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 March 22, 2023

In the matter of Trading Member - M/s. Profitmart Securities 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

PRESENT:

Ms. Priya Subbaraman	- Chief Regulatory Officer
Dr. Dinesh Kumar Soni	- Senior Vice President - Regulatory
Mr. Shailesh Adukia	- Vice President – Enforcement
Mr. Janardhan Gujaran	- Vice President – Enforcement
Ms. Renu Bhandari	- Vice President – Inspection

BACKGROUND

1. **M/s. Profitmart Securities Private Limited** ("**Noticee**") 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 June 2012, and Currency Derivatives ("**CD**") segment since February 2013.

2. Pursuant to the MCSGFC directions vide order dated July 12, 2022, the Exchange appointed a forensic auditor to audit the books and records of the Noticee from April 1, 2019, to July 22, 2022. Post-audit, the Exchange issued a show-cause notice dated September 23, 2022 ("**SCN**") for the observed non-compliance of the applicable regulatory provisions. The Noticee vide its emails dated October 1, 2022, and October 4, 2022, filed its preliminary response to the SCN. Further, the Noticee vide its email dated November 1, 2022, forwarded its reply dated October 31, 2022, to the Exchange.

INSPECTION OBSERVATIONS/VIOLATIONS

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

   3.1. Fixed periodic returns provided to the clients directly and/or through Authorized Persons

   3.2. Non-reconciliation of securities

   3.3. Shortfall in securities

   3.4. Incorrect mobile numbers, email IDs, and bank details uploaded in the Exchange's Unique Client Code ("UCC") database

   3.5. Non- maintenance of pre-order confirmation

   3.6. Improper maintenance of clients' ledgers

   3.7. Failure to inspect the books of active registered Authorized Persons

REGULATORY PROVISIONS

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

   4.1. **Fixed periodic returns provided to the clients directly and/or through Authorized Persons**

      a. Schedule II of the SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992

         A. (5) - A stock broker shall abide by all the provisions of the Act and the rules, and regulations issued by the Government, the Board and Stock Exchange from time to time as may be applicable to him.

      b. Regulation 4.5.1 and 4.5.2 (b) of Part A of NSEIL (CM) Regulations and Regulation 4.5.1 and 4.5.2 (d) of (F&O) Regulations of the Exchange

         The Trading Member shall at all times subscribe to the Code of Conduct as prescribed by the Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) Regulations, 1992.

Trading Members shall adhere to the Rules, Regulations and Byelaws of the Exchange and shall comply with such operational parameters, rulings, notices, guidelines and instructions of the relevant authority as may be applicable from time to time.

c. Rule 3(b) of Chapter IV of NSEIL Rules

Misconduct

(3) *A trading member shall be deemed guilty of misconduct for any of the following or similar acts or omissions namely:*
(a) ....
(b) Violation: If it has violated provisions of any statute governing the activities, business and operations of the Exchange, trading members and securities business in general

d. SEBI Circular No. SMD/POLICY/CIR-6/97 dated May 7, 1997

It has been opined that borrowing and lending of funds, by a trading member, in connection with or incidental to or consequential upon the securities business, would not be disqualified under Rule 8(1)(f) and 8(3)(f).

e. Exchange Circular No. NSE/COMP/48536 dated June 9, 2021

Employing any device, scheme or artifice or engage in any act or practice, including operating assured return schemes, unauthorised portfolio management & investment schemes etc, in contravention of the provisions of various SEBI/Exchange Rules & Regulation and circulars issued from time to time.

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

It is observed that members are engaged in businesses other than securities or commodity derivatives business like entering loan arrangement with clients/entities, collecting money in the form of deposit or otherwise by offering fixed/guaranteed/periodic returns orally or in writing, extending corporate guarantees etc. which is in contravention of Rule 8(3)(f) of SCRR."
…

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……..

5. Engaging into activities/schemes of unauthorised collective investments/portfolio management, promising or indicating fixed/guaranteed/regular returns/capital protection."

g. Exchange Circular No. NSE/INSP/51770 dated March 25, 2022

e) Assured Return Schemes/ Unauthorised Portfolio Management Service: It has also come to the notice of the Exchange that certain members were engaging in activities/schemes of fixed / periodic payments, which are not permitted under the Byelaws, Rules & Regulations and circulars of SEBI/Exchanges. It is reiterated that members are not permitted to undertake any business/activity that is not allowed under the Byelaws, Rules & Regulations and circulars of SEBI/Exchanges including operating any schemes of unauthorised collective investments/portfolio management, promising indicative/ guaranteed/fixed returns/payments etc.

4.2. **Non-reconciliation of securities**

a. Exchange Circular No. NSE/INSP/10605 dated April 21, 2008

The records should be periodically reconciled with the actual collateral deposited with the broker.

b. Exchange Circular No. NSE/INSP/29096 dated March 11, 2015

The Members are advised to reconcile client beneficiary account/s and the register of securities on a quarterly basis and maintain a complete audit trail & documentation of such reconciliation.

4.3. **Shortfall of client securities**

a. Regulation 4.5.3 (e) of the NSEIL (CM and F&O segments) Regulations

No Trading Member or person associated with a Trading Member shall make improper use of the constituent's securities or funds.

b. Exchange Circular No. NSE/INSP/29096 dated March 11, 2015

Members are advised to ensure that the funds & securities available in the client bank/s and client beneficiary account/s together with balances available with clearing Member and funds with clearing corporation are not less than the funds and securities payable to the client at all times.

Members are also advised to reconcile client beneficiary account/s and the register of securities on a quarterly basis and maintain complete audit trail & documentation of such reconciliation.

4.4. **Incorrect mobile numbers, email IDs and bank details uploaded in the Exchange's Unique Client Code ("UCC") database**

a. Exchange Circular No. NSE/INSP/21841 dated October 4, 2012

All Trading members are requested to review the details of the clients uploaded on UCI Online pertaining to their mobile number and / or email address and update the same wherever necessary.

Trading Members are hereby requested to take utmost care while uploading client details including mobile number and email address on UCI - ONLINE.

b. Exchange Circular No. NSE/INSP/33276 dated September 26, 2017

Reporting of Bank and Demat accounts maintained by Stock Broker:

2.1. The stockbrokers shall inform the Stock Exchanges of existing and new bank account(s)

4.5. **Non- maintenance of pre-order trade confirmation**

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

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 the 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.

4.6. **Improper maintenance of clients' ledgers**

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 the register of securities, holding statements, bank books and client ledgers are prescribed herewith.

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.

4.7. **Failure to inspect the books of active registered Authorized Persons**

a. Exchange Circular No. NSE/MEM/3574 dated August 29, 2002

3. CTCL terminals need to be located only in the office of the Trading Member or in the office of their registered sub-brokers.

6. Trading Members shall not entrust the CTCL terminals to their clients or to any unregistered intermediary (refer points 1 and 5 of Circular 163) other than 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.

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

2. User Management

B. Particulars of Certification and type of Connectivity

- *Certification:*

Trading member desirous of obtaining user ids are required to meet certification requirement as specified by SEBI /Exchange from time to time. Applicable requirement are as follows:

S. No.	***Segment***	***Applicable norms***
1	*Capital Market Segment*	*Valid NCFM certification for Corporate Manager & Branch Manager for each connectivity (Tap IP).*
2	*Futures & Options Segment*	*Valid Certificate issued through SEBI approved certification programme for each User Id.*
3	*Currency Derivatives Segment*	*Valid Certificate issued through SEBI approved certification programme i.e., Series-I: CD certification for each User Id.*

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 co-location facility provided by the Exchange or at the Third-party data centres/service providers site.

- *Trading Members*

  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 non-compliance in terms of fines, penalty, and/or other disciplinary action as may be deemed necessary by the relevant authority.

PAST MSCSGFC PROCEEDINGS

5. **MCSGFC meeting held on October 7, 2022**

5.1. The Exchange vide its email dated September 30, 2022, granted the Noticee with an opportunity of a personal hearing before the Committee in its meeting dated October 7, 2022. On behalf of the Noticee, Mr. P. N. Modi (Senior Counsel), Mr. Robin Shah (Advocate), Mr. Neville Lashkari (Advocate), Mr. Udaysingh Kashid

(Advocate), Mr. Ayush Singh (Advocate), Mr. Nayan Bhandari (Director), Mr. Rakesh Sonawane (Director), Mr. Yesudasan Mahajan (Director), Mr. Niranjan Mahajan (Director), and Mr. Gaurav Kothari (Compliance Officer) attended the meeting and made oral submissions before the Committee.

5.2. Considering the preliminary written submissions and oral submissions of the Noticee, the Committee, vide its order dated October 13, 2022 ("**interim order**"), issued the following interim directions: -

a. The Noticee shall withdraw the registration of all 8 Authorized Persons who offered assured return schemes on the public domain and take all other actions as advised by Securities and Exchange Board of India ("**SEBI**") in terms of SEBI Circular No. MIRSD/ DR-1/Cir-I6/09 dated November 6, 2009.

The Noticee vide its email dated October 15, 2022, informed the Exchange that registration of all the 8 Authorized Persons who offered assured return schemes on the public domain is withdrawn.

b. The Noticee shall submit an undertaking that they shall not onboard any new Authorized Person until the final order.

The Noticee vide its email dated October 15, 2022, submitted an undertaking that it would not onboard new Authorized Persons on the Exchange until the final order is passed with respect to the said SCN.

c. The Noticee shall collect a written undertaking from all its clients at the time of onboarding new clients stating that (a) the Noticee has not offered any assured return scheme; (b) the client has agreed not to demand any such assured return from the Noticee; and (c) the Noticee has explained the risk involved of trading in the securities market.

