

BEFORE THE ADJUDICATING OFFICER  
SECURITIES AND EXCHANGE BOARD OF INDIA  
ADJUDICATION ORDER NO. Order/AK/VV/2023-24/26065

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UNDER SECTION 15-I OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 1995, SECTION 23 I OF SECURITIES CONTRACTS (REGULATION) ACT, 1956 READ WITH RULE 5 OF SECURITIES CONTRACT REGULATIONS (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 2005 AND UNDER SECTION 19-H of DEPOSITORIES ACT READ WITH SECTION 5-I OF THE DEPOSITORIES (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 2005

In respect of:

**Angel Broking Limited**

**PAN - AAACM6094R**

**In the matter of inspection of Angel Broking Limited**

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**BACKGROUND OF THE CASE**

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') initiated adjudication proceedings against Angel Broking Limited as a Stock broker and Depository Participant (hereinafter referred to as "**ABL**" or "the Company" or "**Noticee**") based on the findings of a Comprehensive Joint Inspection. The Comprehensive Joint Inspection of the functioning of ABL was conducted by SEBI along with the Stock Exchanges and Depositories from December 07, 2020 to January 28, 2021. The period of inspection was from April 2019 to December 2020. ABL is registered with SEBI as a Stock Broker and Commodity Broker, and member

of NSE, BSE, MCX, NCDEX with SEBI (single) registration no. INZ000161534 and is also registered with SEBI as a Depository Participant with SEBI Registration No. IN-DP-384-2018. SEBI, based on the findings of the inspection, alleged that ABL had violated various provisions of SEBI Act, 1992 (hereinafter referred to as “**SEBI Act**”), Securities Contracts (Regulation) Act, 1956 (hereinafter referred to as “**SCRA**”), Depositories Act, 1996 (hereinafter referred to as “**Depositories Act**”) and various circulars issued by SEBI.

### **APPOINTMENT OF ADJUDICATING OFFICER**

2. Upon being satisfied that there are sufficient grounds to inquire into and adjudge the alleged violations by the Noticee, SEBI, in exercise of powers u/s 19 of the SEBI Act r/w Section 15-I (1) of the SEBI Act and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred as the “**Adjudication Rules**”), u/s 23 I of SCRA r/w Rule 3 of the Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties) Rules, 2005 (hereinafter referred as the “**SC(R) Rules**”) and Section 19 of Depositories Act r/w Rule 3 of Depositories (Procedure for Holding Inquiry and Imposing Penalties) Rules, 2005 (hereinafter referred as the “**Depositories Rules**”) appointed Ms. Geetha G, as Adjudicating Officer (**AO**) vide Order dated February 09, 2021 to inquire into and adjudge, under Section 15HB of the SEBI Act, Section 23D of the SCRA and Section 19G of the Depositories Act, the alleged violations by the Noticee. Pursuant to transfer of Ms. Geetha G, the undersigned was appointed as AO, vide order dated August 29, 2022.

### **SHOW CAUSE NOTICE, REPLY AND HEARING**

3. Show Cause Notice (hereinafter referred to as “**SCN**”) dated September 21, 2022 was duly sent to the Noticee, vide Speed post with acknowledgement due and by email with Digital signature, as per Adjudication Rules, to show cause as to why an

inquiry should not be initiated and penalty not be imposed against the Noticee under Section 15HB of the SEBI Act, Section 23D of the SCRA and Section 19G of the Depositories Act, for the alleged violations by the Noticee.

4. I note that in the SCN issued to the Noticee, the findings of the inspection with respect to the Noticee, as a stock broker and as a depository, were provided as given below:

#### **A. FINDINGS AGAINST NOTICEE AS A STOCK BROKER**

##### **4.1 Pledging of clients Securities**

- 4.1.1 SEBI observed that funds raised by pledging client's securities were used for other than respective clients' obligation. It was also observed that Noticee had pledged securities of clients who have a credit balance in their ledger, as given in the table hereunder:

**Table No. 1: Details of securities of clients pledged by ABL**

<b>Date</b>	<b>Misutilization of client securities pledged with bank (in Rs.)</b>	<b>Securities of credit balance clients are pledged with bank and there is misutilization of those securities (in Rs.)</b>	<b>Total misutilization of client securities (in Rs.)</b>
01-04-2019	49,71,950	2,69,92,088	3,19,64,038
15-05-2019	62,40,442	2,71,78,403	3,34,18,846
17-05-2019	53,84,162	2,87,12,701	3,40,96,863
04-06-2019	42,14,262	2,39,61,414	2,81,75,676
06-06-2019	64,62,944	2,71,22,574	3,35,85,518

07-06-2019	51,40,283	2,74,97,306	3,26,37,589
10-06-2019	80,16,765	3,25,82,755	4,05,99,520
11-06-2019	83,40,234	3,42,47,208	4,25,87,442
12-06-2019	57,78,410	2,50,05,759	3,07,84,169
13-06-2019	26,05,441	1,92,68,030	2,18,73,471

4.1.2 It was observed that there is a non-reconciliation of client securities as per back office records with holdings as per Statement of Holding in case of Kotak Mahindra Bank as given in the Table No.2 below:

**Table No.2:** Details of non-reconciliation of client's securities in case of Kotak Mahindra Bank

Date	Shortfall in Quantity of client securities pledged with Bank	Value of Shortfall (in Rs.)
01-04-2019	86,633	1,61,29,984
15-05-2019	38,717	63,72,896

4.1.3 Noticee did not provide Holding Statement from HDFC Bank and Bajaj Finance w.r.t client securities pledged for 10 sample dates and hence, the same could not be reconciled with back office holding records. Since Pledge Holding Statements from these Banks/NBFC was not received, working for pledging of client securities was done based on back office holdings only. The number of instances were 10 and total amount of misutilisation was Rs.32.9 crores.

4.1.4 NSE, vide email dated October 29, 2021, stated that the Inspecting Officials have considered balances as appearing in the Party Trial Balance provided by Noticee on all sample dates which was the same balance as per client ledgers across all exchanges and all segments which is ideally considered for calculating value of securities that can be pledged with Bank/NBFC.

Therefore, as per NSE's submission, the standard process was followed in doing all the calculations. It was thus alleged that Noticee is non-compliant with Section 23D of SCRA r/w SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 2.5 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/ 2016/95 dated September 26, 2016.

- 4.1.5 With regard to non-reconciliation of client securities as per back office records and holding statements of Kotak Mahindra Bank, Noticee accepted the violation before inspection team. With regards to holding statement from Bajaj Finance, Noticee failed to provide any substantiating evidence regarding the non- provision of holding statement by Bajaj Finance. Thus, it was alleged that Noticee is not compliant with Section 23D of SCRA r/w Clause 6.1.1(j) of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/ CIR/ P/2016/95 dated September 26, 2016.

#### **4.2 Monthly / Quarterly Settlement of Funds and Securities**

- 4.2.1 It was observed that Noticee did not do actual settlement of funds of inactive clients during inspection period (300 instances and non-settled amount is Rs.43,96,355). It was observed that Noticee did not do actual settlement of funds of clients who did not trade in last 3 months (1081 instances and non-settled amount was Rs.16,65,665). It was observed that the Noticee retained the value of funds & securities to the extent of value of turnover executed on date of settlement in cash market segment after January 16, 2020 (85 instances out of total 200 instances observed and deemed non-settled amount was Rs.10,26,72,815). The number of instances were 1466 (300 inactive and 1081 + 85 active) and the maximum amount involved in this regard was 8.26 crores (43.96 lakhs inactive and 7.83 crores active).
- 4.2.2 Thus, it was alleged that Noticee is not compliant with SEBI Circular SEBI/MIRSD/SE/Cir-19/2009 dated December 03, 2009 and Clause 8.1 of

Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/ 2016/95 dated September 26, 2016 r/w BSE Notice No. 20200116-44 dated January 16,2020.

#### **4.3 Stock Reconciliation**

- 4.3.1 It was observed that Noticee had not done periodic reconciliation between DP accounts and back office records. There was a total quantity difference of 44.72 lakhs having absolute value of Rs. 12,26,73,61,257.
- 4.3.2 Thus, it was alleged that the Noticee had not done periodic reconciliation between DP accounts and back office records and was not compliant with Regulation 17(1)(g) of SEBI (Stock Brokers) Regulations, 1992 (hereinafter referred to as “**Brokers Regulations**”)

#### **4.4 Discrepancies in daily margin statement sent to clients**

- 4.4.1 It was observed that there was a mismatch between fund balances as per ledger and daily margin statement in case of 4 clients (Percentage of irregularity – 40.00%).

