 6 of the Annexure to SEBI Circular SEBI/HO/MIRSD/MIRSD2 /CIR/P/2016/95 dated September 26, 2016 requires Stock Exchanges and Depositories to frame various event based monitoring criteria, so as to initiate appropriate action in case of any event based discrepancies. While the Stock Exchanges were required to frame various event based monitoring criteria, the circular has provided an illustrative list of events in clause 6.1.1., which includes sharing of incomplete/wrong data or failure to submit data on time by a stock broker.

4.76. From the facts narrated above, it is seen that FSL failed to maintain and preserve the books of account as required under law. Accordingly, it has violated Rule 15 of SCRR, 1957 and Regulation 17 of the Stock Brokers Regulations. Similarly, FSL by submitting incorrect data on its net-worth to the

exchanges falls foul of Clause 6.1.1.(j) of the Annexure to SEBI Circular SEBI/HO/MIRSD/MIRSD2 /CIR/P/2016/95 dated September 26, 2016.

Allegation 10 – Failure to furnish documents to exchange/auditor– non cooperation

4.77. It was alleged in the SCN that FSL had failed to provide access and assistance during the process of forensic audit. In this regard, it was alleged in the SCN that FSL had violated Regulation 21 of Stock Brokers Regulations and Clause A (5) of Schedule II read with Regulation 9 (f) of Stock Brokers Regulations. The DA in the Enquiry Report has come to the conclusion that the Noticee, in fact, had failed to furnish documents to the exchange/auditor thereby exhibiting non-cooperation.

4.78. It is observed from the FAR that there were huge payments and receipts to/from the group entities of FSL, which was not a part of FSL's trading activity. However, the bank statements of all the accounts of FSL from 2016-17 were not available. Further, the bank statements of group entities were also not available for the period from 2016-17 to 2019-20. Accordingly, the FAR concludes that due to the unavailability of such documents the exact amount paid and received could not be verified. Similarly, it is observed from the FAR that the opening balances as on April 01, 2019 did not match with that of closing balance as on March 31, 2019 in the books of account of FSL.

4.79. In this regard, the FAR concludes that even after repeated mails, telephonic conversations and personal requests to FSL's Director, Dhirender Gaba at the Gurgaon office premises of FSL, the auditor did not receive complete details of the bank accounts, deeds of properties, details of the client wise securities pledged and the details of the transactions of the group companies.

4.80. Reference is made to Regulation 21 (2) of the Stock Brokers Regulations. The said provision states that – “ *The stock-broker shall allow the inspecting authority to have reasonable access to the premises occupied by such stock-broker or by any other person on his behalf and also extend reasonable facility for examining any books, records, documents and computer data in the possession of the stock-broker ...*” Further, Clause A (5) of Schedule II read with Regulation 9 (f) of Stock Brokers Regulations provides that a stock-broker was required to abide by all the provisions of the SEBI Act and the rules, regulations issued by the Government, the Board and the Stock Exchange from time to time as may be applicable.

4.81. From the facts narrated above, it is clear that there was an existing obligation for providing assistance and access to the books of account and documents, which evidently has not happened in the present matter. This is a clear violation of the obligation contained in Regulation 21 of the Stock Brokers Regulations. This violation entails that FSL has violated Clause A(5) of Schedule II read with Regulation 9 (f) of Stock Brokers Regulations which requires a stock broker to *inter alia* abide by all the provisions of SEBI Regulations.

Allegation 11 – Related party transactions and transactions with group entities

4.82. It was alleged in the SCN that FSL was engaged in business other than securities thereby violating Section 12 (1) of the SEBI Act and Rule 8 (1) (f) and 8 (3) (f) of the SCRR, 1957. The DA upon consideration of the allegation has concluded that FSL was involved in business other than securities through its related entities.

4.83. In this regard, it is noted from the FAR that during FYs 2016-17 to 2019-20, transfer of funds with respect to the past and present, Directors of FSL was

made by FSL. The details of the said transactions as captured in the FAR are as under:

Table – 10

(Amounts in Rs.)

