



77

**भारतीय प्रतिभूति
और विनिमय बोर्ड
Securities and Exchange
Board of India**

General Manager
Enforcement Department
Division of Regulatory Action-II

EFD1/MIRSD/ NSEL-ENQ/ DRA2//20-21/1126/6/2021
January 15, 2021

Modex Commodity Trades Pvt. Ltd.
507, Padma Tower-II
22, Rajendra Place, New Delhi-110008

Sub: Show Cause Notice under Regulation 28(1) of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008 (hereinafter referred to as "Intermediaries Regulations"), in respect of Modex Commodity Trades Pvt. Ltd. (Noticee).

1. The Designated Authority ('DA') has submitted an Enquiry Report dated December 17, 2020, in respect of the enquiry conducted against the Noticee (copy enclosed as **Annexure - A**). Vide the said Enquiry Report, the DA has recommended that the registration of the Noticee i.e. Master Money Commodity Bazar Private Limited [Registration No. INZ000036038] as commodity derivatives broker may be cancelled.
2. Along with the above enquiry report, following material/ information are also relevant for the present enquiry proceedings:
 - a. In respect of alleged violation of conditions of notification dated June 05, 2007 by NSEL, Ministry of Finance, Department of Economic Affairs ("DEA") vide letter dated December 30, 2014 stated that *"This department is in agreement with FMC that NSEL has violated the first two conditions of exemption granted to it under section 27 of FCRA making it liable for appropriate action including penal action under section 21 of violation of section 27 of FCRA. Further, this department is also in agreement with the observations of Special Team of Secretaries that by offering contracts having settlement beyond 11 days, without obtaining recognition and/or registration, NSEL has also violated the Provisions of sections 5, 6 r/w 14A also making it liable for appropriate action including penal action under section 21 of FCRA"*. The said letter is attached as **Annexure - B**



अनुवर्ती :
Continuation :

76
भारतीय प्रतिभूति
और विनिमय बोर्ड
**Securities and Exchange
Board of India**

- b. In the context of NSE Land paired contract, Hon'ble Supreme Court in Civil Appeal No. 4476 of 2019 in the matter of 63, *Moons Technologies Limited (Formerly known as 'Financial Technologies India Limited) & Ors Vs. Union of India & Ors* vide Order dated April 30, 2019 had *inter alia* observed the following:

".....

55.3. *We have seen that neither FTIL nor NSEL has denied the fact that paired contracts in commodities were going on, and by April to July, 2013, 99% (and excluding E-series contracts), at least 46% of the turnover of NSEL was made up of such paired contracts. There is no doubt that such paired contracts were, in fact, financing transactions which were distinct from sale and purchase transactions in commodities and were, thus, in breach of both the exemptions granted to NSEL and the FCRA..... "*

- c. In the context of above observations/ findings by various Courts / Authorities, it is noted that Noticee, as a broker, participated in and facilitated transactions in the said paired contracts which were designed to be in the nature of lending and borrowing transactions rather than trading in commodities. It has been observed by the **Hon'ble Bombay High Court** in Criminal Bail Application No. 1263 of 2014 in the matter of *Jignesh Prakash Shah Vs. The State of Maharashtra* dated August 22, 2014 that *".....the brokers through whom the so-called trade transactions were entered into, do have their own legal team and a full knowledge of how the market operates..."* Copy of the order is enclosed as **Annexure - C**.
3. The aforesaid information/materials in the form of observations by various Courts/Authorities regarding paired contracts transacted on NSEL, in which the Noticee as a broker had participated in/facilitated and thereby the Noticee is alleged to have been closely associated with the NSEL and paired contracts.
4. By this notice it is alleged that the information / observation as discussed in the aforesaid paragraphs along with the findings/ basis of findings / material relied upon for those findings and Noticee's close association with NSEL and paired contracts, calls into serious questions, the reputation/competence/ character/integrity of the Noticee and thus has bearing on its Fit and Proper status.



अनुवर्ती :
Continuation :

भारतीय प्रतिभूति
और विनिमय बोर्ड
*Securities and Exchange
Board of India*

75

5. You are hereby called upon to show cause as to why the aforesaid information/materials as brought out above along with Enquiry Report concerning the fit and proper person criteria, should not be considered and as to why the action recommended by the DA or any other action should not be taken against you, as deemed fit by the Competent Authority, under Regulation 28(2) of Intermediaries Regulations.
6. Your reply to the show cause notice, together with documents, if any, that you may choose to rely upon in support of your reply should reach SEBI within 21 days of receipt of this notice failing which it shall be presumed that you have no explanation / reply to submit and SEBI shall be at liberty to take such action in the matter as it deems fit. You are also advised to indicate in your reply, if you would like to avail of an opportunity of personal hearing before the Competent Authority.

TVVPS Chakravarti T

Annexures:

1. Annexure - A – Enquiry Report
2. Annexure – B - Letter dated December 30, 2014 of DEA, Ministry of Finance
3. Annexure -C - Copy of the Hon'ble Bombay High Court's order dated August 22, 2014