BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/BM/RK/2024-25/30362]

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

Name of the Entity	Registration Number	PAN
Samco Securities Limited	INZ000002535	AAICS2455A

In the matter of

Inspection of Samco Securities Limited

Background

1) Securities and Exchange Board of India (hereinafter referred to as **'SEBI'**) had conducted an inspection of documents and other records of Samco Securities Limited (hereinafter referred to as the **"Samco/Noticee"**), a SEBI-registered Stock Broker, having SEBI registration number as INZ000002535, to ascertain possible violation(s) of the provisions of the Securities and Exchange Board of India Act, 1992 **("SEBI Act")**, SEBI (Stock Brokers) Regulations, 1992 (hereinafter referred to as the **"Brokers Regulations"**) and various SEBI Circulars by the Noticee. The said inspection was conducted on July 18, 2023. The period covered in the inspection was from April 01, 2022 to May 31, 2023 (hereinafter referred to as **'Inspection Period/IP'**).

2) The inspection findings were communicated to the Noticee vide SEBI letter dated September 05, 2023. After examining the reply submitted by the Noticee vide email dated September 27, 2023, it had been alleged that the Noticee contravened various

provisions of the securities law in respect of the activities carried out by it. The summary of the violations alleged to have been committed by the Noticee and corresponding provision of the securities law are given in the table 1 below:-

Table 1:

Sr No.	**Alleged Violations (Summarized)**	**Regulatory Provisions**
1	Common mobile number and email ID linked to multiple UCCs	Clause 33.2.4 of SEBI Master Circular no. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023 read with Clause B point (iv) of SEBI circular no. CIR/MIRSD/15/2011 dated August 02, 2011.
2.	Discrepancies with respect to the Client on-boarding process	Point no. C and J of Annexure-8, of SEBI Master Circular no. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023 dated May 17, 2023 read with Point No. C and H of Annexure-3, of SEBI Circular No. CIR/MIRSD/16/2011 dated August 22, 2011 and Clause 21 of SEBI Master Circular no. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023 read with Clause 2 of SEBI Circular SEBI/HO/MIRSD/RTAMB/CIR/P/2021/601 dated July 23, 2021.
3	Non-cooperation/Non-submission of data to inspection team	Regulation 21(1) read with Clause A(5) of the Code of Conduct as specified in Schedule II of Stock Brokers Regulations

3) In view of the above, adjudication proceedings was initiated against the Noticee.

APPOINTMENT OF ADJUDICATING OFFICER

4) SEBI, vide order dated December 28, 2023, communicated vide communiqué dated February 02, 2024, appointed undersigned as the Adjudicating Officer (AO) under Section 19 of the SEBI Act read with Sub-Section (1) of Section 15I of the SEBI Act and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as '**SEBI Adjudication Rules'**) to inquire into and adjudge under the provisions of Section 15HB and 15A(a) of the SEBI for the aforesaid violations alleged to have been committed by the Noticee.

SHOW CAUSE NOTICE, REPLY AND HEARING

5) A Show Cause Notice (**"SCN"**) No SEBI/HO/EAD/EAD3/P/OW/2024/0000006765/1 dated February 20, 2024 was issued to the Noticee in terms Rule 4(1) of SEBI Adjudication Rules to show cause as to why an inquiry should not be initiated against it and why penalty, if any, be not imposed upon it under Section 15HB and 15A(a) of SEBI Act for the aforesaid violations alleged to have been committed by it.

6) The said SCN was sent to the Noticee through Speed Post AD and via digitally signed email dated February 21, 2024 which was duly delivered on the same day. The proof of service is on record. Noticee vide email dated March 11, 2024 sought extension of time to file reply in the matter. Accordingly, vide email dated March 12, 2024, the said Noticee was advised to file reply in the matter by March 23, 2024. Noticee vide letter dated March 22, 2024 sought copy of relevant and relied upon documents in the matter. Accordingly, vide email dated April 01, 2024, all the relevant and relied upon documents were provided to the Noticee, with an advise to file its reply in the matter by April 07, 2024. Further, Noticee vide email dated April 02, 2024 sought annexures of the documents which were provided by it to the inspection team during the course of inspection. Accordingly, vide email dated April 02, 2024, the Noticee was advised to collect the said Annexures, which were duly collected by it on April 03, 2024. It is observed that the Noticee vide email dated

April 08, 2024 again sought extension of time to file reply in the matter. Accordingly, the said Noticee was advised to submit its reply by April 17, 2024. In this regard, Noticee submitted its detailed reply vide email dated April 16, 2024.

