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 February 29, 2024,
In the matter of the Trading Member M/s. Bajaj Financial Securities Limited

CORAM:

Mr. S Ravindran	Chairperson
Prof. S Sudarshan	Committee Member
Mr. Essaji Vahanvati	Committee Member
Mr. Ashishkumar Chauhan	Committee Member

ALSO PRESENT:

Mr. Piyush Chourasia	Chief Regulatory Officer
Mr. Ankit Shamra	Chief Regulatory Officer
Ms. Renu Bhandari	Vice President – Inspection
Ms. Sonali Karnik	Vice President – Enforcement
Mr. Janardhan Gujaran	Vice President – Enforcement

Background

1. M/s. Bajaj Financial Securities Limited ('Bajaj') is a registered trading member with the Exchange in the Capital Market ('CM') segment, and Future and Options ('F&O') segment and Currency Derivatives ("CD") segment since July 2019.

2. Based on the violations pertaining to (a) non-adherence to leverage and exposure limits while granting MTF, (b) incorrect reporting of margin collected from clients, (c) discrepancies in daily margin statement sent to clients, (d) incorrect data submitted towards the weekly monitoring of clients' funds, and (e) misuse of clients' funds, observed during the regular inspection, the Committee vide its order dated March 3, 2023, imposed a monetary penalty of Rs.18,37,000/- in terms of Exchange Circular No. NSE/INSP/42919 dated December 16, 2019, Exchange Circular NSE/INSP/45533 dated August 31, 2020, and Exchange Circular No. NSE/INSP/47457 dated February 25, 2021.

3. The present review application is filed by Bajaj against the aforementioned order dated March 3, 2023.

Submission of Bajaj in review request

4. Bajaj vide letter/email date March 20, 2023, requested to reconsider the penalty of Rs.18,37,000/- levied for the observation pertaining to (a) non-adherence to leverage and exposure limits while granting MTF, (b) incorrect reporting of margin collected from clients, (c) discrepancies in daily margin statement sent to clients, (d) incorrect data submitted towards the weekly monitoring of clients' funds, and (e) misuse of clients' funds. Bajaj submitted as under-

   a) Incorrect data submitted towards the weekly monitoring of clients' funds -

      i) Total end day balance in all client account is incorrectly reported: Total balance of all bank accounts comes at Rs. -41.43 crores. The ENIT portal does not allow the trading member to report negative balance. Hence, Bajaj reported "Zero" balance.

      NSE officials have suggested to report total of all bank account having credit balance and to ignore the debit balance bank account. So, NSE suggested that Bajaj should have reported Rs.8.56 cores as bank balance.

      ii) Collateral deposited with clearing Corporation in the form of cash and cash equivalent is reported less to an extent of Rs.25 lakhs- While reporting the balance with clearing corporation, Bajaj has ignored the initial deposit of Rs.25 lakh on account of the fact that the same cannot be demanded from clearing corporation to repay the creditors. It is only refundable at the time of surrender.

      iii) Total credit balance of all clients was under reported by Rs.14.40 crores – While reporting the credit balance of the client, Bajaj takes the total of the credit balance of all clients which is reflected under the heading "Funds", which is the balance in theledger of the client. Bajaj is reported the FD to the Exchange under the requirement of cash and cash equivalent reporting for the week ended March 27, 2021.

      Further, Bajaj mention that reporting total credit balance of all clients while ignoring the FDs was correct as FDs was a reported separately in weekly cash and cash equivalents.

      iv) Margin utilised for positions of credit balance clients – Bajaj submitted that it has reported margin applicable to the clients having credit balance in the field "MC".

b) Misuse of clients' funds -

i) Bajaj submitted that the balance available with clearing corporation were sufficient to meet the credit balance requirement on the mentioned date.

ii) Enhance supervision is followed as per the requirement, therefore there has never been a single instance when the calculation of 'G' was negative.

iii) On the relevant days i.e. March 22, 2022, and March 23, 2022, two individual, Ms. Sanjali Sanjiv Bajaj (Daughter of Mr. Sanjiv Bajaj) and Mr. Siddhanthnayan Sanjiv Bajaj (Son of Sanjiv Bajaj) had a balance of Rs. 90 crores.