Year	31-03-2017		31-03-2018		31-03-2019		01-10-2020	
Directors	Debit	Credit	Debit	Credit	Debit	Credit	Debit	Credit
DHIRENDER GABA	1,67,56,717	1,86,99,840	16,99,76,799	16,99,97,091	16,22,78,024	17,43,52,689	9,04,10,883	12,90,43,202
NAVEEN GABA	15,95,227	15,73,981	1,09,80,807	1,10,18,982	61,40,006	1,01,07,424	4,63,92,933	7,81,12,932
SHRIPAD SADANAND DESAI	19,000	19,448	7,196	6,731	1,69,405	1,69,405	52,768	55,330
Past Directors								
AMIT GUPTA	1,93,950	2,02,174	38,488	30,057	5	38	77,712	76,546
ANIL DIXIT	856	856	-	-	-	-	29,000	29,000
KAMLA PRASAD SHUKLA	21,170	20,010	11,128	10,000	-	0	17,516	17,516
RAHUL VADAV	573	-	288	-	4,020	-	8,25,045	45
ROOP LAL AGARWAL	1,51,903	1,51,903	-	-	-	-	1,50,000	1,50,000
SHITLA PRASAD SHUKLA	2,29,931	2,29,931	36,273	35,278	7,41,841	7,27,672	4,45,636	4,14,744
SHYAM SUNDER JOLLY	17,47,56,020	11,44,22,865	8,98,41,635	15,18,64,892	25,65,674	63,53,600	3,39,26,560	3,77,11,811
VIKRAM KUMAR	56,77,128	56,54,643	1,05,57,298	1,05,63,140	30,64,607	10,30,408	27,23,003	27,19,451
SANDEEP JINDAL	-	-	-	-	-	-	-	-

4.84. These payments especially to the Directors cannot be considered as salary/fees as there were payments as well as receipts. There would not be any reason for the Director to make payments to the company.

4.85. Additionally, the FAR also notes that – a) FSL had made payments of Rs.37,69,48,551 to FFSL and had received an amount of Rs. 61,26,74,478 from FFSL; and b) FSL had made payments of Rs. 1,31,50,000 to Vanshi Builtech Pvt. Ltd and had received an amount of Rs. 92,00,000.

4.86. It is noteworthy that FFSL did not have a UCC allotted to it for carrying out trading through FSL. Same was the case with Vanshi Builtech Pvt. Ltd.

4.87. It is stated that Section 12 (1) of SEBI Act, 1992, provides that no stock broker, sub-broker, shall buy, sell or deal in securities except under, and in accordance with, the conditions of a certificate of registration issued by SEBI. Further, Rule 8 (1)(f) and 8 (3)(f) of the SCRR,1957 provides that a broker should not engage in any business other than that of securities or commodity derivatives. Thus, there is a clear bar on a stock broker to carry out activities that is not within the framework mandated under the certificate of registration.

4.88. It has been brought out in the preceding paragraphs that huge payments were made to related entities, even when such entities did not have UCC allotted to it for carrying out trading through FSL. That being the case the natural inference is that such transactions were not in respect of trading activities. In view of the same, I find that FSL has violated Section 12 (1) of SEBI Act, 1992 and Rule 8 (1)(f) and 8 (3)(f) of the SCRR,1957.

Allegation 12 – Discrepancies in email IDs and mobile numbers in the data of clients

4.89. It was alleged in the SCN that there were many instances where clients' mobile numbers and email IDs had not been entered in the data maintained by FSL. In this regard, it has been alleged in the SCN that FSL has not complied with Clause 2(B) of SEBI Circular CIR/MIRSD/15/2011 dated August 02, 2011.

The DA in the Enquiry Report has found that there were clear discrepancies in email IDs and mobile numbers in the data of clients.

