Before the
Member and Core Settlement Guarantee Fund Committee
("MCSGFC"/"Committee")
of
National Stock Exchange of India Limited
Exchange Plaza, Bandra Kurla Complex, Bandra East, Mumbai – 400051
held on November 20, 2023

In the matter of the Trading Member: M/s. Emkay Global Financial Services 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

PRESENT

Mr. Piyush Chourasia	- Chief Regulatory Officer
Dr. Dinesh Kumar Soni	- Senior Vice President - Regulatory
Mr. Janardhan Gujaran	- Vice President – Enforcement
Ms. Renu Bhandari	- Vice President – Inspection

BACKGROUND

1. **M/s. Emkay Global Financial Services Limited** ("**Emkay**") 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, Futures and Options ("**F&O**") segment since June 2001, and Currency Derivatives ("**CD**") segment since August 2008.

2. The Exchange conducted 10 limited-purpose inspections of Emkay's books and records covering different periods between December 2, 2022, and April 28, 2023, from December 2022 to May 2023. Post-inspection, the Exchange issued 10 letters of observations ("**LO**"/"**LOs**") to Emkay for the observed non-compliance with regulatory provisions. The details are, as under: -

LO No.	Limited Purpose Inspection ("LPI")	Period under Inspection	Month/Year of Inspection	Date of LO	Date of Reply
LO-1	LPI-1 1. Incorrect reporting of margin collected from clients	02-Dec-22 to 30-Dec-22	Dec-22	07-Feb-23	14-Feb-23
LO-2	LPI-2 2. Incorrect data submitted to the Exchange towards weekly client-level cash and cash equivalents balances. 3. Incorrect reporting of margin collected from clients.	06-Jan-23 and 13-Jan-23	Jan-23	02-Mar-23	10-Mar-23
LO-3	LPI-3 4. Incorrect reporting of margin collected from clients.	20-Jan-23	Feb-23	13-Mar-23	23-Mar-23
LO-4	LPI-4 5. Incorrect reporting of margin collected from clients.	03-Feb-23	Feb-23	22-Mar-23	31-Mar-23
LO-5	LPI-5 6. Incorrect reporting of margin collected from clients.	17-Feb-23	Feb-23	27-Mar-23	06-Apr-23
LO-6	LPI-6 7. Incorrect reporting of margin collected from clients.	10-Feb-23	Feb-23	12-Apr-23	21- Apr-23
LO-7	LPI-7 8. Incorrect reporting of margin collected from clients.	24-Feb-23	Mar-23	12-Apr-23	21-Apr-23
LO-8	LPI-8 9. Incorrect reporting of margin collected from clients.	03-Mar-23	Apr-23	25-Apr-23	08-May-23
LO-9	LPI-9 10. Incorrect data submitted towards weekly client-level cash and cash equivalents balances.	10-Mar-23 and 17-Mar-23	Apr-23	02-May-23	09-May-23

	11. Incorrect reporting of margin collected from clients				
LO-10	LPI-10 12. Improper maintenance of bank book	28-Apr-23	May-23	27-Jun-23	05-Jul-23

INSPECTION OBSERVATIONS/ALLEGED VIOLATIONS

3. The observations/violations alleged in the LOs, are summarized hereunder: -

3.1. Incorrect reporting of margin collected from clients as under: -

LO-1

- in 11 out of 11,882 instances selected for sample scrutiny (0.09% of the total sample instances verified) involving Rs.11.08 crores, on 5 days i.e., December 2, 2022, December 9, 2022, December 16, 2022, December 23, 2022, and December 30, 2022.

LO-2

- in 5 out of 4,093 instances selected for sample scrutiny (0.12% of the total sample instances verified) involving Rs.6.28 crores, on 2 days i.e., January 6, 2023, and January 13, 2023.

LO-3

- in 4 out of 1,293 instances selected for sample scrutiny (0.31% of the total sample instances verified) involving Rs.5.13 crores, as of January 20, 2023

LO-4

- in 5 out of 1,176 instances selected for sample scrutiny (0.43% of the total sample instances verified) involving Rs.9.64 crores, as of February 3, 2023

LO-5

- in 5 out of 1,133 instances selected for sample scrutiny (0.44% of the total sample instances verified) involving Rs.11.37 crores, as of February 17, 2023.

