BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
(ADJUDICATION ORDER NO: Order/AK/BS/2022-23/22038)

UNDER SECTION 15-I OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 1995 AND UNDER SECTION 23-I OF THE SECURITIES CONTRACTS (REGULATION) ACT, 1956 READ WITH RULE 5 OF THE SECURITIES CONTRACTS (REGULATION) (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 2005 IN THE MATTER OF

VNS FINANCE & CAPITAL SERVICES LIMITED
(PAN: AAACV6221B)
(SEBI REGISTRATION NO. INZ000247736)

BACKGROUND OF THE CASE

1 VNS Finance & Capital Services Limited (hereinafter referred to as "**VNS/ Noticee**") is a trading member registered with Securities and Exchange Board of India (hereinafter referred to as **"SEBI"**), bearing registration no. INZ000247736. The registered office address of the Noticee is located at 716, Krishna Towers, Civil Lines, Kanpur – 208001. A joint team of SEBI, National Stock Exchange of India Limited (**NSE**), BSE Limited (**BSE**) and Central Depository Services (India) Limited (**CDSL**) conducted an inspection of books of accounts and other records of the Noticee from September 06, 2019 to September 13, 2019 and examined the Noticee's compliance with various regulatory norms prescribed by SEBI. The inspection covered the period from April 01, 2018 to September 13, 2019 (hereinafter referred to as "**IP/ Inspection Period**"). The findings of inspection were communicated to the Noticee, vide SEBI letter dated February 13, 2020. The Noticee, vide letter dated March 18, 2020, submitted its comments/ explanation

to the inspection observations. Further, additional findings of inspection were communicated to Noticee, vide letter dated July 07, 2021 and the Noticee, vide email dated July 27, 2021, responded to additional findings of inspection.

2 Based on the findings of inspection and reply submitted by the VNS to the inspection observations, it was alleged that VNS has violated various provisions, as under: -

Sr.no.	**Description**	**Provisions allegedly Violated**
1	Misuse of client funds	Clause 1 of Annexure of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993; and Clause 3 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.
2	Pledging of client's securities	SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 2.5 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/ CIR/P/ 2016/ 95 dated September 26, 2016.
3	Non-segregation of client's funds	Clause 1 of Annexure of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 2.4.2 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/ 95 dated September 26, 2016.
4	Enhanced Supervision data-Mismatch in Email ids and Mobile Numbers	Clause 2(B) of SEBI Circular CIR/MIRSD/15/2011 dated August 02, 2011.
5	Client Registration Process (KYC and KRA Process)	SEBI circular CIR/MIRSD/120/2016 dated November 10, 2016 read with SEBI circular CIR/MIRSD/66/2016 dated July 21, 2016. (w.r.t. CKYC) 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. (w.r.t. KRA)
6	Risk Based Supervision	Clause 6.1.1(j) of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.
7	Submission of incorrect collateral data to the inspection team	Regulation 21 and clause A(2) of the code of conduct, read with Regulation 9(f) of the SEBI (Stock Brokers) Regulations, 1992.

APPOINTMENT OF ADJUDICATING OFFICER

3 Upon being satisfied that there were sufficient grounds to inquire and adjudicate upon the violation of provisions of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act"**) and Rules, Regulations and Circulars framed thereunder by the Noticee, SEBI, in exercise of powers u/s 15-I of the SEBI Act and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as the "**Adjudication Rules, 1995**") and under Section 23-I of Securities Contracts (Regulation) Act, 1956 (hereinafter referred to as "**SCRA"**) read with Rule 3 of Securities Contracts (Regulation) (Procedure For Holding Inquiry And Imposing Penalties) Rules, 2005 (hereinafter referred to as the "**Adjudication Rules, 2005**"), initiated Adjudication against VNS and appointed Ms. Geetha G. as the Adjudicating Officer (hereinafter referred to as the "**AO"**), vide order dated January 11, 2022, to inquire into and adjudge u/s 15-I r/w section 15 A(b) and 15 HB of SEBI Act and Section 23–I r/w 23D of SCRA, the alleged violations committed by VNS. Pursuant to transfer of Ms. Geetha G., SEBI appointed undersigned as AO on August 29, 2022.

SHOW CAUSE NOTICE, REPLY AND HEARING

4 Show Cause Notice ref. no. EAD-6/ADJ/AK/AS/OW/47730/1/2022 dated September 08, 2022 (hereafter referred to as **SCN**) was issued to the Noticee in

terms of the provisions of rule 4(1) of the SEBI Adjudication Rules, 1995 r/w Section 15-I of SEBI Act, and rule 4(1) of the SEBI Adjudication Rules, 2005 r/w Section 23-I of SCRA requiring the Noticee to show cause as to why an inquiry should not be held against it and why penalty, if any, should not be imposed against it under the provisions of Section 15 A(b) and 15 HB of SEBI Act and Section 23D of the SCRA for the alleged violations committed by the Noticee, as given in the SCN. Noticee, vide letter dated October 04, 2022, submitted its reply to the SCN.

5 The Noticee was granted an opportunity of personal hearing on October 10, 2022, vide hearing notice dated September 27, 2022. The Noticee availed the opportunity of personal hearing and appeared in-person before me on the designed date and time. The Noticee was represented by Mr. P. R. Ramesh (Advocate), Mr. Vijay Kumar Singhania (Director of Noticee) and Mr. Vikas Singhania (Director of Noticee) and made submissions before me during the course of hearing. Corrigendum to SCN was issued to the Noticee on October 12, 2022. Subsequently, Noticee, vide letter October 26, 2022, filed its post hearing submissions.

Findings of Inspection

6 The main findings against the Noticee during the inspection are as under;

6.1 <u>Misuse of client funds:</u> The value of “G” was negative in 11 out of 40 sample dates in the range of Rs. 2.62 lakhs to Rs. 9.42 crores. The value of G being negative indicated possible mis-utilization of clients’ funds for other purposes i.e. funds of credit balance clients were utilized either for settlement obligations of debit balance clients or for the Noticee’s own purposes. Further, it was observed that the value of “I” i.e. the amount of proprietary margin obligation funded from clients’ assets, was positive on 38 out of 40 days, in the range of Rs.12.18 lakhs to Rs. 22.18 crores. It was also observed that the value of “J” i.e. clients’ funds utilized towards margin obligations of debit balance clients and proprietary margin obligations, was positive on 34 out of 40 days, in the range of Rs.9.78 lakhs to Rs. 20.14 crores.

6.2 Pledging of client's securities: There was mis-utilization of clients' funds by the Noticee by way of pledge of clients' securities.

6.3 Non-segregation of clients funds: Noticee was not segregating own funds and clients fund.

6.4 Enhanced Supervision data: There were mismatches in the Email Ids and Mobile numbers uploaded in the Exchange UCC database.

6.5 Client Registration Process (KYC and KRA Process): Noticee had not complied with the requirement of uploading KYC details of the clients on the portal of Central KYC Registry and KYC Registration Agency (KRA).

6.6 Risk Based Supervision: There were differences between data submitted by the Noticee and as per NSE calculation for Brokerage income and total debit balances of all clients as on March 31, 2019.

6.7 Submission of incorrect data to the inspection team: There was mismatch in the data as received from clearing member and data as provided by the Noticee during the course of inspection.