4.90. The FAR notes that UCC data in respect of a total of 67,833 clients were examined, out of which there were 2588 instances where clients' mobile numbers had not been entered and 592 instances where both the mobile numbers and email IDs had not been entered. Further, there were 1572 instances where clients, who even though not covered under the definition of "Family" (as per the above-mentioned circular), had common contact numbers and common email addresses registered against their names. The FAR notes that these were active clients.

4.91. In this regard, reference is made to Clause 2(B) of SEBI Circular CIR/MIRSD/15/2011 dated August 02, 2011. The said provisions are as under:

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

- i. Stock exchanges shall provide a platform to stock brokers to upload the details of their clients, preferably, in sync with the UCC updation module.*
- ii. Stock brokers shall upload the details of clients, such as, name, mobile number, address for correspondence and E-mail address.*
- iii. Stock brokers shall ensure that the mobile numbers/E-mail addresses of their employees/sub-brokers/remisiers/authorized persons are not uploaded on behalf of clients.*
- iv. Stock Brokers shall ensure that separate mobile number/E-mail address is uploaded for each client. However, under exceptional circumstances, the stock broker may, at the specific written request of a client, upload the same mobile number/E-mail address for more than one client provided such clients belong to one family. 'Family' for this purpose would mean self, spouse, dependent children and dependent parents."*

4.92. It is noted from the above that stock brokers are required to upload the details of their clients, preferably, in sync with the UCC updation module, ensure that the mobile numbers/E-mail addresses of their employees/sub-brokers/remisiers/authorised persons are not uploaded on behalf of clients and ensure that separate mobile numbers/E-mail addresses were uploaded for each client.

4.93. It is evident from the above facts that FSL had not uploaded the details of its clients appropriately, and also failed to ensure that separate mobile numbers/E-mail addresses were uploaded for each client. Accordingly, I find that FSL has violated Clause 2(B) of SEBI Circular CIR/MIRSD/15/2011 dated August 02, 2011.

Allegation 13 – FSL purchased securities in unregistered client code

4.94. It was alleged in the SCN that trades through FSL had been made under an unregistered client code. In this regard, it has been alleged in the SCN that FSL had violated SEBI Circular No. SMDRP/Policy/CIR-39/2001 dated July 18, 2001 and Clause A (2) & A (3) of Schedule II read with Regulation 9 (f) of Stock Brokers Regulations, 1992. The DA has also concluded in the Enquiry Report that there were trades effected through an unregistered client code.

4.95. It is noted from the FAR that buy trades were effected through FSL from a client bearing the code 'NSE'. This client code 'NSE' was not found in the UCC data provided by BSE as well as NSE. The FAR noted that the said client code was discovered from the trade logs pertaining to four years from 2016 to 2019. The year-wise details of the trades effected for this client are as under:

Table – 11

Year	Buy Traded Quantity	Buy Traded Value (in Rs.)	No of Trades
2016	3,24,764	41,26,014	224
2017	1,19,912	37,37,375	196
2018	1,44,057	52,96,328	304
2019	6,12,104	1,72,80,656	844
Total	12,00,837	3,04,40,373	1568

4.96. Curiously over the course of the four years, only buy trades were made by the said client. Also, the FAR notes that the 'Sauda Book' as provided by FSL did not mention the transactions of this client.

4.97. In this regard, reference is made to SEBI Circular No. SMDRP/Policy/CIR-39/2001 dated July 18, 2001 which makes it mandatory for all brokers to use unique client codes for all their clients. Brokers are required to verify the documents with respect to the unique code and retain a copy of the document. Additionally, the brokers are required to furnish the particulars of their clients to the stock exchanges/clearing corporations. From the facts narrated above, it is evident that FSL has clearly failed to comply with the stipulation of this circular, as neither BSE nor NSE had this client code in their databases.

