ANNEXURE 1

Member and Core Settlement Guarantee Fund Committee
("MCSGFC"/"Committee")
of
National Stock Exchange of India Limited
Exchange Plaza, Bandra-Kurla Complex, Bandra (East), Mumbai – 400 051
held on October 3, 2023

In the matter of the Trading Member M/s. East India Securities Limited

CORAM:

Ms Mona Bhide	-	Chairperson
Mr K Narasimha Murthy	-	Committee Member
Mr S Ravindran	-	Committee Member
Mr Ranganayakulu Jagarlamudi	-	Committee Member
Mr Ashishkumar Chauhan	-	Committee Member

ALSO PRESENT:

Ms. Piyush Chaurasia	-	Chief Regulatory Officer
Dr. Dinesh Kumar Soni	-	Senior Vice President - Regulatory
Mr. Janardhan Gujaran	-	Vice President - Enforcement
Mr. Shailesh Adukia	-	Vice President - Enforcement

BACKGROUND

1. **M/s East India Securities Limited ("East India")** is a Trading Member registered with the National Stock Exchange of India Limited ("**Exchange**"/"**NSEIL**") and enabled for trading in the Capital Market ("**CM**") segment since November 1995, and Futures & Options ("**F&O**") segment since July 2000 and Currency Derivatives ("**CD**") segment since August 2008.

2. The Securities and Exchange Board of India ("**SEBI**") along with other stock exchanges conducted a comprehensive joint inspection of the books and records of East India covering the period April 01, 2021, to November 30,2022, from December 20, 2022, to January 6, 2023. Post-inspection, SEBI issued a letter of findings ("**LoF**") dated March 1, 2023, to East India. East India, vide its letter dated March 13, 2023, replied to the LoF.

3. In the 40th Joint Committee Meeting held on August 4, 2023, SEBI decided to allocate the case to the Exchange for post-inspection enforcement action in accordance with the provisions of the Rules, Byelaws, and Regulations of the Exchange. Accordingly, SEBI, vide its letter dated August 14, 2023, communicated the decision to the Exchange.

4. The Exchange, vide its email dated August 22, 2023, informed East India regarding the case allocation.

INSPECTION OBSERVATIONS/VIOLATIONS

5. The observations/violations alleged in the LoF are summarized hereunder:

5.1 Non-segregation of clients' and own funds i.e. transfer of funds from client to proprietary bank account through settlement account in 41 out of 18620 instances selected for sample scrutiny (0.22% of the total samples verified) involving Rs.26.58 crores.

5.2 Incorrect reporting of margin collected from the clients in 1 out of 106 instances selected for sample scrutiny (0.95% of total instances verified) involving Rs.16.34 lakhs.

5.3 Observation pertaining to Exchange level alerts

5.4 Non-maintenance of appropriate evidence of the orders placed by the clients in case of 3 instances as of December 13, 2021, and September 7, 2022.

5.5 Observation pertaining to cyber security and cyber resilience

REGULATORY PROVISIONS

6. At the outset, it is appropriate to refer to the relevant regulatory provisions alleged to have been violated by East India; extracts whereof are reproduced below:

6.1 **Non-segregation of clients' and own funds**

Exchange Circular No. NSE/INSP/33276 dated September 27, 2016

2.4.2 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.

6.2 **Incorrect reporting of margin collected from the clients**

a. Regulation 3.9 of NSEIL Regulations (CM and F&O Segment)

The Trading Members must demand from its constituents the margin deposit which the Member has to provide under these Trading Regulations in respect of the business done by the Members for such constituents.

b. Exchange Circular No. NSE/INSP/43069 dated December 31, 2019

Exchange issued the clarification in the form of frequently asked questions on margin collection and reporting.

1. *What margins are required to be collected by Trading Members from clients in the Capital & Derivatives Segment?*

   CM Segment

   In capital segment, Trading Members (TM) are required to mandatorily collect VaR margins and Extreme loss Margin (ELM) from their clients on an upfront basis. Other margins such as Mark-to-market margin (MTM), delivery margin, special/additional Margin or such other margins as may be prescribed from time to time, shall be collected within 'T+2' working days from their clients. It must be ensured that VaR margins and ELM are collected in advance of trade and other margins are collected/paid as soon as margin calls are made by the Stock Exchanges.