iv) Ms. Sanjali Sanjiv Bajaj and Mr. Siddhanthnayan Sanjiv Bajaj are part of the promoter group of Bajaj Finserve Limited. Bajaj Finserve Limited holds 52% of Bajaj Finance Limited. Ms. Sanjali Sanjiv Bajaj and Mr. Siddhanthnayan Sanjiv Bajaj as also a part of promoter group of Bajaj Finance. Bajaj is a 100% subsidiary company of Bajaj Finance Limited.

v) Therefore, Bajaj submitted that the balance of Rs. 90 crores of Ms. Sanjali Sanjiv Bajaj and Mr. Siddhanthnayan Sanjiv Bajaj should be ignored while arriving at the total credit balance of all clients.

c) Incorrect reporting of margin collected from clients –

i) Client PUN650: On 30-03-2021 the client sold 1,79,928 shares of Jubilant Limited amounting to Rs.4.33 Crores, which were pledged in favour of Bajaj. However, the benefit of sale has not been extended in the working of margin reporting. As mentioned above NSE circular NSE/INSP/43069 dated December 31, 2019, specifically allows full benefit of sale proceed without any haircut. The alleged shortfall is Rs. 71.6 Lakhs as against the sale value of Rs.4.33 crore and therefore the margin reported is correct.

ii) Client AHM128: In the current case the client has 2 ledgers for capital market segment viz. non-MTF ledger and MTF ledger. The client did not have any position in the MTF since September 1, 2020. As a result, the credit balance in the ledger of Rs. 2.18 crores were free from all encumbrances. Though the balances are maintained in two different ledgers, these are adjustable against all dues as permitted by SEBI and the Exchanges in line with the consent of the client. In light of this consent the balances of the client across

ledger have to be considered on a consolidated basis and after taking into account the consolidated ledger balance, the reporting is correct.

iii) Client PUN598: In the current case, the client was charged a DPC of Rs.2,29,355 on 04-02-2021 for the period 01-01-2021 to 31-01-2021.

The value date for this transaction was taken as 31-01-2021 as the DPC pertained to the month of January 2021 and many of current clients have to deduct TDS based on the interest for the relevant month which they prefer to be posted on the last day of the month. The margin reporting for 01-02-2021 was already done before the posting of entries on 04-02-2021 with value date 31-01-2021 and as a result there appears to be a wrong reporting of margin to an extent.

iv) Client MUM159: Client had issued a cheque dated 06-01-2020 which was received by the team on 06-01-2020. On the receipt of the cheque, Relationship Manager informed to risk management team, banking team and settlement team about the receipt of the cheque to take the same on record.

The cheque received on 06-01-2020, was deposited on 07-01-2020 and credited to the bank account on 08-01-2020. The entry erroneously posted in back office effective from 07-01-2020. The said technical error of entering an incorrect date should not result an allegation of wrong reporting of margin.

d) Non-adherence to leverage and exposure limits while granting MTF -

i) It maintains multiples ledgers of a client to enable Bajaj and the client to have a product wise perspective. The client had a free credit balance of Rs. 2.24 crores on the relevant dates. So effectively the net exposure allowed to the client was Rs.5.06 crore (7.3 - 2.24) and not Rs.7.03 crores as allowed.

ii) The exposure under MTF was Rs.7.03 crores. Bajaj has allowed excess exposure to the client to an extent of Rs.65.16 lakh, which effectively means that we could have allowed an exposure of Rs.6.65 crores to the said client as per NSE.

iii) If the free balance in non-MTF ledger is taken into account while calculating the exposure, the same when considered would not be in violation of requirement of NSE as the exposure allowed would come to Rs.5.06 crores as against the permissible exposure of Rs. 6.65 crores.

e) Discrepancies in daily margin statement sent to clients -

i) Bajaj mentioned that the format of daily margin statement to be issued to the client is included in circular no. Download ref. no. NSE/INSP/43069 dated December 31, 2019. The said format nowhere specifies that the uncleared cheques are to be included in the funds balance. Even further, all clients are given online access to the back office system where they can see the entries for these cheques with entry date and value date which helps them identify clear and unclear cheques and the balance after taking into account these uncleared cheques.

ii) As per the advice from the NSE team in this regard, Bajaj have incorporated the value of unclear cheque in DMS statement.