LO-6

- in 3 out of 1,146 instances selected for sample scrutiny (0.26% of the total sample instances verified) involving Rs.2.80 crores, as of February 10, 2023.

LO-7

- in 4 out of 1,027 instances selected for sample scrutiny (0.39% of the total sample instances verified) involving Rs.4.07 crores, as of February 24, 2023.

LO-8

- in 5 out of 1,079 instances selected for sample scrutiny (0.46% of the total sample instances verified) involving Rs.15.77 crores, as of March 3, 2023.

LO-9

- in 6 out of 2,158 instances selected for sample scrutiny (0.28% of the total sample instances verified) involving Rs.5.65 crores, on 2 days i.e., March 10, 2023, and March 17, 2023.

3.2. Incorrect data submitted to the Exchange towards weekly client -level cash and cash equivalents balances, as under: -

LO-2

- in 1 instance involving Rs.20.53 lakhs as of January 13, 2023.

LO-9

- in 2 instances as of March 10, 2023, and March 17, 2023.

3.3. Improper maintenance of maintenance of bank book, as under: -

LO-10

- in 1 instance, as of April 28, 2023.

REGULATORY PROVISIONS

4. At the outset it is appropriate to refer to the relevant regulatory provisions alleged to have been violated by Emkay; extracts whereof are reproduced below: -

4.1. **Incorrect reporting of margin collected from clients**

a. Regulation 3.9 of NSEIL Regulations (CM Segment) and Regulation 3.10 of NSEIL Regulations (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/ 10367 dated February 28, 2008

All clearing members and trading members in the F & O segment are required to collect initial margin from all the trading members / constituents whose transactions are settled by them and also to report on a daily basis, details in respect of such margin due and collected.

c. 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.

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.

What does false reporting of margin/MTM (non-compliance) mean?

Where the margins, including upfront margins / MTM losses, have not been collected/short collected by the Member in any of the applicable modes prescribed above; however, the same has been reported by the Member as collected, it would be construed as false reporting to the clearing corporation.

d. Exchange Circular No. NSE/INSP/45072 dated July 21, 2020

2. *In order to align and streamline the risk management framework of both cash and derivatives segments, with respect to the collection of margins from the clients and reporting of short-collection/non-collection of margins, SEBI, vide Circular no. CIR/HO/MIRSD/DOP/CIR/P/2019/139, dated November 19, 2019, inter alia, required the Trading Members (TMs) / Clearing*

Members (CMs) in cash segment as well to mandatorily collect upfront VaR margins and ELM from their clients.

Framework to enable verification of upfront collection of margins from clients in cash and derivatives segments

(ii) The client wise margin file (MG-12/13) provided by the CCs to TMs/CMs shall contain the EOD margin requirements of the client as well as the peak margin requirement of the client, across each of the intra-day snapshots.

(iii) The member shall have to report the margin collected from each client, as at EOD and peak margin collected during the day, in the following manner:

a) EOD margin obligation of the client shall be compared with the respective client margin available with the TM/CM at EOD.

AND

b) Peak margin obligation of the client, across the snapshots, shall be compared with respective client peak margin available with the TM/CM during the day.

Higher of the shortfall in collection of the margin obligations at (a) and (b) above shall be considered for levying of penalty as per the extant framework.

e. Exchange Circular No. NSE/INSP/45191 dated July 31, 2020

A. Capital Market 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 clearing corporations.

B. F&O segment

In the F&O segment, it is mandatory for Trading Members to collect SPAN margin & Extreme loss margin from respective clients on a upfront basis. It must be ensured that all upfront margins are collected in advance of trade. Delivery Margin and margin on consolidated crystallized obligation shall be collected from clients by T+1 day.

C. Currency Derivative segment

In case of Currency Derivatives segment also, it is mandatory for Trading Members to collect initial margin and extreme loss margins from their client on an upfront basis. It must be ensured that all upfront margins are collected in advance of trade. Margin on consolidated crystallized obligation shall be collected from clients by T+1 day. However, in case of currency future contracts, final settlement amount shall be collected by T+2 day.

f. Exchange Circular No. NSE/INSP/45534 dated August 31, 2020

CM Segment:

In Capital Market segment, Trading Members (TM) are required to mandatorily collect minimum 20% upfront margin in lieu of VaR and ELM from the client 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 minimum 20% upfront margin is collected in advance of trade and other margins are collected/paid as soon as margin calls are made by the clearing corporations.