   F&O segment

   In the F&O segment, it is mandatory for Trading Members to collect initial margin, net buy premium, delivery margin & exposure margin from respective clients on an upfront basis. It must be ensured that all upfront margins are collected in advance of the trade. Mark-to-market losses (MTM) shall be collected from clients by T+1 day.

6.3 **Observation pertaining to Exchange level alerts**

a. BSE Notice No. 20130220-23 dated February 20, 2013

The trading members of the Exchange are hereby informed that in order to facilitate effective surveillance mechanisms at the Member level, the Exchange has derived following transactional alerts that would be downloaded to the trading members. This will facilitate the trading members to effectively monitor the trading activity of their clients.

List of Transactional Alerts provided by BSE in Beta Version:

Sr. No.	*Transactional Alerts*	*Segment*
1	*Significantly increase in client activity*	*Cash*
2	*Sudden trading activity in dormant account*	*Cash*
3	*Clients/Group of Client(s), deal in common scrips*	*Cash*
4	*Client(s)/Group of Client(s) is concentrated in a few illiquid scrips*	*Cash*
5	*Client(s)/Group of Client(s) dealing in scrip in minimum lot size*	*Cash*
6	*Client / Group of Client(s) Concentration in a scrip*	*Cash*
7	*Circular Trading*	*Cash*
8	*Pump and Dump*	*Cash*
9	*Wash Sales of Trades*	*Cash & Derivatives*
10	*Reversal of Trades*	*Cash & Derivatives*
11	*Front Running*	*Cash*
12	*Concentrated position in the Open Interest / High Turnover concentration*	*Derivatives*
13	*Order book spoofing i.e. large orders away from market*	*Cash*

b. BSE Notice No. 20130307-21 dated March 7, 2013

This is in continuation to Exchange notice no. 20130220-23 dated February 20, 2013, informing trading members regarding release of Beta Version of e-BOSS (Member Surveillance System) for downloading the following Transactional Alerts to the trading members of the Exchange.

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

Trading Members are required to carry out the Due Diligence of its client(s) on a continuous basis. Further, Trading Members shall ensure that key KYC parameters are updated on a continuous basis as prescribed by SEBI and latest information of the client is updated in UCC database of the Exchange. Based on this information the Trading Member

shall establish groups / association amongst clients to identify multiple accounts / common account / group of clients.

Analysis:

In order to analyse the trading activity of the Client(s) / Group of Client(s) or scrips identified based on above alerts, the Trading Members are required to:

a. *Seek explanation from such identified Client(s) / Group of Client(s) for entering into such transactions.*

b. *Seek documentary evidence such as bank statement / demat transaction statement or any other documents to satisfy itself.*

   i. *In case of funds, Bank statements of the Client(s) / Group of Client(s) from which funds pay-in have been met, to be sought. In case of securities, demat account statements of the Client(s)/Group of Client(s) from which securities pay-in has been met, to be sought.*

   ii. *The period for such statements may be at least +/- 15 days from the date of transactions to verify whether the funds / securities for the settlement of such trades actually belongs to the client for whom the trades were transacted.*

c. *After analysing the documentary evidence, the Trading Member shall record its observations for such identified transactions or Client(s)/Group of Client(s). In case adverse observations are recorded, the Trading Member shall report all such instances to the Exchange within 45 days of the alert generation. The Trading Member may seek extension of the time period from the Exchange, wherever required.*

6.4 **Non-maintenance of appropriate evidence of the orders placed by the clients**

a. Regulation 3.2.1 of NSEIL Regulations (CM Segment) and Regulation 3.4.1 of NSEIL Regulations (F&O Segment)

Trading Members shall ensure that appropriate confirmed order instructions are obtained from the constituents before placement of an order on the system and shall keep relevant records or documents of the same and of the completion or otherwise of these orders thereof.