CONSIDERATION OF ISSUES AND FINDINGS

7 I have taken into consideration the facts and material available on record. The issues that arise for consideration in the present case are as follows:

I. Whether the Noticee has committed the violations as brought out in the SCN, as mentioned at para 2 above?

II. Whether the violations, if any, attract monetary penalty u/s 15A(b), 15HB of the SEBI Act and Section 23D of the SCRA, as applicable?

III. If so, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in Section 15J of the SEBI Act r/w Rule 5(2) of the Adjudication Rules, 1995 and Section 23J of the SCRA r/w Rule 5(2) of the Adjudication Rules, 2005?

Issue I. Whether the Noticee has committed the violations brought out in the SCN?

8 Before moving forward, it is pertinent to refer to some of the relevant provisions which are alleged to have been violated. The said provisions are reproduced hereunder:

SEBI (Stock Brokers) Regulations, 1992

Conditions of Registration

9. Any registration granted by the Board under regulation 6 shall be subject to the following conditions, namely

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

Obligations of stock-broker on inspection by the Board.

21. (1) It shall be the duty of every director, proprietor, partner, officer and employee of the stock-broker, who is being inspected, to produce to the inspecting authority such books, accounts and other documents in his custody or control and furnish him with the statements and information relating to the transactions in securities market within such time as the said officer may require.

(2) 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 or any other person and also provide copies of documents or other materials which, in the opinion of the inspecting authority are relevant.

(3) The inspecting authority, in the course of inspection, shall be entitled to examine or record statements of any member, director, partner, proprietor and employee of the stock-broker.

(4) It shall be the duty of every director, proprietor, partner, officer and employee of the stock broker to give to the inspecting authority all assistance in connection with the inspection, which the stock broker may reasonably be expected to give.

Schedule II

Code of Conduct for Stock Brokers

A. General.

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

SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993

1. It shall be compulsory for all Member brokers to keep the money of the clients in a separate account and their own money in a separate account. No payment for transactions in which the Member broker is taking a position as a principal will be allowed to be made from the client's account. The above principles and the circumstances under which transfer from client's account to Member broker's account would be allowed are enumerated below.

A] Member Broker to keep Accounts: Every member broker shall keep such books of accounts, as will be necessary, to show and distinguish in connection with his business as a member -

i. Moneys received from or on account of each of his clients and,

ii. the moneys received and the moneys paid on Member's own account.

B] Obligation to pay money into "clients' accounts". Every member broker who holds or receives money on account of a client shall forthwith pay such money to current or deposit account at bank to be kept in the name of the member in the title of which the word "clients" shall appear (hereinafter referred to as "clients account"). Member broker may keep one consolidated clients account for all the clients or accounts in the name of each client, as he thinks fit: Provided that when a Member broker receives a cheque or draft representing in part money belonging to the client and in part money due to the Member, he shall pay the whole of such cheque or draft into the clients account and effect subsequent transfer as laid down below in para D (ii).

C] What moneys to be paid into "clients account". No money shall be paid into clients account other than -

i. money held or received on account of clients;

ii. such money belonging to the Member as may be necessary for the purpose of opening or maintaining the account;

iii. money for replacement of any sum which may by mistake or accident have been drawn from the account in contravention of para D given below;

iv. a cheque or draft received by the Member representing in part money belonging to the client and in part money due to the Member.

D] What moneys to be withdrawn from "clients account". No money shall be drawn from clients account other than -

i. money properly required for payment to or on behalf of clients or for or towards payment of a debt due to the Member from clients or money drawn on client's authority, or money in respect of which there is a liability of clients to the Member, provided that money so drawn shall not in any case exceed the total of the money so held for the time being for such each client;

ii. such money belonging to the Member as may have been paid into the client account under para 1 C [ii] or 1 C [iv] given above;

iii. money which may by mistake or accident have been paid into such account in contravention of para C above.

E] Right to lien, set-off etc., not affected. Nothing in this para 1 shall deprive a Member broker of any recourse or right, whether by way of lien, set-off, counter-claim charge or otherwise against moneys standing to the credit of clients account.

<u>SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016</u>

Annexure

2.4.2 Transfer of funds between "Name of Stock Broker -Client Account" and "Name of Stock Broker -Settlement Account" and client's own bank accounts is permitted. 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.

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2.5 As per existing norms, a stock broker is entitled to have a lien on client's securities to the extent of the client's indebtedness to the stock broker and the stock broker may *pledge those securities. This pledge can occur only with the explicit authorization of the client and the stock broker needs to maintain records of such authorization. Pledge of such securities is permitted, only if, the same is done through Depository system in compliance with Regulation 58 of the SEBI (Depositories and Participants) Regulations,1996. To strengthen the existing mechanism, the stock brokers shall ensure the following:*

2.5.1. Securities of only those clients can be pledged who have a debit balance in their ledger.

2.5.2.Funds raised against such pledged securities for a client shall not exceed the debit balance in the ledger of that particular client.

2.5.3. Funds raised against such pledged securities shall be credited only to the bank account named as "Name of the Stock Broker -Client Account".

2.5.4. The securities to be pledged shall be pledged from BO account tagged as "Name of the Stock Broker -Client Account".

2.5.5. Stock Brokers shall send a statement reflecting the pledge and funding to the clients as and when their securities are pledged/unpledged ………….

2.6. Stock brokers shall not grant further exposure to the clients when debit balances arise out of client's failure to pay the required amount and such debit balances continues beyond the fifth trading day, as reckoned from date of pay-in.

2.7. The above requirements mentioned under paras 2.4 to 2.6 shall be applicable within three months from the date of this circular.

Monitoring of Clients' Funds lying with the Stock Broker by the Stock Exchanges

3.1. Stock Exchanges shall put in place a mechanism for monitoring clients' funds lying with the stock broker to generate alerts on any misuse of clients' funds by stock brokers, as per the guidelines stipulated in para 3.2 & 3.3 below.

3.2.Stock brokers shall submit the following data as on last trading day of every week to the Stock Exchanges on or before the next trading day: A-Aggregate of fund balances available in all Client Bank Accounts, including the Settlement Account, maintained by the stock broker across stock exchanges B-Aggregate value of collateral deposited with clearing corporations and/or clearing member (in cases where the trades are settled through clearing member) in form of Cash and Cash Equivalents (Fixed deposit (FD), Bank guarantee (BG), etc.)(across Stock Exchanges). Only funded portion of the BG, i. e. the amount deposited by stock broker with the bank to obtain the BG, shall be considered as part of B. C-Aggregate value of Credit Balances of all clients as obtained from trial balance across Stock Exchanges (after adjusting for open bills of clients, uncleared cheques deposited by clients and uncleared cheques issued to clients and the margin obligations)D-Aggregate value of Debit Balances of all clients as obtained from trial balance across Stock Exchanges (after adjusting for open bills of clients, uncleared cheques deposited by clients, uncleared cheques issued to clients and the margin obligations)E-Aggregate value of proprietary non-cash collaterals i.e. securities which have been deposited with the clearing corporations and/or clearing member (across Stock Exchanges) F-Aggregate value of Non-funded part of the BG across Stock Exchanges P-Aggregate value of Proprietary Margin Obligation across Stock Exchanges MC-Aggregate value of Margin utilized for positions of Credit Balance Clients across Stock Exchanges MF-Aggregate value of Unutilized collateral lying with the clearing corporations and/or clearing member across Stock Exchanges

3.3. Based on the aforesaid information submitted by the stock broker, Stock Exchanges shall put in place a mechanism for monitoring of clients' funds lying with the stock brokers on the principles enumerated below:

