BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. Order/NH/YK/2023-24/30191]

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

In respect of:

Noticee	**PAN**
Fyers Securities Private Limited	AADCF5513D

In the matter of Fyers Securities Private Limited

FACTS OF THE CASE

1. Fyers Securities Private Limited (hereinafter referred to as "**Noticee/Fyers**") has been registered with Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") as Registered Stock Brokers in Equity Segment, Equity Derivative Segment, Currency Derivative Segment, Commodity Derivative Segment and Interest Rate Derivative Segment since August 06, 2015. The registration number of Noticee is INZ000008524. SEBI conducted an inspection of Noticee on September 15, 2023 for the period April 01, 2022 to July 31, 2023 (hereinafter referred to as "**Inspection period/IP**").

2. Post the culmination of the aforesaid inspection, an inspection report (hereinafter referred to as '**IR'**) was prepared. The findings of the said inspection were communicated to the Noticee vide e-mail dated November 14, 2023. In response to the findings in the inspection report, Noticee submitted a reply vide e-mail dated November 23, 2023. After the receipt of the Noticee's reply to the Inspection Report, a Post Inspection Analysis report (hereinafter referred to as '**PIA'**) was prepared.

3. Based on the findings of Inspection conducted by SEBI and the response of the Noticee dated November 23, 2023 submitted to SEBI, certain alleged non-

compliances of Circulars issued by SEBI and National Stock Exchange of India Ltd. (hereinafter referred to as **"NSE"**) were observed. The extracts of the violations alleged to have been committed by the Noticee and corresponding provision of the securities law are given in the table below:

Table 1

Sr. No.	Alleged Violations	Regulatory Provisions
1.	In 16 instances, same e-mail IDs and mobile numbers were mapped to multiple Unique Client Code (hereinafter referred to as "**UCC**").	Clause 33.2.4 of SEBI Master Circular for Stock Brokers SEBI/HO/MIRSD/ MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023 (hereinafter referred to as "**SEBI Circular dated May 17, 2023**") read with Clause 2.B.iv of SEBI Circular No. CIR/MIRSD/15/2011 dated August 02, 2011 (hereinafter referred to as "**SEBI Circular dated August 02, 2011**").
2.	In case of 88 instances, discrepancies were observed with respect to mobile number in the UCC details updated with Stock Exchange.	Clause 33.2.2 of SEBI Circular dated May 17, 2023 read with Clause 2.B.ii of SEBI Circular dated August 02, 2011.
3.	While onboarding online clients, clients were not given option for running account settlement, option to select Politically Exposed Persons (**PEP**), option to provide details of	Clause 20 and Clause 22.1.1 of SEBI Circular dated May 17, 2023 read with SEBI Circular CIR/MIRSD/16/2011 dated August 22, 2011 (hereinafter referred to as

	dealing with any other sub-broker/stock broker, option for providing details of any past action taken by SEBI/Stock Exchanges, option of Demat Debit and Pledge Instruction (**DDPI**)/ Electronic Delivery Instruction Slip (**EDIS**), DDPI is not indexed as part of voluntary documents, Client's signature is auto populated in Equity segment across BSE and NSE and Mutual Fund Segment across BSE.	"**SEBI Circular dated August 22, 2011**") and Clause 12 of Annexure A to SEBI Circular MIRSD/SE/Cir-19/2009 dated December 03, 2009 (hereinafter referred to as "**SEBI Circular dated December 03, 2009**").
4.	Noticee running client inducement contest/challenge (FYERS 30 days' challenge) without taking approval from Exchange under Advertisement Code.	SEBI Circular SMDRP/POLICY/CIR-49/2001 dated October 22, 2001 (hereinafter referred to as "**SEBI Circular dated October 22, 2001**") read with Clause 75.1 of SEBI Circular dated May 17, 2023 read with Para 1.1 and 1.5 of Annexure I to NSE Circular NSE/Comp/33643 dated November 16, 2016 (hereinafter referred to as "**NSE Circular dated November 16, 2016**").

APPOINTMENT OF ADJUDICATING OFFICER

4. SEBI had appointed the undersigned as the Adjudicating Officer (hereinafter referred to as ''**AO**'') in the matter vide communique dated February 02, 2024 under Section 15-I of the SEBI Act read with Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as **"Adjudication Rules"**),

to inquire into and adjudge under the provisions of the Section 15HB of the SEBI Act for the aforementioned violations of the provisions of law alleged to have been committed by the Noticee.

SHOW CAUSE NOTICE, REPLY AND HEARING

5. Show Cause Notice ref no. SEBI/EAD-2/NH/YK/6904/2024 dated February 21, 2024 (hereinafter referred to as **'SCN/Notice'**) was served upon the Noticee in terms of Rule 4 of the Adjudication Rules read with Section 15-I of the SEBI Act to show cause as to why an inquiry should not be held against the Noticee and why penalty, if any, not be imposed on it in terms of the provisions of the Section 15HB of the SEBI Act for the violations alleged to have been committed by the Noticee.