4.98. Further, reference is made to Clause A (2) & A (3) of Schedule II read with Regulation 9 (f) of the Stock Brokers Regulations. Clause A (2) mandates a stock broker to act with due skill, care and diligence in the conduct of his business. Similarly, Clause A (3) requires a stock broker not to indulge in manipulative, fraudulent or deceptive transactions or making personal gains. From the facts brought out in the preceding paragraphs, it is evident that due care and diligence was missing in the conduct of FSL. Also, since there were

no details of any such client actually existing, the natural inference is that it was in fact FSL who in the garb of this client 'NSE' was indulging in deceptive transactions for making personal gains. Thus, FSL has clearly violated Clause A (2) & A (3) of Schedule II read with Regulation 9 (f) of Stock Brokers Regulations.

Allegation 14 – Client's securities pledged from other than client's accounts

4.99. It was alleged that the pledging of securities and the receipt of funds as a consequence of such pledging were not done as per established procedure. In this regard, it was alleged that FSL had violated Clause 2.5 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016. The DA in the Enquiry Report has concluded that the pledging of securities was not done as per the prescribed manner.

4.100. It has already been established that FSL and its sister concern had pledged clients' securities and consequently appropriated the funds raised from such pledging of securities. It is noted that Clause 2.5 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 requires that securities to be pledged have to be pledged from the BO account tagged as "Name of the Stock Broker - Client Account". Similarly, the said provision also requires that funds raised against pledged securities can be credited only to a bank account named as "Name of the Stock Broker - Client Account". Additionally, stock brokers are mandated to send a statement reflecting the pledge and the funding thereof to the concerned client.

4.101. As has already been elaborated in the preceding paragraphs, FSL had pledged securities through its group company, FFSL. Also, funds raised from the pledging of clients' securities were credited to other bank accounts and not to a specified account. Furthermore, no record was found to suggest that the client whose shares had been pledged had been informed of such pledge and the funds raised as a consequence of the same. On the contrary, it has been

established that FSL indulged in the unauthorised pledging of the securities of the clients.

4.102. Accordingly, I find that FSL has violated Clause 2.5 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

Allegation 15 – Violation of the provisions of the PFUTP Regulations and Code of Conduct

4.103. It was also alleged in the SCN that FSL by carrying out the acts narrated in the preceding paragraphs had violated Section 12A of SEBI Act, 1992 read with Regulation 3(d), 4(1), 4(2)(f), 4(2)(p) and 4(2)(m) of the PFUTP Regulations. The DA in the Enquiry Report has found that the FSL had through its acts violated the said provisions of the PFUTP Regulations.

4.104. It has already been brought out in the preceding paragraphs that FSL had carried out acts that resulted in – unauthorised off-market transactions in clients' accounts; unauthorised trading in clients' accounts and misappropriation of clients' securities; non-availability of securities of clients; unauthorised pledging of clients' securities; non-settlement of clients' accounts; mis-utilisation of funds for own purposes/debit balance clients; misrepresentation in books of account and submission of incorrect net-worth certificate to stock exchange; failure to furnish documents to stock exchange and non-cooperation with the auditor, related party transactions; discrepancies in email IDs and mobile numbers in the data of clients; purchase of securities in un-registered client code; non-segregation of funds/securities of clients; and code of conduct violations.

4.105. In this regard, reference is made to the specific provisions alleged to have been violated: Section 12A of the SEBI Act read as under—

“Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.

12A. No person shall directly or indirectly—

(a) use or employ, in connection with the issue, purchase or sale of any securities listed or proposed to be listed on a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of this Act or the rules or the regulations made thereunder;

(b) employ any device, scheme or artifice to defraud in connection with issue or dealing in securities which are listed or proposed to be listed on a recognised stock exchange;

(c) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, dealing in securities which are listed or proposed to be listed on a recognised stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;

(d) engage in insider trading;

(e) deal in securities while in possession of material or non-public information or communicate such material or non-public information to any other person, in a manner which is in contravention of the provisions of this Act or the rules or the regulations made thereunder;

(f) acquire control of any company or securities more than the percentage of equity share capital of a company whose securities are listed or proposed to be listed on a recognised stock exchange in contravention of the regulations made under this Act.”

