



भारतीय प्रतिभूति
और विनिमय बोर्ड
Securities and Exchange
Board of India

General Manager
Market Intermediaries Regulation and Supervision Department
Division of Post Inspection and Enforcement Action

SEBI/HO/MIRSD/DPIEA/OW/RA/2021/15730

July 16, 2021

1. Fairwealth Securities Ltd. (PAN:AAACF8795N) 651-652, Udyog Vihar, Phase - V Gurgaon Haryana 122001	2. Dhirender Gaba (PAN:AFUPG9615E) D-12, Raheja Atlantis, Sector-31, Gurgaon-122 001
3. Naveen Gaba (PAN:AAEPG8929N) Flat No. -C/1704, Plot No. 24/29, 17th Floor, Palm Beach Residency, Sector-4, Nerul, Navi Mumbai-400 706	4. Shripad Sadanand Desai (PAN: AMGPD5283J) 4/31, Anand Bhuvan Society, Indira Gandhi Nagar, Kanjurmarg, East Mumbai-400 042
✓ 5. Sandeep Jindal (PAN: AETPJ4553L) No. A-001, Raheja Atlantis, Sector-31-32A, Gurgaon -122 001	6. Shitla Prasad Shukla (PAN: AAJPS3925M) H.No.-S-24-S, Ext., Pandav Nagar, Shakarpur, East Delhi-110092
7. Aagas Software Solutions Pvt. Ltd. (PAN:AAICA5378C) UG - 3, Somdutt Chamber - II, Bhikaji Cama Place, New Delhi-110 066	8. Katashraj Securities Pvt. Ltd. (PAN: AACCK7144E) 651-652, Udyog Vihar, Phase-V, Gurgaon-122 016
9. Reets Plastics Pvt.Ltd. (PAN: AACCR2424A) UG-37, Somdatt Chamber, Bhikaji Cama Palace, New Delhi- 110 066	10. Shyam Sunder Jolly (PAN: ADBPJ6001G) House No. D-2, Kansal Apartments Ward No. 6, Mehrauli, Near PIR Ki Mazar, Delhi – 110 030

SCN in the matter of Fairwealth Securities Ltd. & Fairwealth Commodity Broking Pvt. Ltd

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सेबी भवन, प्लॉट सं. सी 4-ए, "जी" ब्लॉक, बांद्रा कुर्ला कॉम्प्लेक्स, बांद्रा (पूर्व), मुंबई - 400 051.
दूरभाष : 2644 9950 / 4045 9950 (आई.वी.आर.एस.), 2644 9000 / 4045 9000 फैक्स : 2644 9019 से 2644 9022 वेब : www.sebi.gov.in

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11. Chahek Housing Pvt. Ltd. (PAN: AAHCC0112H) B-16-II-9, Somdutt Chamber, Bhikaji Cama Place, New Delhi- 11006	12. Vikram Kumar (PAN: AROPK2904N) D-35/3, Khazan Basti, Maya Vihar, New Delhi 110 046
13. Fairwealth Financial Services Ltd. (PAN: AAACS4473Q) UG/3-4 Somdutt Chambers-II, Bhikaji Cama Place, New Delhi- 110066	14. Fairwealth Commodity Broking Pvt. Ltd. (PAN: AABCF0079) A-312 to A-323, 3rd Floor, Somdutt Chamber-I, Bhikaji Cama Place, New Delhi-110066

Subject: Show Cause Notice under Sections 11(1), 11(4), 11B (1), 11B (2) and 11D of Securities and Exchange Board of India Act, 1992 read with Section 15HA of Securities and Exchange Board of India Act, 1992 and Section 12A (1) and 12A (2) of Securities Contracts (Regulation) Act, 1956 read with Section 23D & 23H of Securities Contracts (Regulation) Act, 1956 read with Regulation 35 of SEBI (Intermediaries) Regulations, 2008 in the matter of Fairwealth Securities Ltd. & Fairwealth Commodity Broking Pvt. Ltd.

Sir / Madam,

1. Fairwealth Securities Limited (hereinafter referred to as "FSL"/"Stock Broker"/ "Broker"/ "Trading Member"/ "Noticee No.1") is a stock broker registered with SEBI with registration number INZ000186238. FSL is a member of the National Stock Exchange of India Ltd. (hereinafter referred to as "NSE"), BSE Ltd. (hereinafter referred to as "BSE") and Metropolitan Stock Exchange of India Ltd. (hereinafter referred to as "MSEI") in Cash Market, Futures & Options and Currency Derivative segments. FSL is also registered as a Depository Participant (DP) with SEBI registration number IN-DP-CDSL-393-2007 and is a member of CDSL. Fairwealth Commodity Broking Pvt. Ltd. (herein after referred to as "FCBL"/ "Noticee No.14"), is a subsidiary of FSL, and is registered with SEBI as a commodity derivatives broker with registration number: INZ0000337, FCBL is a member of Multi Commodity Exchange of India Ltd (hereinafter



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referred to as "MCX") and National Commodity & Derivatives Exchange Limited (hereinafter referred to as "NCDEX").

2. Dhirender Gaba ("Noticee No.2") and Naveen Gaba ("Noticee No.3") are the Designated Directors of FSL and Shripad Sadanand Desai ("Noticee No.4") is a director of FSL at present. During the period under audit, Sandeep Jindal ("Noticee No.5"), Shitla Prasad Shukla ("Noticee No.6"), Roop Lal Aggarwal and Kamla Prasad Shukla were also the directors of FSL.
3. NSE vide email dated October 10, 2019 (**Annexure-1**) informed SEBI by way of interim report that it had visited the office of FSL on October 01, 2019 after receiving information that the directors of FSL are absconding. During its visit to the office of FSL, NSE observed that the depository and back office section of FSL were shut and only two persons were available in the office. On analysis of register of securities of FSL, NSE observed that there was shortfall of securities worth Rs. 103.84 Crore which is not available with the member. Additionally, securities worth Rs. 1.01 Crore were observed in beneficiary accounts which were not recorded in Register of Securities of the FSL. Further, FSL appeared to have sold securities through 5 clients' accounts, though these clients did not own the securities. .
4. Considering the serious nature of the allegations and prima-facie violation of various provisions of SEBI Act/ Rules/ Regulations/ circulars, an *ex-parte ad interim* order was passed on October 11, 2019 against FSL and 13 related entities (promoter/ director/ group company) namely Dhirender Gaba, Naveen Gaba, Shripad Sadanand Desai, Sandeep Jindal, Shitla Prasad Shukla (*i.e.* Noticees 2-6), Roop Lal Aggarwal, Kamla Prasad Shukla, Aagas Software Solutions Pvt. Ltd. ("Noticee No.7"), Katashraj Securities Pvt. Ltd. ("Noticee No.8"), Reets Plastics Pvt. Ltd. ("Noticee No.9"), Shyam Sunder Jolly ("Noticee No.10"), Chahek Housing Pvt. Ltd. ("Noticee No.11") and Vikram Kumar ("Noticee No.12"). The entities, vide the interim order, were *inter alia* restrained from accessing the securities market and were directed to cease and desist from undertaking any activity in the securities market. The entities were also directed not to dispose of or alienate any assets until further orders.