Notwithstanding the above, wherever the order instructions are received from clients through the telephone, Members shall mandatorily use a telephone recording system to record the instructions and maintain telephone recordings.

b. Exchange Circular No. NSE/INSP/37301 dated March 26, 2018

To further strengthen regulatory provisions against un-authorized trades and also to harmonize the requirements across markets, it has now been decided that all brokers shall execute trades of clients only after keeping evidence of the client placing such order, which 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 messages through mobile phones,
f. Any other legally verifiable record.

When a dispute arises, the broker shall produce the above-mentioned records for the disputed trades. However, for exceptional cases such as technical failure etc. where broker fails to produce order placing evidence, the broker shall justify with reasons for the same and depending upon merit of the same, other appropriate evidence like post trade confirmation by client, receipt/payment of funds/ securities by client in respect of disputed trade, etc. shall also be considered

6.5 **Observation pertaining to Cyber security and cyber resilience**

a. SEBI Circular No. SEBI/HO/MIRSD/CIR/PB/2018/147 dated December 3, 2018

1. *Since stockbrokers and depository participants perform significant functions in providing services to holders of securities, it is desirable that these entities have robust cyber security and cyber resilience framework in order to provide essential facilities and perform systemically critical functions relating to securities market.*

2. *Accordingly, after discussions with Exchanges, Depositories and Stockbrokers' and Depository Participants' associations, a framework on cyber security and cyber resilience has been designed, which is placed at Annexure 1. The framework would be required to be complied by all Stockbrokers and Depository Participants registered with SEBI.*

Annexure 1

Certification of off-the-shelf products

36. *Stockbrokers/Depository Participants should ensure that off the shelf products being used for core business functionality (such as back-office applications) should bear Indian Common criteria certification of Evaluation Assurance Level 4. The Common criteria certification in India is being provided by (STQC) Standardization Testing and Quality Certification (Ministry of Electronics and Information Technology). Custom developed / in-house software and components need not obtain the certification, but have to undergo intensive regression testing, configuration testing etc. The scope of tests should include business logic and security controls.*

Vulnerability Assessment and Penetration Testing (VAPT)

41. *Stockbrokers/Depository Participants should regularly conduct vulnerability assessment to detect security vulnerabilities in their IT environments exposed to the internet.*

42. *Stockbrokers / Depository Participants with systems publicly available over the internet should also carry out penetration tests, at-least once a year, in order to conduct an in-depth evaluation of the security posture of the system through simulations of actual attacks on its systems and networks that are exposed to the internet.*

In addition, Stockbrokers / Depository Participants should perform vulnerability scanning and conduct penetration testing prior to the commissioning of a new system that is accessible over the internet.

43. *In case of vulnerabilities discovered in off-the-shelf products (used for core business) or applications provided by exchange empaneled vendors, Stockbrokers / Depository Participants should report them to the vendors and the exchanges in a timely manner.*

44. *Remedial actions should be immediately taken to address gaps that are identified during vulnerability assessment and penetration testing.*

b. SEBI Circular No. SEBI/HO/MIRSD/TPD/P/CIR/2022/80 dated June 7, 2022

Further, the Stockbrokers/Depository Participants are mandated to conduct comprehensive cyber audit at least once in a financial year. All Stockbrokers/Depository Participants shall submit with Stock Exchange/Depository a declaration from the MD/CEO/Partners/ Proprietors certifying compliance by the Stockbrokers/Depository Participants with all SEBI Circulars and advisories related to Cyber security from time to time, along with the Cyber audit report.