6. The SCN dated February 21, 2024, *inter alia*, alleged the following:

"Common Mobile Number and Email ID linked to multiple UCC and discrepancies with respect to Unique Client Code details:

- *From the client master data as submitted by Noticee, it was observed that:*
    - *In case of 16 instances, same Email IDs and Mobile Numbers were linked to multiple Unique Client Code (hereinafter referred to as "**UCC**").*
    - *In case of 88 instances, discrepancies were observed with respect to mobile number in the UCC details available with NSE and the UCC details in the client master data as submitted by the Noticee.*

- *It was observed that Noticee vide email dated November 23, 2023 submitted its reply to the aforesaid findings in the IR/PIA. Noticee's submission and the violations alleged in PIA in regard to aforesaid findings are as under:*
    - *Regarding the observations of 16 instances wherein same Email IDs and Mobile Numbers were linked to multiple UCC, Noticee submitted remarks such as minor account, account closed, etc. However, it is alleged that Noticee failed to provide any substantiating evidences in this regard. In view of the same, it is alleged that reply of the Noticee cannot be accepted*

in this regard. Therefore, it is alleged that the provisions of Clause 33.2.4 of SEBI Circular dated May 17, 2023 read with Clause 2.B.iv of SEBI Circular dated August 02, 2011 were not complied by the Noticee during the IP.

- *Regarding the observations of 88 instances wherein discrepancies were observed with respect to mobile number in the UCC details available with NSE and the UCC details in the client master data as submitted by the Noticee, Noticee submitted that they have updated correct records in exchange database. However, it is alleged that the violation persisted during IP and thereby it is alleged that provisions of Clause 33.2.2 of SEBI Circular dated May 17, 2023 read with Clause 2.B.ii of SEBI Circular dated August 02, 2011 were not complied by the Noticee during the IP.*

<u>Know Your Customer (KYC) verification, Client onboarding process:</u>

- *It was observed that on verification of the client's registration documents and client onboarding process of the Noticee for online clients, the following findings were made:*
  - *Client is not given the option separately to give consent for running account settlement during onboarding process and the option of quarterly settlement is selected by default.*
  - *Client is not given the option to choose for Politically Exposed Persons (**PEP**). It is automatically selected as "No".*
  - *Client is not given the option to provide details of dealing with any other sub- broker/stock broker in case of multiple stock brokers in Account opening form. It automatically appears as Not Applicable.*
  - *Client is not given the option to provide details of any action/proceedings initiated /pending taken by SEBI/stock exchanges in Account opening form. It automatically appears as Not Applicable.*
  - *Client's signature is auto populated in Equity segment across BSE and NSE and in Mutual Funds segment across BSE.*

- *Demat Debit and Pledge Instruction (**DDPI**) is not indexed as part of Voluntary documents.*
- *Client is not given option of DDPI/Electronic Delivery Instruction Slip (**EDIS**), EDIS option is selected by default.*

- *It was observed that Noticee vide email dated November 23, 2023 had inter-alia stated as under in respect of aforesaid findings in the IR/PIA:*
  "As per the observations, we have initiated the development for the required changes in the Account opening form."

- *In view of the aforesaid, it is alleged that the provisions of Clause 20 and Clause 22.1.1 of SEBI Circular dated May 17, 2023 read with SEBI Circular dated August 22, 2011 and Clause 12 of Annexure A to SEBI Circular dated December 03, 2009 were not complied by the Noticee during the IP.*

Client Inducement through running a contest/challenge without approval from Exchange under Advertisement Code

- *From the data received from Noticee and data available on Noticee's website (https://fyers.in/blog/fyers-30-day-challenge-5th-anniversary-updates.html, https://fyers.in/notice-board/discontinuation-of-30-day-challenge-w-e-f-23rd-january-2023.html), it was observed that Noticee was running a 30 days challenge programme during IP. In regard to the said challenge, following observations are made:*
  - *Fyers 30 days' challenge programme was launched in 2017 in Equity Intraday segment, Futures & Options (**F&O**) segment, Multi Commodity Exchange (**MCX**) segment, and Currency derivative segments (**CDS**). Under this challenge/contest, if a client is in net profits after accounting for brokerage charged and all the transaction costs for a period of 30 trading days, the brokerage charges incurred during the period will be refunded up to a limit of Rs. 10,000 per challenge.*

- *From November, 2022, Fyers had revised the policy for the said programme. Under the new policy, they had created badge of honors and levels to be assigned to clients based on the minimum profit earned by them. For example - if a client is winning for the first time, then his brokerage refund will be up to Rs. 1,000, and will receive a 'Rookie' Badge of Honor. The more consecutive challenges a client wins, the brokerage refund would be higher. Upon winning the 11th challenge in a row, client will retain the 'Legend' Badge of Honor and receive a brokerage refund of up to Rs. 10,000.*
- *During the period April 01, 2022 to March 31, 2023, Noticee had generated a total brokerage amount of Rs. 6.37 crores and the brokerage amount after deducting the brokerage refunded under the said programme for the period April 01, 2022 to March 31, 2023 is Rs. 2.78 Crores.*

- *It was further observed that Noticee had not taken any approval for the advertisement for the said contest from Exchange and the same was confirmed by NSE vide email dated November 08, 2023.*

- *It was observed that Noticee vide email dated November 23, 2023 had inter-alia stated as under in respect of aforesaid findings in the IR/PIA:*
  "As per the Exchange/SEBI Guidelines, FYERS 30 Day Challenge have discontinued with effect from 23rd January 2023 and same information was published in FYERS notice board."

- *It is alleged that by offering competitions/schemes/ leagues, clients of Noticee were subject to trade inducement and also it can sometimes tempt users into impulsive or risky trading behavior because of the allurement of rewards and instant gratification. It is further alleged that rewards are offered only if clients traded continuously for 30 days thereby inducing the clients to trade irrespective of the volatility of the market. Hence, it is alleged that by running the 30 days winning streak challenge Noticee is inducing clients for trading activities.*

- *In view of the aforesaid, it is alleged that the provisions of SEBI Circular dated October 22, 2001 read with Clause 75.1 of SEBI Circular dated May 17, 2023 were not complied by the Noticee during the IP. It is also alleged that Noticee has not complied with the provisions of Para 1.1 and 1.5 of Annexure I to NSE Circular dated November 16, 2016 during the IP."*

7. The SCN along with annexures was served upon the Noticee in the following manner as mentioned below:

Table 2

Sr. No.	**Mode of Delivery of SCN**	**Addresses/ E-mail IDs***	**Remarks**
1.	Digitally signed SCN delivered through E-mail	*Co........@fyers.in*	Digitally Signed SCN duly delivered on February 21, 2024
2.	Delivered through Speed Post with Acknowledgment Due	*901…..560 092.*	Delivered on February 26, 2024 as per the consignment tracking on India Post.

**E-mail ID and address excised for confidentiality*

8. The Noticee was advised to submit its reply to SCN, if any, within 14 days from the date of receipt of the SCN. However, it was noted that Noticee had not submitted its reply to the SCN until March 11, 2024. In the interest of natural justice, vide letter dated March 12, 2024, Noticee was advised to submit its reply to SCN, if any, latest by March 18, 2024.

REPLY OF THE NOTICEE

6. Vide e-mails dated March 12, 2024 and March 13, 2024, Noticee made the following major submissions in its replies to the SCN which have been reproduced in *verbatim:*

6.1. Charge - In case of 16 instances, same Email IDs and Mobile Numbers were mapped to multiple UCC.

FYERS Clarification – Guardian E-mail ID is mapped since it's a minor account, Single UCC is created and multiple Bank's are mapped to this UCC, Guardian Account, Account closed, Director opened an Individual account and mapped same email id, LLP account opened and mapped same email id, Individual account is opened and mapped same email id, HUF account is opened and mapped same email id, Father UCC account, Mother UCC account.

6.2. Charge - In case of 88 instances, discrepancies were observed with respect to mobile number in the UCC details available with NSE and the UCC details in the client master data as submitted by the Noticee.

FYERS Clarification - We have updated the correct records in Exchange database.

6.3.

Client On-boarding Process Observations	***FYERS Response***
Clients were not given option for running account settlement.	*Yes, we're currently in the development phase.*
Option to select PEP,	*Yes, Available. Client's need to confirm while onboarding time. Please see screenshot for reference."*
Option to provide details of dealing with any other sub-broker/stock broker,	*We are in discussion with the Exchanges for our clarification.*
Option for providing details of any past action taken by SEBI/Stock Exchanges,	*Yes, we're currently in the development phase.*
Option of DDPI/EDIS,	*We understand that the world is increasingly digital, which is why we offer EDIS services to our clients. However, for those who prefer offline processes, we also provide the option of the DDPI process.*
DDPI is not indexed as part of voluntary documents,	*Yes, we're currently in the development phase.*
Client's signature is auto populated in Equity segment across BSE and NSE and Mutual Fund Segment across BSE.	*It's essential to have both a Demat and Trading account by the client's for smooth operations and to fulfill their obligations. Therefore, these adjustments are made during the onboarding process.*

6.4. *Charge – Noticee running client inducement contest/challenge (FYERS 30 day Challenge) without approval from Exchange under Advertisement code.*

FYERS Clarification – We never encouraged clients to trade; instead, our aim was to raise awareness among traders. Our 30 day challenge served as a space for traders to enrich their understanding and skills in trading. It wasn't about pitting traders against each other but rather offering an opportunity for individuals to refine their own strategies. Despite this, we decided to discontinue the 30-day challenge in January 2023.

HEARING

7. In consonance with the Adjudication Rules, an opportunity of hearing on March 19, 2024 was granted to the Noticee vide hearing notice dated March 12, 2024. The Noticee vide e-mail dated March 12, 2024 acknowledged the receipt of hearing notice. On the scheduled date of personal hearing, the Noticee appeared through its Authorized Representative (AR) who reiterated the submissions made by the Noticee vide e-mails dated March 12, 2024 & March 13, 2024. During the hearing, AR also requested for two days additional time to make further submissions in the matter which was acceded to and Noticee was advised to file its additional submissions, if any, latest by March 21, 2024.