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5. Further, the stock exchanges were directed therein to appoint a forensic auditor to track misuse of client's funds/ securities and to identify the net assets/ liabilities position of FSL and submit the report to SEBI within 90 days.
6. In accordance with the direction of interim order, on November 25, 2019, BSE appointed Sarath & Associates (hereinafter referred to as "SA"/ "the auditor") for Forensic audit of FSL. Meanwhile, vide order dated January 24, 2020, SEBI confirmed the directions issued in the interim order against all the entities except Roop Lal Aggarwal and Kamla Prasad Shukla. Directions against Roop Lal Aggarwal and Kamla Prasad Shukla were accordingly vacated for reasons stated therein.
7. A draft audit report was submitted in January 30, 2020. Thereafter, BSE submitted the final Forensic Audit Report dated December 22, 2020 (**Annexure - 2**) to SEBI (hereinafter referred to as "**FAR**"). The observations in the FAR against the Noticee No. 1-12 named above and Fairwealth Financial Services Ltd (FFSL/ "Noticee No.13") are given below.
8. The following entities were seen to be related with FSL:

Name of related entity	Relation/ Connection
Reets Plastics Pvt. Ltd.	Shripad Sadanand Desai is a common director with FSL
Chahek Housing Pvt. Ltd.	Shripad Sadanand Desai is a common director with FSL
Aagas Software Solutions Pvt. Ltd.	Shripad Sadanand Desai is a common director with FSL
Katashraj Securities Pvt. Ltd.	Dhirender Gaba, Naveen Gaba are common directors with FSL
Shyam Sunder Jolly	Past director of FSL
Vikram Kumar	Past director of FSL
Fairwealth Financial Services Ltd	Group company of FSL

9. The allegations based on the findings of the FAR are as under:



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A. Unauthorized Trading in Clients' Account and Misappropriation of Clients' Securities

- i. It is noted that SEBI Circular no. SMD/SED/CIR/ 93/ 23321 dated November 18, 1993 provides makes it compulsory for brokers to keep separate accounts for clients' securities.
- ii. SEBI Circular No. SEBI/HO/MIRSD/ MIRSD2 /CIR/P /2016 /95 dated September 26, 2016 provides that transfer of securities between the clients' account and the brokers' proprietary account is permitted only for legitimate purposes.
- iii. SEBI Circular CIR/HO/ MIRSD /MIRSD2/CIR/P/2017/108 dated September 26, 2017, read with SEBI Circular CIR/HO/MIRSD/MIRSD2 /CIR/P/2017/124 dated November 30, 2017 and SEBI Circular CIR/HO/MIRSD/MIRSD2/CIR/P/2018/09 dated January 11, 2018, provides that brokers shall execute trades of clients only after keeping evidence of the client placing such order.
- iv. During the review period, the trade logs, DP statements of FSL's clients and the register of securities revealed that 5 related entities of FSL (Noticee Nos. 7-11) namely Aagas Software Solutions Pvt. Ltd., Katashraj Securities Pvt. Ltd. Reets Plastics Private Ltd., Shyam Sunder Jolly and Chahek Housing Pvt. Ltd. were trading in securities in huge volumes, particularly during the year 2019-20. It was noted that these securities were transferred from various demat accounts of FSL. Scrutiny of FSL's demat accounts revealed that these securities were transferred through off-market transactions from accounts of clients of FSL to the various demat accounts of FSL.
- v. In the absence of any trading instructions / contract note of clients it appears that FSL had transferred clients shares to its accounts without authorization. Subsequently, FSL had traded these securities without authorization through various accounts, including the aforementioned 5 related entities.
- vi. The related/ group entities did not own these securities and hence the trades resulted in negative holding. Hence, it is alleged that FSL utilized the securities of other clients to trade in the account of related/ group entities.





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- vii. The total excess securities sold as per the register of securities and the holding statements (CDSL/NSDL), are 1640 which were valued at Rs. 103,19,81,911 belonging to 63 clients, including their 5 group companies. The details of the same are given below:

Negative Holding of the securities as on 01.10.2019					
Sr. No	Client Code	Name	No of Clients	No of negative securities	Value of negative stock (Rs.)
1	DLFF555	Katashraj Securities Pvt. Ltd	1	182	29,81,74,855.30
2	UPFFR794	Reets Plastics Pvt.Ltd	1	412	22,81,60,881.35
3	DLFFS289	Shyam Sunder Jolly	1	281	21,29,15,353.40
4	DLFF1166	Chahek Housing Pvt.Ltd	1	357	18,96,04,150.90
5	DLFF1094	Aagas Software Solutions Pvt. Ltd.	1	243	7,42,21,143.15
6	DLFFM001	Fairwealth Commodity Broking Pvt.. Ltd.	1	5	20,06,000.00
7	DLFF02	Fairwealth Financial Services Ltd.	1	15	16,15,468.55
8	DLPMS1	Fairwealth Securities Limited	1	1	5,37,550.00
9	Other Clients of FSL		55	144	2,47,46,508.91
TOTAL			63	1640	1,03,19,81,911.56

The observations in this regard are given in Para 6.1, 6.2, 6.24 & 6.25 of 'FAR'.

- viii. *In view of the above, FSL is alleged to have misappropriated client securities. Hence, it is alleged that FSL violated SEBI Circular SMD/ SED/CIR/93/23321 dated November 18, 1993, SEBI Circular SEBI /HO/MIRSD/MIRSD2/ CIR/P /2016/95 dated September 26, 2016.*
- ix. *Further, it is alleged that FSL has traded client securities without authorization. Hence, it is alleged that FSL violated SEBI Circular CIR/HO/ MIRSD /MIRSD2/CIR/P/2017/108 dated September 26, 2017, SEBI Circular CIR/HO/MIRSD/MIRSD2 /CIR/P/2017/124 dated November 30, 2017 and SEBI Circular CIR/HO/MIRSD/MIRSD2/CIR/P/2018/09 dated January 11, 2018*

B. Unavailability of Securities



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- i. As noted above, SEBI Circular no. SMD/SED/CIR/ 93/ 23321 dated November 18, 1993 makes it compulsory for brokers to keep separate accounts for clients' securities.
- ii. Further, Clause 2 of SEBI Circular no. MRD/DoP/SE/Cir- 11/2008 dated April 17, 2008, inter alia, provides that Brokers should have adequate systems and procedures in place to ensure that client collateral is not used for any purposes other than meeting the respective client's margin requirements / pay-ins. Brokers should also maintain records to ensure proper audit trail of use of client collateral.
- iii. SEBI Circular No. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016, requires brokers to maintain a stock transfer register clearly indicating the day-wise details of securities transferred.
- iv. During the forensic audit, the register of securities of FSL's back office as on October 03, 2019 was compared with the demat account statements of FSL. The total value of securities available with FSL as per the FSL back office records amount to Rs.1,05,13,22,497.68 whereas the value of securities actually held in their demat account with CDSL, amounts to Rs. 15,10,48,996.43. Hence, there is a mismatch/ shortfall of securities worth Rs. 90,02,73,501.25. The periodic stock reconciliation was also not maintained.

The observations in this regard are given in Para 6.3 of 'FAR'.

- v. Thus, *it is alleged that client securities have been misappropriated by FSL and the shortfall of clients' securities is Rs. 90 Crore (appx.). In view of the same, it is alleged that FSL violated SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993, SEBI Circular No SEBI/MRD/Policy/AT/Cir- 19/2004 dated April 21, 2004, SEBI Circular No. MRD/DoP/SE/Cir-11/2008 dated April 17, 2008 and SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016*

C. Unauthorized Off-Market Transactions in the clients' accounts



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- i. Section 2(i) of the Securities Contracts (Regulation) Act, 1956 ("SCRA") defines spot delivery contract as a contract which *inter alia* provides for *actual delivery of securities and the payment of a price therefor either on the same day as the date of the contract or on the next day.*
- ii. As noted in point 9A above, during the period 2016-17 to 2019-20 there were unauthorized off market transactions transferring clients' securities to FSL, its group company FFSL (Noticee No. 13) and its other related entities.
- iii. It was observed that there were no formal agreement/ power of attorney (POA) between FFSL and FSL for such transactions. During the visit to the FSL back office, director of the FSL failed to submit/ produce any documentary evidences in support of such off market transactions between the said two entities. No clients contract notes were made available at the FSL back office for the verification of the off market transactions carried out in the clients' demat accounts.

The observations in this regard are given in Para 6.4 of 'FAR'.

- iv. *Hence, by dealing in shares through off market transfers without consideration, FSL is alleged to be in violation of Section 13 and Section 18 of SCRA, 1956 read with Section 2(i) of SCRA, 1956.*

D. Unauthorized Pledging of client securities

- i. Clause 2.5 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 provides that a stock broker may pledge a client's securities to the extent of the client's indebtedness to the stock broker. Further, the pledge can occur only with the explicit authorization of the client and the funds raised against such pledged securities shall be credited only to the bank account named as "Name of the Stock Broker - Client Account". "
- ii. As noted above, it was observed that FSL's clients' securities were transferred from their respective demat accounts to FSL and its related entities. Subsequently the securities were transferred to FSL's broker-client account.