*Table No.3: Details of mismatch between fund balances as per ledger and daily margin statement*

Sr. No.	Date of Daily Margin Statement	Client Code	Client Name	Funds Balance as per Ledger	Funds Balance as per Daily Margin Statement	Funds Balance Difference
1	23-Mar-20	A16829	Ambalal Amichand Jain Huf	13,867,002	6,070,924	7,796,079
2	13-Mar-20	S139362	Surender Kumar Jain S K Impex	32,310,298	24,701,498	7,608,800
3	24-Feb-20	K88456	Kiran And Sons Huf	56,620,453	54,979,987	1,640,466
4	22-Aug-19	PY03	Puspa K	49,573,327	0	49,573,327

4.4.2 Thus, it was alleged that Noticee was non-compliant with Clause 3 of SEBI circular No. CIR/HO/MIRSD/16/2011 dated August 22, 2011 r/w clause A (2) & A (5) of Code of Conduct specified in schedule 2 of Brokers Regulations and regulation 9 (f) of Broker Regulations.

#### 4.5 Client Funding

- 4.5.1 It was observed that the Noticee has provided exposure to the client beyond T+2+5 days, amounting to Rs. 2,10,46,428.41/- in spite of non-recovery of debit balances.
- 4.5.2 The Noticee submitted to the inspection team that MTM generated from position in Derivative segment was considered towards granting of exposure. However, the Noticee failed to provide any evidence to corroborate its submission.
- 4.5.3 Thus, it is alleged that Noticee was non-compliant with Clause 2.6 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 r/w Clause 2(d) of SEBI circular CIR/HO/MIRSD/MIRSD2/CIR/P/ 2017/64 dated June 22, 2017.

#### **4.6 Verification of UCC/Email ID and Mobile numbers**

- 4.6.1 It was observed that there were 35,179 instances of PAN mismatch between UCC & TM back office record. It was observed that there were 2,227 instances where e-mail IDs of the clients in the Noticee's database were not matching with the details in exchange database. It was observed that there were 2,336 instances where mobile numbers of clients in the Noticee's database were not matching with the details in exchange database. There were PAN mismatch between UCC and TM back office records in 35179 instances.
- 4.6.2 Therefore, it was alleged that Noticee has violated Regulation 6.1.5 of the NSE (F&O segment) Trading Regulations and Regulation 6.1.4 of Part A of the NSE (Capital Market Segment) Trading Regulations r/w clause A (2) and A(5) of code of conduct for stock brokers under Regulation 9 of Brokers Regulations.
- 4.6.3 With regard to mismatch in email ID (2227 instances) and mobile numbers (2336 instances) between member database and exchange database, Noticee accepted that mismatches were found owing to clerical errors. Thus, it was alleged that Noticee is non-compliant with Clause 2(B) of SEBI Circular CIR/MIRSD/15/2011 dated August 02, 2011.

#### **4.7 Analysis of Enhanced Supervision Data**

- 4.7.1 It was observed that Noticee reported incorrect ledger balances of 30,602 clients (net difference of Rs.340.81 Cr.) to the exchange for the month of October 2020.
- 4.7.2 Thus, it was alleged that Noticee has violated Clause 7 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.



#### **4.8 Risk based supervision**

- 4.8.1 It was observed that Noticee did not rightly report the value of collaterals of debit balance clients. There was a difference of Rs. (7,56,80,20,796) between the balances reported to the exchange (Rs.8,04,89,01,455) under RBS and the weekly holding submission (Rs.48,08,80,658).
- 4.8.2 Noticee submitted to the inspection team that the figure submitted in RBS is the valuation of the holding for the debit balance clients and in the holding statement there is actual holding (Qty) of scrips of the clients and not the valuation. Noticee stated that there is no difference on the same.
- 4.8.3 Comments of NSE were sought regarding the reply submitted by Noticee. NSE vide email dated October 29, 2021 submitted that Inspecting official had considered Value of Stock pertaining to debit balance clients only. The same has been calculated by multiplying quantity of securities reported by member in Holding Submission as on September 30, 2020 with the rate of securities as on the same day. Thus, it was alleged that the Noticee was non-compliant with Clause 6.1.1.e of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

#### **4.9 Complaints and Arbitration**

- 4.9.1 It was highlighted by the Noticee that as a practice, new clients are provided with the welcome kit which inter-alia contains the POA form. However, in case of client code S386216, it was noted that the documents provided by the Noticee do not adequately prove that the POA was provided to the client along with the welcome kit. In addition, as no other welcome kit for any other client(s) was provided by the Noticee, it was observed that the said document(s), in general, are not provided to the clients along with the welcome kit.

4.9.2 Thus, it was alleged that Noticee was not in compliance with clauses A(1) & A(2) of code of conduct for stock brokers under Regulation 9 of Brokers Regulations.

#### 4.10 Client order recording

4.10.1 It was observed that client details like code, name, etc., were not captured/ confirmed in the records submitted for the following clients (4 instances):

i. V11001, ii L16870, iii VBB48, iv RPRC1005

4.10.2 Thus, it was alleged that Noticee has violated clause 2 & 3 of SEBI circular CIR/HO/MIRSD/MIRSD2/CIR/P/2017/108 dated September 26, 2017.

#### 4.11 Stock Mismatch Analysis

4.11.1 In following 6 instances given in the table hereunder (5 PANs & 6 ISINs), it was observed that the balances of the Holding Statement and Register of Securities (RoS) did not match:

**Table No.4:** Details of the balances of the Holding Statement and Register of Securities (RoS)

Client PAN & Code	ISIN	Balance on 30-01-2020		Difference	Balance on 31-01-2020		Difference
		HS	RoS		HS	RoS	
AAAHA0792D (A40950)	INE785A01026	48,216	47,615	601	48,216	47,615	601
AGEPS4695P (CHEN7238)	INE041A01016	13,091	12,374	717	13,091	12,374	717
AMCPM6178 M (MMLB011)	INE274G01010	3,150	-6,200	9,350	9,150	6,200	15,350
AADPA4054B (N1174)	INE883N01014	13,673	12,018	1,655	13,673	12,018	1,655
AADPA4054B (N1174)	INE666D01022	9,516	8,856	660	9,516	8,856	660
AKIPB3977B (N50947)	INE485C01011	16,279	15,135	1,144	16,279	15,135	1,144
<b>Total</b>				<b>14,127</b>			<b>20,127</b>

4.11.2 It was observed that there were 4 instances (2 ISINs - INF179KB1HT1 & INF109KC1OO2) where the mutual funds units (mismatch quantity of 78,44,091 with value Rs.109 Cr.) pertaining to the proprietary account were not reported.

4.11.3 In the following 8 instances (8 PANs & 6 ISINs), the available records were insufficient to justify the securities mismatch and the securities movement. (net negative mismatch quantity 5,23,867; net negative value Rs2.14 Cr.).

*Table No.5: Details of the 8 instances (8 PANs & 6 ISINs)*

Old Date	New Date	Client PAN	Client Code	ISIN
22-Jan-20	23-Jan-20	AFBPP0115R	A112461	INE477A01020
20-Jan-20	21-Jan-20	AGTPG9543P	DELP5896	INE528G01027
30-Jan-20	31-Jan-20	BCFPK2679P	DELP988	INE121E01018
15-Jan-20	16-Jan-20	ADSPP8568P	G937	INE871C01038
22-Jan-20	23-Jan-20	AGPPM5831J	K59425	INE528G01027
30-Jan-20	31-Jan-20	AEAPS0374M	P2840	INE725E01024
23-Jan-20	24-Jan-20	CEVPG6018M	M127145	INE528G01027
23-Jan-20	24-Jan-20	AHRPP5860B	P120593	INE301A01014

4.11.4 Based on the holding statements submitted by the Noticee for the month of January 2020, it was observed that the PAN - ABCDE1234F was mapped to multiple clients. For 4 sample dates of January 2020 viz. 7th, 8th, 30th and 31st, the said PAN is mapped to 1,179 different clients.

4.11.5 It was therefore alleged that the Noticee was not in compliance with clause 6.1.1 (j) of SEBI Circular No. SEBI/HO/MIRSD/MIRSD02/CIR/P/2016/95 dated September 26, 2016.

## **B. FINDINGS AGAINST NOTICEE AS A DEPOSITORY PARTICIPANT**

### **4.12 Account opening and KYC**

4.12.1 Noticee as DP was following verification process of mobile and email through One Time Password (OTP), however, DP should make provision

for express consent of the investor before undertaking online KYC as mentioned in SEBI Circular dated April 24, 2020.

4.12.2 The Noticee did not capture live photograph of the client with time stamping, geo-location tagging and liveness check for the accounts opened with online KYC through the Adhaar as Officially Valid Document (OVD), any other OVD or through download of KYC from KYC Registration Agency (KRA).

4.12.3 In 414 instances out of 501 instances, Noticee cropped beneficial owner (BO) signature from pan card and uploaded in CDAS, Noticee did not obtain wet signature on record or cropped signature (cropped from a signed cancelled cheque or signature on a white paper or signature made on the screen of a device).

4.12.4 Thus, it was alleged that Noticee has violated SEBI Circular No. SEBI/HO/MIRSD/DOP/CIR/P/2020/73 dated April 24, 2020.