8. Noticee, vide e-mail dated March 21, 2024, submitted certain screenshots mentioning that they were related to updation of records in Exchange database and in continuation of screenshots already submitted.

9. It is noted that the SCN along with the annexures and the Hearing Notice were duly served on the Noticee. The Noticee was granted sufficient opportunities to make submissions in reply to the SCN and of personal hearing. Thus, the principles of natural justice were adhered to.

CONSIDERATION OF ISSUES

10. I have carefully perused the charges levelled against the Noticee in the SCN, its replies and the material/documents available on record. In the instant matter, the following issues arise for consideration and determination: -

I. Whether Noticee has violated provisions of securities law by not complying with regulatory provisions regarding:

a. Common Mobile Number and Email ID linked to multiple UCC, in 16 instances.

b. Discrepancies with respect to Mobile Number in the UCC details updated to Stock Exchange, in 88 instances.

c. Client's registration documents and client onboarding process of the Noticee for online clients.

d. Client inducement through running a contest/challenge without approval from Exchange under Advertisement Code.

II. Does the violation, if any, on the part of the Noticee attract monetary penalty under Section 15HB of SEBI Act?

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

11. Before proceeding further, it is pertinent to refer the relevant provisions of law, allegedly violated by the Noticee. The same are reproduced hereunder:

SEBI Circular dated May 17, 2023

20. Simplification and Rationalization of Trading Account Opening Process

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

The details of such documents are listed below:

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

20.1.2 Client Account Opening Form in two parts:

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

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

20.1.2.2 Document capturing additional information about the client related to trading account: <u>Annexure-8</u>

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

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

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

20.2. In the account opening process, the stock brokers / trading members would also give the following useful information to the clients:

20.2.1 A tariff sheet specifying various charges, including brokerage, payable by the client to avoid any disputes at a later date.

20.2.2 Information on contact details of senior officials within the stock broking firm and investor grievance cell in the Stock Exchange, so that the client can approach them in case of any grievance.

20.3.It may be noted that any voluntary clause / document added by the stock brokers shall form part of the non-mandatory documents. The stock broker shall ensure that any voluntary clause/document shall neither dilute the responsibility of the stock broker nor it shall be in conflict with any of the clauses in the mandatory documents, Rules, Bye-laws, Regulations, Notices, Guidelines and Circulars issued by SEBI and the Stock

Exchanges from time to time. Any such clause introduced in the existing as well as new documents shall stand null and void.

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

20.5.In case the stock broker is also a depository participant, he can use the same KYC form (as specified at para 20.1.2.1 above) for basic details and take additional information pertaining to demat account.

20.6.Stock Broker shall make available these standard documents to the clients, either in electronic or physical form, depending upon the preference of the client as part of account opening kit. The preference of the client shall be sought as part of the account opening form. In case the documents are made available in electronic form, stock broker shall maintain logs of the same.

20.7.Stock Exchanges / stock brokers shall continue to make the documents mentioned in para 20.1.3 to 20.1.5 above, available on their website and keep the clients informed about the same.

20.8.Further, with a view to bring about uniformity in securities markets, the KYC form at para 20.1.2.1 above and supporting documents shall also be used by Depository Participants, Mutual Funds, Portfolio Managers, Collective Investment Schemes and Venture Capital Funds. The KYC form shall be filled by an investor at the account opening stage while dealing with any of the above intermediaries. Additional details specific to the area of activity of the intermediary being obtained now but not covered in the KYC form shall also be obtained from the investors in Part II of the account opening form.

22. Requirements relating to dealings between a Client and a Stock Broker (Trading Members included)

22.1. Running Account Authorization

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

a. The authorization shall be signed by the client only and not by any authorised person on his behalf or any holder of the Power of Attorney.

b. The authorisation shall be dated and shall contain a clause that the clients may revoke the authorisation at any time. The stock brokers, while sending periodical statement of accounts to the clients, shall mention therein that their running account authorisation would continue until it is revoked by the clients.

c. The settlement of running account of funds of the client shall be done by the TM after considering the End of the day (EOD) obligation of funds as on the date of settlement across all the Exchanges on first Friday of the Quarter (i.e., Apr-Jun, Jul-Sep, Oct-Dec, Jan–Mar) for all the clients i.e., the running account of funds shall be settled on first Friday of October 2022, January 2023, April 2023, July 2023 and so on for all the clients. If first Friday is a trading holiday, then such settlement shall happen on the previous trading day.

d. For clients, who have opted for Monthly settlement, running account shall be settled on first Friday of every month. If first Friday is a trading holiday, then such settlement shall happen on the previous trading day.

e. Once the TM settles the running account of funds of a client, an intimation shall be sent to the client by SMS on mobile number and also by email. The intimation should also include details about the transfer of funds (in case of electronic transfer – transaction number and date; in case of physical payment instruments – instrument number and date). TM shall send the retention statement along with the statement of running accounts to the clients as per the existing provisions within five working days.

f. Client shall bring any dispute on the statement of running account, to the notice of TM within thirty working days from the date of the statement.

g. Such periodic settlement of running account may not be necessary:

i. for clients availing margin trading facility as per SEBI circular.

ii. for funds received from the clients towards collaterals/margin in the form of bank guarantee (BG)/Fixed Deposit receipts (FDR).

h. The stock broker shall transfer the funds / securities lying in the credit of the client within one working day of the request if the same are lying with him and within three working days from the request if the same are lying with the Clearing Member/Clearing Corporation.

i. There shall be no inter-client adjustments for the purpose of settlement of the 'running account'.

j. These conditions shall not apply to institutional clients settling trades through custodians. The existing practice may continue for them.

33. SMS and E-mail alerts to investors by Stock Exchanges

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

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

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33.2.4 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.

75. Advertisement by Brokers and grant of trading terminals

75.1 The Stock Exchanges shall ensure that brokers do not issue advertisements of their business, including in their internet sites, by subsidiaries, group companies etc. in *contravention to Clause C(4) and C(5) of the Code of Conduct specified in Schedule II of Regulation 9 of the Stock Brokers Regulations 1992 and Bye Laws of the concerned Stock Exchange.*

SEBI Circular 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:

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

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

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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 dated August 22, 2011

https://www.sebi.gov.in/legal/circulars/aug-2011/simplification-and-rationalization-of-trading-account-opening-process_20483.html

SEBI Circular dated December 03, 2009

Annexure -A

Requirements relating to dealings between a Client and Stock Broker

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:

a. The authorization shall be renewed at least once a year and shall be dated.

b. The authorization shall be signed by the client only and not by any authorised person on his behalf or any holder of the Power of Attorney.

c. The authorization shall contain a clause that the Client may revoke the authorization at any time.

d. For the clients having outstanding obligations on the settlement date, the stock broker may retain the requisite securities/funds towards such obligations and may also retain the funds expected to be required to meet margin obligations for next 5 trading days, calculated in the manner specified by the exchanges.

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.

f. The client shall bring any dispute arising from the statement of account or settlement so made to the notice of the broker preferably within 7 working days from the date of receipt of funds/securities or statement, as the case may be.

g. Such periodic settlement of running account may not be necessary:

i. for clients availing margin trading facility as per SEBI circular

ii. for funds received from the clients towards collaterals/margin in the form of bank guarantee (BG)/Fixed Deposit receipts (FDR).

h. The stock broker shall transfer the funds / securities lying in the credit of the client within one working day of the request if the same are lying with him and within three working days from the request if the same are lying with the Clearing Member/Clearing Corporation.

i. There shall be no inter-client adjustments for the purpose of settlement of the 'running account'.

j. These conditions shall not apply to institutional clients settling trades through custodians. The existing practice may continue for them.

SEBI Circular dated October 22, 2001

https://www.sebi.gov.in/legal/circulars/oct-2001/advertisement-by-brokers-sub-brokers-and-grant-of-trading-terminals_17949.html

NSE Circular dated November 16, 2016

Annexure I

Code of Advertisement

1.1 Advertisement shall include all forms of communications issued by or on behalf of Stock Broker in publicly available media that may influence investment/sale decisions of any investor/prospective investors.

1.5 Compliance and Other Requirements:

a. Prior approval for the advertisement/material to be obtained from the Stock Exchange before issue.

b. No celebrities shall form part of the advertisement/material.

c. Statistical information, charts, graphs, etc. when used should be supported by their source, if any

d. Where advertising claims are expressly stated to be based on or supported by independent research or assessment, the source and date of this should be indicated in the advertisement.

e. In the event of suspension of any Stock Broker by the Exchange, the Stock Broker so suspended shall not issue any advertisement either singly or jointly with any other Stock Broker, during the period of suspension.

f. In the event of any proceeding/action initiated against a Stock Broker by a regulatory body other than the Exchange, the Exchange reserves the right to direct the Stock Broker to refrain from issuing any advertisement for such a period as it may deem fit.

g. The Stock Broker shall not involve/engage in games/leagues/schemes/competitions etc. which may involve distribution of prize monies/medals/gifts, etc.

h. These norms shall be applicable to any other investment/consultancy agencies associated with the Stock Broker concerned and issuing advertisement wherein the Stock Broker has been named in the advertisement.

i. Copy of the advertisement shall be submitted to the Exchange atleast seven days in advance before its issue.

j. Further to Exchange circular ref. no. NSE/COMP/30985 dated October 21, 2015 wherein members were instructed to submit an undertaking alongwith every advertisement submitted for approval, the updated undertaking format in compliance with the revised Code of Advertisement for Stock Brokers is provided at Annexure II."

Issue I. Whether Noticee has violated provisions of securities law by not complying with regulatory provisions regarding:

<u>Common Mobile Number and Email ID linked to multiple UCC in 16 instances</u>

12. It was alleged in the SCN that in case of 16 instances same Email IDs and Mobile Numbers were linked to multiple UCC.