The Noticee vide its email dated October 15, 2022, submitted the format of the written undertaking collected from its clients at the time of onboarding, declaring that the Noticee does not offer any product pertaining to “portfolio management” or any “fixed return scheme” of any kind and does not provide “guaranteed” or “assured” or “fixed” returns to any of its clients for trading in the securities market. The Noticee informed that the undertaking is also included in the e-KYC module and the Noticee’s representatives ensure that the same is read and reviewed by the respective clients.

d. The Noticee shall submit its reply to the SCN within 3 weeks from the date of meeting with the Exchange officials.

The Exchange vide its email dated October 7, 2022, offered the Noticee a meeting with the Exchange officials for reconciliation of exhibits and instances, on October 10, 2022. On behalf of the Noticee, Mr. Nayan Bhandari (Director), Niranjan Mahajan (Director), Mr. Gaurav Kothari (Compliance Team), and Mr. Nitin Bora (Compliance Team) attended the said meeting with the Exchange officials. The Noticee, vide its email dated November 1, 2022, forwarded its reply dated October 31, 2022, to the Exchange.

e. The Noticee shall conduct a concurrent audit and submit a fortnightly certificate for the next six months to certify that the clients of the Noticee are not offered assured/fixed returns.

The Noticee vide 12 emails between October 31, 2022, and April 18, 2023, submitted the fortnightly concurrent audit certificates certifying that the Noticee's clients are not offered assured/fixed returns. The details of the submissions are as under: -

Sr. No.	Period for Audit	Date of submission to the Exchange
1.	October 15, 2022, to October 30, 2022	October 31, 2022
2.	November 1, 2022, to November 15, 2022	November 19, 2022
3.	November 16, 2022, to November 30, 2022	December 2, 2022
4.	December 1, 2022, to December 15, 2022	December 20, 2022
5.	December 16, 2022, to December 31, 2022	January 3, 2023
6.	January 1, 2023, to January 15, 2023	January 18, 2023
7.	January 16, 2023, to January 31, 2023	February 6, 2023
8.	February 1, 2023, to February 15, 2023	February 20, 2023
9.	February 16, 2023, to February 28, 2023	March 5, 2023
10.	March 1, 2023, to March 15, 2023	March 21, 2023
11.	March 15, 2023, to March 31, 2023	April 3, 2023
12.	April 1, 2023, to April 15, 2023	April 18, 2023

f. The Noticee shall review its inspection process with respect to 8 Authorized Persons mentioned in the SCN dated September 23, 2022, as required under the Exchange circular No. NSE/INSP/42448 dated October 18, 2019, and

NSE/COMP/50030 dated October 21, 2021. The Noticee shall identify the root cause for failing to detect such a major violation of Regulation and Circulars and submit a report indicating the corrective action that has been taken by the Noticee in strengthening the inspection process of the Authorized Persons including detection and prevention of assured returns offered by authorized persons and submit the said report to the Exchange within 3 weeks from the date of the interim order.

The Noticee vide its email dated October 15, 2022, informed the Exchange that it is reviewing the inspection process followed with respect to 8 Authorized Persons and will file an appropriate action taken report with the Exchange. The Noticee vide its reply dated October 31, 2022, submitted that it reviewed its inspection process with respect to the Authorized Persons and on the root-cause analysis observed that: -

i. 4 out of 8 Authorized Persons did not fall under any of the criteria prescribed under the Exchange Circular Nos. NSE/INSP/42448 dated October 18, 2019, and NSE/COMP/50030 dated October 21, 2021. Hence, the inspection was not conducted at the relevant point in time.

ii. The remaining 4 Authorized Persons were inspected by three employees of the Noticee. The Noticee terminated the employment of the 3 employees to send a strong signal to the entire origination.

The Noticee took corrective actions to strengthen the Authorized Person inspection process including detection and prevention of 'assured return', as under:

i. The Noticee shall conduct an internal review/audit of client ledgers of all its Authorized Persons to identify fixed pay-out patterns. Proper training modules have been developed to sensitize the employees/ representatives who shall conduct the inspection.

ii. Top management shall regularly be involved in and review the exercise on a weekly basis. In case anything amiss is found, the concerned employee shall be laid-off with immediate effect to send a strong message to the entire organisation.

iii. The Noticee implemented an internal control pay-out system/algorithm/software to identify fixed pay-out or pattern.

iv. The Noticee deactivated the pay-out request process from all the Authorized Person's terminals. The clients are allowed to take pay-out only after confirmation on recorded branch lines, or through their respective mobile applications, online.

v. The Noticee is implementing a new pay-out software, wherein the clients will receive an OTP on their registered mobile number after pushing a pay-out request.

vi. The Noticee issued notices in various newspapers across India on a fortnightly basis, inter alia, informing the public that the Noticee does not offer fixed/assured or guaranteed returns.

vii. An employee is hired to specifically check all digital media for any unsolicited messages or advertisements issued by anyone.

viii. Daily SMSs and email IDs are sent to all the clients informing that the Noticee does not provide guaranteed returns to clients. Voice calls are made to clients in this regard on a fortnightly basis.

6. **MCSGFC meeting held on December 22, 2022**

The Exchange vide its email dated December 15, 2022, granted the Noticee an opportunity for a personal hearing before the Committee in its meeting dated December 22, 2022. On behalf of the Noticee, Mr. P. N. Modi (Senior Counsel), Mr. Robin Shah (Advocate), Mr. Neville Lashkari (Advocate), Mr. Ayush Singh (Advocate), Mr. Udaysingh Kashid (Advocate), Mr. Nayan Bhandari (Director), Mr. Rakesh Sonawane (Director), Mr. Yesudasan Mahajan (Director), Mr. Niranjan Mahajan (Director), Mr. Gaurav Kothari (Compliance Team) and Mr. Nitin Bora (Compliance Team), attended the meeting and made oral submissions before the Committee. Pursuant to the Committee's direction in the meeting and Exchange email dated December 23, 2022, the Noticee vide an email dated December 27, 2022, submitted an additional category and instance-wise response to the observations pertaining to non-reconciliation of securities and shortfall of securities.

PRELIMINARY OBJECTIONS

7. The Noticee vide its reply dated October 31, 2022, raised the following preliminary objections, and requested that the proceedings under the SCN to be set aside *in limine*.:

   7.1. The Committee vide its order dated July 12, 2022, directed the Exchange to appoint an external auditor for the limited purpose of conducting a forensic audit with respect "to assured returns provided by the Noticee/its AP". However, the forensic auditor went beyond the scope of its review and made other allegations. Therefore, the charges arbitrarily and indiscriminately made part of the SCN must be dropped.

   The Committee finds that the observations recorded by the Forensic Auditor are emanating from and consequential upon the Forensic Auditor's inspection of the Noticee's books and accounts for evidence of assured/fixed returns offered by the Noticee/Authorized Persons. Thus, all the observations of the Forensic Auditor which are part of the said SCN are within the scope of the forensic audit. Thus, the Noticee's preliminary objection is not tenable.

   7.2. The Committee penalised the Noticee vide its order dated August 11, 2022, which *inter alia* alleged that the Noticee's Authorized Person provided an assured return to its clients, and therefore the Noticee is liable for the acts of its Authorized Person. The Committee while issuing the aforementioned order recorded the interim report of the forensic auditor in so far as it pertained to "*The said report contained certain evidence concerning periodic assured returns and involvement of a few APs in soliciting investments from clients on assured/guaranteed return schemes etc. The Committee noted that the observations recorded in the forensic audit might have serious implications on the safety of client assets lying with the Noticee*". Thus, the Committee weighed the preliminary observations of the forensic auditor before issuing the order dated August 11, 2022. Furthermore, the Committee ruled on (a) the inspection covering the period between September 1, 2020, to August 31, 2021, by disposing of show cause notice dated June 14, 2022, and (b) the issue relating to Incofina Consultants LLP, by disposing of the show cause notice dated June 14, 2022. Accordingly, the allegations in the SCN, pertaining to the inspection period (September 1, 2020, to August 31, 2021) and the issue relating to Incofina Consultants LLP, is *ex-facie* erroneous and in violation of the doctrine of *res-judicata*.

Para 18 (e) of the Committee's order dated August 11, 2022, reads as: - "*…for the records, while deciding on the present SCN 1 and SCN 2, the observations of the interim forensic report have not been considered by the Committee.".* Thus, the Committee did not consider the preliminary observations of the forensic auditor before issuing the order dated August 11, 2022. Further, the Committee explicitly reserved the right to deliberate and decide on the observations mentioned in the said forensic audit report through the issuance of a fresh show-cause notice by recording under Para 18 (e) that *"….the observations recorded in the forensic audit might have serious implications on the safety of client assets lying with the Noticee. The Committee observed that the same shall be dealt with expeditiously and directed the Exchange to issue a fresh SCN."* Thus, the Noticee's preliminary objection is not tenable.

7.3. The Noticee vide its emails dated October 1, 2022, and October 4, 2022, sought cross-examination of the forensic auditors to ascertain the veracity of the findings in the report and the forensic auditor's engagement letter dated July 23, 2022, to verify whether the same complied with the Committee's directions. The denial of cross-examination deprived the Noticee of its right to defend effectively and, therefore, is against the principles of natural justice. The Noticee was not provided with all the relevant documents. Its right to defend includes the ability to review relevant underlying documents and supporting evidence, access to factual assertions/data, and all materials relied upon and referred by the Exchange. The right to examine the internal investigation/examination report is particularly important since it contains evidence considered and the underlying rationale for the allegations levelled. Consequently, a right to defend without a reasonable cause to review the same, is neither fair nor just.