5. In view of the above observations and findings, it was alleged that the Noticee, was in violation of:

- i) Section 23D of SCRA r/w SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 2.5 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.
- ii) Section 23D of SCRA r/w Clause 6.1.1(j) of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016
- iii) SEBI Circular SEBI/MIRSD/SE/Cir-19/2009 dated December 03, 2009 and Clause 8.1 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 r/w BSE Notice No. 20200116-44 dated January 16, 2020.
- iv) Regulation 17(1)(g) of Brokers Regulations;

- v) Clause 3 of SEBI circular CIR/HO/MIRSD/16/2011 dated August 22, 2011 r/w clause A (2) & A (5) of code of conduct specified in schedule 2 of Brokers Regulations and Regulation 9 (f) of Brokers Regulations.
  - vi) Clause 2.6 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016 /95 dated September 26, 2016 r/w Clause 2(d) of SEBI circular CIR/HO/MIRSD/MIRSD2/CIR/P/2017/ 64 dated June 22, 2017.
  - vii) Regulation 6.1.5 of the NSE (F&O segment) Trading Regulations and Regulation 6.1.4 of Part A of the NSE (Capital Market Segment) Trading Regulations r/w clause A (2) and A(5) of code of conduct for stock brokers u/r 9 of Brokers Regulations.
  - viii) Clause 2(B) of SEBI Circular CIR/MIRSD/15/2011 dt August 02, 2011.
  - ix) Clause 7 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016 /95 dated September 26, 2016.
  - x) Clause 6.1.1.e of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016 /95 dated September 26, 2016.
  - xi) Clauses A(1) & A(2) of code of conduct for stock brokers under Regulation 9 of Brokers Regulations.
  - xii) Clause 2 & 3 of SEBI circular CIR/HO/MIRSD/MIRSD2/CIR/P/2017/108 dated September 26, 2017.
  - xiii) SEBI Cir no. SEBI/HO/MIRSD/DOP/CIR/P/2020/73 dated April 24, 2020.
6. The aforesaid alleged violations, if established, makes the Noticee liable for monetary penalty u/s 15HB of the SEBI Act, Section 23D of the SCRA and Section 19G of the Depositories Act.
7. I note that, subsequent to the issuance of the SCN, the Noticee, vide email and letter dated October 10, 2022, sought inspection of documents/material with regard to the

SCN issued. The Noticee was granted inspection of documents/material on October 19, 2022.

8. Further, in the interest of natural justice, vide Hearing Notice(HN) dated November 18, 2022, the Noticee was granted an opportunity of personal hearing on December 06, 2022. The Noticee, vide email dated November 22, 2022, requested for rescheduling the date of hearing due to non-availability of their Authorised Representatives(ARs). The request of the Noticee was considered and, vide email dated November 22, 2022, the Noticee was granted an opportunity of personal hearing on December 14, 2022.
9. The Noticee submitted its reply to the SCN as under;

**A. Vide email and letter dated December 07, 2022;**

1. *The Noticee denies and disputes all the allegations, averments, contentions and statements contained in the SCN and states that nothing contained therein should be deemed to have been admitted by the Noticee for want of specific denial or non-traverse. The observations/ findings of the Inspection were communicated to the Noticee vide SEBI's letter dated July 20, 2021 ("**Inspection Letter**"). The Noticee provided its response to the findings/ observations of the Inspection vide its letter dated September 06, 2021 ("**Reply to the Inspection Letter**"). Based on the Noticee's Reply to the Inspection Letter, SEBI carried out a Post Inspection Analysis ("**PIA**") of the observations of the Inspection.*
2. *The Noticee craves leave to refer to and rely on the Inspection Letter, the Reply to the Inspection Letter and the PIA during these proceedings. On the basis of the findings/ observations of the PIA, the SCN has now been issued calling upon the Noticee.*
3. *Submissions*  
*During the course of Inspection, the Noticee was required to submit information in specified formats. Data as requested was duly provided and upon completion of inspection, the Noticee was advised to provide its comments on the observations of the Inspection, communicated vide the Inspection Letter. The Noticee filed the Reply to the Inspection Letter and pointed out that the methodology and calculations adopted by the inspection team to make various observations were unclear and could not be reconciled by the Noticee. However, the Noticee's submissions have not been duly considered. Prior to the issuance*

of the SCN, neither was the Noticee given an opportunity to reply to the findings of the PIA nor was the methodology adopted by stock exchanges clarified or explained to the Noticee.

4. This reply is being filed with the Noticee's attempt at understanding the methodology adopted and the basis of which the allegations appear to have been made against the Noticee.
5. **Submissions on merits**

The Noticee's reply to each of the observations/findings as recorded in the SCN has been set out below:

**5.1 Charge I-Pledging of client securities**

5.1.1 In this regard, it is submitted that prior to June 2019, stock brokers/ trading members were allowed to pledge securities of clients in the event these clients were having a debit balance in their account. Accordingly, pledging of securities were undertaken by the Noticee only in respect of those clients that had a debit balance in their accounts.

5.1.2 At the outset, it is denied that the Noticee has mis-utilized client securities worth Rs. 32.97 Crores. It is submitted that basis the revised trial balance (summary of debit and credit for each client as on a particular date) retrieved from the Noticee's system (explained hereinbelow), the amount of debit/ credit in the client's ledger has been calculated by setting the following formula to derive net value of pledging securities:



Field Name	Amount
Voucher date Ledger Balance (VDT)	XX
Less: Unsettled Bills of T-1	XX
<b>Add:</b> VAR Margin of T-1	XX
Less: Unclear Funds Receipts from Clients	XX
<b>Net Debit/Credit</b>	XX

5.1.3 It is submitted that securities of clients were pledged at the beginning of the day on all trading days except clearing holidays. As stated above, only the securities of those clients were pledged that have a net debit balance for the day, on the basis of the above formula. The above formula to calculate the net debit/credit in the client's account has been adopted on the basis of the advice of NSE during the course of inspection conducted for the year 2016 in terms of which margins and unsettled bills of only one preceding day i.e., **T-1 day** is considered. On the basis of the above formula, once the net debit/credit balance of the client for the day is ascertained, proportionate amount of securities of clients that have a net debit balance, are pledged.

5.1.4 It appears that during the course of inspection when data was extracted by NSE in respect of trial balances of clients (which includes voucher date ledger balance i.e., all entries till date in the client's account, and effective date ledger balance i.e., all settled entries/ clear balance in the client's account), the same was not appropriately generated due to a system error. It is submitted that while the back-office data of the Noticee was accurate, there was an error in

extraction of trial balances. The trial balance data retrieved by NSE contained the following erroneous information:

- a) Balance of clients availing Margin Trading Facility ("MTF") facility was reported twice, once under MTF and once under Stock Lending and Borrowing Mechanism ("SLBM"), resulting in duplication of data.
- b) ) Accounting ledgers that did not pertain to clients, such as GST ledger, general ledger etc., were erroneously included in the trial balance for client.
- c) O p e n i n g balance amount was incorrectly considered due to a typo in the query run on the system while extracting the trial balance because of which the balance amount (BALAMT) column was considered instead of value amount (VAMT).

5.1.5 The aforesaid issues with the Noticee's software were noted during the course of a subsequent inspection conducted by NSE for 2021 and was duly pointed out to NSE vide email dated September 14, 2021. The error in retrieving trial balance data directly from the Noticee's system was on account of an incorrect query run on the system and the same was also confirmed by the Noticee's back-office vendor viz., BSE Technologies Private Limited, a wholly owned subsidiary of BSE, upon NSE's request, vide email dated September 24, 2021.

5.1.6 It is pertinent to note that NSE has accepted the revised trial balance data retrieved by the Noticee and conducted inspection of the Noticee's records on the basis of the revised trial balance. Similarly, it is submitted that the revised trial balance, i.e., the correct trial balance ought to be considered in the instant matter also.

5.1.7 Thus, considering the revised party trial balance of clients, the Noticee's calculations/ workings in respect of all 10 days specified A summary of the said annexure has been provided below:

<b>Misutilization amount as AOL Pledge Calculation</b>				
<b>Date</b>	<b>Revised Clients</b>	<b>Shortfall</b>	<b>Revised Amount</b>	<b>Shortfall</b>
01-Apr-19		15	27,206	
15-May-19		0		-
17-May-19		0		-
04-Jun-19		0		-
06-Jun-19		0		-
07-Jun-19		0		-
10-Jun-19		0		-
11-Jun-19		0		-
12-Jun-19		0		-
13-Jun-19		0		-
<b>Total</b>		<b>15</b>	<b>27,206</b>	



**5.1.8** In terms of the Noticee's calculations, the amount of purported mis-utilization, if any, is Rs. 27,206/- in only 15 cases and not Rs. 32.97 Crores as alleged in the SCN. Moreover, the purported misutilization in respect of the said amount of Rs. 27,206/- is in respect of 15 instances that too only on April 01, 2019. It is submitted that since April 01, 2019 was a bank holiday, shares pledged by the Noticee with the banks, i.e., shares having value of Rs. 27,206/- were not released by the bank. It is due to this non-release of shares by the bank, it appears that excess shares remained pledged. However, it is submitted that the purported misutilization of Rs. 27,206/- is not attributable to the Noticee and was only on account of non-release of shares by the banks due to bank holiday. The said issue i.e., non-release of shares was resolved on the next working day and does not persist.

**5.1.9** Upon a review of the information/ data provided with the SCN and during the course of inspection of documents, it appears that there is a difference in the pledge holding value considered by NSE and the pledge holding value as per the Noticees records. The manner in which NSE has calculated/ ascertained the pledge holding value is unclear and thus, we are unable to comment on the same. In any event, a summary of the difference between the value of securities pledged as ascertained by NSE and value of securities pledged as per the Noticee's records is provided below:

Date	Value of securities pledged Exchange	Value of Securities	Diff of Pledge Valuation
01-Apr-19	3,22,46,57,625.20	3,27,18,09,514.94	-4,71,51,889.74
15-May-19	4,93,66,62,387.00	4,87,12,35,424.07	6,54,26,962.93
17-May-19	4,63,08,11,173.00	4,66,25,81,307.43	-3,17,70,134.43
04-Jun-19	4,82,46,93,581.70	4,82,38,94,316.50	7,99,265.20
06-Jun-19	5,00,98,58,857.35	4,89,73,06,057.97	11,25,52,799.38
07-Jun-19	5,25,80,26,266.15	5,23,23,30,959.57	2,56,95,306.58
10-Jun-19	5,39,46,20,465.80	5,37,55,27,931.14	1,90,92,534.66
11-Jun-19	5,15,57,23,609.30	5,20,85,21,644.18	-5,27,98,034.88
12-Jun-19	5,23,60,09,992.25	5,18,35,08,323.10	5,25,01,669.15
13-Jun-19	5,15,24,77,322.35	5,12,19,79,910.43	3,04,97,411.92

**5.1.10** In light of the above, it is reiterated that the purported misutilization, if any, was only for an amount of Rs. 27,206/- and not Rs. 32.97 Crores as alleged in the SCN. Further, this amount of Rs. 27,206/- is an anomaly and was on account of non-release of shares by the bank as April 01, 2019 being a bank holiday. Furthermore, no loss has been caused to any of the clients and no client complaints have been raised/ received in respect of the purported misutilization. In any event, it is submitted that pledging activities have been completely stopped and the Noticee has not pledged any such securities since August 19, 2019, in due compliance with the regulatory

mandate. In these circumstances, the Noticee humbly requests the Ld. AO to consider the facts and circumstances and take an appropriate view in the matter.

5.1.11 The SCN further alleges (in paragraph A.1 b)) that there is non-reconciliation of client securities as per back-office records with holdings as per Statement of Holdings in case of Kotak Mahindra Bank. Further, it has been alleged that the Noticee failed to provide Holding Statement from HDFC Bank and Bajaj Finance and hence the same could not be reconciled with back office holding records. Accordingly, it is alleged that the Noticee has shared incomplete/ wrong data or has failed to submit data on time in compliance with Clause 6.1.1(j) of Annexure of SEBI Circular dated September 26, 2016.

5.1.12 It is submitted that the back-office records of the Noticee have always been diligently maintained. While carrying out stock reconciliation of back office holding, the back office records are compared with the Depository Participant holding data of the depositories (CDSL and NSDL) on a daily basis. It is submitted that the holding and transaction data of the depositories is the 'source of truth' and appropriate evidence to be considered and the Noticee has carried out reconciliation on the basis of the same. Reference is drawn to NSE's Circular dated March 11, 2015 which categorically provides that trading members are required to reconcile client beneficiary account(s) (maintained by the depositories) and the register of securities. Thus, since the Noticee's statements are reconciled with the DP holding data of the depositories, it cannot be alleged that there is any reconciliation issues in the Noticee's records.

5.1.13 It is submitted that the back-office records of the Noticee ought not to have been compared by the holding statements issued by the banks, and instead, the comparison ought to be with the statement of the depositories. It is submitted that there is no specific requirement pursuant to which the Noticee is required to compare/ match its back-office records with the holding statement of the banks. The Noticee is unable to comment on the reasons for the discrepancy in the holding statements issued by the banks as the Noticee is not aware on what basis the banks have issued the holding statements. Since the Noticee's records reconciles with the records maintained by the depositories, it cannot and ought not to be alleged that there is non-reconciliation of client securities or that the Noticee has submitted incomplete/ wrong data.

5.1.14 With specific reference to non-reconciliation as per back-office records and holding statement of Kotak Mahindra Bank, it is submitted that the number of shares pledged with Kotak Mahindra Bank is the same as shown in CDSL's records. Hence, it cannot be alleged that there are any reconciliation issues at the Noticee's end. CDSL's DP transaction data of Kotak Mahindra Bank (DP37 files) for provided! SINs have been retrieved

Date	Kotak Holding (Qty)	AOL Holding (Qty)	Alleged shortfall (difference between Kotak and AOL Holding) (Qty)	CDSL Holding	Difference between CDSL and AOL Holding (Qty)
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01-Apr-19	147613	234246	86,633	234246	0
15-May-19	149	38866	38,717	38866	0

5.1.15 With specific reference to the observation that statements from Bajaj Finance were not provided by the Noticee to the inspection team, it is submitted that the Noticee was unable to produce relevant documentary evidence at the time of inspection of documents. The Noticee had made multiple efforts to obtain statements from Bajaj Finance, however, the same was denied by Bajaj Finance. It is further submitted that there is no mismatch between Bajaj Finance's holding and the Noticee's records, as also shown below:

Date	Bajaj Holding	AOL Backoffice Holding	Diff	Remark
01-Apr-19	1394	1394	0	No Mismatch
15-May-19	652	652	0	No Mismatch
17-May-19	652	652	0	No Mismatch
04-Jun-19	434	434	0	No Mismatch
06-Jun-19	434	434	0	No Mismatch
07-Jun-19	434	434	0	No Mismatch
10-Jun-19	434	434	0	No Mismatch
11-Jun-19	434	434	0	No Mismatch
12-Jun-19	434	434	0	No Mismatch
13-Jun-19	434	434	0	No Mismatch

5.1.16 In light of the above, it cannot be alleged that there is non-reconciliation of client securities by the Noticee. Consequently, the allegation of non-compliance with Clause 6.1.1(j), of Annexure of SEBI Circular dated September 26, 2016 is not established against the Noticee and ought to be dropped.

**5.2 Charge II-Monthly/ quarterly settlement of funds and securities**

5.2.1 The SCN alleges (in paragraph A.!!a) of the SCN) that: i) the Noticee did not do actual settlement of funds of inactive clients during inspection period in 300 instances for non-settled amount of Rs. 43,96,355/-; ii) the Noticee did not do actual settlement of funds of active clients who did not trade in last 3 months in 1081 instances for non-settled amount of Rs. 16,65,665/-; and iii) the Noticee retained the value of funds and securities to the extent of value of turnover executed on date of settlement in cash market segment after January 16, 2020, for 85 active clients out of 200 instances involving an amount of Rs. 10,26,72,815/-. It is thus alleged that the Noticee was non-compliant in respect of 1466 instances involving a maximum amount of Rs. 8.26 Crores.

5.2.2 In respect of the allegation that the Noticee did not do actual settlement of funds of inactive clients during inspection period in 300 instances for non-settled amount of Rs. 43,96,355/-, it is submitted that upon receipt of the SCN, the Noticee re-worked the settlement calculation for the instances provided in the SCN. In terms of the Noticee's calculation, non-settlement is observed in

only 74 instances involving an amount is Rs. 3,70,620/- as opposed to in 300 instances involving an amount of Rs. 43,96,355/-, as alleged in the SCN.

5.2.3 Detailed explanation for all 300 instances noted in the SCN has been provided below:

- i. 78 clients had DP accrual charges of Rs. 64,345/-. As a stock broker, the Noticee was opening client's demat account with CDSL for seamless settlement of securities and charging DP charges towards Annual Maintenance Charges (AMC) and transactions done by clients. Since the DP charges are posted in the client's ledger only post receipt of CDSL bills, while carrying out actual settlement, the accrued DP charges are deducted. It appears that the OP accrual charges have not been considered in respect of these 78 clients due to which actual settlement of funds was not required to be done. It is further submitted that the same submission was made in the Reply to the Inspection Letter, however, the Noticee's submissions were not considered on the ground that supporting evidence had not been provided.
- ii. 147 clients had a ledger debit balance of Rs. 39,59,489/- due to which these clients have not been considered for actual settlement. It appears that NSE has wrongly considered these clients to have credit balance instead of debit balance.
- iii. In respect of 1 client, the settlement was done for Rs. 1900/-, however, the amount could not be credited to the client due to closure of client's bank account. The amount has since been credited on August 06, 2022 post receipt of updated bank details from the client.
- iv. In respect of 74 clients that had a credit balance, settlement involving an amount of Rs. 3,70,620/- could not be done due to certain technical glitches in the system. It may be noted that on an average, an amount of Rs. 5,008/- could not be settled for these 74 clients. Notably, no client of the Noticee has raised any issue with regard to the meagre non-settlement and it is humbly submitted that a lenient view in the matter may be taken for this technical violation.

5.2.4 In respect of the allegation that the Noticee did not do actual settlement of funds of clients who did not trade in last 3 months in 1081 instances for non-settled amount of Rs. 16,65,665, it is submitted that upon receipt of the SCN, the Noticee re-worked the settlement calculation for the instances provided in the SCN. In terms of the Noticee's calculation, non-settlement is observed in 16 instances involving an amount of Rs. 97,933/-.

5.2.5 Detailed explanation for all 1081 instances noted in the SCN has been provided below:

- i. 1042 clients had DP accrual charges of Rs. 8,21,584/- and thus, this amount was not considered while carrying out settlement, as explained above.
- ii. 20 clients had a ledger debit balance of Rs. 6,99,647/- due to which these clients have not been considered for actual settlement. It appears that NSE has wrongly considered these clients to have credit balance instead of debit balance.
- iii. In respect of 3 clients, their ledger balance is 0, however, NSE has considered settlement amount of Rs. 46,510/- in respect of these clients.

- iv. In respect of 16 clients, settlement involving an amount of Rs. 97,922/- could not be done due to technical glitch in the system. It may be noted that on an average, an amount of Rs. 6,120/- could not be settled for these 16 clients. Notably, no client of the Noticee has raised any issue with regard to the meager non-settlement amount and it is humbly submitted that a lenient view in the matter may be taken for this technical violation.

5.2.6 In respect of the allegation that the Noticee retained the value of funds and securities to the extent of value of turnover executed on date of settlement in cash market segment after January 16, 2020, in 85 out of 200 instances involving an amount of Rs.10,26,72,815/-, it is submitted that upon receipt of the SCN, the Noticee re-worked the settlement calculation for the instances provided in the SCN. In terms of the Noticee's calculation, non-settlement is observed in 14 instances involving an amount of Rs. 7,74,59,222/-.

5.2.7 Detailed explanation for all 85 instances noted in the SCN has been provided below:

- i. In respect of 14 instances, the SCN alleges non-settlement for an amount of Rs. 8,87,62,970/-. It is submitted that the Noticee has carried out settlement for an amount of Rs. 1,13,03,748/- and it appears that the margin of clients has been incorrectly considered by NSE. Further, in respect of the balance amount of Rs.7,74,59,222/-, it is submitted that settlement was not carried out due to a system error.
- ii. In respect of the remaining 71 instances (i.e., 85- 14), it is submitted that the Noticee had duly carried out settlement for these clients for a total amount of Rs. 1,39,09,845/-, after considering the cash segment margin for these clients.

5.2.8 It is submitted that the technical glitches/ lapses observed in the Noticee's system have been rectified and these issues no longer persist. It is further submitted that no harm has been caused to any investor on account of the abovementioned amounts that were inadvertently retained and not settled by the Noticee. In any event, the abovementioned amounts have not been mis-utilized in any manner and were merely retained by the Noticee and subsequently the settlement in respect of these clients/ amounts has taken place. Accordingly, it is submitted that in the facts and circumstances, imposition of penalty is not warranted.

### **5.3 Charge III -Stock reconciliation**

5.3.1 It is submitted that the Noticee has reconciled the DP accounts with back-office records and that such reconciliation is done on a daily basis. Further, that there is no difference between the DP accounts and back-office records of the Noticee.

5.3.2 It is incorrect to allege that there is a difference of 44.72 Lakh shares having value of Rs. 1226 Crore. It is submitted that 44.72 Lakh shares having value of Rs. 1226 Crore were placed in the Early Pay-In (EPI) account of the Noticee with NSE. The inaccuracy/ mismatch is on account of the fact that the Noticee had inadvertently reported to the NSE that these shares were lying in the pool account of the Noticee, as part of its weekly reporting.

5.3.3 The incorrect reporting was on account of a general confusion/ misunderstanding in the market. In this regard, reference is drawn to NSE's circular dated September 02, 2022 wherein NSE has categorically stated that 'reporting EPI holding as POOL holding in weekly holding statement' while providing clarifications on submissions of client level holding, cash & cash equivalent balances and bank account balanced by members to the stock exchange.

5.3.4 As submitted hereinabove, these shares were held in the EPI account. The shares parked in the EPI account have not been considered by NSE due to which there is a discrepancy pointed out in the inspection report between the DP account and back office records of the Noticee. The aforesaid explanation was also provided in the Reply to the Inspection Letter. As recorded in the SCN, NSE vide its email dated October 29, 2021, has submitted that demat accounts for which submissions have been made in the report does not pertain to EPI account no. 1100001100014641. In this regard, it is submitted that the Noticee had inadvertently provided details of the EPI account held with BSE and if the EPI account having no. 1100001100014641 (held with NSE) is considered, there would be no mismatch as alleged in the SCN. Thus, once the shares in the EPI account of the Noticee is considered, there would be no reconciliation mismatch.

As per NSE Working		As per AOL working - No Mismatch in records			Actual difference between NSE and AOL's working			Remark
Mismatch (Qty)	Mismatch (Value)	No of instances	Qty	Amount	No of instances	Qty	Amount	
-417	22,892	0	0	-	12	-417	22,892	Excess quantity reported to the Exchange
-10836	1,08,35,980	1	-10836	1,08,35,980	0	0	-	No mismatch
-2865765	4,21,26,746	3	-2865765	4,21,26,746	0	0	-	No mismatch
12085	79,146	9	10726	-	2	1359	79,146	Non-submission in the holding statement
3089	1,27,421	0	1935	79,819	1	1154	47,603	Partial quantity reported in the holding statement
-167236	12,18,74,15,837	3771	-167236	12,18,74,15,837	0	0	-	No mismatch

-1443764	2,67,53,236	0	-1485888	2,61,02,693	2	42124	6,50,542	Short quantity reported in the holding statement due to corporate action by issuer
-4472844	12,26,73,61,257	3784	-4517064	12,26,65,61,074	17	44220	8,00,183	No mismatch

- i. In 12 instances, excess quantity of 417 shares was reported in the holding statement reports to the exchanges due to inadvertence, where shares reported in the client's account were wrongly delivered in another client's account.
- ii. In 2 instances, 1,359 shares lying in the PMS Account of the Noticee were not considered and included in the holding statement reported to the exchanges.
- iii. In 2 instances, 42,124 shares lying in the EPI account were not considered and included in the holding statement reported to the exchanges due to corporate action by the issuer (YES Bank Ltd.) and Liquid BeES.

5.3.5 It is relevant to note that these shares were lying in the EPI Account and were parked with NSE/BSE, thus there was no misuse of securities by the Noticee. It is submitted that no loss has been caused to any client and accordingly, a considered view ought to be taken in respect of the aforesaid charge against the Noticee.

**5.4 Charge IV- Discrepancies in daily margin statement sent to clients**

5.4.1 The SCN alleges that there was a mismatch between fund balances as per ledger and daily margin statement (DMS) in case of 4 clients.

5.4.2 In respect of client code A16829, it appears that NSE has considered ledger balance as Rs. 1,38,67,002.13/-. It is unclear as to how this amount has been arrived at. As per the Noticee's back-office records, the ledger balance for the said client is Rs.97,29,252.13/-. At the time of DMS generation i.e., on March 23, 2020, the ledger balance reflected in the client's account was Rs. 60,70,923.60/-. The difference in the ledger balance and the DMS was due to the fact that the client had presented a cheque for Rs. 36,35,000/- on March 20, 2020 (Friday) which got cleared on March 24, 2020. Hence on March 23, 2020 i.e., the date on which the DMS report was generated, the ledger entry for uncleared cheque (which got subsequently cleared only on March 24,2020) was not considered. Furthermore, an amount of Rs 23,328.53/- was posted in the ledger towards provisional entries such as margin penalty, interest etc., which have been subsequently revised

5.4.3 In respect of client code S139362, it appears that NSE has considered ledger balance as Rs. 3,23,10,297.66/-. It is unclear as to how this amount has been arrived at. As per the Noticee's back-office records, the ledger balance for the said client is Rs.2,01,01,497.60/-. At the time of DMS generation i.e., on March 13, 2020, the ledger balance reflected in the client's account was Rs. 2,47,01,497.60. The

*difference in the ledger balance and the DMS was due to the fact that the client had presented a cheque for 71,00,000/- and Rs. 5,08,800/- on March 13, 2020 (Friday) which got cleared on March 17, 2020. Hence on March 13, 2020 i.e., the date on which the DMS report was generated, the ledger entry for uncleared cheque (which got subsequently cleared only on March 17, 2020) was not considered.*