4.106. It is noted from the above that Section 12A (d) deals with insider trading, Section 12A (e) deals with the actions relating to dealing in securities pursuant to material or non-public information or communicating such material or non-public information to any other person for dealing in securities and Section 12A (f) deals with acquisition of a company in contravention of extant provisions. It is noted that the present matter does not deal with the above issues. Accordingly, the application of Section 12A (d), (e) and (f) needs to be excluded from the present consideration.

4.107. The present consideration, therefore, shall be confined to Section 12A (a), (b) and (c). The above provisions essentially form the troika that prohibits the employment and use of manipulative or deceptive devices with respect to the purchase or sale of securities; using any device, scheme or artifice to defraud while dealing in securities; and engaging in any act, practice or course of business which would operate as fraud or deceit upon any person while dealing in securities.

4.108. It is noted from the preceding paragraphs that FSL had carried out off-market sale of clients' securities, pledged clients' securities and sold clients' securities without their knowledge or concurrence. Also, it submitted Net-worth Certificate to the stock exchanges whose contents were untrue and depicted a better picture of its financial health. It sold securities through a client code: 'NSE' that did not exist in the UCC databases of both NSE and BSE. These facts clearly demonstrate that FSL had employed manipulative devices to defraud and deceive. Accordingly, I find that FSL has violated Section 12A(a), (b) and (c).

4.109. Regulation 3(d) reads as: *"No person shall directly or indirectly— (d) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made there under."*

4.110. FSL's actions of carrying out off-market sale of clients' securities, pledging of clients' securities and selling of clients' securities without their knowledge or concurrence amounted to an act or practice that operated as a fraud/deceit on the clients, in connection with the dealing of listed securities and was in contravention of the provisions of the SEBI Act. Accordingly, I find that FSL has violated Regulation 3 (d) of the PFUTP Regulations.

4.111. Regulation 4(2) provides that – *“Dealing in securities shall be deemed to be a manipulative, fraudulent or an unfair trade practice if it involves any of the following...”* Under the said provision twenty instances from ‘a’ to ‘t’ have been listed, demonstrating acts of dealing in securities that would amount to be fraudulent or an unfair trade practice. For the present consideration, the relevant provisions are 4(2)(f), 4(2)(p) and 4(2)(m) of the PFUTP Regulations.

4.112. Regulation 4(2)(f) reads as: *“knowingly publishing or causing to publish or reporting or causing to report by a person dealing in securities any information relating to securities, including financial results, financial statements, mergers and acquisitions, regulatory approvals, which is not true or which he does not believe to be true prior to or in the course of dealing in securities”*.

4.113. It has been brought out in the preceding paragraphs that FSL had submitted a Net-worth Certificate to the stock exchanges whose contents were untrue and depicted a better picture of its financial health. On the contrary, as has been brought out in the FAR, the actual net-worth of FSL had been eroded for the specified period and was Rs. -13 crore. Thus, FSL by reporting incorrect and untrue net-worth details to the exchanges has violated 4(2)(f) of the PFUTP Regulations.

4.114. Regulation 4(2)(m) reads as: *“a market participant entering into transactions on behalf of client without the knowledge of or instructions from client or misutilizing or diverting the funds or securities of the client held in fiduciary capacity”*. It has been brought out in the preceding paragraphs that off-market sale of securities of clients was done and the securities pledged, without the clients’ knowledge. Also, the funds raised by way of pledging of securities was utilised by FSL. That being the case, it is evident that FSL had not disclosed to its clients, transactions entered into on their behalf. Accordingly, I find that FSL has violated Regulation 4(2)(m) of the PFUTP Regulations.

4.115. Regulation 4(2)(p) reads as: “*an intermediary predating or otherwise falsifying records including contract notes, client instructions, balance of securities statement, client account statements*”. It has been brought out in the preceding paragraphs that the fixed assets schedule of the Audited Balance Sheet was incorrect *inter alia* because the value of the cars owned by FSL had not been reduced even though there were loans against those cars and the value of pledged assets had not been reduced. This clearly shows that the records had false information, and accordingly, I find that FSL has violated Regulation 4(2)(p) of the PFUTP Regulations.