3.3.1. Funds of credit balance clients used for settlement obligation of debit clients or for own purpose:

Principle: The total available funds i.e. cash and cash equivalents with the stock broker and with the clearing corporation/clearing member (A + B) should always be equal to or greater than Clients' funds as per ledger balance (C)Stock Exchanges shall calculate the difference i.e. G as follows -

G = (A+B)-C If difference G is negative, then the total available fund is less than the ledger credit balance of clients. The value of G may indicate utilization of clients' funds for other purposes i.e. funds of credit balance clients are being utilized either for settlement obligations of debit balance clients or for the stock brokers' own purposes. The negative value of G acts as an alert to the Stock Exchanges. Thereafter, the absolute value of G shall be compared with debit balance of all clients as per client ledger D as follows: If the absolute value of (G) is lesser than |D|, then the stock broker has possibly utilized funds of credit balance clients towards settlement obligations of debit balance clients to the extent of value of G.If the absolute value of (G) is greater than |D|, then the stock broker has possibly utilized a part of funds of credit balance clients towards settlement obligations of debit balance clients and remaining part for his own purposes. In such cases the amount of client funds used for own purpose is calculated as follows: H= |G| -|D|

3.3.2. Funds of clients used for Margin obligation of proprietary trading: Stock Exchanges shall thereafter, verify whether the proprietary margin obligations (across Stock Exchanges) is less than the own funds and securities lying with the Stock Exchanges as collateral deposit, as follows:
Principle: The sum of Proprietary funds and securities i.e. (G + E + F) lying with the clearing corporation/clearing member should be greater than or equal to Proprietary margin obligations (P)If value of G is positive (i.e. A+B > C), then proprietary funds are lying with the clearing corporation/clearing member and/or client bank accounts along with the clients funds to the extent of positive value of G. The sum of the proprietary funds (positive value of G), the value of proprietary securities (E) and the non-funded portion of bank guarantee (F) available in the Stock Exchanges is compared with the Proprietary margin obligations (P).If P > (G+E+F), then Stock

Exchange shall calculate the difference I, which is the amount of proprietary margin obligation funded from clients assets. I = P -(G+E+F)If G is negative, then, value of G is considered as 0, as there is no proprietary funds lying with the stock exchange. The value of I indicates the extent of funds and securities of clients which is possibly utilized towards proprietary margin obligations. This value of I acts as an alert to the Stock Exchanges on the possible mis-utilisation of clients' assets towards proprietary margin obligations.

3.3.3. Funds of credit balance clients used for Margin obligations of debit balance clients and proprietary trading:

Stock Exchanges shall thereafter, verify whether the clients funds lying with the clearing corporation/clearing member are utilized towards margin obligations of debit balance clients and proprietary margin obligations. Principle: The clients' funds lying with the clearing corporation/clearing member should be less than or equal to sum of credit clients' margin obligations (MC) and free collateral deposits available with the clearing corporation/clearing member (MF)If value of G is negative (i.e. A+B < C), then fund lying with the clearing corporation/ clearing member (B) is entirely clients' fund. In such cases, B is compared with Margin obligations of credit balance clients and the free deposits available with the clearing corporation/ clearing member. The value of J is calculated as under: J = B - (MC + MF) If value of G is positive (i.e. A+B > C), then fund lying with the clearing corporation/clearing member (B) may contain proprietary and clients' fund. Hence, the value of clients funds lying with the clearing corporation/ clearing member i.e. (C-A) shall be considered in the place of B. In such cases, (C-A) is compared with Margin obligations of credit balance clients and the free deposits available with the clearing corporation/clearing member. The value of J, which is clients' funds utilized towards margin obligations of debit balance clients and proprietary margin obligations, is calculated as under: J = (C -A) -(MC + MF)

The value of J, if positive, indicates the extent of clients' funds utilized towards margin obligations of debit balance clients and proprietary margin obligations. This value of J acts as an alert to the Stock Exchanges on the possible mis-utilisation of clients' funds *towards margin obligations of debit balance clients and proprietary margin obligations.*

3.4. Based on the alerts generated, Stock Exchange shall, inter-alia, seek clarifications, carry out inspections and initiate appropriate actions to protect the clients' funds from being misused. Stock Exchanges shall also maintain records of such clarifications sought and details of such inspections. The aforesaid calculations are illustrated in tabular format in Table 1, 2 & 3 given at the end of the annexure.

3.5. Stock Exchanges shall put in place the aforesaid monitoring mechanism within three months from the date of this circular and carry out the monitoring of clients' funds for all stock brokers, except for those who are carrying out only proprietary trading and/or only trading for institutional clients.

3.6. Stock Brokers shall ensure due compliance in submitting the information to the Exchanges within the stipulated time.

6.1.1 Monitoring criteria for Stock Brokers

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j. In case stock broker shares incomplete/wrong data or fails to submit data on time.

SEBI Circular CIR/MIRSD/15/2011 dated August 02, 2011

2. As an additional measure, it has now been decided in consultation with the major stock exchanges and market participants that the stock exchanges shall send details of the transactions to the investors, by the end of trading day, through SMS and E-mail alerts. This would be subject to the following guidelines:

A. Applicability

These guidelines are applicable to equity - cash and derivative - segments of the stock exchanges.

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.

SEBI Circular ref. no. CIR/MIRSD/ 66 /2016 dated July 21, 2016

6. In the first phase, the registered intermediaries shall upload the KYC data with CKYCR, in respect of all individual accounts opened on or after August 1, 2016, wherever KYC is required to be carried out as per the circulars issued by SEBI from time to time and accordingly, shall take steps to prepare their systems for uploading the KYC data.

SEBI Circular ref. no. CIR/MIRSD/120 /2016 dated November 10, 2016
2. Government of India, vide its letter dated October 04, 2016, has directed as follows with regard to KYC details of existing and new individual clients:

a. Registered intermediaries have to update their IT systems as well as register all new accounts of individuals in accordance with the CKYCR template, mandatorily by October 31, 2016.
b. Mutual funds and Intermediaries other than mutual funds may follow the following time lines in respect of uploading KYC data of the existing individual clients with CKYCR

i. Mutual funds may ensure 30% completion of uploading of existing KYC data by November 30, 2016, another 30% of KYC data by January 31, 2017 and the rest 40% data by March 31, 2017.
ii. Intermediaries other than mutual funds may ensure 50% completion of uploading of existing KYC data by November 30, 2016 and the remaining 50% of KYC data by December 31, 2016.

SEBI Circular ref. no. MIRSD/Cir- 26 /2011 dated December 23, 2011
Guidelines for Intermediaries:
i. After doing the initial KYC of the new clients, the intermediary shall forthwith upload the KYC information on the system of the KRA and send the KYC documents i.e. KYC application form and supporting documents of the clients to the KRA within 10 working days from the date of execution of documents by the client and maintain the proof of dispatch.
ii. In case a client's KYC documents sent by the intermediary to KRA are not complete, the KRA shall inform the same to the intermediary who shall forward the required information / documents promptly to KRA.
iii. For existing clients, the KYC data may be uploaded by the intermediary provided they are in conformity with details sought in the uniform KYC form prescribed vide SEBI circular no. MIRSD/SE/Cir-21/2011 dated October 05, 2011. While uploading these clients' data the intermediary shall ensure that there is no duplication of data in the KRA system.
iv. The intermediary shall carry out KYC when the client chooses to trade/ invest / deal through it.
v. The intermediaries shall maintain electronic records of KYCs of clients and keeping physical records would not be necessary.
vi. The intermediary shall promptly provide KYC related information to KRA, as and when required.
vii. The intermediary shall have adequate internal controls to ensure the security / authenticity of data uploaded by it.