*5.4.4 In respect of client code K88456, the ledger balance considered by NSE is Rs.5,66,20,453.42/-, however, as per the Noticee's records, the ledger balance is Rs.5,49,79,987.15/-. At the time of DMS generation i.e., on February 24, 2020, the ledger balance reflected in the client's account was Rs. 5,49,79,987.15/-. This was on account of an MTF entry posted of Rs. 5,20,441.75/- on February 20,2020 which was subsequently settled on February 25, 2020, and another MTF entry posted on February 24, 2020 of Rs.11,20,024.62/- which was subsequently settled only on February 26, 2020. Hence, on February 24, 2020 i.e., the date on which DMS report was generated the unsettled entries in the ledger were not considered.*

*5.4.5 In respect of client code PY03, it is submitted that there is no discrepancy between the ledger balance and the DMS i.e., Rs. 4,95,73,327.48/-.*

*5.4.6 Accordingly, it is submitted that the discrepancies noted in the ledger balance and the DMS provided to the clients was on account of unsettled entries in the ledger balance not being considered and the same ought not to amount to non-compliance with Clause 3 of SEBI Circular dated August 22, 2011 r/w A (2) and A(5) of the Code of Conduct under Schedule 2 r/w Regulation 9(f) of the SB Regulations.*

## **5.5 Charge V-Client funding**

*5.5.1 As submitted in the Reply to the Inspection Letter, it is reiterated that only those clients were allowed exposures who have relevant margins, and exposure beyond T+2+5 days was not provided to any client. Further that, the clients had position in derivative segment and MTM generated from the said position was considered towards granting of exposure while calculating client funding. It appears that the Noticee's submissions have been rejected on the ground that no evidence was provide in support of the aforesaid submissions.*

- i. In respect of client code PTA8373, (1 instance) NSE has considered the exposure date as August 19, 2019 instead of August 20, 2019 for the exposure amount of Rs. 26,150/-. However, NSE has failed to consider that August 12, 2019 was a trading and clearing holiday, on account of which NSE has incorrectly calculated the cut-off date. It is pertinent to note that August 15, 2019 was also a trading and clearing holiday. The debit balance pertaining to August 06, 2019 was cleared by the client on August 19, 2019 and thus, it cannot be alleged that the Noticee has provided exposure to its clients beyond T+2+5 days.*
- ii. In respect of client code A16829 (1 instance), NSE has considered the exposure date as August 16, 2019 instead of August 20, 2019 for the exposure amount of Rs. 788,513.93/-. However, NSE has failed to consider that August 12, 2019 was a trading and clearing holiday, on account of which NSE has incorrectly calculated the cut-off date. It is pertinent to note that August 15, 2019 was also a trading and clearing holiday. The debit balance pertaining to August 07, 2019 was cleared by*



the client on August 22, 2019 and there was no further exposure allowed on August 21, 2019. Thus, it cannot be alleged that the Noticee has provided exposure to its clients beyond T+2+5 days

- iii. In respect of client code V905 (3 instances): it is submitted that due to some technical glitch, the exposure provided to the client was not captured in the report. However, once the issue was identified, the Noticee has rectified the same and these technical issues no longer subsist. It is also pertinent to note that the Noticee conducts inspection of its systems and records on a random sampling basis to ensure that any issues identified may be resolved.

5.5.2 In light of the above submissions, it is submitted that in respect of 1 out of 3 clients, the Noticee had provided exposure to the clients beyond T+2+5, as alleged in the SCN days due to a technical glitch. Further, in respect of 2 clients, there was no exposure beyond T+2+5 days, as alleged in the SCN. In these circumstances, it is submitted that the charge of non-compliance with Clause 2.6 of Annexure of SEBI Circular dated September 26, 2016 r/w Clause 2(d) of SEBI Circular dated June 22, 2017 ought not to be concluded against the Noticee and a considered and lenient view ought to be taken.

## 5.6 Charge VI- Verification of UCC/ email ID and mobile numbers

5.6.1 In respect of the allegation of PAN mismatch between UCC and Noticee's back-office records in 35,179 instances, the same is denied. As set out in the Reply to the Inspection Letter, it is reiterated that there is no instance of mismatch between UCC & Noticee's back-office record in 35,154. However, the Noticee's submissions have been rejected on the ground that no supporting documents were provided by the Noticee.

5.6.2 In this regard, for convenience and on a sample basis, contract notes (issued at the relevant time) with correct PAN as mentioned in the UCC, for 3566 clients i.e., approximately 10% of the purported discrepancies, is annexed as If required, contract notes in respect of the remaining 31,588 clients can be produced and brought on record by the Noticee. Therefore, it is evident that there is no mismatch between UCC and Noticee's back office in respect of PAN of clients.

5.6.3 With specific reference to remaining 25 cases where a mismatch in the PAN was observed, it is submitted that in respect of 22 clients out of 25, the trading accounts for these clients were opened before 2012, when the systems were not totally automated, and inadvertently a typographical error occurred in these cases while uploading the PAN details in UCC manually. The Noticee would have corrected the discrepancies, however, BSE and MCX do not allow PAN modification. Thus, the mismatch in respect of 22 clients was because of reasons not under the Noticee's control.

5.6.4 In respect of the remaining 3 clients (i.e., 25-22 clients), it is submitted that:

- i. Trading Code - D339: The client opened the trading account in 2002, when PAN was not a mandatory requirement for account opening. Thereafter, in 2004, capturing client's PAN became mandatory and the Unique Client Code was registered at BSE with PAN AOEPS8117C. Thereafter in 2018, the client made a request for demat account opening with PAN AAGPS9183E and the same i.e., the latest PAN of the client is reflected in the back-office records and NSE's records. It appears that subsequently, PAN

AAGPS9183E has been cancelled. BSE did not allow PAN of the client to be changed in 2018 and thus, there appears to be a mismatch between the back-office records and BSE records.

- ii. Trading Code - V7131: The client opened the trading account in 2014 and thereafter, pursuant to client's marriage, there was a change in the client's PAN. While the NSE UCC portal allows PAN to be modified, the BSE portal does not. As per BSE, a new trading code with correct PAN details has to be allotted to the client. However, since the client codes are unique across exchanges, a new code cannot be allotted for BSE.
- iii. Trading Code - DIYD11961: The client opened the trading account in 2018 with PAN BBFPS1372A. Thereafter, in 2020 client requested for PAN to be modified to EZOPB4435H. As per the client's request, a request for modification of PAN was made to NSE/ BSE and CDSL. However, while BSE accepted the modification, the request was rejected by CDSL and NSE as the client's old PAN remained active, and accordingly, PAN was not modified/ changed in the Noticee's back-office records. The Noticee's attempt to change new PAN i.e., EZOPB4435H to the old PAN i.e., BBFPS1372A, was rejected by BSE.

5.6.5 It is pertinent to note that since the PAN records as maintained by BSE and MCX cannot be modified/ rectified, the Noticee has diligently blocked these 25 clients' account. It is further submitted that the Noticee once again attempted to resolve this issue and wrote to BSE in respect of PAN mismatch for the specified 25 clients, however, BSE vide its email dated September 29, 2022 has rejected the Noticee's request.

5.6.6 In light of the above, it is submitted that the Noticee has not violated Regulation 6.1.5 of the NSE (F&O segment) Trading Regulations and Regulation 6.1.4 of Part A of the NSE (Capital Market Segment) Trading Regulations r/w clause A (2) and A (5) of code of conduct for stock brokers under Regulation 9 of Brokers Regulations.

5.6.7 Further, in respect of the 2,227 instances where E-mail IDs and 2,336 instances where mobile numbers of the clients in the Noticee's database were not matching with the details in BSE/MCX database, it is submitted that the mismatch was on account of clerical errors. It is submitted that the discrepancy between the Noticee's records and stock exchange database was on account of clerical errors which have been subsequently corrected pursuant to the Inspection. Furthermore, all clients were duly receiving contract notes/ other alerts from the Noticee on their email IDs/ mobile numbers as per the Noticee's records. To avoid instances of such mismatch, the Noticee has also started weekly reconciliation process in UCC database, and Noticee's back-office. It is submitted that the Noticee reconciles for 6 different attributes including email, and mobile are part of the 6 attributes.

5.6.8 Thus, it is submitted that the mismatch pertaining to the email IDs and mobile numbers was due to clerical errors and it cannot be held that Noticee is non-compliant with Clause 2(B) of SEBI Circular CIR/MIRSD/15/2011 dated August 02, 2011.