7) In the interest of natural justice, an opportunity of personal hearing was granted to the Noticee on April 22, 2024 vide hearing notice dated April 18, 2024. The said hearing notice was sent to the Noticee via SPAD and through digitally signed email dated April 18, 2024 and was duly served upon Noticee. The hearing was attended to by the Authorised Representative (AR) of the Noticee wherein he reiterated the submissions made by the Noticee vide its letter dated April 16, 2024. The said AR sought time to make additional submission in the matter, which was accordingly granted. The Noticee made additional submission in the matter vide email dated April 29, 2024.

8) The Noticee's reply vide its letter dated April 16, 2024 and April 29, 2024 are summarized as under:

<u>Reply of the Noticee</u>

8.1 Noticee submitted that in respect of use of common mobile number/email ID, SEBI Master Circular dated May 17, 2023 and SEBI Circular dated August 02, 2011 permit a stock broker to assign common mobile numbers or email IDs for more than one client, as an exception, only if such clients belong to the same 'Family' i.e. self, spouse, dependent parents and dependent children and that for this SEBI has mandated the stock brokers to obtain specific written request from each client authorizing use of a common email ID or mobile number.

8.2 While there is an obligation on stock brokers to obtain a Consent Letter, no specific format for such a Consent Letter authorizing use of a common mobile number or email ID has been prescribed by SEBI and that it adopted a format for the Consent Letter which incorporated the following information *a) Client Code*

b) Client Name

c) Second/Third Name, if any

d) Details of email ID/ Mobile Number

e) Nam of the person, in case of the mobile number

f) Nature of relationship

8.3 W.r.t consent letters not having date, place, name and address, Noticee submitted that Consent Letters are part of the form used by Samco for opening a new account when onboarding a new client. The Account Opening Form inter — alia includes the KYC details of the client which forms the header to all subsequent documents and the said KYC duly contains the date, place and Noticeee' name and address in respect of the account opening process. therefore, the issue of the date, place, name and address remaining blank in the Consent Letter cannot be construed as a violation of SEBI norms and that the same has been duly rectified and the rectified forms have been submitted to SEBI vide its letter dated September 27, 2023.

8.4. W.r.t non applicable field being not struck off in the signed consent letter, it submitted that the consent letters duly contain a specific field which is marked by the client identifying the nature of the relationship of the client with the person whose mobile number or email ID is proposed to be used. Furthermore, in the case of mobile numbers specifically, the Consent Letter duly seeks the name of the person against whom the number is registered. The specific identification of the name of the person and the client's relationship is self-evident and therefore, merely on account of not striking off the non-applicable fields, it cannot be said that the Consent Letter does not meet the requirement of a valid request.

8.5 It submitted that consent letters, duly signed by the concerned client, is available in each of the 109 instances identified by SEBI as well as in all other cases where such Consent Letter was warranted and that there is no violation of the provisions of the SEBI Master Circular dated May 17, 2023, or the SEBI Circular dated August 2, 2011.

8.6 The observations of SEBI pertain to the lesser minutiae of the consent letters i.e., being details of such nature which are otherwise rectifiable and that pursuant to receipt of the Inspection Report, Samco has duly noted the observations and rectified the irregularities noted i.e., specifying the place and date and duly attested by Samco with a round stamp.

8.7 Noticee submitted that irregularity, if any, is merely clerical and in no way fatal to the validity of the Consent Letter.

8.8 It has adopted proprietary software for ease of account opening through its website which involves several steps before an account is opened. Its software auto populated certain specific choices which was based on historical understanding of client choices when a new account is being opened. For instance, it is routinely seen in manual account opening process that a new client ordinarily prefers trading access in the cash segment and mutual funds, prefers ECN over physical contract notes, and prefers quarterly settlement of funds and securities. Consequently, the software was designed to auto-populate these ordinarily seen preferred choices at the time of account opening.