4.2. **Incorrect data submitted to the Exchange towards weekly client level cash and cash equivalents submission**

a. Exchange Circular No. NSE/INSP/43926 dated March 23, 2020

Member's attention is drawn to Exchange circular NSE/INSP/43486 dated February 10, 2020, regarding proposed submission of the following data /details:

1. *Day-wise upload of client level cash & cash equivalent balances on a weekly basis for all calendar days of that week except Sunday (i.e., Monday to Saturday).*

2. *…..*

The aforesaid data/details shall be required to be submitted on or before the next four trading days of the subsequent week.

b. Exchange Circular No. NSE/INSP/46960 dated January 8, 2021

Exchange has provided certain additional clarifications in the revised format of cash & cash equivalent Balances and Holding Statement enclosed as Annexure-A and Annexure-B of this circular.

Members will have to submit the data for all calendar days of the week except Sunday on or before the next four trading days of subsequent week.

4.3. **Improper maintenance of bank book**

Exchange Circular No. NSE/INSP/38743 dated August 30, 2018

In order to standardize the maintenance of books of accounts/records and ensure uniformity across all Members, a standard format for Register of Securities, Holding Statement, Bank Book and Client Ledger is prescribed in the circular.

The revised formats shall be applicable w.e.f. December 01, 2018. Members are advised to make necessary changes in their back office in order to comply with requirements.

Members may further note that non-maintenance of Register of Securities, Holding Statement, Bank Book and Client Ledger in the prescribed format is a violation of the provisions of the Securities Contracts (Regulation) Rules 1957 / Regulations of the Exchange and will attract appropriate disciplinary action as per Rule 1 and 2 of Chapter IV of Exchange Rules.

PAST MCSGFC REFERENCES

5. The Exchange vide its email dated October 12, 2023, granted Emkay with an opportunity of a personal hearing before the Committee in its meeting held on October 17, 2023. On behalf of Emkay, Mr. Prakash Kacholia (Managing/Designated Director), Mr. Rajesh Sharma (Chief Operating Officer), Mr. Devang Desai (Deputy Chief Operating Officer) and Mr. Anil Jagtap (Compliance Officer) appeared before the Committee and submitted as under: -

   a. Pursuant to the prevalent market practice in the industry, Emkay provided the facility of creating bank guarantees ("**BGs**") out of clients' funds and depositing these BGs with the Clearing Corporation for the purpose of margin obligation and client exposure in October 2022. No such BGs were created by Emkay prior to the aforementioned period.

   b. Emkay provided the said facility exclusively to 9 ultra HNI clients, upon request.

   c. Emkay ensured that the BGs created out of a client's funds were utilized only to meet the margin requirements of the said client and were not mis-utilized for any other purposes/clients/proprietary trades. Emkay reassured that an audit trail may be conducted by the Exchange to verify the veracity of its claim.

   d. However, when the Exchange brought the violation/observation to the notice of Emkay in March 2023, it *suo motu* initiated steps to wind up the said BGs and consequently suffered a loss of Rs.30 lakhs approximately towards commission etc. Currently, the practise of obtaining BGs out of clients' funds has been discontinued.

CONSIDERATION AND FINDINGS

6. The observations/violations in the LOs, replies of Emkay and findings of the Committee, are as under: -

6.1. Incorrect reporting of margin collected from clients

6.1.1. Upon verification of the records of the Exchange/Clearing Corporation pertaining to end of the day ("**EOD**") and peak margin requirements of the client vis-à-vis the funds and securities balances as per the register of securities, client ledgers, demat holding statements, bank account statements along with the margin reported as collected by Emkay, it is observed that Emkay incorrectly reported the margin collected from clients to the Exchange, as under: -

LO-1

- in 11 out of 11,882 instances selected for sample scrutiny (0.09% of the total sample instances verified) involving Rs.11.08 crores, on 5 days i.e., December 2, 2022, December 9, 2022, December 16, 2022, December 23, 2022, and December 30, 2022.