4.116. Regulation 4 (1) reads as: “*...no person shall indulge in a manipulative, fraudulent or an unfair trade practice in securities market.*” The preceding paragraphs have clearly brought out the various instances of FSL indulging in a manipulative, fraudulent or unfair trade practice. That being the case, the obligation as existing in the said regulation has clearly been violated by FSL.

4.117. Additionally, reference is made to the Code of Conduct as provided in the Stock Brokers Regulations. Clause A (1) provides that a stock broker should maintain high standards of integrity, promptitude and fairness in the conduct of all his business. Clause A (2) provides that a stock broker should act with due skill, care and diligence in the conduct of his business. Clause A (5) provides that a stockbroker should abide by all the provisions of the SEBI Act and the Rules and Regulations framed by the Government, SEBI and the Stock Exchanges.

4.118. It is seen from the facts brought out above that FSL has been found to be in violation of applicable provisions of law. So, FSL has clearly violated Clause A (5) of the Code of Conduct. Additionally, it has been brought out that running account settlement, even though stipulated to take place at least once in a month or a quarter as per the preference of the client, had not happened. This resulted in a lot of funds of the client lying with FSL. This clearly exhibited a lack of promptitude on the part of FSL in executing its obligations, which

resulted in the funds of the clients not being available to them. So, FSL has violated Clause A (2) of the Code of Conduct. Further, it has been elaborated in the preceding paragraphs that FSL had entered incorrect mobile numbers and email IDs in respect of clients, and in certain cases the same mobile numbers/email IDs had been used in respect of multiple UCCs. These facts exhibit a lack of due skill, care and diligence in the conduct of business. So, FSL has clearly violated Clause A (1) of the Code of Conduct.

4.119. Thus, I find that FSL has violated Section 12A(a)(b) and (c) of SEBI Act, 1992 read with Regulation 3(d), 4(1), 4(2)(f), 4(2)(p) and 4(2)(m) of SEBI PFUTP Regulations as well as Clauses A(1), A(2) and A(5) of Code of Conduct as provided under Schedule II read with Regulation 9 of the Stock Brokers Regulations.

5. Conclusion

5.1. The foregoing paragraphs demonstrate flagrant violations of the provisions governing the functioning of a stock broker and deep apathy towards the interests of the clients.

5.2. Accordingly, in view of the above, the Noticee has violated the provisions as enumerated at paragraph no. 2.2 of this Order barring SEBI Circular No SEBI/MRD/Policy/AT/Cir-19/2004 dated April 21, 2004. The findings of the Enquiry Report are indeed shocking and disturbing and show that the Noticee did not carry out its fiduciary responsibility towards its clients. I note from the Enquiry Report that the DA has recommended that the Certificate of Registration of the Noticee be cancelled. Considering the findings brought out in the foregoing paragraphs, I find myself in agreement with the recommendation made by the DA. Accordingly, the Noticee is liable for action under Section 12(3) of the SEBI Act read with Regulation 27 of the Intermediaries Regulations (as amended vide SEBI (Intermediaries) (Amendment) Regulations, 2021 with effect from January 21, 2021).

6. Order

6.1.1, in exercise of powers conferred upon me in terms of Section 12(3) and Section 19 of the Securities and Exchange Board of India Act, 1992 read with Regulation 27 of the Intermediaries Regulations, hereby direct the cancellation of the Certificate of Registration of the Noticee i.e. **Fairwealth Securities Limited** as a stock broker bearing registration no. INZ000186238.

6.2. This Order shall come into force with immediate effect.

6.3. The Order shall be served on the Noticee immediately. A copy of this Order shall also be served on all recognised Stock Exchanges for ensuring compliance of this Order.

Place: Mumbai

Date: July 26, 2023

ASHWANI BHATIA
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA