

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

Under sub-section (3) of section 12 of the Securities and Exchange Board of India Act, 1992 read with regulation 27 of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008

In respect of: -

Name of the <i>Noticee</i>	PAN/Registration details
Krishna Incap Services Private Limited	PAN: AAACK2230P Stock Broker (SEBI Registration No.: INZ000014530)

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A. BACKGROUND

1. The present proceedings have emanated from an Enquiry Report dated May 31, 2024, (hereinafter referred to as the “**Enquiry Report**”), submitted in terms of regulation 26 of the SEBI (Intermediaries) Regulations, 2008 (hereinafter referred to as “**Intermediaries Regulations**”) with respect to Krisha Incap Services Pvt Ltd. (hereinafter referred to as “**Noticee**”/“**Stock Broker**”). The *Noticee* is registered with SEBI as a Stock Broker (Registration no. **INZ000014530**).
2. Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) had carried out joint inspection with Stock Exchanges in respect of stock broking activities of the *Noticee* for the period April 1, 2020 to November 30, 2021 (hereinafter referred to as the “**Inspection period**”) and made certain findings/observations during the course of inspection. The findings/observations were communicated to the *Noticee* vide email dated March 14, 2022. After examining the reply submitted by the *Noticee* vide email dated March 23, 2022, SEBI observed certain non-compliances by the *Noticee*, to the provisions of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as the ‘**SEBI Act**’), Regulations and Circulars made thereunder and the Securities Contracts (Regulation) Rules, 1957 (hereinafter referred to as ‘**SCRR**’).

B. PROCEEDINGS BEFORE THE DESIGNATED AUTHORITY

3. Pursuant to the findings/observations made in the course of inspection and the response of the *Noticee* to the same, SEBI initiated enquiry proceedings under Chapter V of the Intermediaries Regulations against the *Noticee* by appointing a Designated Authority (hereinafter referred to as “**DA**”) in the matter on August 24, 2023.
4. Based on the findings, the DA issued a show cause notice dated November 6, 2023 to the *Noticee*, in terms of regulation 25 of the Intermediaries Regulations for the following alleged violations:

- a) Mis-Utilisation of Clients' Funds: clause 1 of SEBI circular no.SMD/SED/CIR/93/23321 dated November 18, 1993 and clause 3 of Annexure of SEBI circular no. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016;
- b) Quarterly/Monthly Settlement of Funds/Securities of Clients: clauses 8.1.1 and 8.1.4 of Annexure to SEBI circular no.SEBI/HO/MIRSD/M1RSD2/CIR/P/2016 /95 dated September 26, 2016 and clause 12.e. of Annexure-A of SEBI circular no. SEBI/MIRSD/SE/Cir-19/2009 dated December 03, 2009;
- c) Client Registration Process (KYC and KRA Process): clause 4 of SEBI circular no. MRD/DoP/Dep/SE/Cir-22/06 dated December 18, 2006, clause 3. ii. of SEBI circular no. MIRSD/Cir-26/2011 dated December 23, 2011, clause 7 of SEBI circular no. CIR'HO/MIRSD/DOP/CIR/P/2019/75 dated June 20, 2019, Annexure 1 and Annexure 3 of SEBI circular no. CIR/MIRSD/16/2011 dated August 22, 2011;
- d) Enhanced Supervision of Stock Broker: clause 3. 2 of Annexure of SEBI circular no. SEBI/HO/MIRSD /MIRSD2/CIR/P/2016/95 dated September 26, 2016;
- e) Verification of UCC- PAN, Email ID & Mobile numbers: clause 2.B.ii. and 2.B. iv. of SEBI circular no. CIR/MIRSD/15/2011 dated August 02, 2011;
- f) Analysis of RBS Data: clause 6.1.1. e. of Annexure of SEBI circular no. SEBI/HO/MIRSD/ MIRSD2/CIR/P/2016/95 dated September 26, 2016;
- g) Certification Requirement and CTCL Verification: clause B(8) of schedule II read with sub-regulation (f) of regulation 9 of the SEBI (Stock Broker) Regulations, 1992 (hereinafter referred to as "**Stock Broker Regulations**") and regulation 3 of the SEBI (Certification of Associated Persons in the Securities Markets) Regulations, 2007;

- h) Maintenance of Client and General Ledger: clause A (2) and A (5) of Code of Conduct for Stock Brokers under Schedule II, read with sub-regulation (f) of regulation 9 of the Stock Broker Regulations and NSE circular no. NSE/INSP/38743 dated August 30, 2018;
- i) Maintenance of Register of Securities, Holding Statement, Bank Book and Client Ledger in the Prescribed Standard Format : clause A (2) and A (5) of Code of Conduct for Stock Brokers under Schedule II, read with sub-regulation (f) of regulation 9 of the Stock Broker Regulations and NSE circular no. NSE/INSP/39393 dated November 13, 2018;
- j) Display of Correct Information on Website : clause 2 of SEBI circular no. Cir/MIRSD/9 /2010 dated November 4, 2010;
- k) Record of Order Placement: clause III of SEBI circular no. SEBI/HO/MIRSD/DOP1/CIR/P/2018/54 dated March 22, 2018;
- l) Segregation of Clients Funds and Securities: clause 1 of Annexure of SEBI circular no. SMD/SED/CIR/93/23321 dated November 18, 1993; clause 2.4.2 of Annexure of SEBI Circular no. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 and clause (f) of sub-rule (1) of rule 8 and clause(f) of sub-rule (3) of rule 8 of the SCRR;
- m) Net Worth Verification: clause 6.1.I(i) & 6.1.I(j) of Annexure of SEBI circular no. SEBI/HO/MIRSD/MIRSD2CIR/P/2016/95 dated September 26, 2016 and sub-regulation (g) of regulation 9 of the Stock Broker Regulations read with NSE circular no. NSE/COMP/47873 dated April 02, 2021.

5. Pursuant to transfer of the DA, another DA was appointed on December 19, 2023. In response to the show cause notice issued by the DA, the *Noticee* filed its reply vide email dated March 21, 2024. Further, a personal hearing was granted to the *Noticee* by the DA on April 19, 2024. Pursuant to hearing the *Noticee* filed additional submissions on April 23, 2024.
6. The DA after conducting the enquiry proceedings in terms of the Intermediaries Regulations, submitted an Enquiry Report dated May 31, 2024. In the Enquiry Report, the DA found that some of the violations alleged against the *Noticee* had been established. The DA also observed that the violations by the *Noticee* are grave in nature and the acts of the *Noticee* are detrimental to the interest of the investors in the securities market. Accordingly, the DA recommended suspension of certificate of registration of the *Noticee* for a period of six months in terms of regulation 26 of the Intermediaries Regulations.

C. PROCEEDINGS BEFORE THE WHOLE TIME MEMBER

7. Pursuant to the submission of Enquiry Report, a post-Enquiry Show Cause Notice dated July 4, 2024 (hereinafter referred to as “**SCN**”) based on the violations alleged in the Enquiry Report and listed at paragraph 4 above, was issued to the *Noticee* in terms of sub-regulation (1) of regulation 27 of the Intermediaries Regulations, calling upon it to show cause as to why action as recommended by the DA or any other action in terms of the Intermediaries Regulations, be not taken against it. The Enquiry Report was also enclosed alongwith the SCN that was served upon the *Noticee*. The SCN was sent to the registered address of the *Noticee* as well as to the alternate addresses. Thereafter, the SCN was also sent vide email dated July 08, 2024 to which the *Noticee*, vide email dated July 31, 2024, submitted its reply.

8. Subsequently, a personal hearing in the matter was scheduled on September 24, 2024 and the hearing notice was served on the *Noticee* through the registered email. On the day of hearing, the *Noticee* appeared through its representatives (two Directors, namely Mr. Rupesh Kumar and Mr. Sanjay Mishra) and reiterated the submissions made vide reply dated July 31, 2024. During the hearing, the *Noticee* was advised to provide proof in the form of a No Objection Certificate (hereinafter referred to as “**NOC**”) from the exchanges certifying that the *Noticee* has settled the pending dues with respect to its clients. The *Noticee* made post hearing submissions vide emails dated September 26, 2024 and October 7, 2024. In light of the aforesaid factual position, I am of the opinion that sufficient opportunity has been provided to the *Noticee* and the principles of natural justice have been duly followed in the matter.
9. The summary of submissions made by the *Noticee* vide above referred replies and during the hearing is as follows:
- a) The *Noticee* placed all its capital in its broking business and carried out fair trade practices but failed due to Covid-19. The *Noticee* provided data to NSE inspecting officials during inspection for the period 2020-21. NSE made certain observations and levied a penalty amounting to INR 2,12,200.
 - b) NSE and SEBI had carried out joint inspection for the period from April 1, 2020 to November 30, 2021 and reply to the observations was sent to the inspecting officials on March 23, 2022.
 - c) The *Noticee* had approached NSE for reactivation of its membership post Covid and that it wanted to transfer the membership alongwith change in control. In response to which the *Noticee* was instructed to fulfil all pending compliances and clear dues. In spite of all compliances and documentation its membership was not reactivated.
 - d) The *Noticee* responded to the show cause notice dated November 6, 2023 vide email dated March 21, 2024. During hearing on April 19, 2024, Mr. Sanjay Kumar Mishra, Authorised Representative of the *Noticee* accepted the

violations and requested to kindly instruct NSE to activate its membership so that it can start the process of transfer with full control. Post the hearing in the month of May 2024, SEBI imposed a penalty of INR 12,00,000/- which was duly paid by the *Noticee*.

- e) The *Noticee* submitted that since last four years it has earned nothing and has been only paying penalties, requested to consider its financial condition and not suspend its membership. The *Noticee* also requested to grant permission to transfer the membership with full control.

10. In its post hearing submissions, the *Noticee* attached certain bank statements through which the *Noticee* claims the payouts for credit balance clients was processed with a request to acknowledge the same and issue orders for approval of surrender/transfer of its membership with exchanges.
11. I note that, the *Noticee* in its replies did not provide the NOC from the stock exchange as advised during the hearing in the instant matter. In response to further explanation being sought, the *Noticee*, forwarded an email which seems to be received from MCX. The email reads as follows: *"In response to your email on the captioned subject, we would like to inform you that on the basis of submissions made by the you with respect to settlement of client funds wide email dated Dec 15, 2022; Dec 26, 2022 & Jan 5, 2023, substantiated with relevant records and after an examination of the same done by the Exchange, we would like to inform you that the same is found to be in order."* However, on further details sought from MCX, it was clarified by the MCX that the above reply did not pertain to the instant matter and pertained to Goldenmaple Commodities Pvt. Ltd. Further, as the transactions in the instant matter pertain to NSE, a query with respect to the settlement of pending dues by the *Noticee* with respect to its clients was sent to NSE. NSE vide its email dated November 26, 2024 submitted that the *Noticee* had settled the outstanding dues and the Investor Service Centre admissible claims with respect to its clients.

12. After noting the submission of the *Noticee*, I now proceed to examine the matter on its merits. In the extant proceeding, it is required to ascertain whether the *Noticee*, by its acts and conduct, has violated the applicable provisions of securities law as mentioned in the enquiry report.
13. However, before proceeding further, it is necessary to refer to relevant provisions of law and the same are reproduced here under for reference:

SEBI Act, 1992

Registration of stock brokers, sub-brokers, share transfer agents, etc.

12(1).....

12(2).....

12(3) *The Board may, by order, suspend or cancel a certificate of registration in such manner as may be determined by regulations:*

Provided that no order under this sub-section shall be made unless the person concerned has been given a reasonable opportunity of being heard.

Delegation.

19. *The Board may, by general or special order in writing delegate to any member, officer of the Board or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the powers under section 29) as it may deem necessary.*

Securities Contracts (Regulation) Rules, 1957.

Qualifications for membership of a recognised stock exchange.

8. *The rules relating to admission of members of a stock exchange seeking recognition shall inter alia provide that:*

(1)....

(2).....

(3) No person who is a member at the time of application for recognition or subsequently admitted as a member shall continue as such if—

.....

(f) he engages either as principal or employee in any business other than that of securities [or commodity derivatives] except as a broker or agent not involving any personal financial liability, provided that—

(i) the governing body may, for reasons, to be recorded in writing, permit a member to engage himself as principal or employee in any such business, if the member in question ceases to carry on business on the stock exchange either as an individual or as a partner in a firm,

(ii) in the case of those members who were under the rules in force at the time of such application permitted to engage in any such business and were actually so engaged on the date of such application, a period of three years from the date of the grant of recognition shall be allowed for severing their connection with any such business,

(iii) nothing herein shall affect members of a recognised stock exchange which are corporations, bodies corporate, companies or institutions referred to in items (a) to (n)15 of the proviso to sub-rule (4).

SEBI (Intermediaries) Regulations, 2008

Cancellation or suspension of registration and other actions.

23. Where any person who has been granted a certificate of registration under the Act or regulations made thereunder,

(a) fails to comply with any conditions subject to which a certificate of registration has been granted to him;

(b) contravenes any of the provisions of the securities laws or directions, instructions or circulars issued thereunder;

the Board may, without prejudice to any action under the securities laws or directions,

instructions or circulars issued thereunder, by order take such action in the manner provided under these regulations

Recommendation of action

- 26.** (1) *After considering the material available on record and the reply, if any, the designated authority may by way of a report, recommend the following measures-*
- (i) disposing of the proceedings without any adverse action;*
 - (ii) cancellation of the certificate of registration;*
 - (iii) suspension of the certificate of registration for a specified period;*
 - (iv) prohibition of the noticee from taking up any new assignment or contract or launching a new scheme for such the period as may be specified;*
 - (v) debarment of an officer of the noticee from being employed or associated with any registered intermediary or other person associated with the securities market for such period as may be specified;*
 - (vi) debarment of a branch or an office of the noticee from carrying out activities for such period as may be specified;*
 - (vii) issuance of a regulatory censure to the noticee:*

Order

27. (1)

.....

- (5) After considering the facts and circumstances of the case, material on record and the written submission, if any, the competent authority shall endeavor to pass an appropriate order within one hundred and twenty days from the date of receipt of submissions under sub-regulation (2) or the date of personal hearing, whichever is later.*

**SECURITIES AND EXCHANGE BOARD OF INDIA (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, -

(a).....

.....

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

(g) he shall at all times maintain the minimum networth as specified in Schedule VI.

.....

SCHEDULE II

CODE OF CONDUCT FOR STOCK BROKERS

A. General.

(1).....

(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.

(3).....

(4).....

(5) Compliance with statutory requirements: A stock-broker shall abide by all the provisions of the Act and the rules, regulations issued by the Government, the Board and the Stock Exchange from time to time as may be applicable to him.

B. Duty to the Investor

(1) to (7)....

(8) Competence of Stock-Broker: A stock-broker should have adequately trained staff and arrangements to render fair, prompt and competence services to his clients.

SEBI (CERTIFICATION OF ASSOCIATED PERSONS IN THE SECURITIES MARKETS) REGULATIONS, 2007

Obligation to obtain certificate

3. (1) The Board may by notification in the Official Gazette require such categories of associated persons to obtain requisite certificate for engagement or employment with such classes of intermediaries and from such date as may be specified in the notification:

Provided that an associated person employed or engaged by an intermediary prior to the date specified by the Board may continue to be employed or engaged by the intermediary if he obtains the certificate within two years from the said date.

Clause 1 of SEBI Circular no. 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.

SEBI Circular no. MRD/DoP/Dep/SE/Cir-22/06 dated December 18, 2006

4. Accordingly, all the stock exchanges/registered brokers/registered sub-brokers/listed companies/depositories/registered depository participants are advised to designate an e-mail ID of the grievance redressal division/compliance officer exclusively for the purpose of registering complaints by investors. The above entities are also advised to display the email ID and other relevant details prominently on their websites and in the various materials/pamphlets/advertisement campaigns initiated by them for creating investor awareness.

SEBI Circular no. MIRSD/ SE /Cir-19/2009 dated December 3, 2009.

Annexure A

Running Account Authorization

12. Unless otherwise specifically agreed to by a Client, the settlement of funds/securities shall be done within 24 hours of the payout. However, a client may specifically authorize the stock broker to maintain a running account subject to the following conditions:

e. The actual settlement of funds and securities shall be done by the broker, at least once in a calendar quarter or month, depending on the preference of the client. While settling the account, the broker shall send to the client a 'statement of accounts' containing an extract from the client ledger for funds and an extract from the register of securities displaying all receipts/deliveries of

funds/securities. The statement shall also explain the retention of funds/securities and the details of the pledge, if any.

SEBI circular No. Cir/MIRSD/ 9 /2010 dated November 4, 2010

Display of Details by Stock Brokers (including Trading Members

2. In consultation with the Investors Associations and major stock exchanges, it has been decided that while a stock broker may use the brand name / logo of its group companies, it must display more prominently:

- (a) its name as registered with SEBI, its own logo, if any, its registration number, and its complete address with telephone numbers in its portal/web site, if any, notice / display boards, advertisements, publications, know your client forms, and member client agreements;*
- (b) its name as registered with SEBI, its own logo, if any, its registration number, and its complete address with telephone numbers, the name of the compliance officer, his telephone number and e-mail address in contract notes, statement of funds and securities, and correspondences with the clients.*

SEBI Circular No. 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:

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

- ii. Stock brokers shall upload the details of clients, such as, name, mobile number, address for correspondence and E-mail address*
- 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 No. CIR/MIRSD/16/2011 dated August 22, 2011

3. SEBI has devised the uniform documentation to be followed by all the stock brokers/ trading members; a copy thereof to be provided by them to the clients.

The details of such documents are listed below:

- i. Index of documents giving details of various documents for client account opening process - **Annexure-1**
- ii. Client Account Opening Form in two parts:
 - a. Know Your Client (KYC) form capturing the basic information about the client and instruction/check list to fill up the form - Annexure-2.
 - b. Document capturing additional information about the client related to trading account - **Annexure-3**

SEBI Circular No. MIRSD/Cir-26/2011 dated December 23, 2011

3. In-Person Verification (IPV):

With regard to the requirement of in-person' verification (IPV), SEBI has issued guidelines to the stock brokers and depository participants (DPs). However, in line with the uniformity brought out in the KYC procedure across intermediaries, the IPV requirements for all the intermediaries have now been streamlined and harmonized, as follows:

.....ii. The intermediary shall ensure that the details like name of the person doing IPV, his designation, organization with his signatures and date are recorded on the KYC form at the time of IPV.

2. Reporting of Bank and Demat accounts maintained by Stock Broker:

2.4. In line with the prevalent regulatory requirement, it is reiterated that;

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.

3. 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 utilisation 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 utilised 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 utilised 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 utilised 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 utilised 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 utilised 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 utilised 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. Standard Operating Procedures for Stock Brokers/Depository Participants
- Actions to be contemplated by Stock Exchanges/Depositories for any event based discrepancies

6.1.1. Monitoring criteria for Stock Brokers

- e. Failure to submit data for the half yearly Risk Based Supervision within the time specified by Stock Exchange.*
- i. If, at any point of time, Net worth of the Broker is negative or lower than 75 per cent of the requirement.*
- j. In case stock broker shares incomplete/wrong data or fails to submit data on time.*

8. Running Account Settlement

8.1. In partial modification of circular on running account settlement, the stock broker shall ensure that;

8.1.1. There must be a gap of maximum 90/30 days (as per the choice of client viz. Quarterly/Monthly) between two running account settlements.

8.1.4. Statement of accounts containing an extract from client ledger for funds & securities along with a statement explaining the retention of funds/securities shall be sent within five days from the date when the account is considered to be settled.

SEBI Circular no. SEBI/HO/MIRSD/DOP1/CIR/P/2018/54 dated March 22, 2018.

Prevention of Unauthorised Trading by Stock Brokers

III. *To further strengthen regulatory provisions against un-authorized trades and also to harmonise the requirements across markets, it has now been decided that all brokers shall execute trades of clients only after keeping evidence of the client placing such order, which 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 messages through mobile phones,
- f. Any other legally verifiable record.

When a dispute arises, the broker shall produce the above mentioned records for the disputed trades. However for exceptional cases such as technical failure etc. where broker fails to produce order placing evidences, the broker shall justify with reasons for the same and depending upon merit of the same, other appropriate evidences like post trade confirmation by client, receipt/payment of funds/securities by client in respect of disputed trade, etc. shall also be considered.

SEBI Circular No. CIR/HO/MIRSD/DOP/CIR/P/2019/75 dated June 20, 2019

7. Accordingly, the provisions with regard to running account settlement of clients' funds and securities specified in SEBI Circulars MIRSD/SE/Cir-19/2009 dated December 03, 2009 and SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 shall stand modified to the extent as stated hereinabove and the said circulars shall be applicable only as guidelines for running account settlement of clients' "funds" only.

NSE/INSP/38743 dated August 30, 2018

NSE/INSP/39393 dated November 13, 2018

NSE/COMP/47873 dated April 02, 2021

The above referred NSE circulars is available at the following link:

<https://www.nseindia.com/resources/exchange-communication-circulars>

D. EXAMINATION OF EVIDENCE

14. I have carefully perused the material available on record including the Enquiry Report submitted by the DA, responses of the *Noticee* and applicable provisions of law. I shall now proceed to deal with the violations alleged in the SCN *in seriatim*.

I. Mis-Utilisation of client's funds :

15. During the inspection conducted of the *Noticee*, it was examined whether there were instances of misuse of client's funds by the *Noticee*. In this regard, on sample basis the valuation of 'G', 'I' and 'J' (*the explanation for the terms 'G', 'I' and 'J' has been provided in SEBI circular no.SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016, referred at para 13 above*) was calculated for all the dates in the month of September 2020 and March 2021. This led to the observation that, in September 2020 the value of 'G' was negative on all the 22 dates and value of 'J' was positive on 20 dates. In March 2021 the value of 'G' is negative on 18 dates and value of 'J' is positive on 10 days. Thus, 'G' is negative in a total of 40 dates out of the total 42 sample dates. This analysis shows that the funds of credit balance clients was misutilised for meeting the obligations of debit balance clients and/or for the *Noticee's* own purpose. The amount of misutilisation arrived at is in the range of INR 1.04 lacs to INR 17.90 lacs with an average misutilisation of INR 9.69 lacs. Further, the value of 'J' was positive for a total of 30 dates out of the total 42 sample dates. The positive value of 'J' shows the extent of funds and securities of clients being misutilised towards margin obligations of debit balance clients and/or for proprietary margin obligations. The amount misutilised is in the range of INR 0.01 lac to INR 3.63 lacs with an average of INR 84.43 thousand.
16. In view of the above analysis, the *Noticee* was alleged to have violated Clause 1 of SEBI circular no. SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 3 of Annexure of SEBI circular no.SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.
17. I note that, as per SEBI circular no. SMD/SED/CIR/93/23321 dated November 18, 1993 (refer para 13 above), a stock broker is obligated to keep the money of the clients in a separate account and its own money in a separate account. Further, the stock

broker is not allowed to make payments from clients account, for transactions in which the stock broker is taking positions as a principal.

18. Further, I note that, the principle set by the SEBI circular no. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 is that 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: $G = (A+B)-C$.

19. For better understanding, following may be referred to from SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016-

“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.

20. I note that, if ‘G’ is negative, then the total available fund is less than the ledger credit balance of clients. The value of ‘G’ may indicate utilisation 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 broker’s own purposes.

21. Further, as per the aforesaid circular, if value of G is negative (i.e. $A+B < C$), then funds 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:

$$J = B - (MC + MF)$$

22. The value of J, if positive, indicates the extent of clients' funds utilised towards margin obligations of debit balance clients and proprietary margin obligations.

23. The calculation given in inspection report for the sample dates for the months of September 2020 and March 2021 are given in the tables below:

Table No. 1

S.No.	Date	A	B	C	$G=(A+B)-C$	D	MC	MF	$J=(C-A)-$ $(MC+MF1+MF2),$ if $G>0$ $J=B-$ $(MC+MF1+MF2),$ if $G<0$
1	01-Sep-20	21,597	45,52,928	59,23,429	-13,48,904	2,23,610	2,82,478	42,58,736	11,714
2	02-Sep-20	27,655	42,88,986	56,86,500	-13,69,859	1,85,290	79,687	40,60,619	1,48,680
3	03-Sep-20	1,26,949	42,88,986	57,98,020	-13,82,085	1,98,513	0	39,85,368	3,03,618
4	04-Sep-20	60,126	42,88,986	57,46,193	-13,97,081	1,86,498	0	39,25,221	3,63,765
5	07-Sep-20	3,31,959	42,88,986	60,81,169	-14,60,224	1,86,508	1,88,781	40,92,780	7,425
6	08-Sep-20	27,809	42,88,986	57,23,893	-14,07,098	1,85,582	34,487	42,49,498	5,001
7	09-Sep-20	25,803	42,88,986	54,80,702	-11,65,913	1,91,559	75,489	41,29,385	84,112
8	10-Sep-20	2,05,962	42,88,986	57,23,366	-12,28,418	1,73,882	1,31,583	40,85,298	72,106
9	11-Sep-20	25,170	42,88,986	55,47,500	-12,33,344	1,87,309	82,247	41,20,449	86,290
10	14-Sep-20	1,06,467	42,88,986	56,92,601	-12,97,148	2,12,093	81,919	40,84,434	1,22,633
11	15-Sep-20	79,876	42,88,986	55,70,131	-12,01,269	1,73,882	2,48,482	39,96,035	44,470
12	16-Sep-20	1,64,532	42,88,986	56,70,583	-12,17,065	1,86,479	5,06,871	37,39,927	42,189
13	17-Sep-20	28,761	42,88,986	55,77,692	-12,59,945	1,86,479	5,32,773	35,59,668	1,96,546
14	18-Sep-20	28,871	42,88,986	56,53,922	-13,36,065	1,89,889	0	38,35,649	3,05,397
15	21-Sep-20	2,62,696	42,88,986	60,18,510	-14,66,827	1,75,745	0	40,40,409	2,04,114
16	22-Sep-20	27,112	42,88,986	57,93,751	-14,77,653	1,80,191	1,47,940	41,10,637	1,32,295
17	23-Sep-20	25,371	42,88,986	56,20,967	-13,06,610	1,75,755	44,463	42,44,523	12,922
18	24-Sep-20	25,371	42,88,986	56,10,950	-12,96,593	1,75,755	46,054	42,42,932	27,772
19	25-Sep-20	24,371	42,88,986	54,75,812	-11,62,454	1,75,755	31,540	42,53,828	-21,550
20	28-Sep-20	3,10,116	42,88,986	57,29,768	-11,30,666	1,75,755	18,282	42,65,631	-59,417
21	29-Sep-20	18,045	39,80,069	57,77,274	-17,79,160	1,75,755	56,708	39,23,361	56,708
22	30-Sep-20	23,755	39,80,069	57,93,883	-17,90,059	1,75,755	82,772	38,95,069	85,001

Table No. 2

S.No.	Date	A	B	C	G	D	MC	MF	$J = (C - A) - (MC + MF1 + MF2),$ if $G > 0$ $J = B - (MC + MF1 + MF2),$ if $G < 0$
1	01-Mar-21	2,16,946	39,80,069	53,11,417	-11,14,401	1,75,624	1,54,846	38,15,047	10,176
2	02-Mar-21	73,551	39,80,069	48,66,776	-8,13,156	1,75,624	78,350	38,77,525	24,194
3	05-Mar-21	38,088	39,80,069	47,99,405	-7,81,248	2,04,751	2,06,930	37,33,912	39,227
4	04-Mar-21	27,988	39,80,069	47,23,553	-7,15,496	2,22,738	1,40,979	37,87,674	51,416
5	03-Mar-21	27,988	39,80,069	47,10,739	-7,02,682	2,22,755	59,270	38,61,528	59,271
6	09-Mar-21	50,907	39,80,069	46,76,994	-6,46,018	1,63,234	79,423	38,88,034	12,613
7	10-Mar-21	15,907	39,80,069	46,22,201	-6,26,225	1,63,234	63,275	39,16,794	-0
8	12-Mar-21	15,907	39,80,069	44,77,415	-4,81,439	1,44,079	81,768	38,98,301	-0
9	08-Mar-21	2,46,588	39,80,069	47,04,848	-4,78,191	1,63,274	87,345	38,91,474	1,250
10	17-Mar-21	69,087	39,80,069	45,24,535	-4,75,378	1,29,655	77,384	39,02,685	-0
11	16-Mar-21	69,988	39,80,069	44,47,596	-3,97,538	1,55,183	89,171	38,78,019	12,879
12	18-Mar-21	33,004	39,80,069	43,96,969	-3,83,896	1,29,655	66,322	39,13,747	-0
13	15-Mar-21	74,335	39,80,069	44,27,145	-3,72,741	1,44,079	1,37,843	38,42,226	-0
14	19-Mar-21	22,056	39,80,069	43,52,732	-3,50,607	1,42,125	77,017	39,03,053	-0
15	22-Mar-21	13,150	39,80,069	42,75,316	-2,82,097	1,39,064	54,452	39,19,080	6,538
16	23-Mar-21	14,150	39,80,069	41,64,420	-1,70,201	1,29,355	69,766	39,10,304	-0
17	24-Mar-21	12,132	39,80,069	41,61,556	-1,69,354	1,39,673	62,764	39,17,306	-0
18	25-Mar-21	12,132	39,80,069	40,97,157	-1,04,955	1,31,042	26,022	39,54,048	-0
19	31-Mar-21	17,735	37,13,625	37,29,085	2,276	1,40,994	3,188	37,10,984	-547
20	26-Mar-21	11,226	39,80,069	36,92,448	2,98,848	1,29,748	22,466	39,54,877	2,726
21	30-Mar-21	17,806	39,80,069	36,72,032	3,25,844	1,29,748	15,484	39,79,522	-14,937

24. As seen from the tables above, the value of 'G' was found to be negative for 40 sample dates, and value of 'J' was found to be positive for 30 sample dates.

25. I note that the *Noticee* in its reply before the DA did not dispute the findings with regard to the values of 'G' and 'J' on the sample dates and also have accepted the alleged violations in its reply dated July 31, 2024 filed in the extant proceedings. The *Noticee*

submitted that it had subsequently transferred funds to clients account, however, no supporting documents was placed in support of its contention.

26. Further to the above submissions of the *Noticee* before the DA, the *Noticee* in its reply to the post enquiry SCN, did not provide any reply to dispute the above finding in the enquiry report. In the contrary, it reiterated its submission made before the DA, that it accepts the violations. Even during the personal hearing before me, the *Noticee* was advised to submit documentary evidence in support of its claim that it has settled all the dues of its clients.
27. In response to the above referred documentary evidence sought during the hearing, the *Noticee* vide email dated September 26, 2024 forwarded certain bank account statements through which the *Noticee* claimed to have processed pay outs to its credit balance clients alongwith an excel sheet showing credit of clients in the books of the *Noticee*. I note that, during the hearing, the *Noticee* was specifically advised to provide proof in the form of an NOC from the exchanges certifying that the *Noticee* has settled the pending dues with respect to its clients. On further query, the *Noticee* forwarded an email, received from MCX. However, the email did not provide details as sought from the *Noticee* during the hearing. Clarification was sought from MCX on the email received from the *Noticee* to which MCX stated that the referred email did not pertain to the instant matter but was with respect to the matter of Goldenmaple Commodities P. Ltd. Further, as the transactions in the instant matter pertain to NSE, a query with respect to the settlement of pending dues by the *Noticee* with respect to its clients was sent to NSE. NSE vide its email dated November 26, 2024 submitted that the *Noticee* had settled the outstanding dues and the Investor Service Centre admissible claims with respect to its clients. In view of the same, I note that the *Noticee* had subsequently processed the pay outs to all its credit balance clients with respect to the instant matter.

28. In this regard, I note that Hon'ble Securities Appellate Tribunal, in the matter of *Samco Securities Ltd. vs. SEBI* (Appeal No. 493 of 2021 decided on March 30, 2022), as regards the seriousness of mis-utilization of client's fund has held as under:

"We find that mis-utilization of the clients' credit funds is a grave issue and not in the interest of the securities market. A stockbroker has to treat each of its client as separate and independent entity and ensure that each clients' accounts are settled separately and individually. In this regard, the appellant was statutorily obliged to abide by the directions issued under the SEBI circulars dated November 18, 1993 and September 26, 2016."

29. Considering the aforesaid and the fact that the *Noticee* has not disputed the alleged violations, I find that on 40 sample instances there was misutilisation of funds of credit balance clients by the *Noticee* for meeting the obligations of debit balance clients and/or for its own purpose, as well as 30 sample instances where clients' funds were utilized towards margin obligations of debit balance clients and proprietary margin obligations.
30. In this regard, I note that the measure taken by SEBI vide the aforesaid circulars are intended to increase transparency in fund/ client management by stock brokers and provide safeguard with regard to risk management. The funds in client's accounts cannot be applied for any purpose other than meeting that specific clients' obligation as permitted in the said circulars.
31. In view of the above, I agree with the findings of the DA and hold that the allegations of misutilisation of funds of clients by the *Noticee* stands established and the *Noticee* has violated provisions of clause 1 of Annexure of SEBI circular no. SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 3 of Annexure of SEBI circular no. SEBI/HO/MIRSD/MIRSD2/ CIR/P/2016/95 dated September 26, 2016.

II. QUARTERLY/MONTHLY SETTLEMENT OF FUNDS/SECURITIES OF CLIENTS:

32. On examination of the settlement sheet, trial balances and securities holding form of the *Noticee*, the following was noted:

- a) With respect to active clients, there was delay in settlement of 8 clients out of the total 94 clients (Minimum delay of 94 days and maximum delay of 184 days). Further, from the total 94 clients, the *Noticee* did not settle the accounts of 34 active clients on 60 instances out of the total 470 instances for which the funds & securities value is INR 1.01 crores.
- b) While comparing the quarter to quarter trial balance of inactive clients till June 30, 2021 and on comparison of month on month trial balance for the period from August 31, 2021 to November 30, 2021, it was seen that the *Noticee* did not settle funds of 75 inactive clients on 174 instances which amounted to INR 0.65 crores during the inspection period.

33. In view of the above, it was alleged that *Noticee* has violated the following provisions of SEBI circulars:

- a) Clause 8.1.1. and 8.1.4. of Annexure of SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.
- b) Clause 12. e. of Annexure-A of SEBI Circular SEBI/MIRSD/SE/Cir-19/2009 dated December 03, 2009.

34. As per above provisions, between two running account settlements the maximum permissible gap is of 90 days for quarterly settlements and 30 days for monthly settlements. In addition to the same, the broker within 5 days from date of settlement, is required to send a statement of accounts which contains an extract of client ledger for funds and securities alongwith a statement giving an explanation with respect to retention of funds and securities and the details of pledge if any.

35. Having gone through the allegation and the DA report, I agree that there is a need to examine the delay for 8 active clients which is in the range of 94 to 184 days and non-settlement of 34 active clients for 60 instances out of the total 470 instances. With respect to inactive clients, the comparison of quarter to quarter and month to month trial balance shows that the *Noticee* has not settled the funds of 75 inactive clients on 174 instances which amounted to INR.0.65 crores during the inspection period.
36. In this context the DA has noted the submissions of the *Noticee* that the instances of non-settlement of accounts in a timely manner and instances of failure by the *Noticee* to carry out settlement for both active and inactive clients was due to the following reasons:-(i) hospitalization of one of the directors of the *Noticee* (ii) change of bank accounts by inactive clients. The DA report noted that the *Noticee* has accepted the violations and also failed to provide any documentary evidence in support of the above reasons stated by it for its failure.
37. With regard to the above observations of the DA, I note that, SEBI circulars mandates that the stock brokers should settle the funds of clients periodically, so that clients' funds are not kept unsettled by the stock broker for indefinite period on any pretext. The circular was issued with a view to instill greater transparency and discipline in the dealings between the clients and the stock brokers and to keep the investor informed about his/her account, so as to curb any misutilisation of funds by the stock brokers, thereby safeguarding the integrity of the market.
38. I note that, the *Noticee* in its reply in the extant proceedings has not disputed the alleged violations committed by it. In view of the same, I find that, there is a delay in the settlement of 8 active clients out of the total 94 clients with a minimum delay of 94 days and maximum delay of 184 days. Further, the *Noticee* failed to settle the accounts of 34 active clients on 60 instances out of the total 470 instances for which the funds & securities were valued at INR1.01 crores. The *Noticee* also failed to settle

the funds of 75 inactive clients on 174 instances which amounted to INR 0.65 crores. Accordingly, I hold that the *Noticee* has violated the provisions of clause 8.1.1. and 8.1.4. of Annexure to SEBI circular no. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 and sub clause (e) of clause 12 of Annexure-A of SEBI circular no. SEBI/MIRSD/ SE/Cir-19/2009 dated December 03, 2009.

III. CLIENT REGISTRATION PROCESS (KYC AND KRA PROCESS)

39. During inspection, it was observed that 5 out of 10 client registration documents had following major irregularities:

- a) One instance of Know Your Client (KYC) not filed properly;
- b) Details of Compliance officer and CEO not found in KYC;
- c) In-person verification (IPV) details not filled;
- d) Contravening clause pertaining to running account authorization of securities has been included in KYC. The clause is contravening as running account of 'securities' has been discontinued.

40. In view of the above, it was alleged that the *Noticee* has violated the following provisions of SEBI circulars:

- a) Clause 4 of SEBI circular no. MRD/DoP/Dep/SE/Cir-22/06 dated December 18, 2006;
- b) Clause 3. ii. of SEBI circular no. MIRSD/Cir-26/2011 dated December 23, 2011;
- c) Clause 7 of SEBI circular no. CIR/HO/MIRSD/DOP/CIR/P/2019/7 dated June 20, 2019;
- d) Annexure 1 and Annexure 3 of SEBI circular no. CIR/MIRSD/16/2011 dated August 22, 2011.

41. As per the above provisions, (i) there is a need to have a designated email id for the purposes of registration of complaints and this email ID needs to be displayed in order

to create investor awareness; (ii) the details of person carrying out the in-person verification should be recorded in the KYC form (iii) the guidelines for running account settlement of clients is restricted only to 'funds' and discontinued with respect to 'securities' (iv) index of documents and document stating additional information about client related to its trading account is required to be maintained as provided in SEBI circular no. CIR/MIRSD/16/2011 dated August 22, 2011.

42. Having perused the above allegations against the *Noticee*, I note that the DA report states that the *Noticee* submitted that it was not having an electronic account opening form during the covid period and had opened around 15-20 accounts in which certain errors may have occurred.
43. I note that in the extant proceedings, the *Noticee* has not made any submissions with respect to the above violation. Rather the *Noticee* had reiterated the submission it made before the DA where he had accepted the aforesaid violations.
44. In view of the aforesaid, I find that there were irregularities in the client registration process followed by the *Noticee*. It is noted that (i) there were discrepancies in the filing of the KYC; (ii) there was a failure to providing the details of the CEO and compliance officer in the KYC form; (iii) IPV details were not filed (iv) contravention clause pertaining to running account authorisation for securities was included in the KYC though the same was discontinued. In view of the above, I hold that the *Noticee* has violated:- clause 4 of SEBI circular no. MRD/DoP/Dep/SE/Cir-22/06 dated December 18, 2006; clause 3.ii. of SEBI circular no. MIRSD/Cir-26/2011 dated December 23, 2011; clause 7 of SEBI circular no. CIR/HO/MIRSD/DOP/CIR/P/2019/7 dated June 20, 2019 and Annexure 1 and Annexure 3 of SEBI circular no. CIR/MIRSD/16/2011 dated August 22, 2011.

IV. ENHANCED SUPERVISION OF STOCK BROKER

45. During inspection, it was observed that the *Noticee* had submitted incorrect report of weekly supervision data. The collateral deposited with clearing corporation; margin utilized for positions of credit balance clients & free/unblocked collateral deposited with clearing corporation were reported incorrectly. The details of the same are as followed:

Table No. 3

Particulars	Date	Value Reported by Trading Member (TM) (In Rs)	Value Calculated during inspection (In Rs)	Difference (In Rs)
Collateral deposited with clearing corporation in form of Cash and Cash Equivalents	26-03-2021	68,00,013/-	39,80,069.38	28,19,943.62
	26-11-2021	68,00,013/-	39,80,069.38	28,19,943.62
Margin utilized for positions of Credit Balance Clients	26-11-2021	12,934/-	25,594.8	-12,660.8
Free/unblocked Collateral deposited with Clearing corporation (In Rs.)	26-03-2021	67,74,821/-	39,54,877.17	28,19,943.83
	26-11-2021	67,87,079/-	39,67,135.22	28,19,943.78

46. The above table shows that on three instances, namely (i) cash and cash equivalent collateral deposited with clearing corporation (ii) margin utilised for credit balance clients and (iii) free collateral deposited with clearing corporation, the *Noticee* had reported incorrect information of weekly supervision data. The above table no. 3 gives details of the 'value reported by the *TM*' and the actual value which the *Noticee* failed to report as per the clause 3.2 of SEBI circular dated September 26, 2016.

47. In view of the above, it was alleged that the *Noticee* violated Clause 3.2 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.
48. As per the clause 3.2 of the aforesaid circular, stock brokers are mandated to submit the following data on the last trading day of every week to the stock exchanges on or before the next trading day: (i) aggregate of fund balances available with clients and collateral deposits with clearing corporations (ii) aggregate value of:- credit and debit balances of clients; proprietary non cash collaterals; non-funded part of bank guarantee; proprietary margin obligations; margin utilised for positions of credit balance clients and unutilised collateral.
49. The DA noted that the *Noticee* contended that the deposit with NSE was INR 68 lacs and accordingly the *Noticee* submitted that the reporting done by it is correct. However, the *Noticee* has not placed any evidence in support of this submission. Further, the *Noticee* has not provided any additional reply in the extant proceedings also in support of its contention. In view of the above, I agree with the findings of the DA that the reporting by the *Noticee* is incorrect. The submission of correct information under the enhanced supervision system was imperative for effective monitoring by Stock Exchanges of clients' funds lying with the stock brokers through this mechanism.
50. In view of the above, I hold that the *Noticee* has violated Clause 3.2 of Annexure of SEBI Circular no. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

V. VERIFICATION OF UNIQUE CLIENT CODE (UCC)- PAN, EMAIL ID & MOBILE NUMBERS

51. During inspection, it was found that: (i) the *Noticee* had opened multiple Unique Client Codes (UCC) against single PAN; and (ii) there was mismatch in client address and PAN details for 90 clients. In view of the above observations, it was alleged, that the *Noticee* violated Clause 2.B. ii. and 2.B. iv. of SEBI circular no. CIR/MIRSD/15/2011 dated August 02, 2011.
52. As per the above provisions, stock brokers should upload the details such as name, mobile number and address of its clients and also ensure that separate mobile number and e-mail address is uploaded for each of its client.
53. During inspection, it was found that two UCC were allotted for a single PAN. The DA in its observation to the above allegation, stated that, as per records, there were no two different UCC with same PAN numbers. In view of the above findings, the DA stated that the violation of Clause 2.B. iv. of SEBI circular no. CIR/MIRSD/15/2011 dated August 02, 2011 against the *Noticee* cannot be established.
54. On perusal of the records, I find that the UCC details of client namely Anshu Suman having PAN: BHZPS1967D is shown as 'GM533' against the last trade date of March 16, 2021 and in another entry, the UCC is shown as 'GM553' for the same client with same PAN and the only difference being the last trade date which is January 6, 2021. In view of the same, the observation in the inspection report that on one instance the *Noticee* had allotted two different UCC for one PAN is established. However, I note that this one instance could be on account of typo error.
55. Further, with respect to the allegation of mismatch of clients addresses, it was noted that for 90 clients there was mismatch in clients address and PAN details as per back office records of the *Noticee* and as per stock exchange records. The *Noticee* in its

submission before the DA had stated that all client addresses are same as per the Aadhar record of the clients, which can be cross verified with contract note. Further, the *Noticee* also submitted that its back office vendor is from West Bengal and due to error at their end, 'West Bengal' was reflected in the records of the addresses for all clients. The *Noticee* brought this error to the notice of the vendor and the same was rectified.

56. The DA noted that the *Noticee* had uploaded the requisite details, however, there was a system issue as regards the mismatch in the clients addresses which should be treated as at most a technical lapse and hence found that the violation cannot be established. In view of the findings above, the DA stated that the violation of Clause 2.B. iv. of SEBI circular no. CIR/MIRSD/15/2011 dated August 02, 2011 against the *Noticee* cannot be established.
57. With respect to the client address data pertaining to the 90 clients, under the column head 'client address state' incorrectly shows 'West Bengal'. The submission given by the *Noticee* as referred as para 55 above has been accepted by the DA. On perusal of the material placed before me, I note that the details of the address of the clients have been correctly captured in the individual columns where the break up of the address is reflected. However, in the column 'client address state', 'West Bengal' is reflected incorrectly for all clients.
58. Considering my findings at paras 54 and 57 above, I am inclined to give benefit to the *Noticee* and hold that the alleged violations of Clause 2.B. ii. and 2.B. iv. of SEBI circular no. CIR/MIRSD/15/2011 dated August 02, 2011 do not stand established against the *Noticee*.

VI. ANALYSIS OF RISK BASED SUPERVISION (RBS) DATA

59. During inspection, the RBS data was analysed and it was observed that the *Noticee* did not report loan balances of INR 45,73,253 as on March 31, 2021. The records as per inspection showed a loan balance of INR 45.73 lacs extended to 8 parties as on March 31, 2021 which was not reported by the *Noticee* to the stock exchanges. Therefore, it was alleged that the *Noticee* violated Clause 6.1.1.e of Annexure of SEBI circular no.SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.
60. As per the above provisions, a stock broker needs to submit data to stock exchanges with respect to RBS within the timeframe provided by stock exchanges. The violation of the above provision also applies in case the data submitted by the stock broker is incomplete or wrong.
61. The DA has noted that the evidence based on which the violation has been alleged is not supported by documents and the only document placed on record is a list having the names of eight entities and the loan amounts outstanding against their names as on March 31, 2021. The DA noted that the violation at para 59 cannot be established due to insufficient material on record to prove that the *Noticee* extended loans to eight entities.
62. I have perused the document based on which the DA had arrived at the findings as stated at para 61 above. I note that the only documentary proof placed on record in the inspection is the list which shows the name of the eight entities and the amount shown against them as closing balance as on March 31, 2021. There is no other evidence in the form of bank details or entries in the books of accounts. The document placed being insufficient evidence, I am inclined to agree with the DA and hold that the *Noticee* has not violated Clause 6.1.1.e of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2 /CIR/P/2016/95 dated September 26, 2016.

VII. CERTIFICATION REQUIREMENT

63. It was observed during inspection that, the associated person of the member was not having NISM series VII- Securities Operations and Risk Management Certification and therefore, it was alleged that the *Noticee* violated sub-clause (8) of clause B of Schedule II read with sub-regulation (f) of regulation 9 of the Stock Broker Regulations and regulation 3 of the SEBI (Certification of Associated Persons in the Securities Markets) Regulations, 2007.
64. The above provisions require the stock broker to have adequately trained staff. The registration granted to the stock broker is interalia subject to the stock broker to abide by the Code of Conduct as specified under Schedule II of the Stock Broker Regulations. In addition to this, the associated person employed/engaged by the stock broker requires to obtain the requisite certificate for being in employment or association with the stock broker.
65. It is alleged that associated persons employed by the *Noticee* were not having NISM series VII- Securities Operations and Risk Management Certification. The *Noticee* has contended before the DA that they had three staff members and one of them was having NISM certification, however due to Covid the certification for other staff could not be obtained. It is an accepted fact that the associated persons employed by the *Noticee* did not have the requisite certification as required under the provisions stated at para 63.
66. In view of the above, I agree with the DA and hold that the *Noticee* has violated sub-clause (8) of clause B of schedule II read with sub-regulation (f) of regulation 9 of the Stock Broker Regulations and regulation 3 of the SEBI (Certification of Associated Persons in the Securities Markets) Regulations, 2007.

VIII. MAINTENANCE OF CLIENT AND GENERAL LEDGER

67. On verification of trial balances and client ledgers, it was observed during inspection that the *Noticee* had not maintained client ledgers properly. The *Noticee* debited amounts from client's ledgers through Journal Voucher (JV). In some cases, in the narration the reason for such debits was cited as "Advanced brokerage" and in many cases there were no narrations and in many instances actual bank transactions were recorded as JVs. As per the trial balance as on 30-11-2021, value of creditors was Rs 0.40 crores, however, after reversing JVs entries in aforesaid manner, the revised creditors clients will be of INR0.56 crores. It was therefore, alleged that the *Noticee* violated sub-clause (2) and (5) of clause A of Code of Conduct for Stock Brokers under Schedule II, read with sub-regulation (f) of regulation 9 of the Stock Brokers Regulations and NSE circular no. NSE/INSP/38743 dated August 30, 2018.
68. The above provisions requires the stock broker to exercise due skill and care in the conduct of its business alongwith compliance with the statutory requirements. In addition to the same, the above referred NSE circular provides the formats in which the stock broker needs to maintain the register, holding statement, bank book, client ledger.
69. In reply to the above allegation, the *Noticee* stated that it had charged account opening fee of INR 1000/- for which JV entries were made in the client ledger. Secondly, the *Noticee* had charged advance brokerage which were later adjusted with the trades executed. Further, the *Noticee* was closing its business and therefore reversed the brokerage to client ledger and this is the difference in the amounts which were seen while carrying out the reversal of JV entries.
70. The DA found that it was mandatory for the *Noticee* to comply with the requirements as stated in Schedule II of the Code of Conduct for Stock Brokers. The NSE circular referred at para 67 above, provides specific formats in which the data pertaining to

register, holding statement, bank book, client ledger needs to be maintained by the *Noticee*. The submission made by the *Noticee* as stated at para 69 above, when perused alongwith the allegations against the *Noticee* makes it clear that the *Noticee* had not maintained the records as per the provisions of the Stock Broker Regulations and NSE circular dated August 30, 2018. Further, it is also noted that the *Noticee* did not provide any documentary evidence with respect to its submission stated at para 69 above. In view of the above, I agree with the DA and hold that the *Noticee* has violated Clause A (2) and A (5) of Code of Conduct for Stock Brokers under Schedule II, read with Regulation 9 (f) of the Stock Brokers Regulations and NSE circular no.NSE/INSP/38743 dated August 30, 2018.

IX. MAINTENANCE OF REGISTER OF SECURITIES (ROS), HOLDING STATEMENT, BANK BOOK AND CLIENT LEDGER IN THE PRESCRIBED STANDARD FORMAT

71. It was observed that the *Noticee* did not maintain holding statement, ROS, client ledger and bank book properly. Sample of the same is given below:
- Details like "Narration", "Settlement number", "Reference number" & "Purpose" etc. are not being recorded properly in Bank books.
 - In ledgers, details like "Transaction Type" and "Particulars/ Narrations" is missing in many instances.
 - In ROS "Purpose" is not being recorded.
 - In holding statement "Member Account Type" is not appearing.
72. It was therefore, alleged that the *Noticee* has violated sub-clause (2) and (5) of clause A of Code of Conduct for Stock Brokers under Schedule II, read with sub-regulation (f) of regulation 9 of the Stock Brokers Regulations and NSE circular no. NSE/INSP/39393 dated November 13, 2018.
73. The above provisions requires the stock broker to exercise due skill and care in the conduct of its business alongwith compliance with the statutory requirements. In

addition to the same, the above referred NSE circular provides the revised formats in which the register of securities, holding statement, bank book and client ledger needs to be maintained.

74. In reply to the above allegation, the *Noticee* stated that since it was not a member of depository, the format was not maintained and this resulted into non-compliance. The DA noted that the holding statement, ROS, client ledger, bank book maintained by the *Noticee*, lacked details as specified by NSE circular dated November 13, 2018 and hence found that the *Noticee* had committed the violation mentioned at para 72 above.
75. I note that, the maintenance of records in the prescribed format is to be done by the *Noticee* irrespective of the fact that the *Noticee* is a member with the depository or not. Based on the facts mentioned above, it is seen that the *Noticee* had failed to maintain the records as specified in the NSE circular dated November 13, 2018. Furthermore, the reply given by the *Noticee* also supports the fact that the *Noticee* had not complied with the NSE circular referred above. Considering this, I am in agreement with the DA and hold that the *Noticee* has violated sub-clause (2) and (5) of clause A of Code of Conduct for Stock Brokers under Schedule II, read with sub-regulation (f) of regulation 9 of the Stock Brokers Regulations and NSE circular no. NSE/INSP/39393 dated November 13, 2018.

X. DISPLAY OF CORRECT INFORMATION ON WEBSITE

76. During the inspection, it was verified whether the following details were displayed by the *Noticee* on its portal /web site:-
- its SEBI registration name,
 - own logo if any,
 - registration number,
 - its complete address with telephone numbers
 - an E-mail ID designated for Investor Complaints

- compliance officer name, his telephone number and e-mail address where applicable.

77. It was observed that *Noticee* did not display correct details of its address and compliance officer on its website. Therefore, it was alleged that the *Noticee* violated Clause 2 of SEBI circular no. Cir/MIRSD/ 9/2010 dated November 4, 2010.

78. The above provision requires the stock broker to display its name, logo, registration number, address, telephone numbers etc. on its website. It was noted that the *Noticee* in its submissions accepted the above violation. Further, the factual findings prove that the *Noticee* was non-compliant with respect to the parameters required to be displayed on its website. The DA found that the *Noticee* had violated the provision referred at para 77 above.

79. There is no disagreement on the facts stated above that the *Noticee* needs to be compliant with the provisions referred at para 77 above, however, it failed to comply with the same. In view of the above, I agree with the findings of the DA and hold that the *Noticee* has violated clause 2 of SEBI circular no. Cir/MIRSD/ 9/2010 dated November 4, 2010.

XI. RECORD OF ORDER PLACEMENT

80. SEBI vide circular no. CIR/H0/MIRSD/MIRSD2/CIR/P/2017/I08 dated September 26, 2017 mandated that all brokers shall execute trades of clients only after keeping evidence of the client placing such order, which could be, inter alia, in the form of physical record written & signed by client, telephone recording, etc. During the course of inspection, the contract notes and call recording data of the *Noticee* was analysed and the following was observed:

Table No.4

S. No	DATE	UCC	Mode	Comments
1	07/08/2020	GM588	Call recording	Client name Shobha Khera, however, a male voice is placing order. Order placed for UCC 588 and not GM588.
2	07/08/2020	LK008	Call recording	Recording matches with contract note
3	07/08/2020	PU003	No record available	
4	13/08/2020	GM016		
5	13/08/2020	GM105	broker submitted client came to office and put trade	Visitor register for the entire inspection period is blank, hence the submission is unacceptable.
6	13/08/2020	GM608	No record available	
7	13/08/2020	LK035		
8	13/08/2020	SP001		
9	20/08/2020	GM613	order book	Since the order book mentions order number which matches with contract note, the same appears to be post trade intimation/confirmation
10	20/08/2020	RP001		
11	20/08/2020	RP002		
12	20/08/2020	RP003		
13	26/08/2020	RP010		
14	26/08/2020	RP011		
15	26/08/2020	RP014		
16	26/08/2020	RP013	No record available	
17	26/08/2020	RP019		
18	26/08/2020	RP028		
19	26/08/2020	RP030		
20	26/08/2020	RP030		

81. Based on the findings in the aforesaid table, it was alleged that the *Noticee* violated Clause III of the SEBI circular no. SEBI/HO/MIRSD/DOP1/CIR/P/2018/54 dated March 22, 2018.
82. As per the above provisions, every stock broker mandatorily requires to keep evidence of its clients placing order which would be a physical record, telephone log record, emails, log for internet transactions, records of message on mobile phones or any other legally verifiable record.

83. As seen from the table no. 4 above, out of the total 20 sample instances analysed, it is observed that only in one instance the recordings provided by the *Noticee* is seen to be as per the specified parameters. In another instance, the *Noticee* has submitted that it is the client's husband who picked the call on the client's behalf. For the remaining 18 instances the *Noticee* has failed to provide the recordings as per the requisite requirements. The *Noticee* in its reply has admitted to not having records as required to be in terms of the aforesaid circular.
84. In view of the above, the DA found that the *Noticee* has violated the alleged provisions of the above referred SEBI circular dated September 26, 2016. Further, as the *Noticee* has not made any further submissions in contention of the allegations referred at para 81 above, I am in agreement with the findings of the DA and hold that the *Noticee* has violated Clause III of the SEBI circular no. SEBI/HO/MIRSD/DOP1/CIR/P/2018/54 dated March 22, 2018.

XII. SEGREGATION OF CLIENTS FUNDS AND SECURITIES

85. It was observed that the *Noticee* paid & received fund from/ in its settlement account and client account from non-client entities. In net INR 0.43 lacs were received in settlement account. It was observed that the *Noticee* transferred fund of clients from settlement bank accounts to own bank accounts. In net, the *Noticee* transferred INR 11.42 lacs from its own account to settlement account. The *Noticee* paid/received a total fund of INR 145.17 Lakh in this account through such transactions.
86. Therefore, it was alleged that the *Noticee* violated:
- Clause 1 of Annexure of SEBI circular no.SMD/SED/CIR/93/23321 dated November 18,1993,
 - Clause 2.4.2 of Annexure of SEBI circular no.SEBI/H0/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 and
 - Rule 8(1)(f) and Rule 8(3)(f) of SC(R) Rules, 1957.

87. Provisions of the aforesaid SEBI circulars mandate that the stock broker to have separate account for keeping the money of its clients and its own money. It also provides the factors under which such transfers are allowed. Further, the provisions also provide the parameters within which the transfer of funds between the broker account and the clients account is permissible and the subsequent requirement to maintain daily reconciliation statement indicating the funds transferred under such transactions. Clause (f) of sub-rule (1) and (3) of rule 8 of SCRR, applies for engaging as Principal in business other than that of securities involving personal financial liability.
88. It is seen from the inspection report that the *Noticee* paid & received funds from/in its settlement account and client account from non- client entities. INR 0.43 lacs in net have been received in the settlement account maintained by the *Noticee*. It was also observed that the *Noticee* transferred an amount of INR 11.42 lacs in net of client's funds from client settlement bank accounts to its own bank accounts. Further, the *Noticee* paid/received a total fund of INR 145.17 Lakh in its own account from various parties who were entities other than its clients. It is noted that the *Noticee* has not given any specific reply contending this allegation and has accepted the violation.
89. I have perused the facts in the inspection report alongwith the findings of the DA. I note that the *Noticee* has not disputed the allegations levelled against it. I also note that the *Noticee* has accepted the violations before the DA and even in its reply submitted before me, the *Noticee* reiterated its acceptance of violations.
90. In view of the above, I am in agreement with the findings of the DA and hold that the *Noticee* has violated Clause 1 of Annexure of SEBI circular no.SMD/SED/CIR/93/23321 dated November 18,1993; Clause 2.4.2 of Annexure of SEBI Circular

SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 and Rule 8(1)(f) and Rule 8(3)(f) of SC(R) Rules, 1957.

XIII. NET WORTH VERIFICATION

91. It was observed that the *Noticee* did not submit the correct value of free reserve, fixed assets, doubtful debts and prepaid expenses while calculating its Networth. As on September 30, 2021, net worth submitted by the *Noticee* to the Exchange was INR 1.03 Crore. However, revised net worth after considering actual values under various heads was INR 0.57 Crore. The revised net worth was not in compliance with the net worth requirement of the *Noticee*.
92. It was therefore, alleged that the *Noticee* violated Clause 6.1.1(i) & 6.1.1 (j) of Annexure of SEBI circular no. SEBLHO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 and sub-regulation (g) of regulation 9 of the Stock Broker Regulations read with NSE circular no. NSE/COMP/47873 dated April 02, 2021.
93. In terms of sub-regulation (g) of regulation 9 of the Stock Broker Regulations, a Stock Broker is required to maintain the minimum networth as per the specified criteria. Further, the provisions of the above referred SEBI circular dated September 26, 2016 provides that, if at any point of time its networth is negative or below 75% of the requirement or when the broker submits incomplete/ wrong data or fails to submit data on time, the standard operating procedure envisages action to be taken by the stock exchanges.
94. It is seen that the *Noticee* while calculating its networth, did not take into account the correct value of free reserve, fixed assets, doubtful debts and prepaid expenses and hence as on September 30, 2021 the net worth submitted by the *Noticee* to the Exchange was INR 1.03 Crore. However, after considering actual values under various heads the revised net worth was INR 0.57 Crore. The actual value arrived at

shows that the *Noticee* was not in compliance with the net worth requirement as provided under provisions mentioned at para 92 above.

95. The *Noticee* did not make any submissions in respect of the alleged violations referred above and had in fact accepted the violations. The DA found that the *Noticee* has violated the allegations stated against it as mentioned at para 92 above.
96. Considering the above, I see no reason to differ with the findings of the DA as there are no contentions from the *Noticee* on these violations. In the absence of any additional documents in reply to the allegations I hold that the *Noticee* has violated Clause 6.1.1(i) & 6.1.1 (j) of Annexure of SEBI circular no. SEBLHO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 and sub-regulation (g) of regulation 9 of the Stock Broker Regulations read with NSE circular no. NSE/COMP/47873 dated April 02, 2021.

E. CONCLUSION

97. In view of my above stated findings, I hold that the *Noticee* has violated the following provisions:
- a) Mis-Utilisation of Clients' Funds: clause 1 of SEBI circular no.SMD/SED/CIR/93/23321 dated November 18,1993 and clause 3 of Annexure of SEBI circular no. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016;
- b) Quarterly/Monthly Settlement of Funds/Securities of Clients: clauses 8.1.1 and 8.1.4 of Annexure to SEBI circular no.SEBI/HO/MIRSD/M1RSD2/CIR/P/2016 /95 dated September 26, 2016 and clause12.e. of Annexure-A of SEBI circular no. SEBI/MIRSD/SE/Cir-19/2009 dated December 03, 2009;

- c) Client Registration Process (KYC and KRA Process): clause 4 of SEBI circular no. MRD/DoP/Dep/SE/Cir-22/06 dated December 18, 2006, clause 3. ii. of SEBI circular no. MIRSD/Cir-26/2011 dated December 23, 2011, clause 7 of SEBI circular no. CIR'HO/MIRSD/DOP/CIR/P/2019/75 dated June 20, 2019, Annexure 1 and Annexure 3 of SEBI circular no. CIR/MIRSD/16/2011 dated August 22, 2011;
- d) Enhanced Supervision of Stock Broker: clause 3. 2 of Annexure of SEBI circular no. SEBI/HO/MIRSD /MIRSD2/CIR/P/2016/95 dated September 26, 2016;
- e) Certification Requirement: clause B(8) of schedule II read with sub-regulation (f) of regulation 9 of SEBI (Stock Broker) Regulations, 1992 (hereinafter referred to as "Stock Broker Regulations") and regulation 3 of the SEBI (Certification of Associated Persons in the Securities Markets) Regulations, 2007;
- f) Maintenance of Client and General Ledger: clause A (2) and A (5) of Code of Conduct for Stock Brokers under Schedule II, read with sub-regulation (f) of regulation 9 of Stock Broker Regulations and NSE circular no. NSE/INSP/38743 dated August 30, 2018;
- g) Maintenance of Register of Securities, Holding Statement, Bank Book and Client Ledger in the Prescribed Standard Format : clause A (2) and A (5) of Code of Conduct for Stock Brokers under Schedule II, read with sub-regulation (f) of regulation 9 of Stock Broker Regulations and NSE circular no. NSE/INSP/39393 dated November 13, 2018;
- h) Display of Correct Information on Website : clause 2 of SEBI circular no. Cir/MIRSD/ 9 /2010 dated November 4, 2010;

- i) Record of Order Placement: clause III of SEBI circular no. SEBI/HO/MIRSD/DOP1/CIR/P/2018/54 dated March 22, 2018;
- j) Segregation of Clients Funds and Securities: clause 1 of Annexure of SEBI circular no. SMD/SED/CIR/93/23321 dated November 18, 1993; clause 2.4.2 of Annexure of SEBI Circular no. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 and clause (f) of sub-rule (1) of rule 8 and clause(f) of sub-rule (3) of rule 8 of SCRR;
- k) Net Worth Verification: clause 6.1.I(i) & 6.1.I(j) of Annexure of SEBI circular no. SEBI/HO/MIRSD/ MIRSD2CIR/P/2016/95 dated September 26, 2016 and sub-regulation (g) of regulation 9 of Stock Broker Regulations read with NSE circular no. NSE/COMP/47873 dated April 02, 2021.

98. For the reasons mentioned in the preceding paragraphs, I find that the *Noticee* has violated the provisions of law as mentioned at paragraph 97 above. I note that according to the DA, the *Noticee* has violated majority of the provisions as alleged in the SCN as given at para 4 above. I also note that an adjudication order dated May 31, 2024 has been passed against the *Noticee* alongwith its Directors with respect to identical allegations arising out of the same inspection, wherein a penalty of INR 12 Lakh has been imposed jointly and severally on the *Noticee* alongwith its Directors. With respect to the above adjudication order, the *Noticee* alongwith its Directors has filed an appeal before the Honb'le Securities Appellate Tribunal (**Hon'ble SAT**). As per the directions of Hon'ble SAT, the *Noticee* and its Directors has deposited an amount of INR 5 lacs. It is true that Enquiry and Adjudication proceedings are separate and independent of each other. Even if penalty is imposed, direction under sub-section (3) of section 12 of the SEBI Act can also be passed. However, I am of the view that direction has to be in proportion to the gravity of the violation. For technical/procedural violations of minor nature, adjudicating proceeding may be taken

as sufficient enforcement action. However, it is seen that there are certain violations like mis-utilization of clients' fund and Quarterly/Monthly settlement of funds/securities of clients which cannot be considered as technical violations of minor nature. It is also noted that sub-regulation(1) of regulation 27 of the Intermediaries Regulations allows the Competent Authority to take action other than recommended by DA.

99. In addition to the above and as already stated in the preceding paragraphs, NSE had confirmed that the *Noticee* has settled the outstanding dues and the Investor Service Centre admissible claims with respect to its clients for the inspection period in the instant matter. Further, as on date, I note that there are no complaints pending against the *Noticee* on SEBI Complaints Redressal System (SCORES). This can be taken as the mitigating factor.
100. Having regard to the facts and circumstances of the instant proceeding, I do not agree with the recommendation of the DA for suspension of certificate of registration of the *Noticee* for a period of six months. In my view, in terms of clause (iv) of sub-regulation (1) of regulation 26 of the Intermediaries Regulations prohibition to the *Noticee* from taking up any new assignment i.e. new clients for a period of two months from the date of this order would commensurate with the violations committed by it and the same would meet the ends of justice, on account of the following mitigating facts:-
- (i) NSE has confirmed that the *Noticee* has settled the outstanding dues and the Investor Service Centre admissible claims with respect to its clients for the inspection period in the instant matter.
 - (ii) No investor complaints are pending against the *Noticee* on SEBI Complaints Redressal System (SCORES).
101. I note that in terms of sub-regulation (5) of regulation 27 of the Intermediaries Regulations, after considering the facts and circumstances of the case, material on

record and the written submissions made by the *Noticee*, it would be endeavoured to pass the order in 120 days from the date of receipt of the submissions or personal hearing, whichever is later. Further, in terms of section 19 of the SEBI Act, 1992, the power to pass such order has been delegated to Whole Time Members of the Board.

102. In the present case, the written submissions on behalf of the *Noticee* were filed on October 7, 2024 and the present order is being passed within 120 days of receipt of said written submissions.

F. ORDER

103. I, in exercise of the powers conferred upon me under sub-section 3 of section 12 and section 19 of the SEBI Act, 1992 read with sub-regulation 5 of regulation 27 of the Intermediaries Regulations, hereby issue that the *Noticee* is prohibited from taking up new assignment i.e. new clients for a period of two months from the date of this order.
104. A copy of this order shall be forwarded to Krisha Incap Services Private Limited and all the Recognized Stock Exchanges to ensure necessary compliances.
105. This order shall come into effect with immediate effect.

Sd/-

DATE: December 02, 2024

PLACE: MUMBAI

KAMLESH C. VARSHNEY

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA