BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER Ref No.: Order/VV/AK/2023-24/25883]

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

In respect of:

SPFL Securities Ltd

(PAN: AABCS2452C)

In the matter of Trading Members in Illiquid Stock Options

1. Securities and Exchange Board of India (hereinafter referred to as, "**SEBI**") has initiated Adjudication Proceedings against SPFL Securities Ltd (hereinafter referred to as "**Noticee**") under Section 15HB of SEBI Act, 1992 for not exercising care and diligence in the conduct of its business while dealing with its clients and/or, while dealing with their proprietary accounts in violation of Clauses (1), (2), (3) and (4) of Code of Conduct for Stock Brokers mentioned under Schedule II of the SEBI (Stock Brokers) Regulations, 1992 (hereinafter referred to as **"Broker Regulations"**) read with Regulation 9(f) of the Broker Regulations.

2. The undersigned was appointed as Adjudicating Officer under Section 15-I (1) of the SEBI Act, 1992 read with Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as '**Adjudication Rules**'), *vide communiqué* dated September 20, 2021 to enquire into and adjudge under Section 15HB for the alleged violations by the Noticee.

Background

3. An Interim Order *WTM/RKA/ISD/106/2015* dated August 20, 2015 was passed by SEBI in the matter of Illiquid Stock Options restraining 59 entities (clients) from buying, selling or dealing in the securities market, either directly or indirectly, in any manner, till further directions. Confirmatory orders dated July 30, 2016, August 22, 2016 and August 24, 2016 ("**Confirmatory orders**") in this regard, were passed by SEBI confirming the directions issued vide aforementioned Interim order against all 59 entities (clients).

4. The *modus operandi* that was identified in the Interim order and Confirmatory order was that certain entities (clients) had continuously made profits and certain entities (clients) had continuously made losses by reversing their trades or executing reversal trades in various individual Stock Options contracts on BSE's Stock Options segment. In the Interim order, these reversal trades were also referred to as "*non-genuine trades*".

5. Subsequent to passing of aforementioned Interim order against 59 entities (clients), SEBI passed an Interim order dated February 17, 2016 against 22 Trading Members ("**Brokers**") in the same matter of Illiquid Stock Options. However, the said order was set aside by Hon'ble Securities Appellate Tribunal ("**SAT**") vide its orders dated February 25, 2016, March 04, 2016, March 09, 2016, March 14, 2016, March 15, 2016, March 18, 2016 and April 05, 2016. Pursuant to appeal, in terms of order of Hon'ble Supreme Court dated July 01, 2016, SEBI passed order no. *WTM/RKA/ISD/94/2016* dated August 12, 2016 in the matter stating, *inter-alia*, that a final view for appropriate action be taken after completion of ongoing investigation in the matter.

6. Investigation was carried out in the instant matter for the period April 01, 2014 – September 30, 2015 ("**I.P.**" / "**investigation period**"), which is same as the examination period referred in the Interim Order dated February 17, 2016 in respect of Brokers in the matter of Illiquid Stock Options.

7. Trade data of BSE's Stock Options segment during the I.P. for the Illiquid Stock Options was analysed to identify trade reversals. Pursuant to analysis it was observed that a total of 2,91,744 non-genuine trades were executed by 14,720 entities through 192 Brokers that resulted in trade reversals during the I.P. Trade data pertaining to these 2,91,744 non-genuine trades formed the source data for the instant case against brokers.

8. Total number of contracts during the I.P. was 23,885 contracts. The details of trading in such 23,885 contracts are shown as follows:

Table 1 - Details of trading in all contracts of BSE' Stock Options segment during the I.P.

Particulars	TOTAL
Number of contracts	23,885
Total Number of entities	21,652

Particulars	TOTAL
Number of trades	3,58,372
Number of Non genuine trades	**2,91,744**
Number of entities involved in executing non genuine trades	**14,720**
Number of Brokers through which non-genuine trades were executed	[illegible]

<u>BSE Notice to brokers on e-Boss dated March 07, 2013</u>:

9. BSE had issued notice to all of its Trading Members ("**brokers**") casting an obligation upon them to, *inter alia*, monitor and report reversal of trades in derivatives segment. BSE notice no. 20130307-21 (addressed to all the trading members) dated March 07, 2013 pertaining to "*e-Boss*", *inter alia*, indicated the list of alerts that will be generated by BSE which includes ***<u>reversal of trades in derivatives segment</u>***. Further, in terms of the aforesaid notice every broker was necessarily required to frame a surveillance policy, *inter alia*, covering suspicious/manipulative activity identification and reporting process. The aforesaid BSE notice also casts obligation on the brokers to monitor and report alerts specifically mentioning the following:

"

…..

The trading members are hereby further informed that the aforementioned transactional alerts are indicative in nature and the trading members can derive their own alerts in addition to the said transactional alerts as per their surveillance policy.

……

Monitoring and reporting:

1. For effective monitoring, Trading Member shall:

a. Frame a surveillance policy covering:

i….

ii….

iii. Suspicious / Manipulative activity identification and reporting process.

iv…..

b. The surveillance policy of the Trading Member shall be approved by its Board (in case of corporate trading member), Partners (in case of partnership firms) or Proprietor (in case of sole proprietorship firm) as the case may be.

c. A quarterly MIS shall be put up to the Board (in case of corporate trading member), Partners (in case of partnership firms) or Proprietor (in case of sole proprietorship firm) on the number of alerts pending at the beginning of the quarter, generated during the quarter, disposed off during the quarter and pending at the end of the quarter. Reasons for pendency shall be discussed and appropriate action taken. Also, the Board (in case of corporate trading member), Partners (in case of partnership firms) or Proprietor (in case of sole proprietorship firm) shall be apprised of any exception noticed during the disposition of alerts.

d. The surveillance process shall be conducted under overall supervision of its Compliance Officer.

e. Designated directors / partners / proprietor / Compliance Officer would be responsible for all surveillance activities carried out by the Trading Member and for the record maintenance and reporting of such activities.

2. Internal auditor of Trading Member shall review the surveillance policy, its implementation, effectiveness and review the alerts generated during the period of audit. Internal auditor shall record the observations with respect to the same in their report."

10. In terms of the aforesaid notice no 20130307-21 dated March 07, 2013, all the Brokers should necessarily frame a surveillance policy so as to identify and report suspicious/manipulative activities. In line with the aforesaid notice from exchange, the brokers were expected to consider various factors including but not limited to repeated reversal trades on same day, reversal price, entities involved in repeated reversal transactions on same day in various scrips, *etc.* and accordingly put in place a system so as to identify and report suspicious/manipulative activities.

11. However, BSE *vide* email dated November 06, 2020, submitted that no broker had reported any suspicious transactions to it being executed on Stock Options segment of BSE during I.P. Further, none of the brokers generated any alerts or reported any reversal of trades executed by their respective clients. Thus, without a system in place to identify repeated trade reversals between the same clients, the brokers facilitated those clients in executing fraudulent transactions in the illiquid stock options of BSE, who transferred profits and losses to each other in a pre-meditated manner.

<u>Trades executed by brokers through Proprietary accounts</u>

12. While analyzing the non-genuine trades it was observed that 74 Brokers had executed trade reversals through their proprietary accounts. The proprietary trades of the brokers, thus, created misleading appearance of trading and resulting artificial volume in illiquid stock option on BSE. It further shows that these brokers had failed to exercise due skill, care and diligence and did not maintain high standards of integrity, promptitude and fairness in conduct of business as a stock broker. It has been observed that Noticee was one of such brokers out of the aforesaid 74 brokers, who had executed trade reversals in illiquid stock option on BSE through its proprietary accounts during investigation period.