CONSIDERATION & FINDINGS

7. The observations/violations, the reply of the East India and the findings of the Committee are as under:

7.1 **Non-segregation of clients' and own funds**

7.1.1. Upon verification of bank books submitted by East India vis-à-vis bank statements, bank ledgers book and active client list during the inspection period, it is observed that, East India was using the settlement account(s) for fund transfer to/from clients/proprietary bank accounts in 41 out of 18620 instances selected for sample scrutiny (0.22% of the total samples verified) involving Rs.26.58 crores. The details are as under:

7.1.2. In reply to the LoF, East India submitted as under:

a. East India neither have utilized the funds of any client for funding proprietary obligations nor did it utilized the funds of any client for funding any other client. In terms of the SEBI Circular no. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016, para 3.3.1, at all times and on all days, funds lying with the Clearing Corporations (i.e. "A") far exceed the total amount of credit clients (i.e. "C") i.e. our "G" is hugely positive on all occasions.

b. East India maintains daily reconciliation statement and have huge surplus funds deposited with Clearing Corporations (CC). The total deposits with CC and balance in client and settlement bank accounts is in excess by a huge margin in comparison to total funds received from the clients.

c. East India have not used settlement account(s) for the purpose of fund transfer to/from with clients/proprietary bank accounts. As per clause 2.4.2 of SEBI Circular no. 95 dated 26.9.2016, *"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."

d. East India executed transfers of funds from proprietary account to / from settlement account and client account to / from settlement account as permitted by SEBI regulations. It did not transfer funds from client account to proprietary account which is not allowed.

e. East India have never taken funds from client bank account and have complied with clauses 3.3.1, 3.3.3 and 6.1.1(j) of Annexure to the SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

7.1.3. The Committee finds as under:

a. East India has denied the inspection violation and stated that it did not misuse funds of credit balance clients for proprietary trading purposes or for other clients. Further, it submitted weekly Enhanced Supervision data for two months to the inspection team and no principal violation was observed.

b. East India contended that it transferred the excess funds from “Proprietary Bank account” to “Settlement bank account” and from “Settlement bank account” to “Client bank account” on multiple occasions as permitted under SEBI regulations.

c. Upon verification of bank books, it is observed that funds are transferred from bank account tagged as “Client bank account” to “Settlement bank account” and subsequently to “Proprietary bank account”. As per the Exchange Circular No. NSE/INSP/33276 dated September 27, 2016, wherever the transfer is made between client and proprietary bank accounts for legitimate purposes, Trading Member should maintain a daily reconciliation statement. However, East India has not provided any reconciliation statement for the said transfers, and thus, the violation persists.

d. As per Exchange Circular No. NSE/INSP/2016/33276 dated September 27, 2016, the transfer of funds between "Name of Stockbroker - Client Account" and "Name of Stockbroker - Settlement Account" and client's own bank accounts is permitted. Transfer of funds from "Name of Stockbroker – Client Account" to

"Name of Stockbroker - 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 stockbroker, etc. For such transfer of funds, the stockbrokers shall maintain daily reconciliation statement clearly indicating the amount of funds transferred. Thus, East India violated the regulatory provisions mentioned above by failing to segregate the transactions between the client and own bank accounts.

7.1.4. Considering the observed violations are less than 2% of total number of instances verified, the Committee decided to advise East India to ensure non-recurrence of the observed violation in terms of the Exchange Circular No. NSE/INSP/53530 dated September 2, 2022.

7.2 **Incorrect reporting of margin collected from the clients**

7.2.1. Upon verification of client ledgers, trail balance, register of securities, demat holding statements, depository margin pledge records, records of Exchanges/CC towards margin required and margin reported by the East India, it is observed that East India Securities has reported incorrect margin collection to the exchange in 1 out of 106 instances selected for sample scrutiny (0.95% of total instances verified) involving Rs.16.35 lakhs. The details are as under:

Date	Client Code	Client Name	Total EOD Margin Requirement (I)	Combined ledger (EOD) (A)	Securities Balance (B)	EPI	Total funds & Securities (EOD) (D=A+B+C)	Margin Shortfall (EOD) (I-D)
21-Sep-21	12119	ASHOKE AGARWALA	1,656,028.86	21,521.20	-	-	21,521.20	1,634,507.66