## 5.7 Charge VII-Analysis of Enhanced Supervision Data

- 5.7.1 At the outset, it is clarified that the net difference, as recorded in the SCN is Rs. 34.08 Crores and had been incorrectly recorded as Rs. 340.81 Crores in the SCN.
- 5.7.2 It is submitted that the Noticee had adopted a process of reporting ledger balances on the basis of Voucher Date Balance ("**VDT**") entries, instead of EDT/clear balance. Since September 2021, the Noticee has corrected its methodology and this issue no longer subsists in the system.
- 5.7.3 It is pertinent to note that accounts/ balances were duly maintained by the Noticee and only due to inadvertence/ incorrect understanding, the wrong entries were considered for the reporting, i.e., the VDT entries instead of the EDT/ clear balance entries, on account of which there is a discrepancy in the reporting. In the event the ledger balances are generated/ converted using the EDT method and compared with the revised party trial balance (as explained under Charge I hereinabove) there would be no discrepancy, as alleged in the SCN.
- 5.7.4 Thus, it is submitted that the discrepancy in the reporting was on account of a technical and inadvertent error and no benefit has accrued to the Noticee on account of the same. Accordingly, it is submitted that no penalty should be imposed against the Noticee in respect of alleged violation of Clause 7 of Annexure of SEBI Circular dated September 26, 2016.
- 5.7.5 It is also pertinent to note that subsequently, the Noticee has adopted a maker-checker method to further strengthen its systems and to ensure that no incorrect data pertaining to the ledger balance is sent to the exchanges. The Noticee has also adopted a 3-way reconciliation method which includes – SEBI Enhanced Supervision Reporting on weekly basis, trial balance and CCE (cash and cash equivalent) data to ensure precision in the ledger balances of clients sent to the exchanges. Furthermore, before data is uploaded to the exchanges, the same is audited by a dedicated auditor and compliance team of the Noticee. These steps have been incorporated to ensure accuracy of data and to avoid any inadvertent discrepancies in reporting.

## **5.8 Charge VIII- Risk based supervision**

- 5.8.1 It is submitted that while the SCN alleges that there was a difference of Rs.7,56,80,20,796/- between the balances reported to the Exchanges under RBS and the weekly holding submissions, it appears that the RBS for March 2020 has been compared to the weekly holding submissions for September 2020. Thus, the charge being raised against the Noticee is unclear. Furthermore, it appears that while considering data in respect of weekly holding submissions of clients, NSE/SEBI has considered data in respect of 25327 clients and compared it to a consolidated number reported in the RBS by the Noticee. Thus, it is unclear as to how a composite number in respect of all client of the Noticee (i.e., RES reporting) has been compared to weekly holding submissions in respect of only 25327 clients.
- 5.8.2 Furthermore, it is submitted that while the allegation raised in the SCN against the Noticee pertains to incorrect reporting, the charge is of non-compliance with Clause 6.1.1.e of SEBI Circular dated September 26, 2016. It is submitted that Clause 6.1.1.e pertains to submission of data for half yearly RBS within the

time specified by the stock exchanges. The non-compliance alleged vis-a-vis the facts set out in the SCN is unclear. However, without prejudice, it is submitted that the Noticee was always diligent in submitting the RBS data to exchanges well within the timelines prescribed and RBS data was submitted as set out below:

Period	Date of submission	Due date	Extended Due date due to Covid 19
Sep 2019	28-Nov-2019	30-Nov-2019	NA
Mar 2020	24-Jul-2020	30-Jun-2020	31-July-2020
Sep 2020	25-Nov-2020	30-Nov-2020	NA

5.8.3 In light of the above, the charge of non-compliance with Clause 6.1.1.e of Annexure of SEBI Circular dated September 26, 2016 does not stand established against the Noticee and ought to be dropped.

#### 5.9 Charge IX-Complaints and arbitration

5.9.1 It is submitted that a pre-filled POA form is provided along with a welcome kit to each client. Thus, it is incorrect to allege that the Noticee was generally not providing POAs to its clients.

5.9.2 With specific reference to client code S386216, it is submitted that the complaint filed by the said client was adequately addressed and resolved by the Noticee. As explained to the client, the shares purchased by the said client could not be held more than 7 days in Client Unpaid Securities Account (CUSA Account) as no POA was signed and sent by the said client to the Noticee, accordingly, the shares were sold by the Noticee on BSE platform in compliance of SEBI's own Circular.

5.9.3 In light of the above, the charge that the Noticee is not in compliance with clauses A(1) & A (2) of code of conduct for stock brokers under Regulation 9 of Brokers Regulations is completely unsubstantiated and ought to be dropped.

#### 5.10 Charge X-Client order recording

5.10.1 The SCN alleges that client details like code, name etc., were not captured/ confirmed in the records submitted in 4 instances in respect of client codes VII001, L 16870, VBB48 and RPRC1005.

5.10.2 At the very outset it is submitted that no complaints have been raised by the aforesaid clients in disputing the trades in their accounts. Further, in respect of all 4 clients, and in all instances, bills for transactions executed on the dates of the disputed call transactions were posted in the ledger of these clients and no dispute has been raised in respect of the same.

5.10.3 It is submitted that in 3 out of 4 instances mentioned, client's mobile number appearing on the file of the call recording is the same as that mentioned in the KYC documents. In 1 instance, the call was received from the client.

5.10.4 It is thus submitted that in light of the fact that no disputes have been raised by any of these clients, it is evident that no loss/ harm has been caused to the clients and thus, there is no non-compliance/ violation, as alleged in the SCN that could warrant any adverse action against the Noticee.

#### 5.11 Charge XI- Stock mismatch analysis

5.11.1 The SCN alleges (in paragraph A.XI.a) of the SCN) that in 6 instances (5 PANs and 6 ISINs), the balances of Holding Statement and Register of Securities ("RoS") of the Noticee, did not match.

5.11.2 As submitted in the Reply to the Inspection Letter, this difference was noted as BSE holding in all 6 instances had not been considered. The Noticee's submissions have been accepted, however, the SCN states that the RoS for 1 instance out of the 6 instances had not been provided.

5.11.3 The SCN further alleges (in paragraph A.XI.b) that in 4 instances (2 ISINs – INF179KBIHT1 and INF109KC1002) the mutual fund units held in the proprietary account of the Noticee of 78,44,091 units with value of Rs. 109 Crore were not reported. In this regard, it is submitted that the Noticee has matched the NSDL DP holding statement and the holding statement reporting file and there is no mismatch, as alleged in the SCN. A table setting out the details of the reporting has been set out below:

New Date	ISIN	QTY	Mismatch Val.	HS Reporting to	AOL Value	AOL Mismatch
6-Jan-20	INF179KBIHT1	-	23,83,05,000	2,38,305	23,83,05,000	-
6-Jan-20	JNF109KCI002	-	46,90,50,100	46,90,501	46,90,50,100	-
8-Jan-20	INF179KBIHT1	3,40,384	10,20,79,000	3,40,384	10,20,79,000	-
8-Jan-20	INF109KC1002	75,03,707	28,13,20,600	75,03,707	28,13,20,600	-
	<b>TOTAL</b>	<b>78,44,091</b>	<b>1,09,07,54,700</b>	<b>1,27,72,897</b>	<b>1,09,07,54,700</b>	

5.11.4 Further, the SCN alleges (in paragraph A.XI.c) that in 8 instances (8 PANs and 6 ISINs), the available records were insufficient to justify securities mismatch and the securities movement.

5.11.5 It is submitted that the Noticee has verified the 8 instances set out in the SCN and no mismatch in quantity and value has been observed, as alleged in the SCN. In respect of the 8 instances, the SCN further records (in paragraph A.XIj) that:

- i. In respect of client code A12461, the Noticee did not provide any evidence to substantiate that the shares sold by the client were auction settled at stock exchange level.

- ii. In respect of client codes DELP5896, 0937 and K59425, the Noticee had provided contract notes to the inspection team to substantiate the mismatch, however the same does not substantiate the movement of securities.
- iii. In respect of client code M127145 the Noticee did not provide relevant explanation.
- iv. In respect of client code P120593, the Noticee submitted that shortage of shares was internal and settled with financial closure, however, no evidence regarding the same was provided.

5.11.6 Further, it is alleged (in paragraph A.XId)) that the PAN- ABCDE1234F has been mapped to multiple clients and on 4 sample dated in January 2020, the said PAN has been mapped to 1179 clients. It is submitted that upon verification of holding statement reporting file, as submitted to the stock exchange, it is observed that for 1175 out of 1179 clients, there is no discrepancy, and the correct PAN has been reported by the Noticee. Further, in respect of the remaining 4 clients, 2 clients have closed their account and 2 clients' accounts were opened when recording the client's PAN was not a mandatory requirement, and subsequently, PAN - ABCDE1234F had been added to these clients' accounts. Notably, these accounts have been suspended from trading.

5.11.7 In light of the above, it is denied that there is a total mismatch of 4,18,221 securities with value of Rs. 1.35 Crore, as detailed hereinabove, and the charge of violation of Clause 6.1.1 G) of SEBI Circular dated September 26, 2016 does not stand established against the Noticee.