The Noticee while receiving the forensic audit report agreed to the terms of the hold harmless letter signed by the Exchange, Noticee, and Forensic Auditor. The said agreement states that the Forensic Auditor shall not be liable to the Noticee for any reason and under any circumstances. The Noticee shall not make any claim on the Forensic Auditor for matters arising out of or consequent upon the issue of the forensic audit report to it. Further, all relevant documents including exhibits/annexures were shared with the Noticee. Further, pursuant to the directions of the Committee, the Exchange vide its email dated October 7, 2022, offered the Noticee a meeting with the Exchange officials. In the said meeting held on October 10, 2022, the Exchange and the Noticee's representatives reconciled the exhibits/ instances, and the Exchange officials provided all necessary clarifications/explanations sought by the Noticee. Based on the same,

a detailed response was filed by the Noticee vide reply dated October 31, 2022. Thus, the Noticee's preliminary objection is not tenable.

CONSIDERATION AND FINDINGS

8. The observations/violations, reply of the Noticee, and findings of the Committee are as under: -

8.1. **Fixed periodic returns provided to the clients directly and/or through Authorized Persons**

8.1.1. The following observations pertaining to fixed periodic returns were recorded during the forensic audit: -

a. Upon verification of financial ledgers of 40 out of 747 clients having a frequency of 10 or more instances of fixed fund pay-outs, trends/patterns of periodic fixed funds pay-outs were observed in the case of 33 clients involving Rs.101.11 lakhs. Out of the said 33 clients: - (i) 32 clients are mapped to 8 Authorized Persons of the Noticee, and the potential monthly payouts made to the said clients ranges between 0.57% and 8%; and (ii) 1 client is a direct client of the Noticee and the potential monthly payouts made to the client is 2%.

b. The show-cause notice issued by the Exchange dated June 14, 2022, highlighted that Noticee's Authorized Person, "Incofina Consultants LLP" ran an assured return scheme namely "Inco Plus", soliciting a minimum investment of Rs.1 lakh from clients against an assurance of a quarterly return of 6.25%. The "Inco Plus" scheme document contained the name "Incofina Consultants LLP", and weblink "www.apnainvestor.com". Further, the "contact us" page of Incofina Consultants LLP's website i.e., "https://incofina.in/?page_id=273", has reference to the "Apna Investor" page along with the email ID, i.e. info@apnainvestor.com, and contact number, i.e. +91-7385579049.

Upon verification of the financial ledger statements of the 16 clients mapped to Incofina Consultants LLP, it is observed that 8 out of the 16 clients made an initial investment of more than Rs.1 lakh (as per "IncoPlus" plan minimum investment was Rs.1 lakh) and the

quarterly funds pay-out made to the clients within 90 to 98 days of the initial investment date ranged from 5% to 10.30%. Further, the potential quarterly returns received by 2 out of the said 8 clients, is 6.25% (as specified in the "IncoPlus" scheme).

c. Upon running a public domain search of the social media websites (Facebook, Twitter, YouTube, Instagram, Telegram, LinkedIn) and news media (using Google strings) of the Noticee and its directors, it is observed that 7 Authorized Persons were potentially involved in the practice of soliciting investments from clients on assured/guaranteed return.

d. Upon verification of the email backup of 43 email ids provided by the Noticee, it is observed that (a) 301 emails pertain to 23 complaints of assured returns offered/provided; (b) 392 emails pertain to 45 complaints of unauthorized trading in clients' accounts; and (c) 301 emails pertain to 61 complaints of excess brokerage charged by Noticee.

8.1.2. In reply to the SCN, the Noticee submitted as under: -

a. The Noticee neither assured fixed/assured return to the clients nor instructed/allowed its Authorized Persons to do so. It did not have any agreement or understanding with the Authorized Persons *inter-alia* permitting them to offer fixed periodic returns to the clients. Furthermore, before onboarding, the Noticee sensitized the Authorized Persons about their role and responsibilities as prescribed by the Exchange in its "Authorized Persons' Agreement".

b. A Trading Member is responsible for the acts of its Authorized Persons only insofar as it relates to liabilities arising out of it *qua* the clients and with respect to activities in the ordinary course of business. When an agent does more than it is authorized to do, the principal cannot be held liable for such acts of the agent. Hence, the Noticee ought not to be made liable for acts of the Authorized Persons who may have acted beyond the normal scope of the Noticee's activities.

c. Pursuant to the Committee's order dated August 11, 2022, the Noticee undertook an extensive internal review of all its 4000+

Authorized Persons, terminated these Authorized Persons, and took appropriate actions in compliance with the Exchange Circulars.

d. The Noticee (i) cancelled the Authorized Persons' registration and deactivated the terminals of all the 8 Authorized Persons; (ii) issued newspaper notice to warn and sensitize investors (iii) filed police complaints/legal notice against its Authorized Persons, Growksh Ventures Pvt. Ltd. and Shital Yadav; and (iv) closed the accounts of the clients registered with Authorized Persons, marked dormant or shifted the accounts of clients who opted to be serviced by the Noticee directly.

e. The Committee in its order dated August 11, 2022, dealt with the issue of Incofina Consultants LLP and took disciplinary action against the Noticee. Thus, revisiting the issue is a violation of the principle of *res judicata*.

f. Pursuant to the show-cause notice dated June 14, 2022, the Noticee enquired and was informed by Incofina Consultants LLP that the domain name www.apnainvestor.com did not belong to it. Hence, the Noticee filed a police complaint to enquire into the allegations. Further, the Noticee through a general internet search for the owner of the domain, figured that the domain did not belong to Incofina Consultants LLP. The Exchange ought not to rely on a random website https://incofina.in/?page_id=273 and expect a Trading Member to cyber audit a third-party domain (www.apnainvestor.com) as it will be beyond the Noticee's scope and capability.

g. The said 8 clients did not have more than 3 funds' payouts during the relevant period. The alleged pay-out pattern of 6.25% for two clients, Mr. Anurupa Prashant Gajendragadkar and Mr. Ashok Chaudhari is observed only once. It is practically impossible to identify a pattern based on funds' pay-outs to 8 out of 1.71 lakh clients of the Noticee. Hence, no adverse inference can be drawn.

h. Additionally, the Noticee took the following measures: - (i) cancelled the Authorized Persons' registration of Incofina Consultants LLP; (ii) disabled the trading terminals of Incofina Consultants LLP immediately after query raised by the Exchange; (iii) withheld the brokerage payable to Incofina Consultants LLP until further notice

and direction from the Exchange; (iv) called 16 active clients registered with Incofina Consultants LLP to *inter alia* enquire into the allegation of Incofina Consultants LLP offering fixed return assurances. (v) informed all the clients that the Noticee does not offer fixed return or assured return, and (vi) settled and closed the account of all the 16 clients of Incofina Consultants LLP.

i. The forensic auditor did not find any adverse inference with respect to the client ledger vis-à-vis fixed fund pay-out / pattern. The instance-wise response to the observation/violation is as under:

i. Authorized Person: Keval Kumar (Instagram post)

The Noticee does not offer any scheme of assured or fixed returns. The Noticee neither offered the services or products mentioned in the Instagram post nor authorized its Authorized Person to use its name for such schemes. To sensitize clients, the Noticee issued a newspaper advertisement informing the public that the said Authorized Person is not associated with it and ought not to deal with the said Authorized Person.

The Noticee took the following measures (i) issued the newspaper notice to warn and sensitize the investors; (ii) cancelled the Authorized Person's registration on August 22, 2022, i.e., before the issuance of the SCN; and (iii) closed the accounts of the clients registered with Authorized Persons, marked dormant or shifted the accounts of clients who opted to be serviced by the Noticee directly.

ii. Authorized Person: Indrajit Subhash Kadam (Webpage of Goldlife Distributors LLP and agreement with clients)

The Noticee is not related to Goldlife Distributors LLP. As per the ROC record, the directors of Goldlife Distributors LLP are Mr. Surendra Subhashrao Kadam and Mr. Abhishek Madhav Bhosale, who are not associated with the Noticee. The services and products mentioned on the website are not offered by the Noticee and hence do not pertain to it.

The Noticee's name does not appear in the agreement between Goldlife Distributors LLP and the individuals. The Noticee is not a party to the agreement and hence, no adverse inference can be drawn *qua* it. Further, the agreement is dated March 8, 2022, and the Authorized Person has not opened any client account since September 2021.

The Noticee took the following measures (i) filed a police complaint and legal notice against the Authorized Person (ii) issued the newspaper notice to warn and sensitize the investors; (iii) initiated the process of termination of the Authorized Person before the issuance of the SCN; and (iv) closed the accounts of the clients registered with Authorized Persons, marked dormant or shifted the accounts of clients who opted to be serviced by the Noticee directly.

iii. Authorized Person: Assured Capital Services (Instagram picture, Google review, Times of India article and Hon'ble Madras High Court's order)

The products and services mentioned in the Instagram pictures are not offered by the Noticee. Further, the Noticee's name or logo does not appear in the picture. Hence, the same does not pertain to the Noticee.

The Google review does not mention the Noticee or its representative and hence, does not pertain to the Noticee. The two individuals Mr. Subhash N and Mr. Satheesh Kumar are not registered as clients with the Noticee. A random online comment cannot be relied upon to level allegations against the Noticee.

The Noticee is neither mentioned in the Hon'ble High Court's order nor in the Times of India newspaper article. The Noticee was not even arraigned as a party in the said civil suit filed before the Hon'ble High Court.

The Noticee took the following measures (i) issued the newspaper notice to warn and sensitize the investors; (ii) disallowed the Authorized Person (registered in April 2019) from opening a new account after the police complaint in May 2019; and (iii) cancelled

the Authorized Person's registration on August 8, 2022, i.e. before the issuance of the SCN.

iv. Authorized Person: Astra Strategic Pvt. Ltd. (MCA website and Facebook page)

The Noticee does not have any connection or relationship with the firm named **"**RICHH2Wealth Commercial Management Service Pvt Ltd**"**. Hence, it does not pertain to the Noticee.

The Facebooks page pertains to **"**RICHH2Wealth Commercial Management Service Pvt. Ltd.**"** and the Noticee does not have any relationship with the said entity. The Noticee's name or logo does not appear in the Facebook post. The post mentions the name of another Trading Member, Zerodha. The Hindu newspaper article and the CDSL page does not pertain to capital market activities or assured return or fixed return.

The Noticee took the following measures (i.) filed a police complaint and legal notice against the Authorized Person (ii) issued the newspaper notice to warn and sensitize the investors; (iii) initiated the process of termination of the Authorized Person before the issuance of the SCN; and (iv) closed the accounts of the clients registered with Authorized Persons, marked dormant or shifted the accounts of clients who opted to be serviced by the Noticee directly.

v. Authorized Person: Investbull Capital Pvt. Ltd. (Facebook page and webpage)

The Noticee does not offer the services and products and the name of another Trading Member viz. Sky Broking appears on the Facebook page. Hence, no adverse inference can be drawn *qua* the Noticee.

The webpage pertains to referrals for introduction and does not pertain to assured return. The Noticee's name does not appear on the webpage/website.

The Noticee took the following measures (i) filed a police complaint and legal notice against the Authorized Person (ii) issued the newspaper notice to warn and sensitize the investors; (iii) terminated the Authorized Person; and (iv) closed the accounts of the clients registered with Authorized Persons, marked dormant or shifted the accounts of clients who opted to be serviced by the Noticee directly.

vi. Authorized Person: Lotus India Wealth (Google review and Facebook post)

Google review does not pertain to the Noticee or assured return scheme. The Noticee or its representatives are not mentioned in the Google review and Mr. Abhishek Salvi is not a registered client of the Noticee. A random online comment cannot be relied upon to level allegations against the Noticee.

The Noticee does not offer the services and products mentioned in the Facebook post. The Noticee's name does not appear on the Facebook page and hence, no adverse inference can be drawn *qua* the Noticee.

The Noticee took the following measures (i) issued the newspaper notice to warn and sensitize the investors; (ii) cancelled the Authorized Person's registration in July 2022, i.e. before the issuance of the SCN; and (iii) closed the accounts of the clients registered with Authorized Persons, or shifted the accounts of clients who opted to be serviced by the Noticee directly.

vii. Authorized Person: Shukul Wealth Creator LLP (SEBI Order dated August 13, 2022)

The SEBI order mentions that the same was passed after a detailed examination/scrutiny and there is no allegation *qua* the Noticee in the said order. Hence, no adverse inference can be drawn *qua* the Noticee.

The Noticee took the following measures (i) issued the newspaper notice to warn and sensitize the investors; (ii) cancelled the Authorized Person's Multi Commodity Exchange of India Limited

registration in March 2021. Under SEBI directions, funds lying in the individual Authorized Person account were released in July 2022 and thereafter the Authorized Person cancellation application was made; and (iii) closed the accounts of the clients registered with Authorized Persons, marked dormant or shifted the accounts of clients who opted to be serviced by the Noticee directly.

j. The allegations pertaining to net debit balance in the trade bills of the client ledger in the case of 20 clients and lower net trade bills than the identified potential fixed pay-outs in the case of 7 clients, are unsustainable for the following reasons: (i) At the relevant time, the SEBI Circular dated December 3, 2009, SEBI Circular dated June 16, 2021, and NSE Circular dated February 2, 2018, permitted the Trading Members to have a running account of its clients, if such clients so desire; (ii) If the client opts for a running account settlement, the Trading Member must settle the client's account on a monthly or quarterly basis. In line with the aforementioned Circulars, all clients' pay-outs were made within the regulatory framework. No pay-outs were made to debit balance clients nor were the pay-outs made to clients more than their ledger credit; and (iii) pay-outs were made to clients based on their requests.

k. The observation that 994 emails pertain to assured return, unauthorized trading in the client's account, and excess brokerage, is absurd and *ex-facie* erroneous since (i) The Forensic Auditors considered every single communication in the thread (to inflate count) instead of a single issue/client discussion; and (ii) All the complaints were resolved long back even before the forensic audit was undertaken. The details of the 129 complaints are as under:

<u>Assured Return (23 complaints)</u>

i. All the complaints have been resolved/closed. 5 complaints were decided by the Investor Grievance Redressal Committee of the Exchange.

ii. 10 out of the 23 complaints, did not pertain to any assured return.

iii. Out of the remaining 13 complaints, most were false or frivolous as they pertain to online clients (direct trading by client) or did not pertain to the Noticee and its Authorized Person at all.

Unauthorized Trade (45 complaints)

i. All the complaints have been resolved/closed. 1 complaint was decided by the Investor Grievance Redressal Committee of the Exchange.

ii. 3 out of 45 complaints did not pertain to unauthorized trades.

iii. Out of the remaining 42 complaints, most were false or frivolous as they pertain to online clients (direct trading by client) or clients who shared their user ID/password etc.

Excess Brokerage (61 complaints)

i. All the complaints have been resolved/closed. 2 complaints were decided by the Investor Grievance Redressal Committee of the Exchange.

ii. Most of the complaints were frivolous/false complaints since the brokerage was charged as per the tariff sheet, and as agreed by the client over recorded phone calls etc. Furthermore, many emails pertain to clarification on contract notes instead of brokerage.

iii. The Forensic Auditor considered every communication/discussion/grievance of the clients as a default by the Noticee. Each complaint must be dealt with independently and on a case-to-case basis.

iv. Further, clients have an investor grievance mechanism under the law. Thus, the Exchange ought not to agitate the resolved issues which do not have a bearing on the present case.

v. The Noticee informed its clients that the Noticee neither offers fixed/assured returns nor is involved in any profit-sharing agreement or terms with its clients through the welcome kit,

account-opening calls, emails, SMSs, reminder calls, website, and educational seminar for its clients.

8.1.3. The Committee finds as under: -

a. The Noticee contended that it neither offered assured returns to its clients nor instructed/allowed its Authorized Persons to do so. The Committee noted that the Noticee has neither denied nor submitted any satisfactory reply to the following observations:

- fixed periodic pattern in the case of 33 clients out of 40 clients having funds payout frequency of 10 or above involving Rs.101.11 lakhs.

- the potential monthly return in the range of 0.57% to 8%.

- In the case of two sample clients namely Mr.Akash Rajkumar Chapekar and Ms. Kamla Harichandra Sachdev, fixed fund payout, fixed percentage on the initial investment, non-settlement of account, end of the day balance was much higher than the actual funds' payout and funds payouts are not commensurate with the trading activities.

- For payments made in the case of 20 sample clients, as per the transactions executed, the trade bills in the client ledgers during the review period had a net debit balance.

- In the case of 7 sample clients, as per the transactions executed, the net trade bills in the client ledgers were lower than the identified potential fixed pay-outs made to clients during the review period.

- In the case of 3 sample clients, as per the transactions executed, the net trade bills in the client ledgers were lower than the total pay-outs (including the identified potential fixed pay-out and other pay-outs) to clients during the review period.

b. The Noticee contended that the Noticee sensitized the Authorized Persons about their roles and responsibilities as prescribed by the Exchange in its Authorized Persons Agreement.

The role of Noticee is not limited to executing an agreement with the Authorized Persons. The Noticee is responsible for the acts of commission and omission of Authorized Persons including and not restricted to monitoring and reviewing of trading activity of the Authorized Persons including periodic inspection of branches assigned to Authorized Persons on a continuous basis. Further, Noticee is required to carry out the detailed inspection on an immediate basis with utmost due diligence in case of any inputs/alerts about any suspicious transactions/dealing/assured returns, etc. is noted in Authorized Person's operation, irrespective of when the last inspection was carried out and initiate appropriate action including suspending/cancelling Authorized Person registration and initiate corrective actions to safeguard its clients' interest pursuant to the circulars issued by the SEBI and the Stock Exchanges from time to time. Thus, the Noticee's contention is not tenable.

c. The Noticee contended that the Authorized Person acted beyond the scope of the agency. A Trading Member is responsible for the acts of its Authorized Persons only insofar as it relates to liabilities arising out of it *qua* the clients and with respect to activities in the ordinary course of business.

The agency between the Noticee and its Authorized Persons is for the purpose of the stock broking business. If the Trading terminals are provided by the Trading Members to its Authorized Persons, the place where such trading terminal is located shall be treated as the branch office of the stock broker. The Authorized Persons' act of offering fixed/assured return to its clients is within the normal implied scope of the agency established between the Noticee and the Authorized Person. As per SEBI circular reference No. MIRSD/ DR-1/ Cir- 16 /09 dated November 06, 2009, the Noticee is responsible for all acts of omission and commission of its Authorized Persons and all such acts of omission and commission of Authorized Persons shall be deemed to be those of the Noticee. Further as per NSE circular reference No. NSE/INSP/42448 dated October 18, 2019, the exchange prescribed indicative scope of the inspection, and imposed responsibility on the Trading Members, to verify any suspicious transactions/dealing/assured returns etc. by an Authorized Persons or a Branch. Thus, the Noticee's contention is not tenable since all the

transactions were undertaken in the course of its stockbroking business and the payouts were processed by the Noticee.

d. The Noticee's contention that the domain name www.apnainvestor.com did not belong to the Noticee and during a general internet search for the owner of the domain, figured that the domain did not belong to Incofina Consultants LLP. The 8 clients did not have more than 3 pay-outs during the relevant period. The alleged pay-out pattern of 6.25% for two clients, Mr. Anurupa Prashant Gajendragadkar and Mr. Ashok Chaudhari is observed only once. It is practically impossible to identify a pattern based on pay-outs to 8 out of 1.71 lakh clients of the Noticee. Hence, no adverse inference can be drawn.