8.9 That the aforesaid auto population of choices does not take away any choice from the client. Any prospective new client seeking to open a trading account is expected to atleast trade in the case segment, however, notwithstanding such selection, the concerned individual is free to select specific preferences. For instance, a client is always free to avail services in the trading account only for F&O or Currency trading and / or seeks monthly settlement of client funds and securities and that there is equal opportunity for a client to make his selections *as deemed appropriate wherein it routinely assists clients in this regard when such requests are made to it.*

8.10 It is also pertinent to consider that even in a situation, for instance, where trading in F&O or Currency segments is auto-populated in a client's form, it does not mean that the client can on a whim commence trading in such segments. It submitted that F&O and Currency trading in the securities market is governed by strict rules and notwithstanding the said option being auto-populated, a client would have to provide additional documentation such as income proof, income tax returns, as well as bringing in margin and execution of additional paperwork in respect of margin trading. In the absence of the prerequisites for running an F&O account, no access is granted to a client, thus causing no prejudice or unwarranted harm.

8.11 It submitted that in cases wherein the option to opt out of nomination gets auto-populated at the time of account opening, a client naturally has the choice to provide his nomination, even at the time of account opening and that it, in compliance of the above directive, duly obtains the applicable nomination or declaration form from its clients before the trading account is opened.

8.12 It further submitted that mere auto-population of a choice on the KYC does not have a material bearing on the choice of the client to provide for nomination by a holder of funds and securities and does not prejudice a client from seeking nomination.

8.13 It submitted that its online account opening process was designed for providing easy and user-friendly experience and the rationale behind auto populating these fields was only to provide a measure of convenience so that a client does not have to seek modification of his trading access in the account from time to time. Therefore, it is incorrect to allege that the online onboarding process is discrepant as it seeks to bind a client to preselected choices and therefore the finding in the SCN is manifestly untrue.

8.14 *It has implemented the selection option in the account opening process where a client can select additional segments of his choice i.e., F&O and Currency segments, basis which, the relevant documents mandatorily required can be uploaded to complete the process. Furthermore, it has implemented a selection space in the onb-oarding process where the option for nomination is made available for a new client and based on the choice, documentation as per SEBI Circular dated July 23, 2021, is obtained before the trading account is opened.*

8.15 *It has taken on board the observations made by SEBI and is in the process of assessing development of its software used for online account opening to better align with the guidelines issued by SEBI from time to time and that no prejudice or material harm was caused to any client in the online onboarding process in respect of any selection which was auto-populated and therefore, no penalty is warranted under Section 15HB of the SEBI Act in respect of the alleged violations.*

8.16 *Noticee admitted that it required certain additional time to adequately satisfy the requisition of the inspection team pursuant to the on-site inspection and that the above admission in perspective with the operational difficulties of retrieving the necessary document to satisfy the inspection requirement both materially and in spirit.*

8.17 *It submitted that on the date of the on-site inspection, it was able to partly provide the relevant document in respect of the sample UCCs selected towards common mobile number and email IDs and the inspection team had granted it time to provide the remaining documents.*

8.18 *That the ensuing difficulty faced by it was with respect to KYC documents in respect of clients where the account opening process was conducted physically and therefore, such information had to be retrieved from its records and that this exercise ostensibly required a few weeks to collate the necessary information* *due to the prevailing situation as a result of monsoon and therefore, the hold up from its side was entirely inadvertent and beyond its control.*

8.19 It made a submission that it had in parts, submitted the necessary documents first on August 1, 2023, and thereafter on August 18, 2023, while all efforts were being made to retrieve the physical documents to fully comply with SEBI's requisition. However, pending this, SEBI issued its Inspection Report finding that it failed to cooperate with the inspection by not submitting the relevant documents.

8.20 It further submitted that the delay in submission of the documents was neither premeditated nor intentional as it had made every effort to comply with the inspection team's directions at the earliest opportunity and had already tendered its unconditional apology and undertakes to ensure that such an instance is not repeated in its future inspections.

9) I note that inspection findings are based on analysis of samples and test checking of various books and other records maintained by the Noticee, as well as written/oral submissions of the Noticee & its officials to the inspection team. Consequently, the instances of irregularities/observations pointed out in inspection report are illustrative in nature and are not all-inclusive. The allegations levelled against it, its submissions and findings in respect of the same are dealt with in the subsequent paragraphs of this order.

CONSIDERATION FOR ISSUES, EVIDENCE AND FINDINGS

10) I have taken into consideration the facts and circumstances of the case, submissions of the Noticee and the material available on record. The issues that arise for consideration in the present case are:

ISSUE I- Whether Noticee has violated provisions of Brokers Regulations and SEBI Circulars as mentioned at para 2 above?

ISSUE II- Does the violation, if any, on the part of the Noticee attract monetary penalty under Section 15A(a) and 15HB of the SEBI Act as applicable?