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Thereafter identifying the individual client's securities was difficult. These securities were then pledged for obtaining the loans/facilities or used in providing as margin for trading.

- iii. FSL had pledged clients' securities with various NBFCs/ Banks/ FIs viz. Kotak Mahindra Bank, HDFC Bank, ECL Finance Limited, Aditya Birla Finance Ltd, IIFL Wealth Ltd, Globe Fin Cap Ltd, ILFS Financial Services Ltd and Edelweiss Custodian Services Ltd. and availed overdraft/Loan Against Security (LAS) facility with them. FSL's clients' securities were pledged by its group entity FFSL with ECL Finance Ltd for raising funds which were transferred to Kotak Bank A/c No.09582540006005. This account is not in the books of accounts (Trial Balance) of FSL for all the three years of the account and is suspected to belong to FFSL. Therefore it is alleged that the client securities of FSL were transferred to FFSL which was later pledged by FFSL to raise funds.
- iv. During the Forensic Audit, the data of securities pledged by FSL on four different dates viz., 31.12.2017, 31.03.2018, 30.06.2018 and 31.01.2019, were analyzed. As per the analysis, FSL had pledged securities of credit balance clients. Further, securities of debit balance clients were pledged in excess of their obligations on all the four dates. The total excess pledge of securities by FSL as on 31.12.2017, 31.03.2018, 30.06.2018 and 31.01.2019 is Rs. 61.92 Crore, Rs 35.06 Crore, Rs 40.57 Crore and Rs 15.25 Crore respectively. Details of the same are given below:





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Particulars	Value in Crores (Rs)			
	31.12.2017	31.03.2018	30.06.2018	31.01.2019
Value of Securities Pledged as per the Holding Statement (A)	94.38	71.71	60.52	44.20
No. of Clients	11,301	11,775	9612	7286
Securities Pledged as of Debit Clients (B)	56.65	65.86	55.29	44.20
Securities Pledged as of Credit Clients (C)	37.73	5.85	5.22	--
Total Debtors (D)	24.45	36.65	18.43	25.51
Total Derivative Margin Obligations (E)	8.01	--	1.52	2.43
Total Obligation (F)= (D + E)	32.46	36.65	19.94	28.95
Excess Pledge of Debit Clients (G)	24.19	29.20	35.34	15.25
Total Excess Pledge (C + G)	61.92	35.06	40.57	15.25

- v. This indicates that FSL had been pledging securities of its debit and credit balance clients in excess of the obligation in substantial amounts. A stock broker does not have the authority to pledge the securities of its fully paid clients and the same amounts to misappropriation of clients securities by the stock broker.

The observations in this regard are given in Para 6.5- 6.10 of 'FAR'.

- vi. Observation on analysis of bank accounts of FSL:

The Forensic auditor has stated that despite repeated mails and telephonic conversation with FSL's director, Mr. Dhirender Gaba, the complete details of the bank accounts, title deeds of properties, details of client wise securities pledged and details of transactions of the group companies were not provided by FSL.

In order to ascertain the transaction vis-a-vis the movement of clients' securities, certain bank accounts statement were obtained from banks (Annexure 3). In relation to the same, it was observed that FSL had raised





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funds by way of pledging securities with NBFCs/financial institutions /banks namely, Aditya Birla Finance Ltd, IL&FS Financial Services Limited, ECL Finance Limited, Kotak Mahindra Bank Ltd, IIFL Wealth Finance Limited, HDFC Bank Ltd, and Globe Fincap Limited. The transaction between aforesaid institutions and the two major accounts of FSL (A/c. no. 01722650000184 & 9511123079 held with Kotak Bank) are tabulated below.

Sl. No.	Movement of funds between accounts	Period	Amount (Rs.)
1.	ECL Finance Ltd to FSL(A/c. no. 0184)	29/09/2017-25/09/2019	60,25,50,000
	FSL(A/c. no. 0184) to ECL Finance Ltd	04/10/2017-25/09/2019	47,63,10,060
2.	Aditya Birla Finance Ltd to FSL(A/c. no. 0184)	---	---
	FSL(A/c. no. 0184) to Aditya Birla Finance Ltd.	11/05/2016-31/07/2018	9,54,73,889
3.	IL & FS Financial Services Limited to FSL(A/c. no. 0184)	17/05/2016-15/12/2016	90,324
	FSL(A/c. no. 0184) to IL & FS Financial Services Limited	11/05/2016-31/07/2018	9,54,73,889
4.	IIFL Wealth Finance Limited to FSL(A/c. no. 0184)	27/03/2017-25/05/2017	4,40,00,000
	FSL(A/c. no. 0184) to IIFL Wealth Finance Limited	06/05/2017-28/06/2018	4,66,86,907
5.	Globe Fincap Ltd. to FSL(A/c. no. 0184)	31/05/2018	9,320
	Globe Fincap Ltd. to FSL(A/c. no. 3079)	25/04/2017-18/05/2017	6,50,00,000





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	FSL(A/c. no. 0184) to Globe Fincap Ltd	16/05/2017- 02/11/2018	2,51,02,000
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As per the FAR, FSL had pledged securities with the abovementioned NBFCs of its debit and credit balance clients' excess of their obligation and thus misappropriated clients securities.

- vii. *In view of the above, it is alleged that FSL pledged clients' securities without due authorization and in excess of their indebtedness to the stock broker. Thus, FSL is alleged to have violated SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993, SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016*

E. Non Settlement of clients' account

- Clause 12 of Annexure A of SEBI Circular no. SEBI/MIRSD/SE/Cir-19/2009 dated December 03, 2009, provides that a client may specifically authorize the stock broker to maintain a running account subject, *inter alia* to actual settlement of funds and securities by the broker, at least once in a calendar quarter or month, depending on the preference of the client.
- The auditor was provided data for two quarters of FY 2019-20 by the broker. Accordingly, the auditor prepared the list of the client wise funds and securities which were not settled for the two quarters of 2019-20. It was observed that the amount of clients' funds which were not settled is Rs. 3.65 Crore and the amount of client securities which were not settled is Rs. 20.09 Crore for the first two quarters of 2019-20.

The observations in this regard are given in Para 6.11 of 'FAR'.

- Thus, it is alleged that FSL failed to settle funds and securities of clients in violation of SEBI Circular no. SEBI/MIRSD/SE/Cir-19/2009 dated December 03, 2009.*





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F. Mis-utilization of funds for own purposes/debit balance clients

- i) Clause 1 of SEBI Circular no. SMD/SED/CIR/93/23321 dated November 18, 1993, *inter alia*, requires brokers to keep client funds and own funds in separate accounts. Further, no money shall be drawn from clients account other than for payment to or on behalf of clients or for payment of a debt due to the Member from clients or as otherwise provided therein.
- ii) Further, SEBI Circular No. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016, provides that *transfer of funds from "Name of Stock Broker - Client Account" to "Name of Stock Broker - Proprietary Account" is permitted only for legitimate purposes.*
- iii) In this regard, it was noted from the data available in the books of accounts and received from the exchanges, that FSL has misutilized clients' funds to the tune of Rs. 52.3 Crore. Of this, Rs. 25.05 Crore was used for debit balance clients and Rs 27.24 Crore was used for own purpose. The details of the same are given below:

CODE	PARTICULARS	AMOUNT in Rs
A	Aggregate of fund balances available in all Client Bank Accounts, including the Settlement Account WITH STOCK EXCHANGES	1,70,31,321.52
B	Aggregate value of collateral deposited with clearing corporations and/or clearing member	3,47,95,005.11
C	Aggregate value of Credit Balances of all clients as obtained from trial balance across Stock Exchanges	57,48,59,027.25*
G	DIFFERENCE [(A+B)-C]	(52,30,32,700.62)
D	Aggregate value of Debit Balances of all clients as obtained from trial balance across Stock Exchanges	(25,05,62,916.04)
H	Amount of client funds used for own purpose	(27,24,69,784.58)





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**Note: The credit balance of the clients refers to clients who had the financial credit balances of Rs. 57.48 crore as per the FSL's books of accounts.*

The observations in this regard are given in Para 6.12 of 'FAR'.