   The Noticee's contention that the domain name belongs to "Big Rock" is not acceptable as "Big Rock" is merely a domain service provider. It is evident from the facts that the contact page https://incofina.in/?page_id=273, mentions the email id as info@apnainvestor.com, which clearly establishes the fact that the web page www.apnainvestor.com pertained to Authorized Person: Incofina Consultants LLP. The Noticee initiated action against its Authorized Person post issuance of the show cause notices by the Exchange. Thus, the Noticee failed to act immediately upon the knowledge of the non-compliance by it's Authorized Person.

   Further, the Noticee's submission that it is not possible to identify the pattern based on the funds' payout to 8 out of 1.71 lakhs shows the Noticee's incapabilities to monitor the activities of its own APs. The Noticee has therefore failed to demonstrate controls in place to supervise Authorized Persons' operations.

e. The Noticee's contended that the services/products offered on the public domain are not offered by the Noticee.

   The annexures forming part of the SCN established that the products and services are offered by the Noticee's Authorized Persons on public domain. The Noticee is responsible for the act of omission and commission of its Authorized Persons.

Further, actions taken by the Noticee in terms of the SEBI Circular No. MIRSD/ DR-1/Cir-l6/09 dated November 6, 2009, are *post facto* corrective actions pursuant to the interim order dated October 13, 2022. Such post-inspection compliance by the Trading Member does not absolve it of the violations committed during the period concerned.

f. The Noticee contended that all client pay-outs were made within the regulatory framework. No pay-outs were made to debit balance clients nor were the pay-outs made to clients more than their ledger credit; and the pay-outs were made to clients based on their requests.

The Noticee failed to provide documentary evidence in support of its contention that the funds' pay-outs were made based on the client's specific requests. Hence observation/violation persists.

g. The Noticee contended that a) every single communication in the thread shall not be considered as a complaint b) the complaints were either resolved by IGRC, were frivolous, or did not pertain to the issue of assured return/authorized trade/ excess brokerage.

Upon verification, it is observed that the Noticee's contention is not tenable, as complaints were filed by investors against the Noticee claiming assured returns, unauthorized trading, and excess brokerage.

8.1.4. Given the findings mentioned above, the Committee directed the Noticee to: - a) submit an undertaking that they will not onboard any new Authorized Person for six months from the date of this order; and b) continue to conduct the concurrent audit and submit a fortnightly certificate to certify that the clients of the Noticee/it's Authorized Persons are not offered assured/fixed returns, for six months from the date of this order.

8.2. **Non-reconciliation of securities available in the client beneficiary account with the back-office records**

8.2.1. Upon verification of the Noticee's register of securities vis-à-vis the demat account holdings as of July 22, 2022, it is observed that the Noticee failed to reconcile securities available in the client beneficiary account with the back-office records involving differences of Rs.165.57 lakhs and

Rs.517.61 lakhs in the securities payable and securities receivable, respectively.

8.2.2. In reply to the SCN, the Noticee submitted as under: -

a. The Forensic Auditor attempted to reconstruct or compute the securities payable/receivable using the "Trade Data File" as the base file. The Trade Date File does not contain complete records of the corporate actions by the listed companies, changes in ISINs by the Exchange, capital reduction, etc. Hence, the Forensic Auditor worked on an incomplete base file and consequently, the computation in the Forensic Audit Report is inherently erroneous and incomplete. The Forensic Auditor admitted that the data is incomplete.

b. The Forensic Auditor has not fully considered the impact of corporate actions, change in ISINs, capital reduction, bonus, buy-backs, etc. resulting in the difference. The same mistakes/errors (like buy-back quantity/corporate actions/capital reduction not considered etc.) were made by the Forensic Auditor in the computation of all securities. The Noticee asserted that there is proper reconciliation of securities in its records.

c. Out of 1696 scrips/ISINs mentioned in Annexure 11 to SCN, 1581 are reconciled and there is no shortfall as per the Forensic Auditor. In the remaining 115 instances, the Forensic Auditor failed to consider the corporate actions as under: -

i. capital reduction in the case of 4 ISINs involving Rs.47,88,394/- (33.25% of the total value)

ii. mutual funds received by clients in the case of 14 ISINs involving Rs.42,77,378 (29.70% of the total value)

iii. client applied for close out/auction/ trade etc in the case of 73 ISINs involving Rs.36,29,343/- (25.20% of the total value).

iv. Buybacks in the case of 18 clients involving Rs.13,82,833/- (9.60% of the total value)

v. Bonus in the case of 12 clients involving Rs.3,25,203/- (2.26% of the total value)

8.2.3. The Committee finds as under: -

a. The Noticee has reconciled securities pursuant to the direction of the Committee, it failed to provide or demonstrate reconciliation during the course of inspection along with necessary documentary proof to establish that the securities in the Demat holding statement reconciled with the register of securities. Such post-inspection compliance by the Trading Member does not absolve it from the violations committed during the period concerned. Thus, the observation/violation persists.

b. As per Exchange Circular No. NSE/INSP/10605 and NSE/INSP/29096 dated April 21, 2008, and March 11, 2015, respectively, the Trading Members are advised to periodically reconcile client beneficiary account/s and the register of securities and maintain a complete audit trail and documentation of such reconciliation. Thus, the Noticee violated the regulatory provisions mentioned above by failing to reconcile the securities recorded in the back-office periodically.

8.2.4. Given the findings mentioned above the Committee decided to levy a monetary penalty of Rs.25,000/- for the observed violation in terms of the Exchange Circular No. NSE/INSP/47457 dated February 25, 2021.

8.3. **Shortfall in securities**

8.3.1. Upon verification of the register of securities vis-à-vis Demat account holdings as of July 22, 2022, it is observed that the Noticee has a shortfall of clients' securities involving Rs.144.03 lakhs. Out of the said shortfall of Rs.144.03 lakhs as of July 22, 2022: - (a) Rs.143.40 lakhs, pertains to securities payable to clients other than a related party; and (b) Rs.0.63 lakh pertains to the securities payable to potential connected party clients.

8.3.2. In reply to the SCN, the Noticee submitted as under: -

a. The Forensic Auditor attempted to reconstruct or compute the securities payable/receivable using the **"**Trade Data File**"** as the base file. The Trade Date File does not contain complete records of the corporate actions by the listed companies, change in ISINs by the

Exchange, capital reduction, etc. Hence, the Forensic Auditor worked on an incomplete base file and consequently, the computation in the Forensic Audit Report is inherently erroneous and incomplete. The Forensic Auditor admitted that the data is incomplete.

b. The Forensic Auditor has not fully considered the impact of corporate actions, change in ISINs, capital reduction, bonus, buy-backs, etc. resulting in the difference. The same mistakes/errors (like buy-back quantity/corporate actions/capital reduction not considered etc.) were made by the Forensic Auditor in the computation of all securities. The Noticee asserted that there is proper reconciliation of securities in its records.

c. Out of 1696 scrips/ISINs mentioned in Annexure 11 to SCN, 1581 are reconciled and there is no shortfall as per the Forensic Auditor. In the remaining 115 instances, the Forensic Auditor failed to consider the corporate actions as under: -

i. capital reduction in the case of 4 ISINs involving Rs.47,88,394/- (33.25% of the total value)

ii. mutual funds received by clients in the case of 14 ISINs involving Rs.42,77,378 (29.70% of the total value)

iii. client applied for close out/auction/ trade etc in the case of 73 ISINs involving Rs.36,29,343/- (25.20% of the total value).

iv. Buybacks in the case of 18 clients involving Rs.13,82,833/- (9.60% of the total value)

v. Bonus in the case of 12 clients involving Rs.3,25,203/- (2.26% of the total value)

8.3.3. The Committee finds as under: -

a. The Noticee submitted that non-reconciliation is observed due to capital reduction opted by clients, mutual funds, closed out and auction trades, buy-back opted by clients, and bonus shares issued to clients. However, since the aforementioned explanation along with appropriate documentary evidence was not provided to the Forensic

Auditor, the Forensic Auditor treated such instances as un-reconciled entries impacting its reconstruction of books, thereby resulting in a shortfall of clients' securities.

b. The Noticee submitted a Chartered Accountant (CA) certificate dated October 6, 2022, certifying that there is no shortfall in securities as of July 22, 2022. However, the CA reported 5 instances wherein securities available in Demat holding statement, were not reported in the holding submissions to the Exchange.

c. The Noticee submitted a CA certificate dated October 29, 2022, certifying the reconciliation of securities between the register of securities, demat holding statement, and weekly submission of holding statement to the Exchange in case of 9 DP IDs as of July 22, 2022.

d. The Noticee submitted a CA certificate dated October 31, 2022, certifying the reconciliation of securities between the register of securities; demat holding statement, and weekly submission of holding statement to the Exchange as of October 29, 2022. The Noticee certified that there is no shortfall of clients' securities.

e. The Noticee submitted a CA certificate dated October 31, 2022, certifying that there is no shortfall in securities as of June 30, 2022. However, a CA reported 3 instances wherein securities available in Demat holding statements were not reported in the holding submissions to the Exchange.

8.3.4. Considering that the shortfall of client securities is due to non-reconciliation of securities by the Noticee, the Committee decided that no action is warranted against the Noticee for the said observation.

8.4. **Incorrect mobile numbers, email IDs and bank details uploaded in the Exchange's Unique Client Code ("UCC") database**

8.4.1. Upon verification of the know your client ("KYC") details of the clients uploaded in the Exchange UCC database vis-à-vis the Noticee's KYC documents, it is observed that the Noticee uploaded incorrect mobile numbers, email IDs, and bank details in the case of 6 out of 30 clients.