ISSUE III- If so, what would be the monetary penalty that can be imposed taking into consideration the factors mentioned in Section 15J of the SEBI Act?

11) Before proceeding further, I would like to refer to the relevant provisions of law as under:

Relevant provisions of Stock-Brokers Regulations, 1992

Obligations of stock-broker on inspection by the Board

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

SCHEDULE III

Securities and Exchange Board of India

(Stock Brokers, Regulations, 1992)

CODE OF CONDUCT FOR STOCK BROKERS

[Regulation 9]

A.General

(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.*

<u>Relevant provisions of SEBI Circulars</u>

SEBI Master Circular no. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023

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

Stock Exchanges shall send details of thetransactions to the investors, by the end of trading day, through SMS and E-mail alerts. This would be subject to the following guidelines:

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.*

<u>SEBI circular no. CIR/MIRSD/15/2011 dated August 02, 2011</u>

<u>B. Uploading of mobile number and E-mail address by stock brokers</u>

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.*

Point No. C& J of Annexure -8 of SEBI Master Circular no. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023 dated May 17, 2023

C. TRADING PREFERENCES

**Please sign in the relevant boxes where you wish to trade. The segment not chosen should be struck off by the client.*

Exchanges	Segments			
Name of the Exchange -1	Cash		Currency Derivative	
	F&O		Name of other Segment s, if any	
Name of the Exchange -2	Name of the Segments -1, 2...			

 # If, in future, the client wants to trade on any new segment/new exchange, separate authorization/letter should be taken from the client by the stock broker.

J. NOMINATION DETAILS (for individuals only)

I/We wish to nominate **I/We do not wish to nominate**

Name of the Nominee: .... Relationship with the Nominee: ....

PAN of Nominee: .... Date of Birth of Nominee: ....

Address and phone no. of the Nominee: ....

If Nominee is a minor, details of guardian:

Name of guardian: .... Address and phone no. of Guardian: ....

Signature of guardian ....

WITNESSES (Only applicable in case the account holder has made nomination)

Name ------------------------ Name --------------------------

Signature -------------------- Signature ---------------------

Address ---------------------- Address -----------------------

Point No. C & H of Annexure-3 of SEBI Circular No. CIR/MIRSD/16/2011 dated August 22, 2011

C. TRADING PREFERENCES

**Please sign in the relevant boxes where you wish to trade. The segment not chosen should be struck off by the client.*

Exchanges	Segments			
Name of the Exchange -1	Cash		Currency Derivative	
	F&O		Name of other Segment s, if any	
Name of the Exchange -2	Name of the Segments -1, 2...			

 # If, in future, the client wants to trade on any new segment/new exchange, separate authorization/letter should be taken from the client by the stock broker.

H. NOMINATION DETAILS (for individuals only)

☐ **I/We wish to nominate** ☐ **I/We do not wish to nominate**

Name of the Nominee: .... Relationship with the Nominee: ....

PAN of Nominee: .... Date of Birth of Nominee: ....

Address and phone no. of the Nominee: ....

If Nominee is a minor, details of guardian:

Name of guardian: .... Address and phone no. of Guardian: ....

Signature of guardian ....

WITNESSES (Only applicable in case the account holder has made nomination)

Name ------------------------	Name ----------------------------
Signature --------------------	Signature -----------------------
Address ----------------------	Address ------------------------

SEBI Master Circular no. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023

21.Nomination for Eligible Trading Accounts

21.1 *In line with Section 72 of Companies Act, 2013 on nomination by a holder of securities, investors opening new trading account(s) shall have the choice of Providing nomination or opting out nomination, as follows;*

a.*The format for nomination form is given in Annexure-12to this circular* ***b****.Opt out of nomination through 'Declaration Form', as provided in Annexure-13to this circular.*

21.2 *In this regard, Trading Members shall activate new trading accounts only upon receipt of above formats.*

21.3 *The nomination and Declaration form shall be signed under wet signature of the account holder(s)and witness shall not be required. However, if the account holder(s) affixes thumb impression (instead of wet signature), then witness signature shall be required in the forms.*

21.4 *The on-line nomination and Declaration form may also be signed using e-Sign facility and in that case witness will not be required.*

21.5 *Trading Members shall ensure that adequate systems are in place including for providing for e-Sign facility and also take all necessary steps to maintain confidentiality and safety of client records.*