LO-2

- in 5 out of 4,093 instances selected for sample scrutiny (0.12% of the total sample instances verified) involving Rs.6.28 crores, on 2 days i.e., January 6, 2023, and January 13, 2023.

LO-3

- in 4 out of 1,293 instances selected for sample scrutiny (0.31% of the total sample instances verified) involving Rs.5.13 crores, as of January 20, 2023

LO-4

- in 5 out of 1,176 instances selected for sample scrutiny (0.43% of the total sample instances verified) involving Rs.9.64 crores, as of February 3, 2023

LO-5

- in 5 out of 1,133 instances selected for sample scrutiny (0.44% of the total sample instances verified) involving Rs.11.37 crores, as of February 17, 2023.

LO-6

- in 3 out of 1,146 instances selected for sample scrutiny (0.26% of the total sample instances verified) involving Rs.2.80 crores, as of February 10, 2023.

LO-7

- in 4 out of 1,027 instances selected for sample scrutiny (0.39% of the total sample instances verified) involving Rs.4.07 crores, as of February 24, 2023.

LO-8

- in 5 out of 1,079 instances selected for sample scrutiny (0.46% of the total sample instances verified) involving Rs.15.77 crores, as of March 3, 2023.

LO-9

- in 6 out of 2,158 instances selected for sample scrutiny (0.28% of the total sample instances verified) involving Rs.5.65 crores, on 2 days i.e., March 10, 2023, and March 17, 2023.

The details are as under: -

(Amount in Rs. crores)

Sr. No.	Date	Unique Client Code (UCC)	Client PAN	Minimum of EOD Margin Requirement and Margin Collected (Rs.)	EOD Funds Available (Rs.)	EOD Securities Available (Rs.)	Total EOD Funds and Securities (Rs.)	Incorrect Reporting of EOD Margin (Rs.)
				LO-1				
1	2-Dec-22	B74A326	AAKCA5598A	25.71	17.35	4.97	22.32	3.40
2	2-Dec-22	B70R333	AAVFR8730P	10.41	2.85	6.35	9.19	1.22
3	2-Dec-22	B70A333	AAMFA2024J	3.61	0.87	2.28	3.16	0.45
4	9-Dec-22	B70R333	AAVFR8730P	10.84	3.09	6.35	9.45	1.39
5	9-Dec-22	B70A333	AAMFA2024J	4.01	1.38	2.28	3.67	0.35
6	9-Dec-22	B74S361	ACOFS4507N	0.01	0.01	-	0.01	0.00
7	16-Dec-22	B70R333	AAVFR8730P	9.41	2.89	6.36	9.25	0.16
8	23-Dec-22	B70R333	AAVFR8730P	10.14	3.39	6.37	9.76	0.39
9	30-Dec-22	B70R333	AAVFR8730P	11.41	3.26	6.38	9.64	1.77
10	30-Dec-22	B74A326	AAKCA5598A	18.74	15.78	1.38	17.16	1.57
11	30-Dec-22	B70A333	AAMFA2024J	4.35	1.66	2.29	3.96	0.39
							Total (LO-1)	**11.08**
				LO-2				
12	6-Jan-23	B70R333	AAVFR8730P	11.29	3.32	6.39	9.71	1.58
13	6-Jan-23	B70A333	AAMFA2024J	4.12	1.82	2.30	4.11	0.01
14	13-Jan-23	B74A326	AAKCA5598A	18.26	12.84	2.06	14.90	3.37
15	13-Jan-23	B70A333	AAMFA2024J	4.22	1.75	2.30	4.04	0.17
16	13-Jan-23	B70R333	AAVFR8730P	10.92	3.37	6.40	9.77	1.15
							Total (LO-2)	**6.28**
				LO-3				
17	20-Jan-23	B70R333	AAVFR8730P	12.00	6.40	3.32	9.73	2.27
18	20-Jan-23	B74M182	AAFCM6435K	3.88	-	2.13	2.13	1.75
19	20-Jan-23	B106S06	AAOCS1156J	10.06	4.45	4.95	9.40	0.66
20	20-Jan-23	B70A333	AAMFA2024J	4.39	2.30	1.64	3.94	0.45
							Total (LO-3)	**5.13**
				LO-4				
21	3-Feb-23	B74A326	AAKCA5598A	26.17	20.22	1.40	21.62	4.55
22	3-Feb-23	B74M182	AAFCM6435K	4.36	2.37	-	2.37	2.00
23	3-Feb-23	B70R333	AAVFR8730P	11.95	3.66	6.42	10.08	1.87
24	3-Feb-23	B106S06	AAOCS1156J	9.52	4.84	3.93	8.77	0.75
25	3-Feb-23	B70A333	AAMFA2024J	4.44	1.66	2.31	3.97	0.47
							Total (LO-4)	**9.64**
				LO-5				
26	17-Feb-23	B74A326	AAKCA5598A	28.56	0.33	20.83	21.16	7.40
27	17-Feb-23	B74M182	AAFCM6435K	3.64	-	2.25	2.25	1.39
28	17-Feb-23	B106S06	AAOCS1156J	10.47	4.11	5.15	9.26	1.22
29	17-Feb-23	B70R333	AAVFR8730P	10.68	6.43	3.17	9.61	1.08
30	17-Feb-23	B70A333	AAMFA2024J	4.26	2.31	1.67	3.98	0.28
							Total (LO-5)	**11.37**
				LO-6				
31	10-Feb-23	B74M182	AAFCM6435K	3.96	2.07	-	2.07	1.89
32	10-Feb-23	B70R333	AAVFR8730P	11.22	4.00	6.43	10.43	0.79

