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 August 17, 2023

In the matter of the Trading Member M/s. Divya Capital One Private 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:

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

BACKGROUND

1. **M/s Divya Capital One Private Limited** ("**Divya Capital**") is a Trading Member registered with the National Stock Exchange of India Limited ("**Exchange**"/"**NSEIL**") and enabled for trading in the Capital Market ("**CM**") and Futures & Options ("**F&O**") segments since May 2008, Currency Derivatives ("**CD**") segment since August 2008, and Commodity Derivatives ("**COM**") segment since October 2018.

2. The Exchange conducted a limited purpose inspection of books and records of Divya Capital in November 2022 covering the inspection period from April 1, 2021, to September 30, 2022. Post-inspection, the Exchange issued a letter of

observation ("**LO**") dated February 13, 2023, to Divya Capital for the observed non-compliances with the regulatory provisions. Divya Capital replied to the LO on February 23, 2023.

INSPECTION OBSERVATIONS/VIOLATIONS

3. The observations/violations mentioned in the LO are summarized hereunder:

3.1 Engagement as a principal in a business other than securities/commodity derivatives involving personal financial liability, i.e. loans amounting to Rs.9.24 crores obtained from 4 clients

3.2 Operation of 23 trading terminals by persons other than approved users

3.3 Upload of incorrect details of 218 trading terminals to the Exchange

3.4 Non-maintenance of appropriate systems to monitor and review trading 1 trading terminal mapped to branches

REGULATORY PROVISIONS

4. At the outset, it is appropriate to refer to the relevant regulatory provisions violated by Divya Capital; extracts whereof are reproduced below:

4.1 **Engagement as a principal in a business other than securities/commodity derivatives involving personal financial liability**

a. Rule 8(3)(f) of Securities Contracts (Regulation) Rules, 1957

8. The rules relating to admission of members of a stock exchange seeking recognition shall inter alia provide that:

(3) *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 a 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.

b. Exchange Circular No. NSE/COMP/50957 dated January 7, 2022

In consultation with SEBI and other Stock Exchanges, the illustrative list of activities that are construed as non-compliance to Rule 8(1)(f) and 8(3)(f) of SCRR, if undertaken by a member, are provided as below:

7. Any arrangement with registered clients to borrow funds/loans.

c. Exchange Circular No. NSE/COMP/53802 dated September 22, 2022

In view of the representations received from members, in this regard, following is clarified:

Point 7:

If the lender (who is also a registered client of member) is a director, associate or group company, then members, who are constituted as a company, are permitted to take loans from such clients to meet the working capital requirements.

4.2 **Operation of trading terminals by persons other than approved users**

Exchange Circular No. NSE/MA/22732 dated February 13, 2013

2. User Management

D. Applicable Observances

- *Trading Terminals*

a) *Location: The location of the trading terminal is required to be only in the main/branch offices or in the office of the registered Sub-broker (only in CM segment) / approved Authorized Person (CM / FNO / CD Segment) of the trading member or at the colocation facility provided by the Exchange or at the Third-party data centers/service providers site.*

- *Trading Member*

b) *Dealings: No Trading Member shall deal through any unregistered intermediary, Further, Trading Members shall entrust CTCL terminals only to Approved Person and not to any unregistered intermediary or clients. For this purpose, the persons who handle each CTCL terminal of the Trading Member are known as Approved Persons. Approved Person may be an employee of the Trading Member, a registered Sub-broker, an Approved User or an Authorised Person who has been approved by the Exchange. In case the unregistered intermediary is allowed to trade / deal by any trading member, such trading member shall be fully responsible for all the sale and/or purchase contracts, whether contract notes or (purchase / sale notes) issued or not, and for all the acts of commission and/or omission. Further, such trading members shall render themselves liable for noncompliance in terms of fines, penalty and/or other disciplinary action as may be deemed necessary by the relevant authority.*

d) *Penal/ Disciplinary Action:*

i. *If any terminal is found located at a place other than what is declared to the Exchange, penalty shall be levied in accordance to the Exchange Circular issued by Inspection department from time to time. Moreover, it is re-iterated that the trading members shall continue to be responsible for all obligations arising out of their terminals.*

ii. *No CTCL terminal(s) shall be allotted by Trading Member without prior approval of the Exchange and use of terminal(s) shall be treated as unauthorised and in violation of the requirements. Such Trading Members shall be liable for disciplinary action as may be deemed fit including withdrawal of the User Id that is granted to the CTCL server from which the Trading Member has extended the CTCL trading facility to such locations, without notice and / or reference, or withdrawal of trading rights entirely.*