21.6 *Existing investors who have not submitted nomination details till date and intend to submit their nomination or opt out of nomination (not to nominate any one) may also be allowed to do so by way of two factor authentication (2FA) login on the internet trading platform for Stock Brokers providing such services.*

21.7 *Further, all existing eligible trading account holders shall provide choice of nomination as per the option given in para21.1above, on or before September 30, 2023, failing which the trading accounts shall be frozen for trading.*

21.8 *Stock Brokers shall encourage their clients to update 'choice of nomination' by sending a communication on fortnightly basis by way of emails and SMS to all such UCCs wherein the 'choice of nomination' is not captured. The communication shall provide guidance through which the client can provide his/her 'choice of nomination'.*

21.9 *Re-submission of nomination details shall be optional for the existing investors who have already provided the nomination details prior to July 23, 2021.*

21.10 *The details required in the form at Annexure 12of the circular viz. mobile number, e-mail ID and identification details of the nominee(s)/ guardian(s) of the minor nominee(s) are optional.*

SEBI/HO/MIRSD/RTAMB/CIR/P/2021/601dated July 23, 2021

2. *Investors opening new trading and or demat account(s) on or after October 01, 2021,shall have the choice of providing nomination or opting out nomination, as follows;*

a.*The format for nomination form is given in Annexure - A to this circular*

b.*Opt out of nomination through 'Declaration Form', as provided in Annexure -B to this circular.*

FINDINGS

On perusal of the material available on record and giving regard to the facts and submission of the Noticee and circumstances of the case, I record my findings hereunder:

ISSUE I: Whether Noticee has violated provisions of Brokers Regulations and SEBI Circulars as mentioned at para 2 above?

Alleged Violation 1: Common mobile numbers and email IDs linked to multiple UCCs

12) As per Clause 33.2.4 of SEBI Master Circular no. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023 read with Clause B point (iv) of SEBI circular no. CIR/MIRSD/15/2011 dated August 02, 2011, stock Brokers are required to 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. In this regard, following irregularities were observed on part of the Noticee:

a) Discrepancy regarding declaration/consent letters and KYC forms

i. It was observed that out of 87 instances, KYC forms in 70 instances were provided by the Noticee to the inspection team and in remaining 17 instances the same was not provided. Similarly, w.r.t the consent letters, it was observed that out of 87 instances, consent letters in 29 instances were provided and in remaining 58 instances, the same was not provided.

ii. Where consent letters were provided, it was observed that the consent letter for same email id/mobile number submitted by the clients did not have details about date and place as specified and those even submitted by the clients were on plain paper, which did not mention about broker name, address and to whom it had been submitted. Further, it was observed that the non-applicable field was not struck off in the signed consent letter. For e.g. if Common email id was given then mobile number should have been struck-off and not left blank and vice-versa.

iii. Further, in cases where KYC form was provided, it was observed that the KYC of the clients did not have any column in which it could be specified that whether mobile number or email provided belonged to the client himself or not and it also did not mention about the relationship between the clients for which common email / mobile number was submitted.

b) <u>For 22 instances wherein neither KYC forms nor declaration/consent letter of the clients was provided</u>

i. It was observed that the Noticee had neither provided the KYC of the clients nor consent letters in 22 instances to the inspecting team. It is alleged that no information was provided to indicate that the clients having common mobile number/email ID belonged to the same family.

13) Accordingly, in view of the above, it was alleged that the Noticee has violated Clause 33.2.4 of SEBI Master Circular no. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023 read with Clause B point (iv) of SEBI circular no. CIR/MIRSD/15/2011 dated August 02, 2011.

14) Noticee submitted that SEBI has mandated the stock brokers to obtain consent specific written request. However, no specific format for such a consent letter authorizing use of a common mobile number or email ID has been prescribed by SEBI and thus, it has adopted its own format for the same.

15) With regard to consent letters not having date, place, name and address, Noticee submitted that consent letters are part of the form used by it for opening a new account and the said account opening form includes the KYC details of the client which contains the date, place and Noticee's name and address and therefore, the issue of the date, place, name and address remaining blank in the consent letter cannot be construed as a violation and that the same has been duly rectified and the rectified forms have been submitted to SEBI vide its letter dated September 27, 2023. Noticee further submitted that the consent letters duly contained a specific field which was marked by the client identifying the nature of the relationship of the

client with the person whose mobile number and email ID was proposed to be used and that merely on account of non striking off the non-applicable fields, it cannot be said that the consent letter did not meet the requirement of a valid request.

16) With regard to the submissions made by the Noticee I note that the KYC form is different from the consent letters wherein purpose of the former is to obtain details of the respective clients viz, Name, PAN No, Mobile number, address, Income details, etc whereas latter is to obtain consent from the clients in the cases wherein common mobile number/ email ID is being linked to multiple UCCs and hence, both are distinct and different. While the consent letters are made part of the KYC as submitted by the Noticee since the clients are giving the consent on plain paper the basic details viz, its name, address, date and place on the said consent letter should be mentioned more so to identify the same in case the consent letters get detached from the KYC.

17) Further, I note that in terms of Clause 33.2.4 of SEBI Master Circular no. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023 read with Clause B point (iv) of SEBI circular no. CIR/MIRSD/15/2011 dated August 02, 2011, under exceptional circumstances, the Noticee at the specific written request of a client could have uploaded the same mobile number/E-mail address for more than one client, provided such clients belonged to one family. However, in the instant case, I note that Noticee didn’t provide any documentary evidence to show that the instances wherein common mobile numbers/ email IDs were mapped by it to multiple UCCs were relatives in terms of the provisions of the said circulars mentioned hereinabove. Further, I note that the KYC forms provided by the Noticee to the inspection team didn’t have the column to ascertain whether mobile number or email ID provided, belonged to the client or any of his relatives. Thus, submission of the Noticee is not tenable.

18) As regards submission of the Noticee that it had provided the modified KYC forms to SEBI vide its email dated September 27, 2023, I note from the material available on record that there were 29 modification forms submitted by the Noticee in its

response to the inspection findings where no relationship was specified by the clients, the said modification forms did not even have any seal and stamp of the Noticee.

19) Further, I note that the Noticee has not provided the KYC documents despite the same being sought by inspection team by various emails. Noticee was also advised during hearing to provide the said KYC documents subsequent to hearing. However, till date Noticee has not provided the same. Thus, it can be concluded that the Noticee did not maintain complete KYC documents of all its clients, which is a serious lapse on the part of Noticee. Therefore, submission of the Noticee is not tenable.

20) In view of the above, it stands established that the Noticee has violated Clause 33.2.4 of SEBI Master Circular no. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023 read with Clause B point (iv) of SEBI circular no. CIR/MIRSD/15/2011 dated August 02, 2011.

Alleged Violation 2: Discrepancies with respect to the Client On-boarding process

21) As regards captioned allegation, upon verification of the clients' registration documents and client on-boarding policy of the Noticee by the inspecting team, it was observed that while on boarding, the client was not given preference to select segments owing to which, the client was required to open trading account in all segments, their signatures were auto populated across all segments and Exchanges and they were not given the choice to select the segment/exchange where they intended to trade. Further, it was observed that choice for opting ECN/physical contract notes was not given to them and the option to receive ECN was selected automatically. They were also not given choice of nomination for trading and demat account and the option for opting out nomination was selected by default. In addition to the above, the clients were not given the option separately to give consent for running account settlement during on boarding process and option of quarterly settlement was selected by default.

22) In view of the above irregularities, it was alleged the Noticee has violated Point no. C and J of Annexure-8, of SEBI Master Circular no. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023 dated May 17, 2023 read with Point No. C and H of Annexure-3, of SEBI Circular No. CIR/MIRSD/16/2011 dated August 22, 2011 and Clause 21 of SEBI Master Circular no. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023 read with Clause 2 of SEBI Circular SEBI/HO/MIRSD/RTAMB/CIR/P/2021/601 dated July 23, 2021.

23) Noticee submitted that its software auto populated certain specific choices which was based on historical understanding of client choices when a new account was being opened. The aforesaid auto population of choices did not take away any choice from the client and that any prospective new client seeking to open a trading account was expected to atleast trade in the case segment and that notwithstanding such selection, the concerned individual was free to select specific preferences.

24) It submitted that in cases wherein the option to opt out of nomination got auto-populated at the time of account opening, client naturally had the choice to provide his nomination, even at the time of account opening and now that in compliance of the directive, it duly obtains the applicable nomination or declaration form from its clients before the trading account is opened.