8.4.2. In reply to the SCN, the Noticee submitted as under: -

There is no discrepancy in mobile numbers/email IDs and bank details uploaded in the Exchange UCC database and the KYC details obtained from the clients. The Forensic Auditors have failed to consider the modification/update request given by the clients for updating their details in the Exchange records.

8.4.3. The Committee finds as under: -

The Noticee denied the observation/violation and contended that the Forensic Auditor failed to consider the modification/update request received from the clients. Upon verification, it is observed that the Noticee's contention is valid and acceptable. Thus, the observation/violation ceases to persist.

8.4.4. Given the findings mentioned above the Committee decided that no action is warranted against the Noticee for the said observation.

8.5. **Non- maintenance of pre-order confirmation**

8.5.1. The Noticee failed to provide pre-order confirmation for trade bill transactions in 132 instances pertaining to 33 clients selected for sample scrutiny. Hence, it is deemed that the Noticee did not maintain pre-order confirmation for the trade transactions undertaken by its clients in all the 132 instances selected for sample scrutiny (100% of the total sample instances).

8.5.2. In reply to the SCN, the Noticee submitted as under: -

The Noticee maintained the requisite confirmations by way of pre-trade call recordings in 43 instances, email confirmation in 28 instances, and order book confirmation in 12 instances. The client initiated the trades in 12 instances through online trading and SEBI vide its circulars granted exemption from maintaining the pre-order confirmation of clients in 31 instances due to the prevalent pandemic. The Noticee is trying to retrieve the relevant records in 6 remaining instances.

8.5.3. The Committee finds as under: -

a. 6 instances

The Noticee stated that it is the process of retrieving data but failed to provide the same, to date. Hence, the observation/violation persists.

b. 31 instances

The instances pertain to the period when SEBI relaxed timelines for maintenance of call recordings, due to the pandemic and consequent lockdown. Thus, the observation/violation ceases to persist.

c. 43 instances

The Noticee contended that call recordings are maintained in 43 instances. Upon verification, it is observed as under: -

i. 17 instances:

No supporting documents were provided. In the absence of relevant supporting documents, the observation/violation persists.

ii. 25 instances:

The documents provided in support of the contention were not date/time stamped. Thus, the trade to which they pertain could not be identified. Further, the Noticee failed to provide trade details and contract notes along with the voice recordings, for verification. In absence of relevant supporting documents, the observation/violation persists.

iii. 1 instance:

The instances pertain to the period when SEBI relaxed timelines for maintenance of call recordings, due to the pandemic and consequent lockdown. Hence, the observation/violation ceases to persist.

d. 28 instances

The Noticee contended that email confirmations are received in 28 instances. Upon verification, it is observed as under: -

i. 6 instances

The Noticee failed to provide the email confirmation received. In absence of relevant supporting documents, the observation/violation persists.

ii. 6 instances

The email confirmations are received by the Noticee, post-trade date. Hence, the observation/violation persists.

iii. 16 instances

The instances pertain to the period when SEBI relaxed timelines for maintenance of call recordings, due to the pandemic and consequent lockdown. Hence, the observation/violation ceases to persist.

e. 12 instances

The Noticee contended that the instances pertain to online trading clients. Upon verification, it is observed as under: -

i. 3 instances

The Noticee failed to provide logs/trails for the trades. In absence of relevant supporting documents, the observation/violation persists.

ii. 9 instances

The instances pertain to the period when SEBI relaxed timelines for maintenance of call recordings, due to the pandemic and

consequent lockdown. Hence, the observation/violation ceases to persist.

f. 12 instances

The Noticee contended that order book confirmations are maintained in 12 instances. Upon verification, it is observed as under: -

i. 3 instances

The order book confirmations are received by the Noticee, post-trade date. Hence, the observation/violation persists.

ii. 9 instances

The instances pertain to the period when SEBI relaxed timelines for maintenance of call recordings, due to the pandemic and consequent lockdown. Hence, the observation/violation ceases to persist.

g. Regulations 3.2.1 and 3.4.1 of NSEIL Regulations (CM and F&O Segments) and Exchange Circular No. NSE/INSP/35929 dated September 27, 2017, requires the Trading Members to ensure that appropriate confirmed order instructions are obtained from the constituents before placement of an order on the system and to keep relevant records or documents of the same and the completion or otherwise of these orders thereof.

h. Exchange Circular NSE/INSP/37301, dated March 26, 2018, requires the Trading Members to execute clients' trades only after keeping evidence of the client placing such an order, which could be, inter alia, in the form of a physical record written and signed by the client, telephone recording, email from authorized email id, log for internet transactions, the record of messages through mobile phones, and any other legally verifiable record.

8.5.4. Given the findings mentioned above the Committee decided to levy a monetary penalty of Rs.25,000/- for the observed violation and directed the Noticee to comply with the requirement of keeping appropriate evidence for orders placed by the client within 30 days from the date of

this order, in terms of the Exchange Circular No. NSE/INSP/47457 dated February 25, 2021.

8.6. **Improper maintenance of clients' ledgers**

8.6.1. Upon verification of the financial ledgers of the client's account vis-à-vis the trade data, it is observed that the Noticee has unreconciled transactions pertaining to the trade bill in the range of 0.01% to 15,733.33% across segments.

Furthermore, the Noticee has unreconciled adjustments of the journal voucher entries involving Rs.10,176.34 lakhs (the debit amount is Rs.5,053.48 lakhs, and the credit amount is Rs.5,113.85 lakhs). Hence, the Noticee failed to reconcile trade bills and journal voucher entries.

8.6.2. In reply to the SCN, the Noticee submitted as under: -

a. The Noticee has maintained its books of accounts/ledgers/records in the standard format and prescribed guidelines. The macro data mentioned in Annexure 14 of the SCN does not match with the underlying data provided by the Exchange vide its email dated October 17, 2022. The segment-wise count of unreconciled transactions does not match with the underlying excel sheet.

b. There is no logic or underlying calculations furnished by the Forensic Auditor on how the total difference amount or range difference of 0.01% to 15733.33% is calculated. The forensic auditor considered entries/ledgers of other stock exchanges (Multi Commodity Exchange of India Limited) which has no relevance to the present proceedings.

c. Cash Segment (Brokerage and other Charges are more than 2.5% in 65,303 entries)

The Noticee charged brokerage as per Exchange norms only. The Forensic Auditor did not take into consideration the following aspects: -

i. As per Exchange Circular No. NSE/INSP/23739 dated June 24, 2013, read with Exchange Circular No. NSE/INSP/27155 dated

July 16, 2014, a Trading Member is allowed to levy following charges. As per Exchange Circular Nos. NSE/ CMT/ 001 dated October 28, 1994, and NSE/INSP/3685 dated October 17, 2002, the maximum brokerage chargeable by a Trading Member in relation to trades effected in the securities admitted to dealings on the CM segment of the Exchange shall be 2.5 % of the contract price exclusive of statutory levies. Where the sale/purchase value of a share is Rs.10/- or less, a maximum brokerage of 25 paise per share may be collected. In compliance thereto, the Noticee charged brokerage 2.5% or 0.25 paise (in case of stock which is value below Rs.10) whichever is higher.

ii. Other charges were applied as per the tariff sheet that was consented and signed by the respective clients.

None of the Exchange Circulars disallow or cap the service charges that are agreed by/between the Trading Member and client.

d. CM Segment (Ledger entry available but trade data not available in 11 entries)

Trade Data and Contract Notes are available with the Noticee for every entry. It appears that while computing the ledger, Forensic Auditor did not consider some Trade Data Files available with the Exchange for some instances

e. CM Segment (Unreconciled entries in 190 entries)

Trade Data and Contract Notes are available with the Noticee for every entry. It appears that while computing the ledger, Forensic Auditor did not consider some Trade Data Files available with the Exchange for some instances

f. F&O segment (Brokerage and other charges are more than 2.5% in 4,30,866 entries)

The Noticee charged brokerage as per Exchange Norms only. The Forensic Auditor has not considered the following aspects: -

i. As Circular No. NSE/INSP/23739 dated June 24, 2013, read with Exchange Circular No. NSE/INSP/27155 dated July 16, 2014, a Trading Member is allowed to levy the following charges.

Futures contracts –

As per Regulation 3.7.2 of the Exchange Regulations (F&O segment) and Exchange Circular Nos. NSE/F&O/1688 dated June 8, 2000 and NSE/INSP/11184 dated August 26, 2008, the maximum brokerage chargeable by a Trading Member in relation to trades executed on the Exchange shall be 2.5% of the contract value exclusive of statutory levies

Option contracts –

As per Exchange Circular Nos. NSE/FAOP/5978 dated March 30, 2005, NSE/INSP/8338 dated January 5, 2007, the Trading Member shall charge brokerage for option contracts on the premium amount at which the option contract was bought or sold and not on the strike price of the option contract. It is hereby clarified that brokerage on options contracts shall not exceed 2.5% of the premium amount or Rs.100/- (per lot) whichever is higher.

ii. In compliance thereto, the Noticee charged brokerage 2.5% or 0.25 paise (in case of stock which is value below Rs.10) whichever is higher.

g. F&O segment (Ledger and PS03# is available but trade data not available in 110 entries)

The Forensic Auditor did not consider the trades which have auto-expired (last day of expiry). Such trades are reflected in PS03 File and not reflected in the Trade Data File. Hence, the analysis by the Forensic Auditor is fundamentally incorrect and erroneous. In some cases, the Forensic Auditor considered the mock day PS03 resulting in the mismatch.

h. F&O segment (PS03 not available in 4320 entries)

The Forensic Auditor missed considering PS03 file of the respective dates. The Noticee re-submitted the PS03 file for the respective date/entries.

i. F&O segment (Unreconciled proprietary entries in 2616 entries)

All proprietary entries are properly reconciled. The Forensic Auditor did not consider the PS03 files of the respective dates.

j. CD segment (Brokerage and other charges are more than 2.5% in 49,137 entries and unreconciled entries as the brokerage percentage is high in 137 entries)

The Noticee charged brokerage as per Exchange Norms only. The Forensic Auditor has not considered the following aspects: -

i. As Circular No. NSE/INSP/23739 dated June 24, 2013, read with Exchange Circular No. NSE/INSP/27155 dated July 16, 2014, a Trading Member is allowed to levy the following charges.