4.3 **Upload of incorrect details of trading terminals to the Exchange**

Exchange Circular No. NSE/MA/22732 dated February 13, 2013

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- *Trading Terminals*

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4.4 **Non-maintenance of appropriate systems to monitor and review trading terminals mapped to branches**

Exchange Circular No. NSE/INSP/40559 dated March 27, 2019

Members should ensure that correct and updated information relating to trading terminal and certification is reported to the Exchange and any non-

compliance in this regard shall attract appropriate disciplinary actions.

PRESENT PROCEEDINGS BEFORE MCSGFC

5. The Exchange, vide its email dated August 11, 2023, granted Divya Capital an opportunity of a personal hearing before the Committee. On behalf of Divya Capital, Mr. Janki Lal Sharma - Compliance Officer and Mr. Ashok Kumar Dugar – Designated Director, attended the personal hearing and reiterated the written submissions.

CONSIDERATION & FINDINGS

6. The observations/violations, reply of Divya Capital, and the findings of the Committee are as under:

6.1 Engagement as a principal in a business other than securities/commodity derivatives involving personal financial liability

6.1.1 Upon verification of the loan ledgers, the Exchange observed that Divya Capital obtained loans from 4 clients, i.e. 3 active clients and 1 inactive client. The total outstanding loans amounted to Rs.9.24 crores. The details of the loans are as under: -

Sr. No.	Name	Relation with Divya Capital	Net Balance (Rs)
1.	Pratibha Jain	Active Client (director's wife)	3,07,81,150.00
2.	Anisha Dua	Active Client (director's daughter)	1,22,60,779.00
3.	Arham Finance and Investment Services Limited	Inactive Client	89,12,521.00
4.	Baid Stock Broking Services Private Limited	Active Client	4,04,08,491.00
Total			**9,23,62,941.00**

6.1.2 In reply to the LO, Divya Capital submitted as under:

a. Any arrangement with the registered clients to borrow funds/loans is construed as non-compliance to Rule 8(1)(f) and Rule 8(3)(f) of SCRR; however, if the lender (who is a registered client of the Trading Member) is a director or associate of a group company, the Trading Member is permitted to obtain loans from such client to meet the working capital requirements. As per the provisions of Section 2(31) and 73 of the Companies Act, 2013 read with Companies (Acceptance of Deposits) Rules, 2014, loan from directors and its relatives is allowed if it is given out of their own funds.

b. Divya Capital provided clarification as under:

i. Ms. Anisha Dua, daughter of Mr. Ashok Kumar Dugar (Director), and Ms. Pratibha Jain, wife of Mr. Sushil Kumar Jain (Director)

The clients are relatives of the directors, and part of the promoter group. Hence, obtaining loans from these clients is permitted. Ms. Anisha Dua closed her account on October 3, 2022. As soon as the circular came to the knowledge of Divya Capital, it repaid the loans by January 5, 2023.

ii. Arham Finance and Investment Services Limited

The client is inactive. Divya Capital repaid the loan to the client.

iii. Baid Stock Broking Services Private Limited

The client is a non-banking financial company (NBFC) registered with RBI and involved in the business of lending funds. Divya Capital took the loan before the issuance of Exchange Circular No. NSE/COMP/50957 dated January 7, 2022. As soon as the circular came to the knowledge of Divya

Capital, it informed the client, and the client sold its holding and closed the account on November 23, 2022.

6.1.3 The Committee finds as under:

a. Divya Capital contended that loans obtained from Ms. Anisha Dua and Ms. Pratibha Jain should not be construed as violative of Rule 8(3)(f) of SCRR as the clients form part of the promoter group. Furthermore, Divya Capital repaid the loans and closed the loan accounts.