(Amount in Rs. crores)

Sr. No.	Date	Unique Client Code (UCC)	Client PAN	Minimum of EOD Margin Requirement and Margin Collected (Rs.)	EOD Funds Available (Rs.)	EOD Securities Available (Rs.)	Total EOD Funds and Securities (Rs.)	Incorrect Reporting of EOD Margin (Rs.)
33	10-Feb-23	B106S06	AAOCS1156J	9.23	5.07	4.04	9.11	0.12
							Total (LO-6)	**2.80**
				LO-7				
34	24-Feb-23	B70R333	AAVFR8730P	11.38	3.17	6.44	9.61	1.77
35	24-Feb-23	B74M182	AAFCM6435K	3.84	2.29	-	2.29	1.55
36	24-Feb-23	B106S06	AAOCS1156J	9.83	5.74	3.57	9.31	0.52
37	24-Feb-23	B70A333	AAMFA2024J	4.21	1.66	2.32	3.98	0.24
							Total (LO-7)	**4.07**
				LO-8				
38	3-Mar-23	B74A326	AAKCA5598A	35.96	21.56	4.17	25.74	10.22
39	3-Mar-23	B106S06	AAOCS1156J	11.69	5.26	3.71	8.96	2.73
40	3-Mar-23	B70R333	AAVFR8730P	12.25	3.88	6.45	10.33	1.92
41	3-Mar-23	B70A333	AAMFA2024J	4.63	1.84	2.32	4.16	0.47
42	3-Mar-23	B74M182	AAFCM6435K	2.70	2.28	-	2.28	0.43
							Total (LO-8)	**15.77**
				LO-9				
43	10-Mar-23	B106S06	AAOCS1156J	10.48	5.38	3.64	9.03	1.45
44	10-Mar-23	B70A333	AAMFA2024J	4.20	1.57	2.32	3.89	0.31
45	10-Mar-23	B106S04	AADCS4707J	14.81	4.96	8.89	13.86	0.95
46	10-Mar-23	B74M182	AAFCM6435K	3.53	2.29	-	2.29	1.24
47	10-Mar-23	B70R333	AAVFR8730P	11.27	3.12	6.46	9.58	1.70
48	17-Mar-23	B92S091	ACAPT8985D	0.01	0.01	-	0.01	0.00
							Total (LO-9)	**5.65**

6.1.2. In reply to the LOs, Emkay submitted as under: -

a. 1 instance as of December 9, 2022 (UCC: B74S361)

- Emkay reported a margin shortfall of Rs.12,173.18/- for the client in the CD segment. The Exchange levied a penalty of Rs.145.59/- on Emkay for the said shortfall.

b. 47 instances

- The clients maintained sufficient margins on the reported dates. The fixed/term deposits and bank guarantees (**"**BGs**"**) of clients were deposited with the Clearing Corporation for the respective clients' exposure.