- iv) It was further observed that FSL misutilised funds to purchase/ repay loans for several properties and cars: FSL had raised 'Loans against Property' from different banks. These loans were repaid out of the funds generated from FSL's trading business. Hence, the repayment of loans and utilization of funds for acquiring cars amount to misutilization of the funds by the FSL and its directors.

The observations in this regard are given in Para 6.16 of 'FAR'.

- v) *In view of the above, it is alleged that FSL has misused/diverted client funds and that sufficient funds are not available to settle credit balance clients. FSL is thus alleged to have violated SEBI Circular no. SMD/SED/CIR/93/23321 dated November 18, 1993 and SEBI Circular no. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/ 95 dated September 26, 2016.*
- vi) It was observed that salary of employees of FSL were paid from the client account (Account No. : 06782320000947) held with HDFC bank (**Annexure 4**).
- vii) *Thus, it is alleged that FSL paid salary to its employees from clients' account. Thus, FSL has allegedly violated SEBI Circular no. SMD/SED/CIR/93/23321 dated 18 Nov, 1993 read with SEBI/MRD/SE/Cir- 33/2003/27/08 dated Aug 27, 2003.*

G. Misrepresented Books of Accounts and Submitted Incorrect Network Certificate to Exchange

- i. Regulation 17 of the SEBI (Stock-Brokers) Regulations, 1992 and Rule 15 of SC(R) Rules 1957 requires every stock broker to keep and maintain the books of account, records and documents as provided therein.
- ii. During review period, it was observed that FSL had failed to maintain proper books of accounts, and thus misrepresented its network in the certificate





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submitted to exchanges as on 31.03.2018. It was observed that the long outstanding debtors (i.e., more than 90 days), the value of the fixed assets, pledged securities, non-allowable securities and 30% of the marketable securities were not considered while calculating the network as per the SEBI guidelines.

- iii. The Fixed Assets schedule of the Audited Balance Sheet is incorrect, as the schedule does not contain the properties and cars owned by the FSL.
- iv. FSL owned several cars and properties but these were not declared in the Asset Schedule of the Audited Balance Sheets. Further, there are several loans against these cars. The value of these assets was not reduced from the Network Calculation of FSL.
- v. Securities were pledged with ECL Finance Ltd, Kotak Mahindra Bank and HDFC Bank, Global Finance Ltd during the period 2016-17 to 2019-20. However, the value of these pledged securities, which are to be reduced for the calculation of Network, were not considered.
- vi. Network submitted by FSL as on 31.03.2018 was shown as Rs. 12 Crore while it actually was negative Rs. 13 Crore as calculated below:

PARTICULARS	31.03.2018	
	As Per CA Certificate	As per Books of Accounts
Capital +free reserves	16.15	16.15
Fixed Assets	(2.37)	(15.12)
(b) Pledged Securities	-	-
(c) Member's Card	-	-
(d) Non-allowable Securities (Unlisted Securities)	(1.28)	(1.28)
(e) Bad deliveries	-	-
(f) Doubtful Debts and advances	-	(16.16)
(g) Prepaid Expenses and Losses	(0.27)	-





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(h) Intangible Assets	-	(0.70)
(i) 30 % of marketable securities	-	-
	12	(13)

The observations in this regard are given in Para 6.13 of 'FAR'.

- vii. In view of the above, it is alleged that FSL had failed to maintain proper books of accounts, thus misrepresented its networth. Accordingly, it is alleged that FSL has violated Rule 15 of SC(R) Rules 1957 and Regulation 17 of the SEBI (Stock-Brokers) Regulations, 1992. Further, FSL has also violated Clause 6.1.1(j) of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 as it submitted incorrect/ wrong data to the exchange.

H. Failure to furnish documents to exchange/auditor-Non cooperation

- Regulation 21 of Securities and Exchange Board of India (Stock Brokers) Regulations, 1992 requires every director, proprietor, partner, officer and employee of the stock-broker, who is being inspected to provide books, accounts, documents, access and assistance to the inspecting authority.
- During the audit, upon scrutiny of the books of accounts by the auditor, it was observed that there were huge payments and receipts to/from the group entities which are not a part of trading activity. However, the bank statements of all the accounts of FSL from 2016-17 were not available. Further, the bank statements of these group entities were also not available for the period from 2016-17 to 2019-20, hence the exact amount paid and received could not be verified in the bank accounts.
- Further, during the Forensic Audit, it was observed that the opening balances as on 01.04.2019 do not match with that of closing balance as on 31.03.2019 in the books of accounts of FSL. For example the loan balances are not same as that were existing in 2017-18 and 2018-19 are not to be seen in the opening balance of the trial balance as on 01.04.2019.



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- iv. In spite of repeated mails, telephonic conversations and personal requests to FSL's director Mr. Dhirender Gaba at the Gurgaon office premises of FSL, the auditor did not receive complete details of the bank accounts, deeds of properties, details of the client wise securities pledged and the details of the transactions of the group companies. FSL's director also failed to furnish clarifications.

The observations in this regard are given in Para 6.14, 6.16 & 7 of 'FAR'.

- v. *Thus, it is alleged that FSL and its directors failed to provide the required information/ documents to the auditor. Hence, FSL is alleged to be in violation of Regulation 21 of Securities and Exchange Board of India (Stock Brokers) Regulations, 1992 and Clause A(5) of Schedule II read with Regulation 9 (f) of SEBI (Stock Brokers) Regulations, 1992.*

I. Related party transactions

- i. Section 12 (1) of SEBI Act, 1992, provides that no stock broker, sub-broker, shall buy, sell or deal in securities except under, and in accordance with, the conditions of a certificate of registration obtained from the Board. Further, Rule 8 (1)(f) and 8 (3)(f) of the Securities Contracts (Regulation) Rules, 1957, provides that broker shall not engage in any business other than that of securities or commodity derivatives except as a broker.
- ii. In this regard, the payments made to the present and past directors were analysed from the books of accounts/bank ledgers. The details of the payments to the present and past directors in the last four Financial Years, i.e., 2016-17 to 2019-20 are as follows. Based on the table below, huge fund transfers were observed from the present directors of FSL viz., Mr. Dhirender Gaba, Mr. Naveen Gaba.



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Year	31-03-2017		31-03-2018		31-03-2019		01-10-2020	
Directors	Debit	Credit	Debit	Credit	Debit	Credit	Debit	Credit
DHIRENDER GABA	1,67,56,717	1,86,99,840	16,99,76,799	16,99,97,091	16,22,78,024	17,43,52,689	9,04,10,883	12,90,43,202
NAVEEN GABA	15,95,227	15,73,981	1,09,80,807	1,10,18,982	61,40,006	1,01,07,424	4,63,92,933	7,81,12,932
SHRIPAD SADANAND DESAI	19,000	19,448	7,196	6,731	1,69,405	1,69,405	52,768	55,330
Past Directors								
AMIT GUPTA	1,93,950	2,02,174	38,488	30,057	5	38	77,712	76,546
ANIL DIXIT	856	856	-	-	-	-	29,000	29,000
KAMLA PRASAD SHUKLA	21,170	20,010	11,128	10,000	-	0	17,516	17,516
RAHUL YADAV	573	-	288	-	4,020	-	8,25,045	45
ROOP LAL AGARWAL	1,51,903	1,51,903	-	-	-	-	1,50,000	1,50,000
SHITLA PRASAD SHUKLA	2,29,931	2,29,931	36,273	35,278	7,41,841	7,27,672	4,45,636	4,14,744
SHYAM SUNDER JOLLY	17,47,56,020	11,44,22,865	8,98,41,615	15,18,64,892	25,65,674	63,53,600	3,39,26,560	3,77,11,811
VIKRAM KUMAR	56,77,128	56,54,643	1,05,57,298	1,05,63,140	10,64,607	10,30,408	27,23,003	27,19,451
SANDEEP JINDAL	-	-	-	-	-	-	-	-

As seen from the table above, the total payment to Mr. Dhirender Gaba account in the last four years is Rs. 4,44,21,523 and total receipt was Rs. 4,90,92,832 with net receipts of Rs. 46,71,309. The total payment to Mr. Naveen Gaba is Rs. 6,51, 08,973 and total receipt from his account in the last four years is Rs. 10,08,13,319, with a net receipt of Rs. 3,57,04,346.