Futures contracts –

As per Regulation 3.7.2 of the Exchange Regulations (F&O segment) and Exchange Circular Nos. NSE/F&O/1688 dated June 8, 2000 and NSE/INSP/11184 dated August 26, 2008, the maximum brokerage chargeable by a Trading Member in relation to trades executed on the Exchange shall be 2.5% of the contract value exclusive of statutory levies

Option contracts –

As per Exchange Circular Nos. NSE/FAOP/5978 dated March 30, 2005, NSE/INSP/8338 dated January 5, 2007, the Trading Member shall charge brokerage for option contracts on the premium amount at which the option contract was bought or sold and not on the strike price of the option contract. It is hereby clarified that brokerage on options contracts shall not exceed

2.5% of the premium amount or Rs.100/- (per lot) whichever is higher.

ii. In compliance thereto, the Noticee charged brokerage 2.5% or 0.25 paise (in case of stock which is value below Rs.10) whichever is higher.

k. Multi Commodity Exchange of India Limited (Brokerage and other charges are more than 2.5% in 2,042 entries)

The Noticee charged brokerage as per Exchange Norms only. The Forensic Auditor has not considered the following aspects: -

i. As Circular No. NSE/INSP/23739 dated June 24, 2013, read with Exchange Circular No. NSE/INSP/27155 dated July 16, 2014, a Trading Member is allowed to levy the following charges.

Futures contracts –

As per Regulation 3.7.2 of the Exchange Regulations (F&O segment) and Exchange Circular Nos. NSE/F&O/1688 dated June 8, 2000 and NSE/INSP/11184 dated August 26, 2008, the maximum brokerage chargeable by a Trading Member in relation to trades executed on the Exchange shall be 2.5% of the contract value exclusive of statutory levies

Option contracts –

As per Exchange Circular Nos. NSE/FAOP/5978 dated March 30, 2005, NSE/INSP/8338 dated January 5, 2007, the Trading Member shall charge brokerage for option contracts on the premium amount at which the option contract was bought or sold and not on the strike price of the option contract. It is hereby clarified that brokerage on options contracts shall not exceed 2.5% of the premium amount or Rs.100/- (per lot) whichever is higher.

ii. In compliance thereto, the Noticee charged brokerage 2.5% or 0.25 paise (in case of stock which is value below Rs.10) whichever is higher.

iii. On April 20, 2020, the crude oil contracts settled at a negative price. Hence, there was a discrepancy in PS03 file generated by the Multi Commodity Exchange of India Limited on the said date. The Forensic Auditor's analysis is incorrect as it did not consider the said rationale.

l. Multi Commodity Exchange of India Limited (Ledger and PS03 is available but trade data not available in 4040 entries)

The Forensic Auditor did not consider the accounts which auto expired (last day of expiry). Such trades are reflected in the PS03 File and not in the Trade Data File. Hence, the analysis of the Forensic Auditor is fundamentally incorrect and erroneous.

m. Multi Commodity Exchange of India Limited (Ledger is available but PS03 not available in 56 entries)

The forensic auditor missed considering PS03 file of the respective dates. The Noticee re-submitted the PS03 file.

n. Multi Commodity Exchange of India Limited (PS03 available but ledger not available in 9 entries)

The Noticee re-submitted the PS03 file for the sample respective date/entries

o. Mutual Funds (Trade data available but no entry in the ledger in 3 entries)

i. 1 entry for Rs.1.5 lakhs: The mutual fund transaction was settled directly to the client bank account (not through the Noticee). Hence, it is not posted in the Noticee's ledger.

ii. 1 entry for Rs.750/-: The ledger posting was done on May 28, 2022 (instead of May 18, 2022).

iii. 1 entry for Rs.999/-: The said entry pertains to the Noticee's trade (through its employee). Hence, the entry is reflected in the Noticee's own books.

p. Auction (7,424 entries)

The Forensic Auditor did not make any adverse observation in the excel sheet provided to the Noticee. Hence, the said allegation is incorrectly included in the SCN. The Noticee has a proper system for reconciliation of all the auction transactions and hence, the allegation in the SCN is fundamentally incorrect.

q. The observation/violation as per Annexure 15 of the SCN was raised by the Forensic Auditors vide email dated August 23, 2022. The Noticee provided detailed response to it vide its email dated September 8, 2022, but the Forensic Auditor failed to consider it. The Noticee resubmitted the responses.

r. The journal voucher pertains involving more than Rs.82.62 crores out of Rs.101.7 crores, pertains to proprietary account and does not pertain to client account. The Noticee has reconciliation/reasoning for the remaining entries in client account.

s. Journal Voucher entries of multiple type of charges passed in client ledger

Other charges were applied as per the tariff sheet which was signed and consented to by the clients. The Exchange Circulars do not disallow or cap the service charges, i.e. demat charges, stock delivery handling charges, mobile trading charges, etc. that are agreed by and between the Trading Members and the clients.

t. Adjustment entries passed through Journal Vouchers

The entries primarily pertain to: (i.) prepaid brokerage charge of Rs.5,555/- that the clients opted for. The Committee vide its order dated August 11, 2022, dealt with the observation and recorded that "*Upon verification of the client ledger, it was found that the Noticee's claim is correct. The said entries are not bank payment entries. Thus, the said observation/allegation does not persist*" and (b) reversal of bad debts / receivables from client from their respective RM/ Authorized Person/branch.

u. Auction entries adjusted through Journal Vouchers

The Exchange sends a separate "auction file" and "close out file" to Trading Members. Hence, separate JV entries were passed by the Noticee on receipt of the respective file from the Exchange.

v. Brokerage reversal entries

The said entries pertain to reversal of brokerage charge/brokerage discount passed to the clients (for client's benefit).

w. Adjustment of close out trades

The Exchange sends a separate "auction file" and "close out file" to Trading Members. Hence, separate JV entries were passed by the Noticee on receipt of the respective file from the Exchange.

x. Cross trade adjustments

The Forensic Auditor failed to appreciate that the said entries pertain to provisional debit (freeze) of client's account in view of investigation/examination initiated by the Multi Commodity Exchange of India Limited.

y. Adjustments of gold bond trades

The Exchange sends a separate file for buying of "Sovereign Gold Bonds" to the Trading Member. Hence, separate entries were passed after receipt of the respective file from the Exchange.

z. Adjustment of delivery of gold

The said entries pertain to the goods and services tax on physical delivery of gold (Multi Commodity Exchange of India Limited trading). The Exchange sends a separate file for "GST". Hence, separate journal voucher entries were passed after receipt of the respective file from the Exchange.

aa. Profit/loss adjustments in proprietary codes

The said entries pertain to transfer /accounting entry between the proprietary account to sub-proprietary accounts for accounting purposes. The same does not pertain to a single client. Hence, no adverse inference can be drawn *qua* the Noticee.

bb. Other adjustments

The entries *inter alia* pertain to (i.) goods and services tax on physical delivery of gold (Multi Commodity Exchange of India Limited trading); (ii.) The Exchange sends a separate file for "GST". Hence, separate journal voucher entries were passed after receipt of the respective file from the Exchange; (iii.) The Exchange sends a separate "auction file" and "close out file" to Trading Members. Hence, separate JV entries were passed by the Noticee on receipt of the respective file from the Exchange. (iv) Credit to clients account as per direction of Investor Grievance Redressal Committee of the Exchange; and (iv.) Provision debit (freeze) of client's account in view of investigation/examination initiated by the Bombay Stock Exchange.

cc. Trading error adjustment

The said entries pertain to reversal of trading error (buy/sell error) or reversals passed to the clients (for client's benefit) by debiting respective RM/ Authorized Person/branch.

dd. Transfer entries

The said entries pertain to: (i.) Reversal of trading error (buy/sell error) or reversals passed to the clients (for client's benefit) by debiting respective Authorized Person's account. (ii.) reversal of brokerage charge/brokerage discount passed to the clients for their benefit. (iii.) transfer/ accounting entry between proprietary account to sub-proprietary accounts for accounting purposes. The same does not pertain to a single client. Hence, no adverse inference can be drawn *qua* the Noticee.

ee. Transfer to proprietary account

The said entries pertain to transfer/accounting entry between the proprietary account to sub-proprietary accounts for accounting purposes. The same does not pertain to a single client. Hence, no adverse inference can be drawn *qua* the Noticee.

ff. CPSE ETF refund adjustments

The Exchange sends a separate file for buying of "ETF" to the Trading Members. Hence, separate journal entries were passed after receipt of the respective files from the Exchange.

gg. Family code adjustments

The said entries were made between family members on their request. The husband's account was debited against a credit in the wife's account.

hh. Adjustments in Shukul Wealth Creators LLP

The said single entry pertains to debiting Rs.15,000/- from the account of Shukul Wealth Creators LLP for publishing advertisement in newspapers for sensitizing clients in terms of directions of SEBI vide order dated August 13, 2022.

ii. Settlement adjustment entries

The said two entries pertains to: (i.) Credit to client's account as per direction of Investor Grievance Redressal Committee of the Exchange; (ii.) reversal of trading error (buy/sell error) / reversals passed back to the clients (for client's benefit) by debiting the Noticee's account.

jj. Authorized Persons adjustment entries

The same pertains to reversal of trading error (buy/sell error)/reversals passed back to the clients (for client's benefit) by debiting respective Authorized Person account.