- As of January 20, 2023, February 10, 2023, and February 24, 2023, Emkay's back-office software did not have the functionality to consider the value of BGs while generating the report for submission of cash and cash equivalents to the Exchange, thereby resulting in generation of the alert. Emkay proactively brought the same to the notice of the back-office software vendor during the period of inspection for necessary modifications in the system.

- As per Exchange Circular No. NSE/INSP/45191 dated July 31, 2020, Trading Members should collect margin from respective clients in any of prescribed forms including BGs received towards margin issued by an approved bank and discharged in favor of the Trading Member, provided they are free and unencumbered, after considering its risk management policy and liquidity aspects. Acceptance of BGs towards margin is a common practice across industries for collateralization, risk mitigation for securing positions, safeguarding potential default risks, and ensuring financial soundness of transactions.

- The aforementioned circular does not explicitly restrict utilization of the non-funded portion of a BG towards margin requirement of its clients. Since, the Clearing Corporations/Exchanges do not permit collaterals in the form of FDs/BGs created in the name of third parties or clients, the FDs and BGs were created in the name of Emkay and deposited with the Clearing Corporations for leverage/exposure of respective clients. Furthermore, the practice of issuing BGs at 50% more than the funded portion is a widespread industry norm and a well-established and prudent approach followed by banks.

- The BG facility provided by Emkay is neither a norm, nor an organizational practice. The BGs were created only for a few clients upon specific requests. The BGs were created from the respective clients' funds and were appropriately placed with the Clearing Corporation. The benefit/leverage of these BGs were duly passed to the respective clients. Emkay or any other client did not derive any undue benefit from the said BGs.

- Considering the erstwhile approach of Trading Members towards utilizing BGs created out of clients' funds towards margin requirement and the confusion around it, SEBI *suo motu* revised the regulatory landscape. SEBI vide its Circular No. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/061 dated April 25, 2023, clarified the regulatory position and disallowed creation of BGs out of clients' funds from May 1, 2023. It further specified that existing BGs created out of clients' funds shall be wound down by September 30, 2023. The observation in the instant case pertains to the period before issuance of the aforementioned circular by SEBI. The intent behind disallowing Trading Members from creating BGs out of clients' funds is to ensure that Trading Members do not create BGs for margin requirement of other clients' or for own purposes, without the clients' consent. However, in the instant case, Emkay created BGs only upon specific requests of its clients. The BGs were not mis utilized for margin requirement of other clients or for own purposes.

6.1.3. The Committee finds, as under: -

a. <u>1 instance as of December 9, 2022</u> (UCC: B74S361)

Emkay claimed that margin shortfall for the said client was reported to the Exchange and penalty was levied for the said shortfall. Upon verification of the PL-01 file, it is observed that margin shortfall for the said client was reported to the Exchange and penalty was levied by Clearing Corporation for the said shortfall. Accordingly, Emkay's claim is tenable. Thus, no separate action is warranted for the aforementioned instance.

b. <u>47 instances</u>

i. Emkay contended that the clients maintained sufficient margins on the reported dates in the form of fixed/term deposits and BGs deposited with the Clearing Corporation for the respective clients' exposure.

ii. Upon verification of the margin working sheet for detailed calculation of clients' funds and collaterals/securities available on the reported dates and NCL Collateral file highlighting the fixed deposit receipts (**"**FDRs**"**) and BGs deposited for clients' exposure, it is observed that Emkay created FDRs out of clients' funds and used these FDRs to obtain BGs, which were deposited with the Clearing Corporation. Emkay considered both funded as well as non-funded portions of said BGs as margin collected from clients.

iii. The Committee notes that the non-funded portion of these BGs cannot be considered as a collateral made available by client towards their margin obligation as exposure to non-funded portion of said BG lies with Emkay. Further, valid collaterals provided by the clients in the form of client ledger balances and FDRs (funded portion of BG) were considered by the Exchange towards margin obligation of the respective clients. Thus, Emkay's contention is not tenable, and the violation persists in the aforementioned instances.