Observations of the Committee

5. Incorrect data submitted towards the weekly monitoring of clients' funds - Considering the materiality of amount involved, trivial nature of the violations and the violation is not repeated in the same financial year, the Committee decided to accept the review application filed by Bajaj to waive off the penalty.

6. Misuse of clients' funds - Upon verification of additional submission and clarification provided by Bajaj, it is observed that the funds of Rs. 90 crores are belonging to promoters' group (Ms. Sanjali Sanjiv Bajaj and Mr. Siddhanthnayan Sanjiv Bajaj). The benefits of the same is extended to these 2 individuals and post adjusting Rs.90 crores from the fund payable to the creditors, the value of 'G' stands positive. Thus, no violation persists. Therefore, the Committee decided to take lenient view and accept the review application filed by Bajaj to waive off the penalty and warn Bajaj to ensure non-recurrence of the observed violation.

7. Incorrect reporting of margin collection from clients - Upon verification of ledger statements and cheque copies, Bajaj contention is found to be correct in case of 2 instances (Client code AHM128 and MUM159). Thus, no violation persists in case of 2 instances and shortfall persists in the case of 2 instances (Client code: PUN650 and PUN598) involving Rs.72,61,005.97. Therefore, the penalty stands revised to Rs.3,63,100/- (5% of Rs.72,61,005.97 i.e., Rs.3,63,050.30 rounded off to Rs.3,63,100/-) for the observed violation.

8. Non-adherence to leverage and exposure limits while granting MTF, and (b) discrepancy in daily margin statement sent to clients - There is no omission/error on the record of any fact or contentions that the Committee can consider and review.

9. The Committee observed that as per Rule 17 under Chapter IV of NSEIL Rules, there is no provision for filing review based on the appeal filed by the Trading Member. The extract of the said Rule 17 under Chapter IV of NSEIL Rules provides as under:

   Quote

   17. Reconsideration/Review

   Subject to the provisions of the Securities Contracts (Regulation) Rules, 1957 the relevant authority may of its own motion within 90 days from the date of communication of decision of the relevant authority to the member reconsider and may rescind, revoke or modify its resolution withdrawing all or any of the membership rights or fining, censuring or warning any trading member. In a like manner the relevant authority may rescind, revoke or modify its resolution expelling or suspending any trading member.

   Unquote"

Decision of the Committee

10. With respect to violation pertaining to incorrect data submitted towards the weekly monitoring of clients' funds, the Committee decided to advice Bajaj to ensure the non-recurrence of the observed violation.

11. With respect to violation pertaining to misuse of client funds, the Committee decided to warn Bajaj to ensure non-recurrence of the observed violation.

12. With respect to violation pertaining to incorrect reporting of margin collected from the clients the Committee decided to levy a revised monetary penalty of Rs.3,63,100/- (5% of Rs.72,61,005.97 i.e., Rs.3,63,050.30 rounded off to Rs.3,63,100/-).

13. With respect to the violation pertaining to (a) non-adherence to leverage and exposure limits while granting MTF, and (b) discrepancy in daily margin statement sent to clients, the Committee decided to uphold its earlier decision as there is no omission/error on record of any fact or contentions that the Committee can consider and review.

14. In view of the above, the penalty stands revised to Rs.4,13,100/- (Rupees Four Lakh Thirteen Thousand One Hundred only). Therefore, the penalty of Rs.14,23,900/- (Rs.18,37,100 - Rs.4,13,100) levied vide order dated March 3, 2023, is to be returned to Bajaj, if collected.

Sd/-	Sd/-	Sd/-
Mr. S Ravindran	Prof. S Sudarshan	Mr. Essaji Vahanvati
(Chairperson)	(Committee Member)	(Committee Member)

Sd/-
Mr. Ashishkumar Chauhan
(Committee Member)

Date: April 26, 2024