8.6.3. The Committee finds as under: -

a. The Noticee contended that the macro data mentioned in Annexure 14 of the SCN does not match with the underlying data provided by the Exchange vide its email dated October 17, 2022. The segment-wise count of unreconciled transactions does not match with the underlying excel sheet.

The Noticee failed to provide the details of the mismatched entries . Hence, the Noticee's contention is not tenable.

b. The Noticee contended that brokerage was charged as per the Exchange norms and other charges were levied as per the tariff sheet signed by clients. The Exchange circulars do not disallow or cap the service charges that are agreed upon by/between the Trading Member and the client.

Upon verification, it is observed that the Noticee provided a format of the tariff sheet instead of providing the actual tariff sheet signed by its clients. In the absence of relevant supporting documents, the charges levied in the contract note with respect to brokerage, regulatory levies, other charges etc., cannot be verified, and the observation/violation persists. Further, upon verification of the calculation sheet provided by the Noticee, it is observed that Noticee failed to provide the workings for total/actual brokerage charged, brokerage as per SEBI/Exchange norms and the brokerage as per the agreed tariff sheet, as claimed by the Noticee. Hence, the Noticee's contention is not tenable.

c. The Noticee contended that Multi Commodity Exchange of India Limited balances should not be considered

The Noticee is registered as a Trading Member of the Multi Commodity Exchange of India Limited under the name "Profitmart Securities Private Limited". As per Exchange Circular No. NSE/INSP/38743 dated August 30, 2018, provides that all the prescribed standard templates shall be maintained across Stock Exchanges on consolidated basis. However, the Trading Members should have system compatibility where Exchange-wise information

can also be extracted as and when required. Hence, the Noticee's contention is not tenable.

d. 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. The Noticee violated the regulatory provisions mentioned above by improperly maintaining/failing to maintain the bank books/record of market making activities in the prescribed standard format.

8.6.4. Given the findings mentioned above the Committee decided to levy a monetary penalty of Rs.25,000/- for the observed violation in terms of the Exchange Circular No. NSE/INSP/47457 dated February 25, 2021.

8.7. **Failure to inspect the books of active registered Authorized Persons**

8.7.1. The Exchange conducted a surprise inspection of one of the Authorized Person based in Pune namely "Shital Sanjay Yadav" on August 3, 2022, and observed as under:

a. The Noticee's Authorized Person did not have its office at the location registered as per the Exchange record i.e., "2/6, Lal Bahadur Shatri Nagar Sector no. 27A, Behind Trimurti Hall Nigdi, Pradhikaran PCNT, Pune 411 044".

b. CTCL Terminal (Id 411044017001) of CM and F&O Segment was not found at the registered address 2/6, Lal Bahadur Shatri Nagar Sector No. 27A, Behind Trimurti Hall Nigdi, Pradhikaran PCNT, Pune 411 044. The last trade executed in the F&O terminal segment was on August 3, 2022.

c. F&O segment terminal (CTCL Terminal Id - 411044017001) was operated without a valid NISM Series VIII Certification.

d. Complaint Register is not maintained by the said Authorized Person.

8.7.2. In reply to the SCN, the Noticee submitted as under: -

a. The Noticee conducted the last inspection of the Authorized Person in January 2022. The Authorized Person shifted to a new place post March 2022. Due to inadvertence, the record could not be uploaded on the Exchange portal.

b. The NISM certification of the Authorized Person expired on August 2, 2022, i.e., 1 day prior to the inspection. The Authorized Person took the NISM certification examination on July 31, 2022, and was awaiting the certificate.

c. The Noticee terminated the Authorized Person and deactivated its CTCL terminals. The Authorized Person is not a part of the Exchange's system.

8.7.3. The Committee finds as under: -

a. Authorized Person's office and CTCL terminals not found at the registered address as per the Exchange record:

The Noticee attributed the observation/violation to inadvertent failure to update the records of the Authorized Person on the Exchange portal.

b. Operating CTCL terminal without a valid NISM Series VIII Certification:

The Noticee stated that the NISM certification expired on August 2, 2022and the concerned official took the examination on July 31, 2022, and was awaiting certification. Since the Noticee failed to submit a fresh certificate to the Exchange on or before the expiry date of the old certificate, the observation/violation persists.

c. The Noticee failed to respond to the observation/violation pertaining to non- maintenance of the compliant register by the Authorized Person. In absence of a response from the Noticee, the observation/violation persists.

d. As per Exchange Circular Nos. NSE/MEM/3574 dated August 29, 2002, and NSE/MA/22732 dated February 13, 2013, the trading terminal of a Trading Member is required to be located 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 segments) of the Trading Member or at the co-location facility provided by the Exchange or at the Third-party data centers/service providers site and must be entrusted only to Approved Person and not to any unregistered intermediary or clients. Further, the Trading Members are required to keep track of the validity of the certification requirement and ensure that the Approved User shall, preferably one month before the expiry of the validity of the certificate, appear and clear the examination afresh and submit a fresh certificate to the Exchange on or before the expiry date of the old certificate.

e. As per Regulation 6.1.15 of the NSEIL (CM) Regulations, Trading Member shall keep and preserve a record of all written complaints of its constituents showing the reference number of constituent, date, constituent's name, particulars of the complaints, action taken by the Trading Member, if the matter is referred to arbitration to the Exchange, then the particulars thereof.

f. In terms of the SEBI Circular No. MIRSD/ DR-1/Cir-l6/09 dated November 6, 2009, the Noticee is liable for the violation afore-mentioned circulars by its Authorized Person.

8.7.4. Given the findings mentioned above, the Committee decided to levy a monetary penalty of Rs.2,01,500/- (Failure to inspect Authorized Person: 50,000/- + CTCL not available at the registered location: Rs.1,00,000/- + Operating CTCL terminal without valid NISM certification: Rs.1,500/- + Non-maintenance of the complaint register: Rs.50,000/-) for the observed violation in terms of the Exchange Circular No. NSE/INSP/47457 dated February 25, 2021.

DECISION

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

Sr.	Committee's Findings	Prescribed Penalty as per Exchange Circular No. NSE/INSP/47457 dated February 25, 2021	Penalty
a.	Fixed periodic returns provided to the Noticee's clients directly and/or through its Authorized Persons	No prescribed penalty	Warning and directions as per paragraph no. 12 and 13 below
b.	Non-reconciliation of securities in the client beneficiary account vis-à-vis securities in the back-office account, and securities in ROS vis-à-vis reconstructed ROS, as of July 22, 2022, involving differences of Rs.165.57 lakhs in the securities payable, and Rs.517.61 lakhs in the securities receivable of 1,437 clients.	Rs.25,000/-	Rs.25,000/-
c.	Non- maintenance of pre-order confirmation of trades	Rs.25,000/- + direction to comply with the requirement of keeping appropriate evidence for orders placed by client within 30 days from the date of communication	Rs.25,000/- + Direction to comply with the requirement of keeping appropriate evidence for orders placed by client within 30 days from the date of this order
d.	Improper maintenance of clients' ledgers	Rs.25,000/-	Rs.25,000/-
e.	Failure to inspect the books of active registered Authorized	Rs.50,000/- per Authorized Person	Rs.2,01,500/-

Sr.	Committee's Findings	Prescribed Penalty as per Exchange Circular No. NSE/INSP/47457 dated February 25, 2021	Penalty
	Persons as per the applicable guidelines:		
	i. The Noticee's Authorized Person ("Shital Sanjay Yadav") did not have its office at the location registered as per the Exchange record i.e., "2/6, Lal Bahadur Shatri Nagar Sector no. 27A, Behind Trimurti Hall Nigdi, Pradhikaran PCNT, Pune 411 044".	No prescribed penalty	
	ii. CTCL Terminal (Id 411044017001) of CM and F&O Segment was not found at the registered address 2/6, Lal Bahadur Shatri Nagar Sector No. 27A, Behind Trimurti Hall Nigdi, Pradhikaran PCNT, Pune 411 044. The last trade executed in the F&O terminal segment was on August 3, 2022.	Rs.1,00,000/- per location	
	iii. F&O segment terminal (Id - 411044017001) was operated without a valid NISM Series VIII Certification.	Rs.1,500/- per terminal	

Sr.	Committee's Findings	Prescribed Penalty as per Exchange Circular No. NSE/INSP/47457 dated February 25, 2021	Penalty
	iv. Complaint Register is not maintained by the said AP.	Rs.50,000/- per book	
TOTAL			**Rs.2,76,500/-**

10. The Noticee shall pay a monetary penalty of Rs.2,76,500/- (Rupees Two Lakhs Seventy-Six Thousand Five Hundred Only) as indicated above.

11. The Noticee is directed to take note of the non-monetary penalties imposed as indicated.

12. The Noticee shall submit an undertaking that they will not onboard any new Authorized Person for six months from the date of this order.

13. The Noticee shall continue to conduct a concurrent audit and submit a fortnightly certificate to certify that the clients of the Noticee/it's Authorized Persons are not offered assured/fixed returns, for the next six months from the date of this order.

Sd/-
Mona Bhide
(Chairperson)

Sd/-
K Narasimha Murthy
(Committee Member)

Sd/-
Mr. S Ravindran
(Committee Member)

Sd/-
Ranganayakulu Jagarlamudi
(Chairperson)

Sd/-
Ashishkumar Chauhan
(Committee Member)

Date: June 14, 2023