25) From the submissions of the Noticee, I note that the it has admittedly not provided choices to the clients to select segments/exchange where they intended to trade, ECN/physical contract note, nomination for trading and demat account, choice for running account settlement during on boarding. Further, their signatures getting auto populated across all segments and Exchanges and the explanation that the software used to auto-populate the choices on the basis of preferences of the clients in general shows that the Noticee has misconstrued the provisions of Annexure-8, of SEBI Master Circular no. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023 dated May 17, 2023 read with Point No. C and H of Annexure-3, of SEBI Circular No. CIR/MIRSD/16/2011 dated August 22, 2011 and Clause 21 of

SEBI Master Circular no. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023 read with Clause 2 of SEBI Circular SEBI/HO/MIRSD/RTAMB/CIR/P/2021/601 dated July 23, 2021 which provide for the clients to exercise option to select segments, choice of nomination, option for running account settlement, etc and not that the broker has been empowered vide the said circulars to select the choices on their behalf. Further, auto-population of the signatures of the clients across all segments, automatic selection of opting out of nomination is depriving the clients from selecting their choices and forcing them to opt a specific option which they may not be convenient/conversant with. Further, the submission of the Noticee that it has rectified the said irregularities and that now the software is in line with the extant SEBI circulars shows tacit admission that the Noticee was not in compliance with the provisions as alleged in the SCN.

26) Therefore, in view of the above, it stands established that the Noticee has violated Point no. C and J of Annexure-8, of SEBI Master Circular no. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023 dated May 17, 2023 read with Point No. C and H of Annexure-3, of SEBI Circular No. CIR/MIRSD/16/2011 dated August 22, 2011 and Clause 21 of SEBI Master Circular no. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023 read with Clause 2 of SEBI Circular SEBI/HO/MIRSD/RTAMB/CIR/P/2021/601 dated July 23, 2021.

Alleged Violation 3: Non-cooperation/Non-submission of data to inspection team

27) As regards captioned allegation, it was observed that the Noticee had not submitted requisite data/information related to account opening process, KYC details and consent forms of clients to the inspection team despite multiple reminder emails.

28) Accordingly, in view of the above, it was alleged that the Noticee has violated Regulation 21(1) read with Clause A(5) of the Code of Conduct as specified in Schedule II of Brokers Regulations.

29) In this regard, Noticee submitted that on the date of inspection, it was able to partly submit documents on August 1, 2023, and thereafter on August 18, 2023 provided

the relevant document in respect of the sample UCCs selected towards common mobile number and email IDs and the inspection team had granted it time to provide the remaining documents. It was facing difficulty with respect to KYC documents in respect of clients where the account opening process was conducted physically and therefore, such information had to be retrieved from its records and that required a few weeks to collate the necessary information due to the prevailing situation as a result of monsoon and therefore, the delay from its side was entirely inadvertent and beyond its control. Noticee submitted that the delay was unintentional and had already tendered its unconditional apology and undertakes to ensure that such an instance is not repeated in its future inspections.

30) With regard to the Noticee's aforementioned submission, I note from the material available on record that it was not only delay in submission of documents but Noticee also failed to provide KYC of 7 clients out of 17 instances where declaration by the clients was provided but KYCs of the clients were not provided and had provided KYC documents of only 20 clients and consent letters of only 2 clients out of 22 instances where neither KYC forms nor declaration/consent letter of the clients was provided. The said non-compliance continued despite repeated reminders by the inspection team. Further, Noticee was advised to provide the said remaining KYC documents during the course of hearing. However, the same has not been provided by the Noticee till date. Thus, it can be concluded that the Noticee failed to co-operate with the inspection team.

31) In view of the above, it stands established that the Noticee has violated Regulation 21(1) read with Clause A(5) of the Code of Conduct as specified in Schedule II of Brokers Regulations.

ISSUE II- Does the violation, if any, on the part of the Noticee attract penalty under Section 15A(a) and 15HB of the SEBI Act as applicable?

32) As has been established above that Noticee is in violation of the following provisions of Brokers Regulations and SEBI Circulars:

a) Clause 33.2.4 of SEBI Master Circular no. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023 read with Clause B point (iv) of SEBI circular no. CIR/MIRSD/15/2011 dated August 02, 2011.

b) Point no. C and J of Annexure-8, of SEBI Master Circular no. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023 dated May 17, 2023 read with Point No. C and H of Annexure-3, of SEBI Circular No. CIR/MIRSD/16/2011 dated August 22, 2011 and Clause 21 of SEBI Master Circular no. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023 read with Clause 2 of SEBI Circular SEBI/HO/MIRSD/RTAMB/CIR/P/2021/601 dated July 23, 2021.

c) Regulation 21(1) read with Clause A(5) of the Code of Conduct as specified in Schedule II of Brokers Regulations.

33) In context of the above, I refer to the observations of Hon’ble Supreme Court in the matter of ***Chairman, SEBI vs. Shriram Mutual Fund*** *{[2006] 5 SCC 361}* wherein the Hon’ble Court had observed:*“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.”*

34) Therefore, the aforesaid violations committed by the Noticee attract monetary penalty under Section 15HB of the SEBI Act for violation mentioned at para 32 (a & b) above and Section 15A(a) of the SEBI Act for violation mentioned at para 32(c) above. The text of the said provisions are reproduced hereunder:

<u>Penalty for contravention where no separate penalty has been provided</u>

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.*

Penalty for failure to furnish information, return, etc.

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

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

ISSUE III- If so, what would be the monetary penalty that can be imposed taking into consideration the factors mentioned in Section 15J of the SEBI Act? While determining the quantum of penalty under SEBI Act, it is important to consider the factors stipulated in Section 15J of the SEBI Act, which reads as under:

Factors to be taken into account by the adjudicating officer under SEBI Act

15J. *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

35) The material available on record has not quantified the amount of disproportionate gain or unfair advantage, if any, made by the Noticee and the loss, if any, suffered by the investors as a result of the Noticee's failure, nor the same has been alleged by SEBI. As regard to the repetitive nature of the default, I find that the Noticee has been penalized by SEBI in the past vide Whole Time Member (WTM) order dated May 31, 2021 wherein penalty of Rs 2,00,000/- was imposed upon the Noticee, which was also upheld by the Hon'ble SAT vide its order dated March 25, 2022.

Further, vide Adjudication order dated August 31, 2023, Noticee was again penalized by SEBI to the tune of Rs 7 lacs.

36) The evidence/observations on record against Noticee, ostensibly suggest the non-submission of data to the inspection team and discrepancies w.r.t the client on-boarding process, etc in my assessment cannot be taken leniently and such violations deserve to be adequately penalized. The very purpose of the said provisions is to deter wrong doing and promote ethical conduct in the securities market. I cannot ignore the fact that the Noticee was under a statutory obligation to abide by the provisions of the SEBI Act, Regulations and Circulars / directions issued thereunder, which it failed to do during the IP.

37) Although the Noticee has stated that it had taken various corrective steps, I cannot lose sight of the fact that irregularities were committed by the Noticee during the aforementioned IP. The Noticee being a registered intermediary is expected to adhere to fair practices and maintain a high degree of professionalism in the conduct of its business.

ORDER

38) Having considered the facts and circumstances of the case, the material available on record, the factors mentioned in 15J of SEBI Act and also taking into account judgment of the ***Hon'ble Supreme Court in SEBI vs. Bhavesh Pabari*** (2019) 5 SCC 90 and in exercise of power conferred upon me under Section 15I of the SEBI Act read with Rule 5 of the SEBI Rules, 1995, I hereby impose following penalty under Section 15HB and Section 15A(a) of the SEBI Act on the Noticee:

Name of the Entity	**Penalty Provisions**	**Penalty (Rs.)**
Samco Securities Limited (Notice)	Section 15HB of the SEBI Act	Rs 1,50,000/- (Rupees One Lakh Fifty Thousand Only)
	Section 15A(a) of the SEBI Act	Rs 1,00,000/- (Rupees One Lakh Only)
	TOTAL	**Rs 2,50,000/- (Rupees Two Lakhs Fifty Thousand Only)**

39) I am of the view that the said penalty is commensurate with the lapse/omission on the part of the Noticee.

40) 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.

In case of any difficulties in payment of penalties, Noticee may contact the support at portalhelp@sebi.gov.in.

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

1. Case Name:	
2. Name of payee:	
3. Date of payment:	
4. Amount paid:	

5. Transaction no.:	
6. Bank details in which payment is made:	
7. Payment is made for: (like penalties/ disgorgement/ recovery/ settlement amount and legal charges along with order details)	

42) 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, 1992 for realization of the said amount of penalty along with interest thereon, inter alia, by attachment and sale of movable and immovable properties

43) 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.

Place: Mumbai **BARNALI MUKHERJEE**

Date: May 29, 2024 **ADJUDICATING OFFICER**