7.2.2. In reply to the LoF, East India submitted as under:

a. The observed trade did not belong to the client and no margin was payable by or attributable to the client. On September 20, 2021, the client (client code 12119) did not trade however, East India erroneously traded on behalf of the client for which margin liability of Rs.16.56 lakhs occurred. A client had placed an order for Delta Corp at 3:16 pm, and East India placed another order at 3:20 pm, for another client EMAMIPAP, which got mistakenly punched in a client code 12119 because of “the same code as last order” facility in NEAT trading system. Unfortunately, the error could not be detected before

4:15 and hence, East India was unable to change it to ERROR code. Due to the unintentional punching error the trade was marked in its error code. Securities were not delivered to the client and no financial billing was posted to the client's ledger. It provided client ledger for reference.

b. On September 20, 2021, no debit was made, on which the mis-punched trade occurred. The closing balance of client was Rs.21,521.20/- credit.

c. In the weekly cash and cash equivalent submission, East India reported cash and collateral of every client to the Exchange. An extract of the row pertaining to the client 12119 Ashoke Agarwal is as under:

UCC	PAN	CLIENT NAME	FINANCIAL LEDGER BALANCE-A (RS.)	FINANCIAL LEDGER BALANCE (CLEAR)-B (RS.)	PEAK FINANCIAL LEDGER BALANCE (CLEAR)-C (RS.)
12119	ACCPA9153E	ASHOKE AGARWALA	21521.2	21521.2	21521.2

d. The balance uploaded for the same day also tallies with ledger which is without debiting to the client the billing for trade date September 21, 2021. The erroneous in the client's code was not posted in the account or ledger. Hence, as the trade did not belong to the client, there was no margin payable by or attributable to the client. The upload of ledger data to Exchange prove that the trade was not debited / posted to the client. The depository records show that shares were not delivered to the client. Hence, no margin pertained to the client and thus there is no margin shortfall for that day for the client.

7.2.3. The Committee finds as under:

a. East India accepted and attributed inspection observation to trade that was done erroneously by East India for which the client did not place any order. Due to erroneous execution of trade, there was margin liability of Rs. 16.56 lakhs for the said client. As the said error was identified at 4:30 pm (after cut off time) and East India was not able to transfer the said trade in the ERROR account.

b. East India failed to transfer the said erroneous trade to ERROR account during the window provided by the Exchange for transfer of such incorrect trades. As per Exchange Circular No. NSE/CMTR/41018 dated May 17, 2019, and as per Exchange guidelines *"…Trading Members, who desire to modify the client codes*

subsequently, shall be provided with a facility to modify client codes at order level (not at trade level) on the trade date, during market hours and post market hours up to 4.15 p.m. However, proprietary trades are not allowed to be modified to client trades and vice-versa. Trading Members are allowed to modify the Client Codes in respect of client orders only on the trade date."

c. Although, East India failed to transfer the erroneous trade to ERROR account, it could have reported the short margin collection to CC.

d. Further East India's risk management system should be capable enough to hold such transactions without having required margin. Hence, the contention of East India is not acceptable, and the violation persists.

e. Considering the fact that the short reporting of margin was due to incorrect punching of trade by East India in single instance from the samples verified, penalty as applicable to reporting short collection of margins to CC be levied.

7.2.4. Given the findings mentioned above, the Committee decided to levy a monetary penalty of Rs.16,300/- (1% of Rs.16,34,507/- is Rs.16,345 rounded off to Rs16,300) for the observed violation.

7.3 **Observation pertaining to Exchange level alerts**

7.3.1. Upon verification of client level cash and cash equivalent submission, client ledgers, trial balance, demat holding statement and records of CC, it is observed that East India reported incorrect data towards weekly client level cash and cash equivalent as of July 1, 2022. The details are as under:

a. Unclear ledger balance - 48 instances involving Rs.158.96 crores

b. Clear ledger balance - 48 instances involving Rs.159.10 crores

7.3.2. In reply to the LoF, East India submitted as under:

a. The Exchange's observation that East India reported incorrect data is factually incorrect. In all the observed instances the financial ledger balance and peak financial ledger balance is "0" due to technical error resulting in non-uploading of the cash and cash equivalents submission through Application Programming Interface (API).