c. Thus, the violation stands reduced to 47 instances as of 14 days between December 2, 2022, and March 17, 2023, involving Rs.71.79 crores.

d. As per Regulation 3.9 of NSEIL Regulations (CM Segment); Regulation 3.10 of NSEIL Regulations (F&O Segment); Exchange Circular Nos. NSE/INSP/10367 dated February 28, 2008; and NSE/INSP/43069 dated December 31, 2019, Trading Members are required to collect upfront initial margin from all the clients and report on daily basis details of such margin due and collected. Further, Trading Members must collect other margins within the prescribed timelines as per Exchange Circular Nos. NSE/INSP/43069 dated December 31, 2019; NSE/INSP/45191 dated July 31, 2020; and NSE/INSP/45534 dated August 31, 2020. Thus, Emkay violated the regulatory provisions mentioned above by incorrectly reporting the margin collected from its clients.

e. Considering that the Exchange vide its Circular No. NSE/INSP/56489 dated April 25, 2023, directed Trading Members to wound down all bank guarantees created out of clients' funds by

September 30, 2023, to prevent the practice of pledging client's funds with banks to issue BGs to Clearing Corporations for higher amounts, the Committee decided to warn Emkay to ensure non-recurrence of the observed violation.

6.1.4. Given the findings mentioned above, the Committee decided to warn Emkay to ensure non-recurrence of the observed violation.

6.2. **Incorrect data submitted to the Exchange towards weekly client level cash and cash equivalents submission**

6.2.1. Upon verification of the data submitted by Emkay in the weekly client-level cash and cash equivalent balances vis-à-vis the trial balance, it is observed that Emkay submitted incorrect data to the Exchange in its weekly client-level cash and cash equivalents balances as under: -

LO-2

- in 1 instance involving Rs.20.53 lakhs as of January 13, 2023.

LO-9

- in 2 instances as of March 10, 2023, and March 17, 2023.

6.2.2. In reply to the LOs, Emkay submitted as under: -

LO-2

a. The client is not registered with the Exchange. Thus, cash and cash equivalent balance for the said client was not reported to the Exchange.

LO-9

b. On March 24, 2023, Emkay requested the Exchange to update the PAN and names associated with certain client

codes. The same was updated on the Exchange's UCC database on March 24, 2023.

6.2.3. The Committee finds, as under: -

LO-2

a. Emkay contended that the client was not registered with the Exchange. Thus, cash and cash equivalent balance for the said client was not reported to the Exchange.

Upon verification of the client's UCC details (UCC: B56H1520), it is observed that the client is registered with the Exchange. Thus, Emkay's contention is not tenable, and the violation persists.

LO-9

b. Emkay stated that upon request the PAN and name pertaining to certain client codes were updated in the Exchange's UCC database on March 24, 2023.

The Exchange received the request for modification of PAN from Emkay on March 24, 2023, i.e., post the period of inspection. Thus, Emkay's contention is not tenable, and the violation persists.

c. As per Exchange Circular No. NSE/INSP/43926 dated March 23, 2020, Trading Members are required to upload day-wise client-level cash and cash equivalent balances and bank balances of all bank accounts weekly. The said circular was put in place to enhance monitoring. The Trading Members must verify the data before submission to the Exchange. Thus, Emkay violated the regulatory provisions mentioned above by incorrectly reporting data/failing to report data towards the client-level cash and cash equivalent balances.

6.2.4. Given the findings mentioned above and considering that it is not a repeat violation in the financial year, the Committee decided to advise Emkay to ensure non-recurrence of the observed violation.

6.3. **Improper maintenance of bank book**

6.3.1. Upon verification of the bank book of Emkay, it is observed that Emkay failed to maintain bank book as per the prescribed standard format in 1 instance amounting to Rs.51.12 lakhs, as of April 28, 2023, as the payment details like cheque numbers etc. were not properly captured/updated by Emkey in its bank book.

6.3.2. In reply to the LO, Emkay submitted that it requested the banks to share remitter details and followed up for the same through various letters and emails.