SEBI Circular ref. no. MIRSD/ Cir-5 /2012 dated April 13, 2012

1. SEBI simplified the account opening process for investors and made it uniform across intermediaries in the securities markets vide aforementioned circulars. Further, to avoid duplication of KYC process with every intermediary, KRA system was developed for centralization of the KYC records in the securities markets. The system was made applicable for new clients who opened accounts with the intermediaries from January 1, 2012.

2. Now, for convenience of the clients registered prior to January 1, 2012 (hereinafter referred to as 'existing clients') and to expand the centralized database of the KYC records of the entire securities market, it is decided to upload the KYC details of the existing clients of the intermediaries in the current KRA system, in a phased manner.

3. The following guidelines for uploading the KYC data of the existing clients are being issued in consultation with the major Stock Exchanges, Depositories, KRAs, AMFI Brokers' Associations and market participants:

a. For existing clients who trade / invest / deal with the intermediary anytime during the time period specified in the table given below starting from April 16, 2012, the intermediaries shall forthwith upload their KYC details in the KRA system. They shall also send original KYC documents to the KRA on continuous basis and complete the process within the prescribed time limits.

Considering the representations made by the intermediaries, they may send print outs of scanned documents to the KRAs instead of original documents in accordance with the schedule, certifying that they have retained the originals.

However, they must complete the process of sending the original documents to the KRA by March 31, 2013.

The KRAs shall update their systems and send letters to the clients for the receipt of the initial / updated KYC documents from intermediary in accordance with the time schedule.

The intermediaries shall maintain electronic records of the KYCs of their clients and keeping physical records would not be necessary.

Schedule for implementation (For the year 2012-13):

Existing clients of intermediary who trade/ invest/ deal with it during the below mentioned time period	*Timeline for intermediary to upload existing client's KYC data on KRA system & send KYC documents to KRA*	*Timeline for KRA to update the record in their system & send acknowledgement to the existing client*
April 16, 2012 – June 15, 2012	*August 31, 2012*	*September 30, 2012*

June 16, 2012 - August 31, 2012	*October 31, 2012*	*November 30, 2012*
September 1, 2012 - October 31, 2012	*November 30, 2012*	*December 31, 2012*
November 1, 2012 - December 31, 2012	*January 31, 2013*	*February 28, 2013*
January 1, 2013 - February 28, 2013	*March 15, 2013*	*March 31, 2013*

The KYC data of the existing clients, who trade / invest or deal after the above mentioned schedule, shall be uploaded on a continuous basis.

9 I shall now proceed to deal with the issues as under:

9.1 **Misuse of client funds**

9.1.1 I note from the records that for examining compliance of the Noticee with the provisions pertaining to misuse of client funds, 40 dates were selected during the months of September 2018 and March 2019 by the joint inspection team. Based on the principles and guidelines stipulated in Clause 3 of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016, reconciliation of clients' funds lying with the Noticee was done with the total available funds i.e. cash and cash equivalents with the Noticee and with the clearing corporation/clearing member, to detect any mis-utilization of clients' fund. On the basis of said calculations, it was observed that the value of column "G" was negative in 11 out of 40 sample dates in the range of Rs. 2.62 lakhs to Rs. 9.42 crores. The value of "G" being negative indicates mis-utilization of clients' funds for other purposes i.e. funds of credit balance clients are being utilized either for settlement obligations of debit balance clients or for the Noticee's own purposes, to the extent of value of "G". In 9 instances, since absolute value of G was less than debit balance of all clients, the Noticee had utilized funds of credit balance clients towards settlement obligation of debit balance of clients to the extent of G. In 2 instances, absolute value of "G" was greater than "D" i.e. total debit balances of all clients was greater to the extent of Rs.1.62 crore on March 19, 2019 and Rs. 6.88 crore on March 20, 2019. The said difference, as indicated in "H" of Exhibit 1 to Corrigendum dated October 12, 2022, indicated that the funds to that extent had been utilized for the Noticees's own purposes.

9.1.2 Further, it was observed that the value of "I" i.e. the amount of proprietary margin obligation funded from clients' assets, was positive on 38 out of 40 days, in the range of Rs.12.18 lakhs to Rs. 22.18 crores. It was also observed that the value of "J" i.e. clients' funds utilized towards margin obligations of debit balance clients and proprietary margin obligations, was positive on 34 out of 40 days, in the range of Rs.9.78 lakhs to Rs. 20.14 crores.

9.1.3 The Noticee in its reply submitted that during the course of inspection, massive data was required to be prepared and the same was prepared by several teams of the Noticee. It was also informed that some of the team members have left the job on account of pandemic. Further, the Noticee also submitted that inspection team arrived at the conclusion regarding misuse of client funds based on the working given by Noticee in the formats as per pre-inspection questionnaire provided by the team. The Noticee contended that there has been inadvertent error in the presentation of the data and stated that the prescribed format provided for two columns for client funds, column (A) for funds in client bank accounts and (B) balances with clearing corporation & PCM. There was no place or column for showing free fixed deposit receipts (FDRs) made out of clients' funds in addition to funds in current bank accounts which are not placed with PCM/Clearing corporation. The Noticee submitted that it had free FDRs which either should have been added in column "A" or a separate column should have been added for date wise free FDRs. The total of both these columns should have been considered for counting clients' funds. The Noticee re-worked the calculations and provided the same along with its reply. For this purpose, the Noticee included the free FDRs in the calculations and argued that there is no shortage of client funds.

9.1.4 I note that SEBI circular dated September 26, 2016 was issued with the broad objective of monitoring of client's funds lying with the Stock Broker by the Stock Exchanges through a sophisticated alerting and reconciliation mechanism and to detect any mis-utilisation of client funds. A comprehensive framework for monitoring client funds have also been prescribed in said circular.

9.1.5 I note that Noticee in its reply dated October 26, 2022 submitted that free FDRs were not included anywhere in the table for calculation of "G" as there was no column in the prescribed format and the same were not considered by the joint inspection team. I find that information was sought from the Noticee as per the prescribed format which include "Total fund balance available in all client bank accounts, including the settlement account, maintained by the stock broker across stock exchanges" and "Collateral deposited with clearing corporation/clearing member in the form of cash and cash equivalents (Fixed deposit, bank guarantee etc.) across all stock exchanges. I note that as per the regulatory guidelines, in addition to the client bank balance, collaterals available with clearing member/clearing Corporation are also considered for calculation of "G" which is an important factor for verifying the mis-use of client funds. I note that in the Post inspection analysis, the matter of free FDRs was considered, however, the same was seen at the end of year and in absence of complete information, whether the FDRs were available during the sample dates or not were not known. I note that the Noticee has now produced a certificate from its statutory auditor giving date wise availability of free FDRs. From the said certificate, I note that the FDRs were available for all the sample dates. I also note that vide Circular Ref. No: 49/2021 dated October 19, 2021, NSE directed its Members that any FDRs created out of the client funds received by the members should be only for the purpose of placing with clearing corporation/clearing members. The said circular was effective from January 07, 2022. I note from the said circular that prior to the said circular the practice of creating FDRs out of clients' money was common.

9.1.6 From the reworked calculation provided along with certificate of statutory auditor, produced by the Noticee, I note that while, after taking into consideration the free FDRs, the value of "G" has become positive for all the sample dates, which means that there is no mis-utilization of clients' funds for other purposes, the value of "I" is still positive on two days i.e. March 19, 2019 and March 20, 2019, which indicates that the amount of proprietary margin obligation has been funded from clients' assets. I also note from the reworked calculation provided along with said certificate that the value of "J" was positive on March 20, 2019, which indicates that clients' funds has been utilized towards margin obligations of debit balance clients and proprietary margin obligations.

9.1.7 In view of the above, the violation of provisions of clause 1 of Annexure to SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 read with Clause 3 of Annexure to SEBI Circular SEBI/HO/MIRSD/ MIRSD2/CIR/P/2016/95 dated September 26, 2016 by the Noticee stands established.

9.2 Pledging of client's securities

9.2.1 I note that for examining compliance of the Noticee with the provisions pertaining to Pledging of clients' securities, all trading days during the months of October 2018 and March 2019 (40 dates) were selected by the inspection team. During the course of inspection, details of securities pledged with bank or given as collateral to the clearing member and client wise segregation of such securities from back-office of the member was sought from the Noticee to verify whether the funds raised by pledging the securities were used for respective client's obligations. Based on the said calculations, it was observed by the inspection team that the daily mis-utilization of clients' funds by pledge of clients' securities was as follows:

Date		**Pledge of securities of Clients having "Nil" obligation**	**Pledge in excess of Clients having obligation**

	Clients whose securities have been pledged	Count of UCC	Amount mis-utilized	Count of UCC	Amount mis-utilized
01/10/2018	250	105	2947213.82	145	1678467.28
03/10/2018	244	104	3177902.70	140	611092.71
04/10/2018	191	60	1808079.43	131	414307.98
05/10/2018	254	58	1667416.23	196	877250.39
08/10/2018	254	62	1447136.63	192	1797330.09
09/10/2018	253	58	1268358.07	195	1875774.81
10/10/2018	252	78	2246323.41	174	1551994.98
11/10/2018	247	80	2106908.87	167	920948.09
12/10/2018	223	37	1163970.89	186	1075053.39
15/10/2018	222	38	1170344.57	184	1171054.21
16/10/2018	218	53	1310082.59	165	1249562.78
17/10/2018	216	52	963606.87	164	1152238.52
19/10/2018	213	50	1323734.14	163	1068558.38
22/10/2018	213	47	949141.82	166	1442508.38
23/10/2018	186	30	599154.90	156	1427871.89
24/10/2018	186	66	2767849.02	120	1566119.92
25/10/2018	185	43	875873.10	142	1220491.41
26/10/2018	177	57	2215265.85	120	776926.25
29/10/2018	175	70	2005999.57	105	1221638.35
30/10/2018	175	72	2452246.82	103	1174466.06
31/10/2018	172	74	2329349.84	98	1170961.91
01/03/2019	117	19	385400.18	98	1507641.73
05/03/2019	121	18	2158342.85	103	1223300.73
06/03/2019	108	20	2472231.73	88	1101693.86
07/03/2019	100	17	309118.60	83	750543.18
08/03/2019	107	14	236578.13	93	763773.38
11/03/2019	100	16	660427.65	84	698092.47
12/03/2019	93	15	638586.18	78	1039369.73
13/03/2019	85	11	517018.15	74	838361.84
14/03/2019	77	9	148558.43	68	782756.83
15/03/2019	95	13	677943.85	82	643760.60
18/03/2019	88	11	545120.10	77	746822.64
19/03/2019	80	9	124244.70	71	604657.06
20/03/2019	77	9	534351.05	68	832663.84
22/03/2019	77	7	102262.63	70	823413.04
25/03/2019	70	7	70666.48	63	510025.65
26/03/2019	107	15	248465.69	92	655984.76

27/03/2019	107	68	3605075.16	39	388406.91
28/03/2019	97	52	2949650.67	45	362759.64
29/03/2019	60	25	663912.38	35	196044.88

9.2.2 I note from the above table that mis-utilization for clients having "No obligation" was in the range of Rs.70,666.48/- to Rs 36,05,075.16/-, whereas, the mis-utilization for clients having "obligation" was in the range of Rs. 1,96,044.88/- to Rs. 18,75,774.81/-.

9.2.3 The Noticee in its reply submitted that the SCN does not state that whether the clients' securities were pledged with any bank for raising funds or were deposited (pledged) with the clearing corporation. Noticee submitted that it has not pledged securities with any bank and has not raised any funds against such securities. Noticee has submitted that all the clients had running accounts and had authorized it to pledge the securities to the clearing corporation for the purpose of giving trading exposure to clients on call; if such deposit/ pledge with clearing corporation was not done, the clients would not have been able to trade according to their timings. The Noticee illustrated in its reply that on October 04, 2018 there were 60 clients with "Nil" obligation with value Rs. 18,08,079.43, of these 60 clients, 20 clients had obligation with debit balances on October 05, 2018 implying that if their securities were not pledged with the clearing corporation they would not have been able to trade on October 05, 2018.

9.2.4 I note that the provision which has been invoked for the said allegation are SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 2.5 of Annexure to SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016. I note that SEBI circular dated November 18, 1993 enumerates utilization of money belonging to clients and does not pertain to securities of clients. In so far as clause 2.5 of Annexure to SEBI Circular dated September 26, 2016 is concerned, it only allows pledging of securities of clients upto the client's indebtedness to the stock broker. Hence, any pledge beyond the stipulated conditions is prohibited. I note that details of securities pledged with bank and/ or given as collateral to the clearing member were sought from the Noticee during the course of inspection. Inspection team analyzed the data/information provided by the Noticee and brought out that the Noticee had pledged the securities of those clients who had "Nil" obligation or pledged the securities in excess of client's obligation. Details were provided to the Noticee in the SCN.

9.2.5 As alleged in the SCN, I note that on 01/10/2018, Noticee had pledged the securities of 105 clients having "Nil" obligations. The value of securities pledged was Rs. 29,47,213.82/- in respect of these 105 clients. I find that regulatory norms specify that securities of only those clients can be pledged who have a debit balance in their ledger. Further, the Noticee have pledged the securities of 145 clients in excess of their obligation on 01/10/2018. The provisions governing pledge of securities in SEBI Circular dated September 26, 2016 prescribe that funds raised against such pledged securities for a client shall not exceed the debit balance in the ledger of that particular client. I note that there were 40 dates on which clients' securities were pledged by the Noticee and the quantum of mis-utilization for clients having "Nil obligation" was in the range of Rs 70,666.48/- to Rs 36,05,075.16/-, whereas the mis-utilization for clients having *"obligation"* was in the range of Rs 1,96,044.88/- to Rs 18,75,774.81/-.

9.2.6 Noticee's contention regarding pledging of securities of 20 clients having obligation with debit balances on 5/10/2018 is devoid of merit as the same cannot be done as per Clause 2.5 of Annexure to SEBI Circular dated September 26, 2016.

9.2.7 In view of the above, violation of Clause 2.5 of Annexure to SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 by Noticee stands established.

9.3 **Non-segregation of client's funds**

9.3.1 It was observed from HDFC and ICICI bank books, that in 156 instances, funds were transferred from client account to own account and vice versa. Through the said transactions, total amount withdrawn from the client accounts was Rs.53,65,64,943/- and total amount deposited in the client accounts was Rs. 52,85,20,004/-. Therefore, it was observed that the Noticee was not segregating own funds and clients fund.

9.3.2 The Noticee in its reply submitted that funds were transferred from client accounts for legitimate purpose viz. statutory dues/ STT/ other taxes/ brokerage and the same are recovered from clients on an ongoing basis. The Noticee highlighted the relevant entries and submitted alongwith its reply and stated that total of permitted withdrawals/ debits amounted to Rs. 3,05,87,443/-.

9.3.3 I note that regulatory norms prescribed in SEBI circular dated November 18, 1993 clearly mandates that it shall be compulsory for all member brokers to keep the money of the client in a separate account and their own money in a separate account. This regulatory requirement was further strengthen vide SEBI Circular dated September 26, 2018, wherein it is specified that *"Stock Broker shall not use client funds and securities for proprietary purpose including settlement of proprietary obligations"*.

9.3.4 I note from the submissions made by the Noticee that there were withdrawals and deposits in the clients' account, however, I note that there were many instance of withdrawals of funds from clients' accounts which were in excess of the amount to be withdrawn for the legitimate purposes. The details of money deposited and withdrawn from the clients' account maintained with ICICI Bank and HDFC bank, as provided by the Noticee are given hereunder;

Transaction Date	Deposited by Noticee (Rs.)	Withdrawal by Noticee (Rs.)	Excess Money Withdrawn (Highlighted) (Rs.)
14/02/2019	4	0	4
17/04/2018	0	500000	-499996

25/04/2018	0	1300000	-1799996
02/05/2018	5000000	0	3200004
02/05/2018	5000000	0	8200004
02/05/2018	5000000	0	13200004
03/05/2018	5000000	0	18200004
03/05/2018	5000000	0	23200004
03/05/2018	5000000	0	28200004
05/05/2018	0	4800000	23400004
11/05/2018	3000000	0	26400004
14/05/2018	0	3000000	23400004
17/05/2018	0	5337500	18062504
21/05/2018	0	1200000	16862504
02/06/2018	0	1500000	15362504
04/06/2018	9700000	0	25062504
06/06/2018	4500000	0	29562504
11/06/2018	0	2500000	27062504
18/06/2018	0	3100000	23962504
02/07/2018	0	1100000	22862504
13/07/2018	1500000	0	24362504
23/07/2018	0	2000000	22362504
03/08/2018	20000000	0	42362504
04/08/2018	0	23200000	19162504
06/08/2018	4500000	0	23662504
17/08/2018	20000000	0	43662504
18/08/2018	0	20000000	23662504
24/08/2018	20000000	0	43662504
25/08/2018	0	80000000	-36337496
31/08/2018	1000000	0	-35337496
31/08/2018	1000000	0	-34337496
31/08/2018	1000000	0	-33337496
31/08/2018	20000000	0	-13337496
31/08/2018	3000000	0	-10337496
01/09/2018	0	20000000	-30337496
03/09/2018	5000000	0	-25337496
03/09/2018	5000000	0	-20337496
03/09/2018	5000000	0	-15337496
07/09/2018	0	1500000	-16837496
14/09/2018	20000000	0	3162504

21/09/2018	20000000	0	23162504
22/09/2018	0	50000000	-26837496
28/09/2018	20000000	0	-6837496
29/09/2018	0	20000000	-26837496
05/10/2018	20000000	0	-6837496
06/10/2018	0	20000000	-26837496
13/10/2018	0	5900000	-32737496
15/10/2018	3900000	0	-28837496
19/10/2018	15020000	0	-13817496
20/10/2018	0	15100000	-28917496
22/10/2018	0	750000	-29667496
26/10/2018	0	500000	-30167496
26/10/2018	20000000	0	-10167496
27/10/2018	0	20000000	-30167496
29/10/2018	7200000	0	-22967496
29/10/2018	0	500000	-23467496
02/11/2018	700000	0	-22767496
02/11/2018	20000000	0	-2767496
03/11/2018	0	20000000	-22767496
09/11/2018	20000000	0	-2767496
12/11/2018	0	1000000	-3767496
16/11/2018	20000000	0	16232504
17/11/2018	0	13500000	2732504
19/11/2018	0	5300000	-2567496
20/11/2018	5000000	0	2432504
20/11/2018	5000000	0	7432504
21/11/2018	0	500000	6932504
22/11/2018	0	1300000	5632504
22/11/2018	20000000	0	25632504
26/11/2018	0	4600000	21032504
27/11/2018	9800000	0	30832504
28/11/2018	5500000	0	36332504
12/12/2018	0	500000	35832504
13/12/2018	0	1000000	34832504
15/12/2018	0	2000000	32832504
18/12/2018	0	450000	32382504
27/12/2018	0	4000000	28382504
01/01/2019	1000000	0	29382504

04/01/2019	0	300000	29082504
05/01/2019	0	2100000	26982504
07/01/2019	0	350000	26632504
08/01/2019	0	200000	26432504
14/01/2019	0	1900000	24532504
17/01/2019	0	600000	23932504
18/01/2019	0	100000	23832504
28/01/2019	0	1500000	22332504
31/01/2019	0	4100000	18232504
05/02/2019	0	4700000	13532504
18/02/2019	0	390000	13142504
21/02/2019	0	300000	12842504
22/02/2019	0	1300000	11542504
01/03/2019	500000	0	12042504
08/03/2019	3000000	0	15042504
11/03/2019	0	400000	14642504
15/03/2019	2500000	0	17142504
19/03/2019	0	4000000	13142504
22/03/2019	0	1000000	12142504
25/03/2019	0	1000000	11142504
29/03/2019	0	1600000	9542504
02/04/2019	0	20500000	-10957496
12/04/2019	20000000	0	9042504
13/04/2019	0	20000000	-10957496
15/04/2019	5000000	0	-5957496
15/04/2019	5000000	0	-957496
15/04/2019	9100000	0	8142504
15/04/2019	0	24000000	-15857496
18/04/2019	0	1500000	-17357496
18/04/2019	15000000	0	-2357496
18/04/2019	19400000	0	17042504
18/04/2019	4600000	0	21642504
20/04/2019	0	19700000	1942504
22/04/2019	8300000	0	10242504
23/04/2019	8800000	0	19042504
23/04/2019	0	10000000	9042504
26/04/2019	11500000	0	20542504
26/04/2019	4500000	0	25042504

26/04/2019	15000000	0	40042504
27/04/2019	0	21500000	18542504
30/04/2019	9000000	0	27542504
30/04/2019	0	5000000	22542504
TOTAL	528520000	505977500	

while calculation the instances, the amount of withdrawal for legitimate purposes amounting to Rs. 3,05,87,443/- has been considered and accordingly is not given in the table.

9.3.5 From the facts brought before me and after considering the reply of the Noticee, I find that the violation of provisions of SEBI Circular ref. no. SMD/SED/CIR/93/ 23321 dated November 18, 1993 and Clause 2.4.2 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/ P/ 2016/95 dated September 26, 2016 by the Noticee stands established.

9.4 Enhanced Supervision data-Mismatch in Email ids and Mobile Numbers

9.4.1 It was observed that there were mismatches in the Email Ids and Mobile numbers uploaded in the Exchange UCC database and the details uploaded in Clients Funds and Securities under Enhanced Supervision in case of 111 instances. It was also observed that the Noticee had not uploaded details of email ids and mobile numbers of clients on exchange portal in 1805 instances.

9.4.2 I note that the Noticee in its reply dated October 04, 2022 raised contention that SCN does not specify the name of the Exchange (BSE or NSE) and nor does it indicate what date was considered for data in the Exchange UCC Database. I note that pursuant to the contentions raised by the Noticee, a corrigendum to the SCN was issued to the Noticee on October 12, 2022 providing the Noticee with the requisite information.

9.4.3 Subsequent to the issuance of Corrigendum, the Noticee filed its reply vide letter dated October 26, 2022. I have gone through reply submitted by the Noticee, however, I find that the Noticee neither provided any explanation to allegation levelled in the SCN with respect to mismatches in the Email Ids and

Mobile numbers uploaded in the Exchange UCC database and the details uploaded in Clients Funds and Securities under Enhanced Supervision in case of 111 instances, nor provided any explanation with respect to the allegation that Noticee had not uploaded details of email ids and mobile numbers of clients on exchange portal in 1805 instances.

9.4.4 Therefore, in the absence of any explanation in this regard, violation of the provisions of Clause 2(B) of SEBI Circular CIR/MIRSD/15/2011 dated August 02, 2011 by the Noticee stands established.

9.5 **Client Registration Process (KYC and KRA Process)**

9.5.1 It was observed that the Noticee did not comply with the requirement of uploading KYC details of the clients on the portal of "Central KYC Registry" for total 1,235 number of clients. In this regard, Noticee, vide its response dated March 18, 2020 submitted, that the details of 1230 clients had already been uploaded. The Noticee further submitted that for the remaining 4 clients (Manjunath Hegde (YKAM241), Mamta Gupta (2M26), Shailesh Kumar (YJHS146) and Vrushali Dhananjay Mokal (YMHV564)), details could not be uploaded as their KYC documents were directly fetched from KRA which were not clear and further, 1 client had become inactive due to non-trading and pending receipt of details. In this regard, it was observed that the Noticee had post facto rectified the non-compliance to certain extent with respect to uploading of clients details on Central KYC portal and uploading of KYC in KRA.

9.5.2 I note that the Noticee in its reply has submitted that the delay in uploading of KYC data on "Central KYC Registry" pertains to 788 clients who were inactive and balance 443 clients had delayed furnishing the information to Noticee in order to complete the KYC and upload the same on the "Central KYC Registry". There were 4 clients whose data was directly fetched from KRA, therefore, their data could not be uploaded. The Noticee submitted that the delay in uploading the data on "Central KYC Registry" was beyond its control.

9.5.3 I note that with respect to uploading of KYC details of existing and new individual clients, SEBI, vide Circular dated November 10, 2016, prescribed that *"Intermediaries other than mutual funds may ensure 50% completion of uploading of existing KYC data by November 30, 2016 and the remaining 50% of KYC data by December 31, 2016."* Further, I note from the clause 6 of the SEBI Circular dated July 21, 2016 that *"In the first phase, the registered intermediaries shall upload the KYC data with CKYCR, in respect of all individual accounts opened on or after August 1, 2016, wherever KYC is required to be carried out as per the circulars issued by SEBI from time to time and accordingly, shall take steps to prepare their systems for uploading the KYC data"*. In light of this, I do not find merit in the reply of the Noticee as no exemption has been granted from uploading the KYC data for inactive clients. Similarly, contention of the Noticee for 4 clients, whose data was downloaded from KRA, is also rejected. I note that sufficient time was granted to the intermediaries to comply with requirement of uploading the KYC data on "Central KYC Registry". Further, failure of the Noticee in getting the data from 443 clients resulting in delay in uploading the data on "Central KYC Registry" cannot be justified as a valid ground for non-compliance with regulatory norms.

9.5.4 Therefore, it is established that Noticee has failed to adhere to the prescribed time limit for uploading of data on CKYC, and the violation of provisions of SEBI circular CIR/MIRSD/120/2016 dated November 10, 2016 read with SEBI circular CIR/MIRSD/66/2016 dated July 21, 2016 by the Noticee stands established.

9.5.5 It was further observed that the Noticee failed to comply with the requirement of uploading KYC information of the clients, with SEBI registered KRAs within the prescribed time limit for 1,168 clients. The Noticee in its reply contended that it had over 51,000 clients of which 31,887 were active and balance were inactive, therefore, uploading of data was kept on hold. I note that SEBI guidelines prescribed in Circular dated December 23, 2011 clearly specify that

"After doing the initial KYC of the new clients, the intermediary shall forthwith upload the KYC information on the system of the KRA and send the KYC documents i.e. KYC application form and supporting documents of the clients to the KRA within 10 working days from the date of execution of documents by the client and maintain the proof of dispatch."

9.5.6 However, I note that the Noticee has failed to upload the KYC information on the KRA system within the prescribed time limit of 10 working days. This requirement was made applicable for all new client accounts opened from January 01, 2012. To expand the centralized database of KYC records and for clients registered prior to January 01, 2012, requirements of uploading the KYC information on system of KRA were made applicable to existing clients on the basis of their trading date and timeline were indicated according to their trading date. I note that as per the schedule of implementation given in SEBI Circular dated April 13, 2012, last date was March 31, 2013. It was also clarified in said circular that timelines mentioned in the schedule are the minimum requirements and the KYC data of remaining existing clients can also be uploaded on the KRA system. I note that Noticee has not given details of the number of its clients out of 1,168 clients which are active and those which are inactive and hence has not provided satisfactory explanation to allegations set out in the SCN for not uploading the KYC information of clients with KRAs.

9.5.7 In view of the failure of the Noticee to upload the KYC information of 1,168 clients on KRA system within prescribed timeline, I find that violation of the provisions of 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 by the Noticee stands established

9.6 **Risk Based Supervision (RBS)**

9.6.1 It was observed that there were differences between data submitted by the Noticee and as per NSE calculation for a) Brokerage income and: b) Total debit balances of all clients as 31-03-2019. In this regard, the Noticee had submitted in its response dated March 18, 2020 that if BSE figures were accounted the difference would become lesser. However, it was observed that even after accounting for BSE figures, there would be a difference of Rs 30.24 Lakhs.

9.6.2 I note that this allegation pertains to difference between data submitted by the Noticee during the course of inspection and the calculation made by NSE with respect to Brokerage income and total debit balances of all clients as on March 31, 2019. I note that Noticee in its reply to the SCN has raised a contention with respect to difference of Rs. 30.24 Lakhs relates to which head i.e. "Brokerage income" or "Debit balance".

9.6.3 I find that the SEBI communicated the findings of inspection to the Noticee vide letter dated February 13, 2020, wherein it was communicated to the Noticee that there is a difference between data submitted by the Noticee vis-à-vis NSE's calculations and following table was forwarded to the Noticee along with communication of inspection findings to the Noticee.

Particulars	**As per RBS Submissions**	**Balance as per working**	**Difference**
Brokerage Income (In Rs.)	12,42,31,944.00	12,82,98,895.30	-40,66,951.30
Total debit balances of all clients as on 31-03-2019 (in Rs.)	61,35,541.00	69,79,140.77	-8,43,599.77

9.6.4 The Noticee in its own reply, while offering its comments to findings of inspection, has submitted that, *"Primarily, we would like to address that Risk based supervision data taken for comparison are only NSE figures, if the BSE figures would have accounted in your report, the variance of figures would be less. For Brokerage* *income, there is a difference of Rs. 30,24,721/- and for Debtors, there is difference of Rs. 1,70,591/-."*

9.6.5 Noticee's reply to findings of inspection vide letter dated March 18, 2020 clearly shows that the Noticee was very well aware of the difference in figures of Brokerage Income and total debit balance as on March 31, 2019. Noticee itself has stated that difference of Rs. 30,24,721/- pertains to Brokerage income and Rs.1,70,591/- for Debtors.

9.6.6 Therefore, I find that the Noticee did not provide satisfactory reply for difference in data submitted to inspection team vis-à-vis data submitted for Risk based supervision and hence the violation of provisions of Clause 6.1.1(j) of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 by the Noticee stands established.

9.7 Submission of incorrect collateral data to the inspection team

9.7.1 There was mismatch in the data as received from clearing member and data as provided by the Noticee during the course of inspection. Therefore, it was alleged that the Noticee had provided incorrect collateral statements to the inspection team during the course of inspection. It was further observed that the Noticee should have provided data commensurate with data available with the clearing member.

9.7.2 I note that with respect to allegation of mismatch in data as received from clearing member as well as data provided by the Noticee during the course of inspection, as set out in the SCN, 2 Annexures (viz. Annexure No. 8 & 9) were provided to the Noticee which contains the collateral data. Annexure No. 8 of SCN contained the data received from clearing member and Annexure No. 9 of SCN contained the data provided by the Noticee.

9.7.3 The Noticee in its reply, made a reference to annexure 8 of SCN and submitted that margin account balance i.e. available margin during the day has always been higher than the margin utilized for the day. The explanation offered by the Noticee does not clarify the mismatch in the collateral data as alleged in the SCN. The Noticee did not furnish satisfactory explanation to mismatch in the collateral data.

9.7.4 Therefore, I find that the violation of the provisions of Regulation 21 and clause A(2) of the code of conduct, read with Regulation 9(f) of the SEBI (Stock Brokers) Regulations, 1992 by the Noticee stands established.

Issue II. Does the violations, if any, attract monetary penalty u/s Section 23D of the SC(R) Act, 1956 and 15A(b) & 15HB of the SEBI Act 1992?

10 In light of findings and observations made against the Noticee brought out in the foregoing paragraphs, it is established that the Noticee had violated the provisions mentioned under respective paragraphs while dealing with issues.

11 The above violations make the Noticee liable for monetary penalty under the provisions of Section 23D of the SC(R) Act, 1956 and 15A(b) & 15HB of the SEBI Act 1992. Relevant provisions of law are reproduced herein below:

SCRA, 1956

Penalty for failure to segregate securities or moneys of client or clients

23D. If any person, who is registered under section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) as a stock broker or sub-broker, fails to segregate securities or moneys of the client or clients or uses the securities or moneys of a client or clients for self or for any other client, he shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.

SEBI Act, 1992

Penalty for failure to furnish information, return, etc.

15A. If any person, who is required under this Act or any rules or regulations made thereunder, —

(a) ………

(b) to file any return or furnish any information, books or other documents within the time specified therefor in the regulations, fails to file return or furnish the same within the time specified therefor in the regulations or who furnishes or files false, incorrect or incomplete information, return, report, books or other documents, he shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees;

Penalty for contravention where no separate penalty has been provided

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

Issue III. If so, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in Section 15J of the SEBI Act r/w Rule 5(2) of the Adjudication Rules?

12 While determining the quantum of penalty, 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 [15-I or section 11 or section 11B, the Board or the adjudicating officer] shall have due regard to the following factors, namely :—

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

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

(c) the repetitive nature of the default.

[Explanation.—For the removal of doubts, it is clarified that the power […] to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section.]

13 From the material available on record, I note that no quantifiable gain or unfair advantage accrued to the Noticee or the extent of loss suffered by the investors has been brought out. Further from the material available on record, it may not be possible to ascertain the exact monetary loss to the clients/ investors on account of violations committed by the Noticee. I note that no action has been taken by SEBI against the Noticee in the past, except issuance of administrative warning.

ORDER

14 Considering all the facts and circumstances of the case and exercising the powers conferred upon me u/s 15-I of the SEBI Act r/w rule 5 of the SEBI Adjudication Rules, I hereby impose the following penalty on the Noticee:

Name of the Noticee	**Provisions Violated**	**Penalty Under**	**Penalty (Rs.)**	**Total Penalty (Rs.)**
VNS Finance & Capital	Clause 1 of Annexure of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993; and	Section 23 D of SCRA	5,00,000/-	11,00,000 (Rs. Eleven Lakhs Only)

Services Limited	Clause 3 of Annexure of SEBI Circular SEBI/HO/MIRSD/ MIRSD2/CIR/P/2016/95 dated September 26, 2016.		(Rs. Five Lakhs Only)	
	SEBI Circular SMD/SED/CIR/93/ 23321 dated November 18, 1993 and Clause 2.5 of Annexure of SEBI Circular SEBI/HO/MIRSD/ MIRSD2/CIR/P/ 2016/ 95 dated September 26, 2016.			
	Clause 1 of Annexure of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 2.4.2 of Annexure of SEBI Circular SEBI/HO/MIRSD/ MIRSD2/CIR/P/2016/ 95 dated September 26, 2016.			
	Clause 2(B) of SEBI Circular CIR/MIRSD/15/2011 dated August 02, 2011.	Section 15 HB of SEBI Act	5,00,000/- (Rs. Five Lakhs Only)	
	SEBI circular CIR/MIRSD/120/ 2016 dated November 10, 2016 read with SEBI circular CIR/MIRSD/66/2016 dated July 21, 2016. (w.r.t. CKYC) 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. (w.r.t. KRA)			

	Clause 6.1.1(j) of Annexure of SEBI Circular SEBI/HO/MIRSD/ MIRSD2/CIR/ P/ 2016/95 dated September 26, 2016.			
	Regulation 21 and clause A(2) of the code of conduct, read with Regulation 9(f) of the SEBI (Stock Brokers) Regulations, 1992.	Section 15 A(b) of SEBI Act	1,00,000/- (Rs. One Lakh Only)	

I find that the said penalty is commensurate with the violations committed by the Noticee in this case.

15 The Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, OR through online payment facility available on the website of SEBI, i.e. www.sebi.gov.in on the following path, by clicking on the payment link:

ENFORCEMENT → ORDERS → ORDERS OF AO → PAY NOW

16 The Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid to "The Division Chief (Enforcement Department-1 DRA-3), Securities and Exchange Board of India, SEBI Bhavan 2, Plot No. C – 7, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051." The Noticee shall also provide the following details while forwarding DD / payment information:

Case Name :	
Name of Payee :	
Date of Payment:	
Amount Paid :	
Transaction No. :	

Bank Details in which payment is made :	
Payment is made for: (like penalties/ disgorgement/ recovery/ settlement amount etc.)	Penalty

17 In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, SEBI may initiate consequential actions including but not limited to recovery proceedings u/s 28A of the SEBI Act and u/s 23 JB of SCRA for realization of the said amount of penalty along with interest thereon, inter alia, by attachment and sale of movable and immovable properties.

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

Place: Mumbai **AMIT KAPOOR**

Date: December 15, 2022 **ADJUDICATING OFFICER**