b. As per Exchange Circulars No. NSE/INSP/51191 dated January 31, 2022, NSE/INSP/51599 dated March 10, 2022, NSE/INSP/51938 dated April 6, 2022, NSE/INSP/52509 dated June 03, 2022, and NSE/INSP/52829 dated June 30, 2022, regarding API for weekly submission of Holding Statement, Cash and Cash Equivalent Balances and Bank Balances were made mandatorily applicable from week ended July 02, 2022, and onwards.

c. Based on the API specification NSE/INSP/51938 dated April 6, 2022, East India developed API and conducted several mock testings with the help of Exchange. The system of API submission module was successfully developed but then on June 30, 2022, Exchange issued another circular NSE/INSP/52829 changing the API specification. The mock testing facility was available only till 25 June 2022. Circular NSE/INSP/52509 dated June 3, 2022, has been attached here in support of the same.

d. Trading Members had to make API submission by July 7, 2022, due to which members faced difficulty in make the submission with no mock testing and very little time to make the required changes. It provided the Exchange correspondence with respect to bank balance submission for which solution was provided by Exchange on July 7, 2022, itself.

e. The API based weekly submission was a major change in technology and Exchange was never able to implement the weekly holding statement submission through API. The Exchange allowed the weekly holding statement submission to be done manually through ENIT.

f. This error was solely due to the fact that API submission has lot of technical issues which took time to get solved and Trading Members were not provided sufficient time to make proper systems.

7.3.3. The Committee finds as under:

a. East India has accepted the observation/violation and attributed the same to technical error in uploading documents through API. However, considering that these alerts are separately monitored at the Exchange and accordingly the Exchange is levying the penalty, no separate action is required.

7.3.4. Given the findings above, the Committee decided that no separate action is warranted for the observed violation.

7.4 **Non-maintenance of appropriate evidence of the orders placed by the clients**

7.4.1. Upon verification of trade logs, call recordings, physical order sheet maintained by East India, it is observed East India failed to maintain physical order slips consisting of order time column for walk-in clients, in case of 3 instances as of December 13, 2021, and September 7, 2022.

7.4.2. In reply to the LoF, East India submitted as under:

a. As per SEBI Circular CIR/HO/MIRSD/MIRSD2/CIR/P/2017/108 dated September 26, 2017, 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:

i. Physical record written & signed by client
ii. Telephone recording,
iii. Email from authorized email id,
iv. Log of internet transactions,
v. Record of SMS messages,
vi. Any other legally verifiable record.

SEBI has confirmed that call recording is being done and that in case of walk-in clients, physical order sheet is being maintained. The only column extra suggested by SEBI is of order time.

b. There is no prescribed format for physical order sheet in any SEBI Circular nor it is explicitly required that time of order has to be mentioned in order sheet. The Physical Order Sheet maintained by East India has all the important details like symbol, buy or sell, quantity, price, client code. However, East India has modified its format of Physical Order Sheet to include time of order also.

7.4.3. The Committee finds as under:

a. East India contended that it maintained physical order slips for all the walk-in clients as per its understanding as Exchange/SEBI has not specified any format for maintaining order slips. Due to non-availability of order time on pre-order slip, time of placing order by the client could not be ascertained. Thus, the veracity of pre-order confirmation by client could not determined.

b. There is no prescribed format to maintain pre-order request from clients. However, East India subsequently updated the order slip and included “order time” column in order slip.

c. As per Regulation 3.2.1 of NSEIL Regulations (CM Segment), Regulation 3.4.1 of NSEIL Regulations (F&O Segment), and Exchange Circular No. NSE/INSP/37301 dated March 26, 2018, Trading Members shall ensure that appropriate confirmed order instructions are obtained from the clients before placement of the order on the system. The said requirement entails keeping the records to show the confirmed order instructions are obtained from the clients before placement of the order on the system. The Trading Members shall keep relevant records or documents of the order instructions and of the completion or otherwise of these orders thereof. Thus, East India violated the regulatory provisions mentioned above by failing to maintain appropriate evidence of the orders placed for its clients.