The Committee notes that as per Exchange Circular No. NSE/COMP/53802 dated September 22, 2022, if the lender (who is also a registered client of the Trading Member) is a director, associate, or group company, Trading Members who are constituted as a company are permitted to take loans from such clients to meet the working capital requirements. Upon verification of the shareholding pattern of Divya Capital, it is observed that Ms. Anisha Dua and Ms. Pratibha Jain are relatives of the director of Divya Capital. Considering that Divya Capital obtained loans from the relatives of the director, the Committee decided to extend the benefit to Divya Capital.

b. Divya Capital claimed that Arham Finance and Investment Services Limited is an inactive client and the loan amount was fully repaid.

Upon verification of loan ledger, it is observed that the loan was obtained prior to Exchange Circular No. NSE/COMP/50957 dated January 7, 2022, and was repaid on February 7, 2023. Considering that Divya Capital repaid the loan, the Committee decided to extend the benefit to Divya Capital.

c. Divya Capital claimed that it closed the account of Baid Stock Broking Services Private Limited on November 23, 2022.

Upon verification of the loan ledgers, out of the total loan amount of Rs.4.04 crores, Divya Capital repaid Rs.0.96 crore to the client and the balance amount of Rs.3.08 crores is pending to be repaid as of March 31, 2023. Furthermore, upon verification of the UCI database of the Exchange, it is observed that the client account is closed. Considering that the client account is closed, the Committee decided to extend the benefit to Divya Capital.

6.1.4 Given the findings mentioned above, the Committee decided that no action is warranted against Divya Capital for the observed violation.

6.2 **Operation of trading terminals by persons other than approved users**

6.2.1 Upon verification of the trading terminals (CTCL) at the locations vis-à-vis the records of trading terminals available with the Exchange, the Exchange observed as under:

a. Mismatch of location and users of 23 trading terminals

The location of 23 trading terminals was reported as Gandhinagar; however, the trading terminals were operated from Vaishali and the users operating the 23 trading terminals were different from the users reported to the Exchange

b. Divya Capital provided access of 1 trading terminal (User ID: 41851; CTCL ID: 201010001661) to one of its clients Mr. Rahul Bundela (Client Code: K1T01)

6.2.2 In reply to the LO, Divya Capital submitted as under:

a. In the case of mismatch of location of 23 trading terminals, Divya Capital inadvertently reported the location as Gandhinagar. On the day of inspection, it initiated the process of updating the location of the trading terminals to Vaishali.

b. In the case of mismatch of user of 23 trading terminals, Divya Capital inadvertently reported the location as Gandhinagar. However, the users are approved users operating the trading terminals from Vaishali.

c. In the case of 1 trading terminal, Divya Capital updated the category of the user ID as approved user and provided screenshot in support of its claim.

6.2.3 The Committee finds as under:

a. In the case of 23 trading terminals, Divya Capital initiated the process of updating the location of the trading terminals from Gandhinagar to Vaishali. In the case of 1 trading terminal, it updated the category of user ID as approved user. However, post-inspection compliance does not absolve Divya Capital from the violation committed. Hence, the violation persists.

b. Divya Capital violated the provisions of Exchange Circular No. NSE/MEM/3574 dated August 29, 2002, by allowing operation of trading terminals by persons other than approved users.

6.2.4 Given the findings mentioned above, the Committee decided to levy a monetary penalty of Rs.36,000/- (@ Rs.1,500/- per terminal for 24 terminals) for the observed violation in terms of the Exchange Circular NSE/INSP/53530 dated September 2, 2022.

6.3 **<u>Upload of incorrect details of trading terminals to the Exchange</u>**

6.3.1 Upon verification of the trading terminals (CTCL) at the locations (Vaishali – November 21, 2022, and Gandhinagar – November 29, 2022) vis-à-vis the records of trading terminals available with the Exchange, the Exchange observed that 218 trading terminals were operated from locations other than those reported to the Exchange. Out of 218 trading terminals, 8 proprietary trading terminals at

Vaishali and 210 proprietary trading terminals at Gandhinagar were not found.