13. In response to the above allegations, the Noticee in its reply dated March 12, 2024 has, *inter alia*, stated:

"*Guardian E-mail ID is mapped since it's a minor account, Single UCC is created and multiple Bank's are mapped to this UCC, Guardian Account, Account closed, Director opened an Individual account and mapped same email id, LLP account opened and mapped same email id, Individual account is opened and mapped same email id, HUF account is opened and mapped same email id, Father UCC account, Mother UCC account"*

14. In this regard, I note that in one instance, same E-mail ID and Mobile Number were linked to single UCC only in which multiple bank accounts are mapped. However, for rest 15 instances, the Noticee has not submitted any document in support of these submissions. Moreover, for the instances, where Noticee has submitted the remarks as "Account Closed", the reason for mapping same E-mail IDs and Mobile Numbers prior to closure of account has not been explained. In the absence of any supporting document to substantiate the said claims, the aforesaid submissions of the Noticee cannot be accepted for the 15 instances.

15. In view of the above, I conclude that the Noticee has violated the provisions of Clause 33.2.4 of SEBI Circular dated May 17, 2023 read with Clause 2.B.iv of SEBI Circular dated August 02, 2011 during the IP for the 15 instances.

<u>Discrepancies with respect to Mobile Number in the UCC details updated to Stock Exchange in 88 instances</u>

16. It was alleged in the SCN that in case of 88 instances, discrepancies were observed with respect to mobile number in the UCC details available with NSE and the UCC details in the client master data as submitted by the Noticee at the time of Inspection.

17. In response to the above allegations, the Noticee in its reply dated March 12, 2024 has, *inter alia*, stated:

    "We have updated the correct records in Exchange database."

18. Vide e-mail dated March 21, 2024, Noticee submitted certain screenshots mentioning that they were related to updation of records in Exchange database and in continuation of screenshots already submitted.

19. I note that the Noticee has not disputed the findings of the inspection in this regard. From the reply of the Noticee, it is noted that the Noticee has taken corrective measures in this regard by updating the mobile numbers in NSE records. However, it is a fact that there were discrepancies in UCC details with respect to Mobile Numbers updated with NSE in case of 88 instances during the IP.

20. In view of the above, I conclude that the Noticee has violated the provisions of Clause 33.2.2 of SEBI Circular dated May 17, 2023 read with Clause 2.B.ii of SEBI Circular dated August 02, 2011 during the IP.

Client's registration documents and client onboarding process of the Noticee for online clients

21. I note that on verification of the client's registration documents and client onboarding process of the Noticee, certain discrepancies were observed which were alleged in the SCN. Discrepancies alleged in the SCN and the reply of the Noticee in response to the said allegations have been dealt with in the following paragraphs:

22. It was alleged in the SCN that:

22.1. Client was not given the option separately to give consent for running account settlement during onboarding process and the option of quarterly settlement is selected by default.

22.2. Client was not given the option to provide details of any action/proceedings initiated /pending taken by SEBI/stock exchanges in Account opening form.

22.3. Demat Debit and Pledge Instruction (**DDPI**) is not indexed as part of Voluntary documents.

23. In response to the above allegations, the Noticee in its replies dated March 12, 2024 and March 13, 2024 has, *inter alia*, stated:

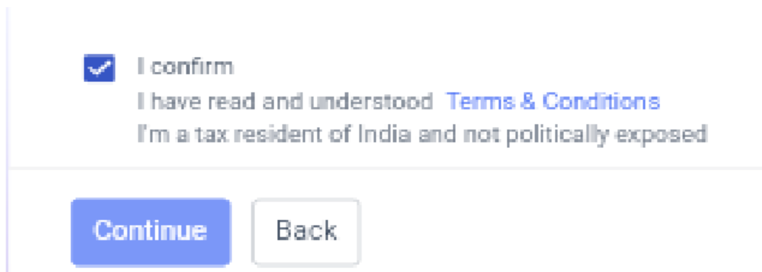
"Yes, we're currently in the development phase."

24. I note that the Noticee has not disputed the findings of the inspection in this regard. From the reply of the Noticee, it is noted that the Noticee has initiated corrective measures in this regard. However, it is a fact that no separate option to give consent for running account settlement and the option to provide details of any action/proceedings initiated/pending taken by SEBI/stock exchanges was provided to client during the IP. Moreover, DDPI was also not indexed as part of voluntary documents during the IP.

25. It was further alleged in the SCN that client was not given the option to choose for Politically Exposed Persons (**PEP**). It is set automatically selected as “No”, as a default option.

26. In response to the above allegations, the Noticee in its replies dated March 12, 2024 and March 13, 2024 has, *inter alia*, stated:

“Yes, Available. Client's need to confirm while onboarding time. Please see screenshot for reference.



”

27. In this regard, from the attached screenshot, I note that the client was not given the option to choose PEP. It is a declaration from client that they are not PEP. It is not an option exercised by client but a default option which necessarily has to be ticked to continue with the application process. Hence, contention of the Noticee in this regard is not accepted.

28. It was further alleged in the SCN that client was not given the option to provide details of dealing with any other sub- broker/stock broker in case of multiple stock brokers in account opening form.

29. In response to the above allegations, the Noticee in its replies dated March 12, 2024 and March 13, 2024 has, *inter alia*, stated:

“We are in discussion with the Exchanges for our clarification.”

30. I note that the Noticee has not disputed the findings of the inspection in this regard. Further, Noticee in its replies have not submitted the details of "clarification sought from exchanges" in this regard. I further note that Annexure-8 of SEBI circular dated May 17, 2023 and Annexure-3 of SEBI circular dated August 22, 2011 specifies the format in which details of "dealing with any other sub- broker/stock broker in case of multiple stock brokers" to be obtained from client in account opening form which is clear.

31. It was further alleged in the SCN that client's signature is auto populated as a default option in Equity segment across BSE and NSE and in Mutual Funds segment across BSE.

32. In response to the above allegations, the Noticee in its replies dated March 12, 2024 and March 13, 2024 has, *inter alia*, stated:

    "It's essential to have both a Demat and Trading account by the client's for smooth operations and to fulfill their obligations. Therefore, these adjustments are made during the onboarding process."

33. I note that the Noticee has not disputed the findings of the inspection in this regard. I further note that Annexure-8 of SEBI circular dated May 17, 2023 and Annexure-3 of SEBI circular dated August 22, 2011 specifies the format in which trading preferences of client to be obtained in account opening form. Moreover, the provisions of Clause 20.4 of SEBI Circular dated May 17, 2023 and Clause 6 of SEBI Circular dated August 22, 2011, *inter-alia*, states as under:

    "The client will now be required to sign only on one document i.e. Account Opening Form. Further, in the same form, the client shall continue to put his signatures instead of saying 'yes' or 'tick mark' ***while indicating preferences for trading in different exchanges / segments****, in accordance with existing requirements." (Emphasis supplied)*

34. In view of the above, it is noted that SEBI circulars mandate that client has to indicate its preferences for trading in different exchanges/segments. This is important because

client should know what all services he/she has opted for according to his/her preferences. Therefore, the client's preferences for trading in different exchanges/segments should be obtained in the account opening form as it is an exercise of client's choice and the same should not be auto populated. Hence, the contention of the Noticee in this regard cannot be accepted.

35. It was further alleged in the SCN that Client is not given option of DDPI/Electronic Delivery Instruction Slip (**EDIS**), EDIS option is selected by default.

36. In response to the above allegations, the Noticee in its replies dated March 12, 2024 and March 13, 2024 has, *inter alia*, stated:

    "We understand that the world is increasingly digital, which is why we offer EDIS services to our clients. However, for those who prefer offline processes, we also provide the option of the DDPI process."

37. I note that the Noticee has not disputed the findings of the inspection in this regard. I further note that the provisions of Clause 20.4 of SEBI Circular dated May 17, 2023, *inter-alia*, states as under:

    *"……However, **in case the investor wants to avail** Running Account facility, execute Power of Attorney, **Demat Debit and Pledge Instruction etc., he would have to give specific authorization to the stock broker** in order to avoid any dispute in the future." (Emphasis supplied)*

38. In view of the above, it is noted that SEBI circular mandates that client has to be given option of DDPI. Again, the choice should be left to the client to choose. Therefore, the consent of the client should be taken for DDPI or EDIS option and none of the options should be selected by default. Hence, the contention of the Noticee in this regard is not accepted.

39. In view of the above, I find that there were discrepancies in the client onboarding process of the Noticee during the IP as alleged in the SCN and the same were not in accordance with SEBI circulars. In this context, I would like to refer to the Judgment of Hon'ble Securities Appellate Tribunal in the matter of **Premchand Shah and**

Others v. SEBI decided on February 21, 2011, *inter-alia*, held as under: *"...When a law prescribes a manner in which a thing is to be done, it must be done only in that manner...".* Therefore, I conclude that the Noticee has violated the provisions of Clause 20.1.1, Clause 20.1.2.2, Clause 20.4 and Clause 22.1.1 of SEBI Circular dated May 17, 2023 read with Clause 3(ii) and Clause 6 of SEBI Circular dated August 22, 2011 and Clause 12 of Annexure A to SEBI Circular dated December 03, 2009 during the IP.

Client inducement through running a contest/challenge without approval from Exchange under Advertisement Code

40. It was alleged in the SCN that Noticee was running client inducement contest/challenge (FYERS 30 days' challenge) during IP without taking approval from Exchange.

41. In response to the above allegations, the Noticee in its replies dated March 12, 2024 and March 13, 2024 has, *inter alia*, stated:

"We never encouraged clients to trade; instead, our aim was to raise awareness among traders. Our 30 day challenge served as a space for traders to enrich their understanding and skills in trading. It wasn't about pitting traders against each other but rather offering an opportunity for individuals to refine their own strategies. Despite this, we decided to discontinue the 30-day challenge in January 2023."

42. In this regard, I note that the rewards in the 30-days streak challenge are offered only when clients traded continuously for 30 days and if the client is in net profit after accounting for brokerage charged and all the transaction costs for a period of 30 trading days. These conditions may induce the clients to trade irrespective of the market conditions. Hence, the contention of the Noticee in this regard cannot be accepted.

43. Further, I note that Noticee had not taken any approval for the advertisement for the said contest from the Stock Exchanges and the same has not been disputed by the Noticee in its replies. From the reply of the Noticee, it is noted that the Noticee has

discontinued the challenge in January 2023. However, it is a fact that Noticee was running client inducement contest/challenge without taking approval from Stock Exchanges during the IP.

44. In view of the above, I conclude that Noticee has violated the provisions of SEBI Circular dated October 22, 2001 read with Clause 75.1 of SEBI Circular dated May 17, 2023 read with Para 1.1 and 1.5 of Annexure I to NSE Circular dated November 16, 2016 during the IP.

Issue II. Does the violation, if any, on the part of the Noticee attract monetary penalty under Section 15HB of the SEBI Act?

45. As it has been established that the Noticee has violated the provisions of law as alleged in the SCN, the Noticee is liable for payment of a monetary penalty in terms of Section 15HB of the SEBI Act.

46. In this context, I would also like to also refer to the order of the Hon'ble Supreme Court of India in the matter of *Chairman, SEBI Vs Shriram Mutual Fund {[2006]5 SCC 361}*, Hon'ble Supreme Court of India held that *"In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established and hence the intention of the parties committing such violation becomes wholly irrelevant A breach of civil obligation which attracts penalty in the nature of fine under the provisions of the Act and the Regulations would immediately attract the levy of penalty irrespective of the fact whether contravention must made by the defaulter with guilty intention or not.''*

47. The text of the above said Section 15HB of the SEBI Act is reproduced below:

"Penalty for contravention where no separate penalty has been provided.

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

Issue III. If so, what would be the quantum of monetary penalty that can be imposed on the Noticees after taking into consideration the factors mentioned in section 15J of the SEBI Act?

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

"Factors to be taken into account while adjudging quantum of penalty.

15J. While adjudging quantum of penalty under 15-I or section 11 or section 11B, the Board or the adjudicating officer shall have due regard to the following factors, namely:—

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

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

(c) the repetitive nature of the default."

Factors Considered While Imposing Penalty

49. The material available on record has neither quantified the amount of disproportionate gain or unfair advantage, if any, made by the Noticee nor the amount of loss, if any, caused to an investor/clients as a result of the default of the Noticee. As regard to the repetitive nature of the default, there is nothing on record to show that the nature of default by the Noticee is repetitive.

50. It is a fact that the Noticee has not followed the stipulated procedures in its dealing with its clients as alleged in the SCN. The Noticee has also not disputed the following allegations as established in preceding paragraphs:

50.1. In case of 15 instances, same E-mail IDs and mobile numbers were linked to multiple UCC;

50.2. In case of 88 instances, there were discrepancies with respect to mobile numbers in the UCC details updated with Stock Exchange during the IP;

50.3. There were discrepancies in the online clients' onboarding process during the IP like clients were not given the option for running account settlement, option to select PEP, option to provide details of dealing with any other sub- broker/stock broker, option for providing details of any past action taken by SEBI/Stock Exchanges, option of DDPI/EDIS, DDPI is not indexed as part of voluntary documents, Client's signature is auto populated in Equity segment across BSE and NSE and Mutual Fund Segment across BSE.

50.4. Noticee was also running client inducement contest/challenge (FYERS 30 days' challenge) without taking approval from Exchange.

51. It is necessary that registered intermediaries follow the various procedures and practices prescribed for smooth and transparent functioning of the securities market. I note that the Regulations and Circulars, etc. have laid down the specific procedural requirements that must be adhered to, especially by a SEBI registered intermediary. The non-adherence on the part of the Noticee to the extant Regulations, Circulars, etc. as brought out in the preceding paragraphs clearly shows that Noticee has failed to act with skill, care and diligence in the conduct of its business as a registered stock broker. As a registered intermediary, Noticee is required to maintain a high standard of professionalism in the way they conduct business and to take the statutory compliances very seriously.

52. It is noted that the Noticee, in its replies, has stated that it has taken/initiated corrective measures to address some of the deficiencies.

53. The aforementioned factors have been taken into consideration while adjudging the penalty.

ORDER

54. Having considered all the facts and circumstances of the case, the material available on record, the factors mentioned in preceding paragraphs and in the exercise of powers conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules, I hereby impose a monetary penalty on the Noticee as given in the table below**:**

Table 3

Penal Provision	Penalty Amount
Section 15HB of SEBI Act	Rs. 5,00,000/- (Five Lakhs only)

55. I am of the view that the said penalty is commensurate with the lapses/omissions on part of the Noticee.

56. The Noticee shall remit/pay the said amount of penalty within 45 days of receipt of this order through online payment facility available on the website of SEBI, i.e., www.sebi.gov.in on the following path, by clicking on the payment link: ENFORCEMENT -> Orders -> Orders of AO -> PAY NOW.

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

Date : March 28, 2024
Place : Mumbai

N Hariharan
Adjudicating Officer