7.4.4. Given the findings above, the Committee decided to warn East India to ensure non-recurrence of the said observed violation.

7.5 **Observation pertaining to Cyber security and cyber resilience**

7.5.1. Upon verification of the cyber audit report for the period covering April 1, 2022, to September 30, 2022, and cyber policy of East India, it is observed that East India has not complied with the Cyber Security and Cyber Resilience framework laid down by SEBI circular no. SEBI/HO/MIRSD/CIR/PB/2018/147 dated December 03, 2018. The details are as under:

a. It is observed that, Flextrader software has been developed in-house. However, details regarding regression testing, configuration testing not available for such software and further, same has not been covered in System Audit Report for the period of April 01, 2022, to September 30, 2022.

b. Testing of new releases / patches available

c. In Cyber Policy of the East India, it is mentioned that "*Suitable policy for disposal of storage media and systems shall be framed as may be required. The company shall formulate a data-disposal and data-retention policy to identify the value and lifetime of various parcels of data.*" However, the East India could not provide the details of policy as mentioned above. Further, the same has not been covered in System Audit Report for the period of April 01, 2022, to September 30, 2022.

d. Encryption of critical data is available

e. Organization has a well-documented policy that provides for a

password policy as well as access control policy for the API based terminals (NNF terminals).

f. Stock broker has a well-documented BCP/ DR policy and plan.

g. VAPT test are conducted

h. It is observed that, System Audit Report for the period of April 01, 2022, to September 30, 2022, has not covered following major points of Cyber Security & Cyber Resilience framework laid down by SEBI circular no. SEBI/HO/MIRSD/CIR/PB/2018/147 dated December 03, 2018.

1. Certification (STQC) of off-the-shelf products and /or regression testing, configuration testing of in-house developed products.

2. Disposal of data, systems and storage devices.

i. It is observed that, cyber policy of member is merely a facsimile copy of Cyber Security and Cyber Resilience framework as laid down by SEBI. This indicates lack the objectivity of cyber policy as described in Cyber Security and Cyber Resilience framework policy.

7.5.2. In reply to the LoF, East India submitted as under:

a. For In-house software developed (Flextrader) details regarding regression testing, configuration testing was not available in System Audit Report for the period of April 1, 2022, to September 30, 2022 - East India has developed Flextrader as in-house applications, and the process is duly documented to include processes for incorporating, testing and providing sign-off for information risk requirements at various stages of Software Development Life Cycle (SDLC).

b. For Testing of new releases / patches - The in-house software has undergone with intensive regression testing.

c. For policy for disposal of storage media and systems – East India has formulated data retention and data disposal policy to identify the value and lifetime of various parcels of data.

d. For well-documented policy that provides for a password policy as well as access control policy for the API based terminals (NNF terminals) and BCP/ DR policy and plan to be maintained - East

India's cyber policy is not just a facsimile copy of the Cyber Security and Cyber Resilience framework laid down by SEBI. The points which are applicable and are relevant are having similarities in policy. East India does not provide API based services to clients and does not trading through such terminals so the same is have not included this in policy.

e. For cyber policy lacking the objectivity of cyber policy as described in Cyber Security & Cyber Resilience frame work policy - The Cyber Policy is a macro level Policy Document at senior management level, incorporating all the points laid down by the regulator, including some points specific to the East India and excluding some not applicable to the East India.

7.5.3. The Committee finds as under:

a. *For In-house software developed (Flextrader) details regarding regression testing, configuration testing was not available in System Audit Report for the period of April 1, 2022, to September 30, 2022* - On verification of the Cyber Security Audit Report, it is observed that East India have developed in-house software Flextrader and the same is reported as complied. Hence, there is no non-compliance for this area.

b. With respect to the observations pertaining to testing of new releases / patches, policy for disposal of storage media and systems, encryption of critical data, well-documented policy that provides for a password policy as well as access control policy for the API based terminals (NNF terminals) to be maintained, well-documented BCP/ DR policy and plan to be maintained and, VAPT test being conducted it is observed that the auditor has commented complied for the said areas. Hence, there is no non-compliance for these areas.