- iii. The total payments/ receipts to the past directors are also substantial in case of Mr. Shyam Sunder Jolly and Mr. Vikram Kumar. The total payment to Mr. Shyam Sunder Jolly is Rs. 30,10,89,869 and total receipt from his account is Rs. 30,93,53,268, which amounts to a net receipt of Rs. 82,63,399. The total





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payment to past Director Mr. Vikram Kumar is Rs. 2,00,22,036 and total receipt is Rs. 2,00,05,396.

- iv. Further, there were huge payments and receipts to/ from the group entities which are not in the nature of trading activity. M/s Fairwealth Financial Services Ltd. does not have UCC allotted i.e. it is not registered for trading activity through FSL. In spite of this, FSL made total payments of Rs. 37,69,48,551 and received a total of Rs 61,26,74,478 from Fairwealth Financial Services Ltd. The FSL client securities were pledged through this account to ECL Finance Ltd. M/s Vanshi Builtech Pvt Ltd, in which Mr. Sandeep Jindal is one of the common directors, is not registered for the trading activity with FSL, but there are payments of Rs. 1,31,50,000 and receipts for Rs. 92,00,000. Another major group entity M/s Fairwealth Agencies Pvt Ltd, which is registered for trading activity with FSL had several transactions with FSL. Total debits to this company is Rs. 7,12,65,188 and total credit transactions of Rs. 2,29,82,183.

The observations in this regard are given in Para 6.15 and 6.17 of 'FAR'.

- v. *In view of the above, it is alleged that FSL was engaged in business other than securities and also misused clients' funds/securities. Thus, FSL has allegedly violated Section 12(1) of SEBI Act, 1992 read with Rule 8 (1) (f) and 8 (3) (f) of SCRR, 1957.*

J. Miscellaneous Contraventions

i. Discrepancies in Email ids and Mobile numbers data of clients

- a) During the examination of UCC data, it was observed that out of the total 67,833 clients, there were 2588 instances where clients' mobile numbers were not entered and 592 instances where the mobile number and email ids were not mentioned.
- b) There were 1572 clients, not covered under the definition of "Family", with common contact numbers and common email address registered with the





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exchanges against each of different clients. These clients were active clients who traded with FSL. However, the details of their contact numbers, email address were intentionally manipulated / not provided by FSL.

The observations in this regard are given in Para 6.20 of 'FAR'.

c) Thus, FSL has allegedly not complied with Clause 2(B) of SEBI Circular CIR/MIRSD/15/2011 dated August 02, 2011 which requires stock brokers to upload the details of clients, such as, name, mobile number, address for correspondence and E-mail address in the UCC data.

ii. FSL purchased securities in un-registered client code

- a) SEBI Circular No. SMDRP/Policy/CIR-39/2001 dated July 18, 2001, provides that "it will be mandatory for all brokers to use unique client codes for all clients."
- b) During review period, it was observed that from FY 2016-19, FSL under the client code "NSE" purchased 12,00,837 securities. However, no sale transactions were observed. Further, client code "NSE" was not found in the UCC data.

The observations in this regard are given in Para 6.22 of 'FAR'.

- c) By dealing in unregistered client code, FSL is alleged to be in violation of SEBI Circular No. SMDRP/Policy/CIR-39/2001 dated July 18, 2001 and Clause A (2) & A (3) of Schedule II read with Regulation 9 (f) of SEBI (Stock Brokers) Regulations, 1992.

iii. Non-Segregation of Funds/Securities of Clients

- a) As per Clause 2.5 of Annexure of SEBI Circular SEBI /HO /MIRSD /MIRSD2 /CIR/P/2016/95 dated September 26, 2016, funds raised against pledged securities can be credited only to a bank account named as "Name of the Stock Broker - Client Account". However, FSL had raised funds from ECL Finance Limited by pledging of clients' securities. Funds so raised were credited to other bank account(s).





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- b) Further, securities to be pledged have to be pledged from the BO account tagged as "Name of the Stock Broker - Client Account". In this regard, it was observed that FSL had pledged securities through its group company. Shares were pledged mainly from M/s Fairwealth Financial Services Ltd (FFSL), account no "1204910000117737", which is an NBFC company.
- c) In addition, stock brokers are mandated to send a statement reflecting the pledge and funding to the clients. However, FSL had not sent the details of the securities pledged to their clients.

The observations in this regard are given in Para 6.23 of 'FAR'.

- d) *In view of the above, it is alleged that FSL has violated Clause 2.5 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.*

iv. Code of Conduct Violations

- a) From the bank account statement of FSL (A/c. no. 01722650000184 held with Kotak Bank) it was seen that during the period of examination, huge amount of cash withdrawal and cash deposit was made by FSL. Details of the same are tabulated below:

Particular	Amount	Period
Cash withdrawal	1,00,78,908	13/04/2016-21/09/2019
Cash deposit	43,32,500	27/04/2016-24/11/2016

Year wise cash withdrawal:

Year	Amount (Rs.)
2016	20,50,100
2017	23,19,352
2018	32,79,056
2019	24,30,400





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- b) It is seen that major amount of withdrawal happened between year 2017-2019 when the broker misused clients' securities by way of pledging and selling through other accounts. Further clients' money had been withdrawn by the broker on regular basis and used for other purposes.

The detailed findings in this regard are referred to in the above-mentioned bank statement.

- c) *In view of the above, it is alleged that FSL has failed to maintain fairness and integrity in all its business. Thus, it is alleged to have violated clause A (1) and A (5) of the Code of Conduct prescribed for the Stock brokers under the SEBI (Stock Brokers and Sub-brokers) Regulations, 1992*

- K. In view of the allegations as stated above, FSL is alleged to have not acted with the standard of integrity and fairness expected of a stock broker. FSL also failed to exercise due skill, care and diligence in the conduct of its business. FSL also failed to comply with statutory requirements. In view of the same, FSL is alleged to have violated Clauses A(1),A(2) & A(5) of Code of Conduct as provided under Schedule II read with Regulation 9 of the SEBI (Stock Brokers) Regulations, 1992. FSL is also alleged to have violated Section 12A of SEBI Act, 1992 r/w Regulation 3(d), 4(1),4(2)(f), 4(2)(p) and 4(2)(m) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market), Regulations, 2003.

10. Examination of the role of Fairwealth Commodity Broking Private Limited (FCBL)

A multi theme inspection of Fairwealth Commodity Broking Private Limited, SEBI registered Stock Broker of MCX, NCDEX and ICEX (hereinafter referred to as ("FCBL"/"Broker"/ "Entity")) was conducted during December 20-26, 2018 by SEBI, for the period of April 01, 2017 to December 20, 2018. The Inspection findings were forwarded to the broker vide letter dated September 03, 2019 (**Inspection Report ('IR') at Annexure-5**). FCBL is also a subsidiary of FSL. Mr. Dhirender Gaba and Mr. Naveen Gaba were the directors of the broker at the time of inspection.





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The allegations against FCBL and its two directors based on the findings/ observations made in the Inspection report and relevant bank statements as mentioned are as under:

A. Failure to segregate client funds from own funds

- i. It was observed that some transactions not relating to clients have been found in client bank accounts.

The observations in this regard are given in Para 1.1.1 of the 'IR'

- ii. *In view of the above, FCBL is in violation of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and SEBI Circular MRD/DoP/SE/Cir- 11/2008 dated April 17, 2008, which mandate segregation of client funds.*

B. Misuse of clients' funds:

- i. It was observed that in 3 out of 36 trading days during the period of April 2017 and December 2018, the value of G is negative. This indicates that funds of credit balance clients are utilized for settlement obligations of debit balance clients or own obligations. The details of the days where G is negative is given below:

Sl No.	Date	A	B	A+B	C	G=(A+B)-C
1	31/07/2017	8122465	19443793	27566258	56335453	-28769195
2	28/03/2018	2471014	16371636	18842650	40970609	-22127959
3	14/12/2018	6,953,456	16497926	23451382	41,764,433	-18313051

The observations in this regard are given in Para 4.6 & 4.7 of the 'IR'





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- ii. By misappropriating clients' funds, FCBL is in violation of SEBI Circular No. SMD/SED/CIR/93/23321 dated November 18, 1993 and SEBI Circular No. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016

C. Non settlement of clients' funds

- i. In response to the information sought on quarter-wise settlement compliance, the Broker submitted the following vide email dated November 27, 2018:

FY	Quarter	Total number of active clients during inspection period	Total number of clients during the period	No of clients required to be settled	No. of clients settled	No. of clients unsettled
2017-18	Apr-Jun 2017	1560	1560	1560	1543	17
2017-18	Jul-Sep 2017	1784	1784	1784	1773	11
2017-18	Oct-Dec 2017	1372	1372	1372	1360	12
2017-18	Jan-Mar 2018	1885	1885	1885	1869	16
2018-19	Apr-Jun 2018	2220	2220	2220	2209	11
2018-19	Jul-Sep 2018	2286	2286	2286	2267	19

- ii. Vide email dated November 19, 2018, FCBL submitted Ageing analysis of credit balance clients and that of clients having Credit balances of more than Rs. 10,000. The same is given as under:

Ageing analysis of all credit balance clients

Quarter ended	Total no of credit balance clients		Credit balance outstanding for less than 90 days (in Rs. Crore)		Credit balance outstanding for more than 90 days but less than 180 days (in Rs. Crore)		Credit balance outstanding for more than 180 days (in Rs. Crore)	
	No of clients	Credit balance	No of clients	Credit balance	No of Clients	Credit balance	No of Clients	credit balance
30-Jun-18	1891	2,06,19,384	1891	2,06,19,384	--	--	--	--





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30-Sep-18	1885	2,12,65,397	288	83,95,915	1597	1,28,69,482	--	--
30-Jun-17	1223	3,17,82,863	1223	3,17,82,863	--	--	--	--
30-Sep-17	1331	2,61,87,493	469	97,39,880	862	1,64,47,613	--	--
31-Dec-17	1188	2,62,24,677	370	1,36,21,382	163	27,48,467	655	98,54,829
31-Mar-18	1603	2,41,27,437	504	1,04,48,887	195	33,10,892	904	1,03,67,658

- iii. In order to verify the total number of UCCs and the total amount that was not settled quarterly, the Broker was advised to furnish funds ledger balances of all its clients (active and inactive) at the end of each quarter for every financial year. The total number of in-active clients not settled is as under:

Quarter Ended	No. of UCCs whose balances have remained same on last dates of successive quarters	Inactive accounts not Settled	
		Maximum Amount (in Rs.)	Credit Balance not settled (in Rs.)
Jun-17	182	71031.96	8,65,792.53
Sep-17	164	237565.72	13,21,625.66
Dec-17	193	1,71,015.83	10,33,364.21
Mar-18	383	66,631.73	1316418.04
Jun-18	384	2,47,217.12	15,21,662.14

The observations in this regard are given in Para 5.2-5.7 of the 'IR'

- iv. Thus, it is alleged that FCBL has failed to settle funds of clients and violated SEBI Circular no. SEBI/MIRSD/SE/Cir-19/2009 dated December 03, 2009.

D. Enhanced supervision data





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- i. On verification of member's submission for clients' funds lying with stock broker on Exchange portal for sample 38 dates, it was observed that for 3 dates the member had incorrectly submitted the details on Exchange portal.
- ii. Differences were observed in data *inter alia* pertaining to aggregate of fund balances available in all Client Bank Accounts, including the Settlement Account, maintained by the stock broker across stock exchanges, value of collateral deposited with Exchange, value of collateral deposited with clearing member, value of Credit Balances of all clients as obtained from trial balance across Stock Exchanges, value of Debit Balances of all clients, value of Margin utilized for positions of Credit Balance Clients, value of unutilized collateral lying with the Exchange and value of unutilized collateral lying with the clearing member across Stock Exchanges.

The observations in this regard are given in page-11& 12 (Analysis of supervision data) of the 'IR'

- iii. *In view of the above, FCBL has violated Clause 6.1.1(j) of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2 /CIR/P/2016/95 dated September 26, 2016 as it submitted incorrect/wrong data to exchange.*

E. Client registration process (KYC and KRA process)

- i. SEBI circular CIR/MIRSD/16/2011 dated August 22, 2011 read with SEBI Master circular SEBI/HO/MIRSD/DOP1/CIR/P/2018/87 dated June 01, 2018, *inter alia*, devised uniform documentation for client registration. After analyzing all the KYC's documents provided by the Member, following discrepancies were observed:
 - a. Member was unable to produce one client registration document
 - b. Part of Mandatory documents such as Uniform Risk Disclosure, Rights and Obligations and Do's and Don'ts for the clients were not updated as specified by the Regulator and Exchanges. SEBI registration number not updated.
 - c. Financial proof was not obtained, running account authorizations were incomplete, IPV was not done etc.
 - d. Old formats have been used for KYC documents including RDD, Rights & obligations, Guidance notes etc.





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- e. Running account authorizations have not been obtained/ are not available in KYC documents
- f. Running account authorizations obtained are not proper as per prescribed requirements (Monthly/quarterly settlement preference not obtained)
- g. ECN declaration not as per prescribed format
- h. Documents supporting financial/ income details have not been obtained as part of KYC documents
- i. Financial information of clients is not updated periodically i.e. at least once in a financial year and supporting documents not obtained.
- j. Stamp of Fairwealth Securities Ltd. has been put on some KYC documents (PAN verification, In-person verification).

The observations in this regard are given in para H of the 'IR'

- ii. *Hence, FCBL has violated SEBI Master circular SEBI/HO/ MIRSD/ DOP1/ CIR/P/2018/87 dated June 01, 2018 and SEBI circular CIR/MIRSD/16/2011 dated August 22, 2011.*

F. Correct Mobile no./email id not uploaded in UCC

- i. It was observed that correct Mobile Number and E-Mail Id were not uploaded in UCC.
 - a) No of instances wherein incorrect email ids as per Member Back office when compared to data from Exchange UCC are: 155
 - b) No of instances wherein incorrect Mobile number as per Member Back office when compared to data from Exchange UCC are: 109
- ii. On sample verification, it was observed that same mobile number / e-mail id have been uploaded for multiple client codes.
 - c) Number of sample instances wherein same email id used for multiple clients: 50
 - d) Number of sample instances wherein same Mobile number used for multiple clients: 15





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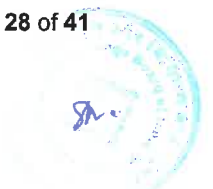
The observations in this regard are given in point I (b) of the 'IR'

- iii. *In view of forgoing, FCBL has violated Clause 2(B) of SEBI Circular CIR/MIRSD/15/2011 dated August 02, 2011*

G. In view of the allegations as stated above, FCBL is alleged to have violated Clauses A(1), A(2) & A(5) of Code of Conduct as provided under Schedule II read with Regulation 9 of the SEBI (Stock Brokers) Regulations, 1992. FCBL is also alleged to have violated Section 12A of SEBI Act, 1992 r/w Regulation 4(1) & 4(2)(f) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market), Regulations, 2003.

11. In view of the above, FSL and FCBL are alleged to be in violation of the following provisions as detailed in paras 9 and 10 above respectively.

Act/Regulation/ Circular	Section/ Regulation/ Clause	Details
SEBI Act, 1992	Section 12 (1)	"No stock broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market shall buy, sell or deal in securities except under, and in accordance with, the conditions of a certificate of registration obtained from the Board in accordance with the regulations made under this Act."
SCRA, 1956	Section 2 (i)	"In this Act, unless the context otherwise requires, — "spot delivery contract" means a contract which provides for,- (a) actual delivery of securities and the payment of a price therefor either on the same day as the date of the contract or on the next day, the actual period taken for the despatch of the securities or the remittance of money





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		therefor through the post being excluded from the computation of the period aforesaid if the parties to the contract do not reside in the same town or locality; (b) transfer of the securities by the depository from the account of a beneficial owner to the account of another beneficial owner when such securities are dealt with by a depository"
SCRA, 1956	Section 13	"If the Central Government is satisfied, having regard to the nature or the volume of transactions in securities in any State or States or area that it is necessary so to do, it may, by notification in the Official Gazette, declared this section to apply to such State or States or area and thereupon every contract in such State or States or area which is entered into after the date of the notification otherwise than between members of a recognised stock exchange or recognised stock exchanges in such State or States or area or through or with such member shall be illegal."
SCRA, 1956	Section 18	"Nothing contained in sections 13, 14, 15 and 17 shall apply to spot delivery contracts."
SC(R) Rules 1957	Rule 15	"Every member of a recognised stock exchange shall maintain and preserve the following books of account and documents for a period of five years : (a) Register of transactions (Sauda book). (b) Clients' ledger. (c) General ledger. (d) Journals. (e) Cash book. (f) Bank pass-book. (g) Documents"
SC(R) Rules 1957	Rule 8 (1)(f)	"No person shall be eligible to be elected as a member if he is engaged as principal or employee in any business other than that of securities ⁸ [or commodity derivatives] except





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		<i>as a broker or agent not involving any personal financial liability unless he undertakes on admission to sever his connection with such business"</i>
SC(R) Rules 1957	Rule 8 (3)(f)	<i>"No person who is a member at the time of application for recognition or subsequently admitted as a member shall continue as such if— ... (f) he engages either as principal or employee in any business other than that of securities [or commodity derivatives] except as a broker or agent not involving any personal financial liability"</i>
SEBI (Stock-Brokers) Regulations, 1992	Clauses A(1), A(2)& A(5) of Code of Conduct as provided under Schedule II read with Regulation 9(f)	<i>Conditions of registration.</i> <i>9. Any registration granted by the Board under regulation 6 shall be subject to the following conditions, namely,-</i> <i>(f) he shall at all times abide by the Code of Conduct as specified in Schedule II; and</i> CODE OF CONDUCT FOR STOCK BROKERS [Regulation 9] A. General. <i>(1) Integrity: A stock-broker, shall maintain high standards of integrity, promptitude and fairness in the conduct of all his business.</i> <i>(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.</i> <i>(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.</i>
SEBI (Stock-Brokers) Regulations, 1992	Regulation 17	<i>"Every Stock Broker shall keep and maintain the following books of account, records and documents, namely:</i> <i>(a) Register of transactions (Sauda Book);</i>





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		(b) Clients ledger; (c) General ledger; (d) Journals; (e) Cash book; (f) Bank pass book; (g) Documents register containing, inter alia, particulars of securities received and delivered in physical form and the statement of account and other records relating to receipt and delivery of securities provided by the depository participants in respect of dematerialized securities; (h) Member's contract books showing details of all contracts entered into by him with other members of the same exchange or counterfoils or duplicates of memos of confirmation issued to such other members; (i) Counterfoils or duplicates of contract notes issued to clients; (j) Written consent of clients in respect of contracts entered into as principals; (k) Margin deposit book; (n) Client account opening form in the format as may be specified by the Board."
SEBI (Stock-Brokers) Regulations, 1992	Regulation 21	(1) It shall be the duty of every director, proprietor, partner, officer and employee of the stock-broker, who is being inspected, to produce to the inspecting authority such books, accounts and other documents in his custody or control and furnish him with the statements and information relating to the transactions in securities market within such time as the said officer may require. (2) The stock-broker shall allow the inspecting authority to have reasonable access to the premises occupied by such stock-broker or by any other person on his behalf and also extend reasonable facility for examining any books, records, documents and computer data in the possession of the stock-broker or





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		any other person and also provide copies of documents or other materials which, in the opinion of the inspecting authority are relevant. (3) The inspecting authority, in the course of inspection, shall be entitled to examine or record statements of any member, director, partner, proprietor and employee of the stock-broker. (4) It shall be the duty of every director, proprietor, partner, officer and employee of the stock broker to give to the inspecting authority all assistance in connection with the inspection, which the stock broker may reasonably be expected to give.
SEBI (PFUTP), 2003	Regulation 3(d), 4(1), 4(2)(f), (m) and (p)	3. Prohibition of certain dealings in securities (d) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made there under. 4. Prohibition of manipulative, fraudulent and unfair trade practices (1) Without prejudice to the provisions of regulation 3, no person shall indulge in a manipulative, fraudulent or an unfair trade practice in securities markets. Explanation.—For the removal of doubts, it is clarified that any act of diversion, misutilisation or siphoning off of assets or earnings of a company whose securities are listed or any concealment of such act or any device, scheme or artifice to manipulate the books of accounts or financial statement of such a company that would directly or indirectly manipulate the price of securities of





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		that company shall be and shall always be deemed to have been considered as manipulative, fraudulent and an unfair trade practice in the securities market. (2) Dealing in securities shall be deemed to be a manipulative fraudulent or an unfair trade practice if it involves any of the following:— (f) knowingly publishing or causing to publish or reporting or causing to report by a person dealing in securities any information relating to securities, including financial results, financial statements, mergers and acquisitions, regulatory approvals, which is not true or which he does not believe to be true prior to or in the course of dealing in securities; (m) a market participant entering into transactions on behalf of client without the knowledge of or instructions from client or misutilizing or diverting the funds or securities of the client held in fiduciary capacity; (p) an intermediary predating or otherwise falsifying records including contract notes, client instructions, balance of securities statement, client account statements;
SEBI Circular no. SMD /SED /CIR/ 93/ 23321 dated November 18, 1993	Clause 1	"It shall be compulsory for all Member brokers to keep the money of the clients in a separate account and their own money in a separate account" "Every member broker who holds or receives money on account of a client shall forthwith pay such money to current or deposit account at bank to be kept in the name of the member in the title of which the word "clients" shall appear (hereinafter referred to as "clients account")"





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		<i>"No money shall be drawn from clients account other than - money properly required for payment to or on behalf of clients or for or towards payment of a debt due to the Member from clients or money drawn on client's authority, or money in respect of which there is a liability of clients to the Member, provided that money so drawn shall not in any case exceed the total of the money so held for the time being for such each client"</i>
SEBI Circular no. SMD /SED /CIR/ 93/ 23321 dated November 18, 1993	Clause 2	<i>"it shall be compulsory for all Member brokers to keep separate accounts for client's securities and to keep such books of accounts, as may be necessary, to distinguish such securities from his/their own securities. Such accounts for client's securities shall, inter-alia provide for the following: - a. Securities received for sale or kept pending delivery in the market; b. Securities fully paid for, pending delivery to clients; c. Securities received for transfer or sent for transfer by the Member, in the name of client or his nominee(s); d. Securities that are fully paid for and are held in custody by the Member as security/margin etc. Proper authorization from client for the same shall be obtained by Member; e. Fully paid for client's securities registered in the name of Member, if any, towards margin requirements etc."</i>
SEBI Circular No. SMDRP/Policy/CIR-39/2001 dated July 18, 2001	-	<i>"it will be mandatory for all brokers to use unique client codes for all clients."</i>
SEBI Circular no. MRD /DoP/SE/Cir- 11/2008 dated April 17, 2008	Clause 2	<i>Brokers should have adequate systems and procedures in place to ensure that client collateral is not used for any purposes other than meeting the respective client's margin</i>





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		requirements / pay-ins. Brokers should also maintain records to ensure proper audit trail of use of client collateral.
SEBI Circular no. SEBI/MIRSD/SE/Cir-19/2009 dated December 03, 2009	Clause 12 of Annexure A	<i>"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:</i> <i>a. The authorization shall be renewed at least once a year and shall be dated.</i> <i>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.</i> <i>c. The authorization shall contain a clause that the Client may revoke the authorization at any time.</i> <i>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.</i> <i>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.</i>