6.3.2 In reply to the LO, Divya Capital submitted as under:

a. In the case of 102 trading terminals, the users were present in the office but were verified for another terminal.

b. In the case of 3 trading terminals, no trades were executed.

c. In the case of 7 trading terminals, the users were present in the office.

d. In the case of 106 trading terminals, the users were operating from home.

6.3.3 The Committee finds as under:

a. The Committee notes that 218 trading terminals were not found at the inspection locations i.e. Vaishali and Gandhinagar. The reply submitted by Divya Capital does not establish the location of the trading terminals at the time of inspection.

b. As per Exchange Circular No. NSE/MA/22732 dated February 13, 2013, the location of the trading terminal is required to be only in the main/branch offices of the trading member or at the colocation facility provided by the Exchange or at the third-party data centers/service providers site.

c. The Committee notes that in a subsequent limited purpose inspection conducted, the Exchange verified 115 trading terminals at Vaishali and 83 trading terminals at Gandhinagar. Upon verification, the trading terminals were found at the inspection locations.

6.3.4 Given the findings mentioned above, the Committee decided to levy

monetary penalty of Rs.2 lakhs (Rs.1 lakh per location) for the observed violation in terms of Exchange Circular No. NSE/INSP/53530 dated September 2, 2022.

6.4 **Non-maintenance of appropriate systems to monitor and review trading terminals mapped to branches**

6.4.1 Upon verification of the trading terminals (CTCL) at Gandhinagar Branch of Divya Capital vis-à-vis the records of trading terminals available with the Exchange, the Exchange observed that 1 deactivated trading terminal as per the records of the Exchange was operative.

6.4.2 In reply to the LO, Divya Capital submitted as under:

Mr. Bharat Ji Thakor (User ID 28917) operated the trading terminal under User ID 19646 through ULC mapping. In ULC, mapping certificate is not required on non-neat front (NNF); hence, the trading terminal showed as deactivated.

6.4.3 The Committee finds as under:

a. Divya Capital contended that Mr. Bharat Ji Thakor operated the trading terminal through ULC mapping wherein mapping certificate is not required on NNF; hence, the trading terminal showed as deactivated.

b. The Committee finds that the deactivated trading terminal was found to be operative. Divya Capital violated the regulatory provisions of Exchange Circular No. NSE/INSP/40559 dated March 27, 2019, by not maintaining appropriate systems to monitor and review trading terminals mapped to branches.

6.4.4 Given the findings mentioned above, the Committee decided to levy

a monetary penalty of Rs.1,000/- and direct Divya Capital to place appropriate systems to monitor and review trading terminals mapped to its branches in terms of 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 each of the violations:

Sr.	Committee's Findings	Prescribed penalty as per Exchange Circular No. NSE/INSP/53530 dated September 2, 2022	Penalty
a.	Operation of 24 trading terminals by persons other than approved users	Rs.1,500/- per terminal	Rs.36,000/-
b.	Upload of incorrect details of 218 trading terminals to the Exchange in 2 locations, i.e. Vaishali and Gandhinagar	Rs.1,00,000/- per location	Rs.2,00,000/-
c.	Non-maintenance of appropriate systems to monitor and review 1 trading terminal mapped to branch	Rs.1,000/- per terminal + Direction to place appropriate systems to monitor and review trading terminals mapped to its branches/AP	Rs.1,000/- + Direction to place appropriate systems to monitor and review trading terminals mapped to its branches
Total			**Rs.2,37,000/-**

8. Divya Capital is directed to pay a monetary penalty of Rs.2,37,000/- (Rupees Two Lakhs Thirty-Seven Thousand only) as indicated above.

Sd/- Mona Bhide (Chairperson)	Sd/- K Narasimha Murthy (Committee Member)	Sd/- Mr. S Ravindran (Committee Member)
Sd/- Ranganayakulu Jagarlamudi (Committee Member)		Sd/- Ashishkumar Chauhan (Committee Member)

Date: November 2, 2023