c. *Certification (STQC) of off-the-shelf products and /or regression testing, configuration testing of in-house developed products and disposal of data, systems, and storage devices* - verification of the Cyber Security Audit Report, it is observed that auditor has not commented the said areas, hence violation persist.

d. *For cyber policy lacking the objectivity of cyber policy as described in Cyber Security & Cyber Resilience framework policy* – East India has mentioned that they have not included some of the points in their policy as they are not applicable to them. However, the said claim is not supported by any supporting documentary evidence. Hence, the violation persists.

e. The Trading Members perform significant functions in providing services to holders of securities. Therefore, it is desirable that they have robust cyber security and cyber resilience framework. Furthermore, the Trading Members are mandated to conduct comprehensive cyber audit at least once in a financial year ensuring compliance with all SEBI circulars and advisories related to cyber security from time to time, along with the cyber audit report. Thus, East India violated the regulatory provisions of Exchange Circular No. NSE/ITRC/40081 dated January 30, 2019, and Exchange Circular No. NSE/INSP/52605 dated June 10, 2022, by failing to comply with the framework for cyber security and cyber resilience.

7.5.4. Given the findings mentioned above, the Committee decided to warn East India to ensure non-recurrence of the observed violation.

DECISION

8. In view of the above, the Committee levies the following penalties as indicated against each of the violations:

Sr. No.	Committee's Findings	Prescribed penalty as per NSE/INSP/53530 dated September 2, 2022, and Exchange Circular No. NSE/INSP/42919 dated December 16, 2019	Penalty Levied
a.	East India failed to segregate the client's funds in 41 out of 18620 instances selected for sample scrutiny (0.22% of the total samples verified) involving Rs.26.58 crores.	Less than 2% of number of instances - Advise	Advise
b.	East India reported incorrect margin collected form the clients in 1 out of 106 instances selected for sample scrutiny (0.95% of total instances verified) involving Rs.16.34 lakhs	Less than 10% of the instances - 5% of the total amount involved	Rs.16,300/- (1% of Rs.16,34,507/-) (reasons enumerated above)

c.	East India failed to maintain appropriate evidence of the orders placed by the clients in case of 3 instances as of December 13, 2021, and September 7, 2022.	Rs. 25,000/- + Direction to comply with the requirement of keeping appropriate evidence for orders placed by the client within 30 days from the date of communication	Warning
d.	Observation pertaining to Cyber security and cyber resilience	No prescribed penalty	Warning
Total			**Rs.16,300/-**

9. East India is directed as under: -

a. To pay a monetary penalty of Rs.16,300/- (Rupees Sixteen thousand and three hundred only).

b. To note the non-monetary penalties mentioned above and ensure non-recurrence of the observed violations.

c. To submit a certificate duly certified by a Chartered Accountant within 15 days from the date of this order certifying the compliance of the aforesaid directions of the Committee. Failure to submit the said certificate within prescribed timeline shall be construed as non-compliance and appropriate disciplinary proceedings for non-adherence to the directions of the Committee shall be independently initiated.

Sd/-
Mona Bhide
(Chairperson)

Sd/-
K Narasimha Murthy
(Committee Member)

Sd/-
S Ravindran
(Committee Member)

Sd/-
Ranganayakulu Jagarlamudi
(Committee Member)

Sd/-
Ashishkumar Chauhan
(Committee Member)

Date: October 30, 2023

ANNEXURE 2

You are advised to pay/deposit the penalty amount along with applicable GST in your Exchange Dues Account as and when Bill for the same is raised by the Exchange.

1. In case of late payment, interest @18% p.a. calculated on a daily basis will be levied from the due date for the delayed period i.e., till the date of payment. Late payment may also attract withdrawal of trading facility pursuant to Circular no. NSE/F&A/2571 dated May 29, 2001.

2. In addition to the mentioned penalty amount, tax @ 18% under Section 15 of Central Goods and Services Tax Act, 2017 will be levied on the penalty amount as well as on the interest in case of late payment.