13. In view of the above, it has been alleged that, by not taking necessary steps to generate alerts by putting a system in place to detect and curb reversal of its proprietary trades, the Noticee has failed to exercise care and diligence in the conduct of its business while dealing with its proprietary accounts. Since, it is clear that the Noticee was aware of the *modus operandi* of trade reversals and yet continued to exploit the said route, it has been alleged that the Noticee has violated the provisions of Clauses (1), (2), (3) and (4) of Code of Conduct for Stock Brokers mentioned under Schedule II of the Broker Regulations read with Regulation 9(f) of the Broker Regulations.

14. After receipt of records of these proceedings, the notice to Show Cause Notice dated July 15, 2022 (hereinafter be referred to as '**SCN'**) issued to the Noticee in terms of Rule 4(1) of the Adjudication Rules read with section 15I of the SEBI Act calling upon it to show cause as to why an inquiry should not be held against it in terms of Rule 4 of the Adjudication Rules and penalty be not imposed under Section 15HB of the SEBI Act for the aforesaid alleged violations. The SCN was duly served upon the Noticee *via* Speed Post Acknowledgement as per Rule 7 of the Adjudication Rules. Accordingly, Noticee filed its reply vide letter dated August 16, 2022. Noticee in the aforesaid letter contended that penalty of Rs 11,80,000/- (Rupees Eleven Lakh Eighty Thousand Only) has been imposed upon it and it has already paid the same to the SEBI. The transactions in question in aforesaid adjudication proceedings and instant proceedings are same. Hence, it is requested that the SCN be closed as we had already been penalized.

15. Subsequently, after considering the material on record and in terms of Ruls 4(3) of the Adjudication Rules, vide letter dated August 18, 2022, the Noticee was granted an opportunity of hearing on August 25, 2022. Accordingly, Noticee has availed the opportunity of hearing

through its authorized representative Mr. Amit Agarwal, Compliance officer. Mr. Amit Agarwal advanced the argument on behalf of the Noticee on the basis of Noticee's written submissions dated August 16, 2022 and accordingly, hearing concluded in this matter.

16. I also note that vide letter dated November 25, 2022, the Noticee was, *inter-alia*, informed about the SEBI Settlement Scheme for Stock Brokers, 2022 (hereinafter referred to as "**Settlement Scheme, 2022**"), in terms of Regulation 26 of the Securities and Exchange Board of India (Settlement Proceedings) Regulations, 2018 in the matter of Illiquid Stock Options and further, it was conveyed that in case Noticee did not wish to avail of the facility under the Settlement Scheme, 2022, it could file further reply to the SCN within 30 days of its receipt. The settlement window under Settlement Scheme, 2022 was closed on January 19, 2023. In this regard, as per available records, I note that Noticee has not availed the facility under the Settlement Scheme, 2022. Consequently, Adjudication proceedings were resumed in the instant matter.

17. I note that in the interest of principles of natural justice vide Hearing Notice dated February 22, 2023, Noticee was granted another opportunity of personal hearing on March 15, 2023. Shri Amit Agarwal, Compliance Officer of the Noticee, availed the opportunity of personal hearing on March 15, 2023 *via* video conferencing. During hearing, Noticee submitted the following: "*due to father's illness and further, demise of his father, he is unable to pay the settlement amount within the timelines as prescribed under the SEBI Settlement Scheme, 2022. Further, Noticee requested that he intends to avail the said SEBI Settlement Scheme.*"

18. I note that the the impugned transactions belong to March 09, 2015 to March 19, 2015, wherein the investigation period is April 01, 2014 to September 30, 2015. I further note that an extensive investigation in this case had been initiated by SEBI upon observing large scale reversal of trades in stock options segment of BSE leading to creation of artificial volume during investigation period. Due to elaborate and extensive investigation process such as - co-ordination with concerned stock exchange in respect of a large number of entities (involving more than 14,000 entities), complexity and extensive analysis of the data/ information, etc., in this case, the final investigation report submission has taken time. Thereafter, SEBI came out with a Settlement Scheme (hereinafter referred to as "Scheme") in terms of Regulation 26 of SEBI (Settlement Proceedings) Regulations 2018 in the

concerned matter, wherein one-time opportunities were provided to the entities including the Noticee against whom adjudication proceedings were approved for involvement in generation of artificial volumes. SEBI issued a public notice dated July 27, 2020 about the launching of the aforesaid Scheme and the modalities for availing the benefit of the Scheme. The public notice was also made available on the website of the BSE. Thereafter, vide communique dated September 20, 2021, the undersigned was appointed as the Adjudicating Officer in the instant proceedings. Thereafter, on receipt of records, the SCN to the Noticee has been issued on July 15, 2022, informing the Noticee about the detailed charges/allegations against it. In this regard, I note that, initiating a proceeding under the appropriate provisions of SEBI Act is a regulatory prerogative of SEBI depending upon the outcome of the fact finding exercise, which is the investigation done in this case, and just because the alleged violation was committed in a distant past cannot be a ground to vitiate initiation of these proceedings. Further, Hon'ble Supreme Court through its judgement in the matter of *Bhavesh Pabari (2019) SCC Online SC 294* and Hon'ble SAT qualified through its several rulings by saying that the reasonable period would depend on the facts and circumstances of each case and that no hard and fast rule can be laid down in this regard. Thus, I find that is appropriate to proceed with the instant matter.

19. The Noticee has stated that the instant matter has already been taken up and adjudicated by SEBI, vide adjudication order dated June 27, 2019, wherein the transactions in question are same and any further penalties being imposed upon the Noticee. In this regard, I note that, though the transactions in aforesaid adjudication proceedings and instant proceedings are same, however the charges for both proceedings are entirely different. In earlier adjudication proceedings the Noticee was charged for creating artificial volume of 46,48,000 units by executing 126 non-genuine reversal trades in 60 unique contracts in illiquid stock options of BSE during investigation period, wherein, instant proceedings the Noticee has been charged for failing in exercising care and diligence in the conduct of its business, while dealing with its proprietary accounts and thus, violating the *provisions of Clauses (1), (2), (3) and (4) of Code of Conduct for Stock Brokers mentioned under Schedule II of the Broker Regulations read with Regulation 9(f) of the Broker Regulations, charged under section 15HB of the SEBI Act, 1992*. Therefore, in my considerate view both proceedings are two separate proceedings dealing with two separate charges, though emanating from execution of same transactions. Thus, such contention of the Noticee is not acceptable.

20. I note from the available record that, it is an admitted fact that the Noticee has traded in the 60 stock options contracts at BSE and executed 126 reversal trades in these 60 stock options contracts during investigation period. In this regard, I note that, Ms Sangeeta Rathod, Adjudicating Officer of SEBI in her order dated June 27, 2019 had *inter alia* concluded that – *"….I find that the reversal trades executed by the Noticee were non-genuine in nature and created impression of artificial trading volumes in respective contracts. I am of the view that engaging in such trades, the Noticee has violated provisions of Regulations 4(2)(a) of the PFUTP Regulations…*

21. Considering these facts and violations, I note that in the aforesaid order, SEBI had imposed penalty of Rs 11,80,000/- (Rupees Eleven Lakh Eighty Thousand Only) on the Noticee and as admitted by the Noticee in its reply, same had been duly paid by him. Since, the Noticee has not challenged the aforesaid adjudication Said Order before any appellate authority and admittedly has paid the penalty amount, therefore, it can be fairly assumed that the Noticee has admitted the default committed by it regarding his 126 reversal trades in said 60 stock options contracts during investigation period.

22. In view of the above, I note that Noticee was to be one of the brokers among 74 stock brokers, who have executed trade reversals through their proprietary accounts and thus, created misleading appearance of trading and resulting artificial volume in 60 stock option contracts on BSE. Further, the limited questions before me in this case are – a) whether the Noticee being a broker had failed to exercise due skill, care and diligence and did not maintain high standards of integrity, promptitude and fairness in conduct of business as a stock broker; and b) whether the Noticee has failed in not taking necessary steps to generate alerts by putting a system in place to detect and curb reversal of its proprietary trades; and if answer is yes, then whether the Noticee has failed to exercise care and diligence in the conduct of its business while dealing with its proprietary accounts.

23. I note from the above paras that Noticee has created artificial volume of 46,48,000 units through 126 reversal trades in 60 contracts in stock options contracts at BSE during investigation period. Further, I note that, the BSE had issued notice no 20130307-21 dated March 07, 2013 to its trading members, which was in continuation of BSE notice no. 20130220-21 dated February 20, 2013. The subject matter of the aforesaid notice was "*Surveillance Obligations for Trading Members*", wherein, trading members were informed about

the release of Beta Version of e-BOSS (*Member Surveillance System*) for downloading several "*Transactional Alerts*", which also included transactional alerts pertaining to "*Reversal of Trades*" in Cash & Derivatives segment. It was also informed to the trading members that the aforementioned transactional alerts are indicative in nature and the trading members can derive their own alerts in addition to the said transactional alerts as per their surveillance policy. It was further mentioned in the said notice that w.r.t. the transactional alerts being downloaded by the Exchange; several activities were also required to be carried out by the Trading Members based on UCC parameters, which *inter alia* includes - *to carry out the Due Diligence of its client(s) on a continuous basis; the Trading Member shall establish groups / association amongst clients to identify multiple accounts / common account / group of clients; to analyze the trading activity of the Client(s) / Group of Client(s) or scrips identified based on alerts,to frame a surveillance policy for effective monitoring of suspicious/ manipulative activity,* etc. It was also mentioned in said notice that the above guidelines are illustrative and not *exhaustive and based on facts and circumstances,* ***trading members were required to exercise their independent judgement and take adequate precaution*** *(emphasis implied)*. In terms of said Notice, it was desired from the Noticee that, it should have in place the required procedures, policies and processes to identify the alerts related to transactions of itself and its clients, in terms of parameters brought out in the said BSE notice, including the reversal of trades and covering suspicious/manipulative activity identification and reporting process. Further, the Noticee was expected to consider various factors including but not limited to repeated reversal trades on same day, reversal price, entities involved in repeated reversal transactions on same day in various scrips, etc. and accordingly put in place a system so as to identify and report suspicious/manipulative activities.

24. I note from BSE reply dated November 06, 2020, that the Noticee had not reported any suspicious transactions being executed on Stock Options segment of BSE during investigation period. Further, the Noticee had not generated any alerts or reported any reversal of trades executed by it to the BSE.

25. In view of above facts and circumstances, I find that the Noticee was well aware of the *modus operandi* of trade reversals and yet continued to exploit the said route for its benefit. Therefore, I find that the Noticee was well aware that its impugned trades were *Reversal Trades* and thus,

it has deliberately not generated alerts related to its aforesaid reversal proprietary trades and not reported the same to BSE.

26. Before proceeding further, I would like to illustrate below the relevant provisions of the alleged violations of the Broker Regulations by the Noticee:

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,-*

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

SCHEDULE II

Stock Brokers Regulations, 1992

CODE OF CONDUCT FOR STOCK BROKERS
[Regulation 9]

A. General.

(1) Integrity: A stock-broker, shall maintain high standards of integrity, promptitude and fairness in the conduct of all his business.

(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) Manipulation: A stock-broker shall not indulge in manipulative, fraudulent or deceptive transactions or schemes or spread rumours with a view to distorting market equilibrium or making personal gains.

(4) Malpractices: A stock-broker shall not create false market either singly or in concert with others or indulge in any act detrimental to the investors interest or which leads to interference with the fair and smooth functioning of the market. A stockbroker shall not involve himself in excessive speculative business in the market beyond reasonable levels not commensurate with his financial soundness.

27. In terms of Regulation 9(f) of the Broker Regulations, it was desired from the Noticee that being a registered stock broker, it should have abided by the Code of Conduct as specified in Schedule II of the Broker Regulations. The basic requirement from it was that, a) it should have maintained the high standards of integrity, promptitude and fairness in the conduct of its business; b) should have acted with due skill, care and diligence in the conduct of its business; c) should not have indulged in manipulative, fraudulent or deceptive transactions; and d) should not have created false market and indulge in any act detrimental to the investors interest or which leads to interference with the fair and smooth functioning of the market. However, by executing reversal trades in 60 contracts during investigation period in its

proprietary account, the Noticee has failed in fulfilling the desired conduct expected from a registered stock broker in the securities market. In view of the above, I note that, by failing in complying with the regulatory requirement of '*Surveillance Obligations for Trading Members'* of the said BSE notice dated March 07, 2013 and by executing 126 reversal trades in 60 contracts during investigation period, the Noticee has failed in exercising care and diligence in the conduct of its business while dealing with its proprietary accounts and thus, the Noticee has violated the provisions of Clauses (1), (2), (3) and (4) of Code of Conduct for Stock Brokers mentioned under Schedule II of the Broker Regulations read with Regulation 9(f) of the Broker Regulations.

28. In view of the aforesaid facts and circumstances, I find from the material available on record that the Noticee has failed in performing its duties as a registered stock broker and also failed to adhere to high standards of service to its clients by not exercising due skill, care and diligence in the conduct of all his business. The above violation makes the Noticee liable for monetary penalty under the provisions of Section 15HB of the SEBI Act.

29. The contents of Section 15HB of the SEBI Act are reproduced herein below:

SEBI Act, 1992

Penalty for contravention where no separate penalty has been provided.

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

30. Further, while determining the quantum of penalty, it is important to consider the factors stipulated in Section 15J of the SEBI Act which reads as follows: -

While adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely: -
(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
(b) the amount of loss caused to an investor or group of investors as a result of the default;
(c) the repetitive nature of the default."
Explanation. *—For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section;*

31. In the present matter, I note that no quantifiable figures are available to assess the disproportionate gain or unfair advantage made as a result of such default by the Noticee. However, it is pertinent to note that the role of a Broker/Trading Member(TM) is crucial to the development of the securities market, and broker act as a facilitator of investors into the securities market. So, it is of utmost importance that every Broker abides by the relevant regulations, provisions of SEBI/Stock Exchange circulars and various guidelines issued by SEBI/Stock Exchanges. In the instant adjudication proceedings, I find that Noticee was well aware of the *modus operandi* of trade reversals and yet continued to exploit the said route for its benefit. Further, it had not generated any alerts or reported any reversal of trades executed by it to the BSE. Thus, Noticee had not been complying with the requirements of SEBI regulations. The said non-compliances on the part of the Noticee as brought out in the preceding paragraphs clearly shows that it has failed to exercise due care and diligence in the conduct of their business while dealing with their respective clients.

32. After taking into consideration all the facts and circumstances of the case, in exercise of powers conferred upon me under Section 15-I (2) of the SEBI Act read with Rule 5 of the Adjudication Rules, I hereby impose a penalty of ₹2,00,000/- (Rupees Two Lakhs only) upon the Noticee i.e., SPFL Securities Ltd, under Section 15HB of the SEBI Act.

33. The said penalty imposed on the Noticee, as mentioned above, is commensurate with the violations committed by the Noticee and acts as a deterrent factor for the Noticee and others in protecting the interest of investors.

34. 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

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

36. In terms of Rule 6 of the Adjudication Rules, copy of this order is being sent to the Noticee and also to SEBI.

Place: Mumbai	**Vijayant Kumar Verma**
Date: April 25, 2023	**Adjudicating Officer**