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SEBI Circular CIR/MIRSD/15/2011 dated August 02, 2011	Clause 2(B)	• "Stock exchanges shall provide a platform to stock brokers to upload the details of their clients, preferably, in sync with the UCC updation module. • Stock brokers shall upload the details of clients, such as, name, mobile number, address for correspondence and E-mail address. • Stock brokers shall ensure that the mobile numbers/E-mail addresses of their employees/ sub-brokers/ remisiers/ authorized persons are not uploaded on behalf of clients. • Stock Brokers shall ensure that separate mobile number/E-mail address is uploaded for each client. However, under exceptional circumstances, the stock broker may, at the specific written request of a client, upload the same mobile number/E-mail address for more than one client provided such clients belong to one family. 'Family' for this purpose would mean self, spouse, dependent children and dependent parents."
SEBI Circular No. SEBI/HO/MIRSD/ MIRSD2 /CIR/P /2016 /95 dated September 26, 2016	-	"Transfer of funds between "Name of Stock Broker - Client Account" and "Name of Stock Broker - Settlement Account" and client's own bank accounts is permitted. Transfer of funds from "Name of Stock Broker - Client Account" to "Name of Stock Broker - Proprietary Account" is permitted only for legitimate purposes, such as, recovery of brokerage, statutory dues, funds shortfall of debit balance clients which has been met by the stock broker, etc. For such transfer of funds, stock broker shall maintain daily reconciliation statement clearly indicating the amount of funds transferred "





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SEBI Circular No. SEBI/HO/MIRSD/ MIRSD2 /CIR/P /2016 /95 dated September 26, 2016	Clause 2.4.3. of Annexure	<i>"Transfer of securities between "Name of the Stock Broker - Client Account" and individual client's BO account, "Name of the Stock Broker – Pool Account" and "Name of the Stock Broker – Collateral Account" is permitted. Transfer of securities between "Name of the Stock Broker - Client Account" to "Name of the Stock Broker - Proprietary Account" is permitted only for legitimate purposes such as, implementation of any Government/Regulatory directions or orders, in case of erroneous transfers pertaining to client's securities, for meeting legitimate dues of the stock broker, etc. For such transfer of securities, stock broker shall maintain a stock transfer register clearly indicating the day-wise details of securities transferred."</i>
SEBI Circular SEBI/HO/ MIRSD/ MIRSD2/CIR/ P/2016/95 dated September 26, 2016	Clause 2.5 of Annexure	<i>"a stock broker is entitled to have a lien on client's securities to the extent of the client's indebtedness to the stock broker and the stock broker may pledge those securities. This pledge can occur only with the explicit authorization of the client and the stock broker needs to maintain records of such authorisation."</i> <i>"Securities of only those clients can be pledged who have a debit balance in their ledger. "</i> <i>"Funds raised against such pledged securities for a client shall not exceed the debit balance in the ledger of that particular client."</i> <i>"Funds raised against such pledged securities shall be credited only to the bank account named as "Name of the Stock Broker - Client Account"."</i>
SEBI Circular SEBI/HO/ MIRSD/ MIRSD2/CIR/	6.1.1 (j)	<i>Monitoring criteria for Stock Brokers</i>





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P/2016/95 dated September 26, 2016		... j. In case stock broker shares incomplete/wrong data or fails to submit data on time.
SEBI Circular CIR/HO/ MIRSD /MIRSD2/ CIR/P/2017/108 dated September 26, 2017	Clause III	"all brokers shall execute trades of clients only after keeping evidence of the client placing such order, it could be, inter alia, in the form of: a. Physical record written & signed by client, b. Telephone recording, c. Email from authorized email id, d. Log for internet transactions, e. Record of SMS messages, f. Any other legally verifiable record. When dispute arises, the burden of proof will be on the broker to produce the above records for the disputed trades."
SEBI circular CIR/MIRSD/16/2011 dated August 22, 2011 read with SEBI Master circular SEBI/HO/MIRSD /DOP1/CIR/P/ 2018/87 dated June 01, 2018,	Clause 3/ Clause 14	a) "Index of documents giving details of various documents for client account opening process - Annexure-1 b) Client Account Opening Form in two parts: ▪ Know Your Client (KYC) form capturing the basic information about the client and instruction/check list to fill up the form - Annexure-2. ▪ Document capturing additional information about the client related to trading account - Annexure-3. c) Document stating the Rights & Obligations of stock broker, sub-broker and client for trading on exchanges (including additional rights & obligations in case of internet / wireless technology based trading) – Annexure-4. d) Uniform Risk Disclosure Documents (for all segments / exchanges) - Annexure-5. e) Guidance Note detailing Do's and Don'ts for trading on exchanges - Annexure-6."





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12. Section 27 of SEBI Act, 1992 provides that

Contravention by companies.

27. (1) Where a contravention of any of the provisions of this Act or any rule, regulation, direction or order made thereunder has been committed by a company, every person who at the time the contravention was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the 167[contravention] was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such contravention.

(2) Notwithstanding anything contained in sub-section (1), where an contravention under this Act has been committed by a company and it is proved that the contravention has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

Explanation: For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

13. In view of the same, Noticee Nos. 2, 3, 4, 5 and 6 being directors of FSL during the period under audit, are alleged to have colluded with FSL and misappropriated clients' funds/securities. Hence, they are also liable to be proceeded against for the alleged violation listed above against FSL. Similarly, Noticee Nos. 2 and 3, being directors of FCBL are liable to be proceeded against for the alleged violation listed above against FCBL.

14. Further, the related entities of FSL, i.e., Noticee Nos. 7, 8, 9, 10, 11, 12 and 13 are alleged to be in violation of Section 12A of the SEBI Act, 1992 read with Regulation 3(d) and 4(1) of the PFUTP Regulations.





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15. In view of the above, Noticees are hereby called upon to show cause as to why suitable directions under sections 11(1), 11(4), 11B(1), 11B(2) and 11D of SEBI Act, 1992 read with Section 15HA of the SEBI Act, 1992 and Section 12A(1) and 12A(2) of SCRA, 1956 read with Section 23D & 23H of SCRA, 1956 read with Regulation 35 of SEBI (Intermediaries) Regulations, 2008 should not be issued against them for the violations alleged herein above.
16. This show cause notice has been issued without prejudice to right of SEBI to take any other action as it deems fit in accordance with law.
17. The Noticees are advised to submit a photocopy of their Income Tax Permanent Account Number Card (PAN card), bank account details, demat account details, mutual fund investment details, etc. along with details of all other movable and immovable assets including details of encumbrances, if any, created on such assets for SEBI's record.
18. Your reply to the show cause notice, together with supporting documents, if any, that you may choose to rely upon in support of their reply, should reach the undersigned, at the address given below, as well as through email at rachnaa@sebi.gov.in, jangchonl@sebi.gov.in and sisirm@sebi.gov.in, within 21 days from the date of receipt of this show cause notice, failing which it shall be construed that the Noticees have no reply to submit and the matter shall be proceeded on the basis of the material available on record.

Securities and Exchange Board of India
SEBI Bhavan II,
Plot No. C-7, 'G' Block, Bandra Kurla Complex,
Bandra (East), Mumbai – 400 051

19. If the Noticees are of desirous of a personal hearing before the Whole Time Member, SEBI the same may be intimated accordingly. The Noticees are also advised to keep SEBI informed about the change in the correspondence addresses, if any, and provide updated email-id and phone numbers, till the proceedings are complete. You are also advised to submit a photocopy of your identification documents for our records.



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20. You may also note that a settlement mechanism is provided under the SEBI (Settlement Proceedings) Regulations, 2018. If you wish to opt for the settlement process, you may apply for the same in the manner given in the aforesaid regulations under intimation to the undersigned.

21. All documents relied upon have been annexed to this show cause notice.


Rachna Anand

Enclosures in CD:

- Annexure 1 : NSE report (9 pages)
- Annexure 2 : Forensic Audit Report and Annexure (45 pages with 18 Annexure)
- Annexure 3 : Bank statements
- Annexure 4 : Bank Statement
- Annexure 5 : Inspection report on Fairwealth Commodity Broking Private Limited (28 pages with 16 Annexure)