6.3.3. The Committee finds, as under: -

a. Emkay's contention that the funds in the suspense account could not be reconciled due to unavailability of remitter details, is not acceptable as the Trading Members are required to capture the payment details such as cheque number, RTGS/NEFT/payment gateway/internal reference number in its bank book. Thus, the violation persists.

b. As per the Exchange Circular No. NSE/INSP/38743 dated August 30, 2018, a standard format for register of securities, holding statement, bank book, and client ledger is prescribed to standardize the maintenance of books of accounts/records and to ensure uniformity across all Trading Members. Further Annexure 'B' of the circular provides guidelines for maintenance of bank books and requires Trading Members to mention payment and receipt reference number details in the bank book. Emkay violated the regulatory provisions mentioned above by failing to maintain the bank books in the bank books in the prescribed standard format.

6.3.4. Given the findings mentioned above, the Committee decided to levy a monetary penalty of Rs.25,000/- on Emkay for the observed violation in terms of the Exchange Circular No. NSE/INSP/53530 dated September 2, 2022.

DECISION

7. In view of the above, the Committee levies the following penalties as indicated against the violations mentioned below: -

Sr. No.	Committee's Findings	Prescribed Penalty as per Exchange Circular Nos. NSE/INSP/42919 dated December 16, 2019, NSE/INSP/45533 dated August 31, 2020, and NSE/INSP/53530 dated September 2, 2022	Penalty Levied
1.	Incorrect reporting of margin collected from clients in 47 instances as of 14 days between December 2, 2022, and March 17, 2023, involving Rs.71.79 crores. The details are, as under: - a. LO-1 10 instances involving Rs.11.08 crores on 5 days i.e., December 2, 2022, December 9, 2022, December 16, 2022, December 23, 2022, and December 30, 2022.	Less than 10% of the instances - 5% of the incorrect reporting	Warning

Sr. No.	Committee's Findings	Prescribed Penalty as per Exchange Circular Nos. NSE/INSP/42919 dated December 16, 2019, NSE/INSP/45533 dated August 31, 2020, and NSE/INSP/53530 dated September 2, 2022	Penalty Levied
	b. LO-2 5 instances involving Rs.6.28 crores, on 2 days i.e., January 6, 2023, and January 13, 2023. c. LO-3 4 instances involving Rs.5.13 crores, as of January 20, 2023. d. LO-4 5 involving Rs,9.64 crores, as of February 3, 2023. e. LO-5 5 involving Rs.11.37 crores, as of February 17, 2023. f. LO-6 3 instances selected involving Rs.2.80 crores, as of February 10, 2023.		

Sr. No.	Committee's Findings	Prescribed Penalty as per Exchange Circular Nos. NSE/INSP/42919 dated December 16, 2019, NSE/INSP/45533 dated August 31, 2020, and NSE/INSP/53530 dated September 2, 2022	Penalty Levied
	g. LO-7 4 instances involving Rs.4.07 crores, as of February 24, 2023. h. LO-8 5 instances involving Rs.15.77 crores, as of March 3, 2023. i. LO-9 6 instances selected involving Rs.5.65 crores, on 2 days i.e., March 10, 2023, and March 17, 2023.		
2.	Incorrect reporting of client-level cash and cash equivalent balances and bank account balances a. LO-2 1 instance involving Rs.20.53 lakhs as of January 13, 2023. b. LO-9 2 instances as of March 10, 2023, and March 17, 2023.	Rs.1,00,000/-	Advise

Sr. No.	Committee's Findings	Prescribed Penalty as per Exchange Circular Nos. NSE/INSP/42919 dated December 16, 2019, NSE/INSP/45533 dated August 31, 2020, and NSE/INSP/53530 dated September 2, 2022	Penalty Levied
3.	LO-10 Improper maintenance of books and records as of April 28, 2023.	Rs.25,000/-	Rs.25,000/-
TOTAL			**Rs.25,000/-**

8. Emkay is directed to pay a monetary penalty of Rs.25,000/- (Rupees Twenty-Five Thousand Only) as indicated above.

9. Emkay is directed to note the non-monetary penalty as indicated above and ensure non-recurrence of the observed violation.

Sd/-
S Ravindran
(Committee Member)

Sd/-
Ashishkumar Chauhan
(Committee Member)

Date: January 10, 2024