## 6 Findings against the Noticee as a Depository Participant

The SCN makes the following allegations in respect of online account opening process followed by the Noticee:

- 6.1 It is alleged that the Noticee was following verification process for mobile and email through One Time Password (OTP), however, it did not have provision for express consent of the investor before undertaking online KYC as mentioned in SEBI Circular dated April 24, 2020.
- 6.2 It is submitted that the Noticee has always been diligent regarding taking express consent of its clients before undertaking online KYC process. The express consent of the client is obtained once in terms of SEBI Circular dated April 24, 2020, and only after taking such consent, the account is opened for the client.
- 6.3 Date-wise depiction of the express consent provided by clients has been provided below:

<b>Time period</b>	<b>Consent of E-KYC</b>
Prior to Aug-2021	By submitting my contact details here, I override my NDNC registration and authorise Angel One & AFAPL and its authorised representatives to contact me Via Call, SMS, Email & WhatsApp

Post Aug- 2021 till Feb 2022	-	By submitting my contact details here, I override my NDNC registration and authorise Angel One to open my Trading and Demat account, Angel One & AFAPL authorised representatives to contact me Via Call, SMS, Email & WhatsApp.
Feb- 2022 till May- 2022		By Submitting my contact details here, I override my NDNC registration and authorise to Angel One to open my Trading and Demat account through online mode. Angel One & AFAPL authorized representatives to contact me via call, SMS, Email, and WhatsApp.
From May- 2022 till date	to	By Submitting my contact details here, I override my NDNC registration and authorise/give express consent to Angel One to open my Trading and Demat account online and authorise Angel One & AFAPL approved representatives to contact me via call, SMS, Email, and WhatsApp.  I/We also instruct Angel One to download information available from KRA/CKYC also to receive each and every credit and to accept all the pledge instructions in my/our account without any further instruction

- 6.4 In its Reply to the Inspection Letter, the Noticee had provided a screenshot of the consent taken as Annexure J, however, the same has not been considered while issuing the SCN.
- 6.5 The SCN further alleges that the Noticee did not capture live photograph of client with time stamping and geo-tagging liveliness check for the accounts opened with online KYC through the Aadhaar as officially Valid Document (OVD), any other OVD or through download of KYC from KYC Registration Agency (KRA).
- 6.6 It is submitted that the Noticee in due compliance with requirements had implemented capturing of live photographing etc. in terms of SEBI Circular dated April 24, 2020. However, the application rolled out by the Noticee was facing technical glitches and the success percentage was low (around 70%). Due to these technical glitches in the Noticee's application/ website, the Noticee had to develop the same internally and the newly developed software was rolled out by October 2021. Thus, while the Noticee's software was facing glitches, it cannot be alleged that the Noticee has not complied with the requirements. It was on account of the Noticee's endeavours to develop and provide a more seamless application for its clients, there was a delay in rolling out the revised software. In light of the same, it cannot be alleged that the Noticee did not comply with the requirements of SEBI Circular dated April 24, 2020.
- 6.7 The SCN further alleges that in 414 instances out of 501 instances, the Noticee cropped beneficial owner (BO) signature from pan card and uploaded in CDAS and did not obtain wet signature on record or cropped signature (cropped from a signed cancelled cheque or signature on a white paper or signature made on the screen of a device).

6.8 It is incorrect to allege that in 414 instances out of 501, the Noticee did not obtain wet signature. A breakup of the accounts opened (in respect of the alleged 414 accounts) vis-a-vis the date on which the requirement to obtain wet signatures or cropped signature (from cancelled cheque or white paper) came into effect i.e., post issuance of the SEBI Circular dated April 24, 2020 has been set out below:

Year	Counts
After April-2020	170
Before April-2020	244
Grand Total	414

6.9 A further breakup of the accounts opened (in respect of the alleged 414 accounts) vis-a-vis the date on which the requirement to obtain wet signatures or cropped signature (from cancelled cheque or white paper) came into effect i.e., from the clarification provided by CDSL vide its Circular dated August 10, 2020 has been set out below:

Date	Counts
After 10 Aug 2020	41
Before 10 Aug-2020	373
Gand Total	414

6.10 In light of the above, it is incorrect to allege that the Noticee failed to obtain wet signatures in respect of 414 accounts as only 41 accounts were opened post clarifications received from CDSL

6.11 In light of the above, it is submitted that a lenient and considered view ought to be taken in respect of allegations in respect of online account opening process against the Noticee.

## **7 Technical or venial breach**

7.1 It will be seen from the foregoing that while there may appear to be a list of alleged mistakes/errors and violations, each one of them can be explained, and reconciled as being either technically wrong reading, or erroneous extraction of data, or erroneous reading of the information in question, and indeed, reconciliations that could easily be achieved once the perception of discrepancy is crystallized.

7.2 It is a settled principle that where the violation is technical and venial in nature, the same does not merit penal consequences. As set out hereinabove, the alleged lapses / non-compliance, if any, have not resulted in any loss/ harm to investors/ clients of the Noticee and are a result of technical glitches/ inadvertence and are not deliberate, which ought not to result in any monetary penalty or adverse remarks against the Noticee.

7.3 Reference is drawn to the Order dated May 15, 2019 in the matter of Piramal Enterprise Limited and the Order dated July 08, 2020 in the matter of ICICI Bank Limited passed by the Hon'ble Securities Appellate Tribunal and the Supreme Court Judgment in the matter of Adjudicating Officer, Securities and



*Exchange Board of India vs. Bhavesh Pabari, (2019) 5 SCC 90, wherein it has been held that the Ld. AO has wide discretion, in the facts and circumstances of a matter, to decide whether a penalty should be imposed or not.*

7.4 *As the first step, a contravention must be inexorably established, without any room for ambiguity in whether the provision alleged to have been violated has indeed been violated. The next step would involve determining whether the contravention, if confirmed is even worthy of penalty. The step thereafter would be considering what the penalty should be, and in determining quantum of penalty, whether anything more than the minimum penalty is warranted.*

7.5 *As held by the Hon'ble Tribunal, the purpose of inspection is not punitive and is to ensure that the intermediary complies with the procedural requirements. As set out hereinabove, the procedural lapses noted during the course of inspection, on account of technical glitches etc., have been subsequently rectified and no longer persist. Accordingly, it cannot be said that the Noticee has failed to comply with any rules/ regulations/ circulars issued, as alleged. Hence, no case is made out against the Noticee for imposition of monetary penalty under the aforesaid provisions for the technical and venial violations which have not caused any harm/loss to the clients of the Noticee or any other investor.*

7.6 *It is submitted that in the facts and circumstances of the present matter, venial/ technical violations have been alleged against the Noticee not resulting in any undue advantage to the Noticee. Furthermore, no harm has been caused to any investor and no complaints have been received by the Noticee from its clients in respect of the alleged violations. Thus, it is humbly submitted that the Ld. AO ought to exercise his discretion and not impose any monetary penalty on the Noticee.*

10. The Noticee along with its ARs, attended the hearing on December 14, 2022. The ARs of the Noticee reiterated the submissions made in its reply, dated December 07, 2022. It was submitted that the current submissions made were post a re-work by the Noticee, on the submissions earlier made by it during post – inspection. On hearing the submissions, I noted that the submissions made in the letter dated December 07, 2022 varied from the Noticee's submissions during and after the inspection. The AR of the Noticee agreed to provide valid proof of documents to substantiate/ authenticate the submissions currently made. The AR of the Noticee sought time of 6 weeks to submit the proof of documents and was granted time till January 20, 2023 to make their final submissions. The Noticee made its final submissions, vide email and letter dated January 23, 2023.

**Written Submissions further to the hearing on December 14, 2022**

1. *The Written Submissions summarise the submissions made before the Ld. Adjudicating Officer (“AO”) during the personal hearing held on December 14, 2022 and also address the queries raised by the Ld. AO during the hearing, with particular regard to the re-confirmation and affirmed iteration of the accurate factual position, which is articulated in the Noticee’s Reply dated December 07, 2022 to the SCN (“Reply”).*
2. *The SCN has been issued to the Noticee based on the findings of a joint inspection conducted by SEBI, stock exchanges and depositories between, December 07, 2020 and January 29, 2021 (“Inspection”), for the period beginning from April 2019 up to December 2020 (“Investigation Period”).*
3. *The Inspection was conducted between December 07, 2020 and January 29, 2021. During this period, due to the severe physical restrictions on account of the COVID19 pandemic, the Noticee’s resources were focused on carrying out operations and keeping broking services open and available at a nationally challenging time. At this stage, owing to severe constraints on availability of personnel, errors had been made in running the queries into the database of the Noticee and in the extraction of data.*
4. *Pursuant to the issuance of the SCN, the Noticee tested each of the facets in the light of being faced with punitive regulatory intervention. On doing so, the Noticee observed certain factual discrepancies in the responses that had been provided to the officials who had conducted the Inspection. The Noticee has thus provided its revised workings a/w supporting data, and revised submissions in the Reply to the SCN.*
5. *A table detailing the submissions made at the time of Inspection and the revised submissions made in the Reply, as applicable, along with submissions on the discrepancies/ revisions has been provided*
6. *Furthermore, in order to provide higher assurance on the veracity of the data, an auditor’s certificate certifying to be accurate, the information/ data/ documents submitted by the Noticee in the Reply.*
7. *To ensure there also a specific factual confirmation on oath from the Noticee, an affidavit affirming the revised workings as accurate, signed by Mr. Bhavin Parekh, Associate Director of the Noticee has also been annexed.*
8. *The Ld. AO must consider the data/ information provided in the Reply as a matter of fact and record and it is in the interest of justice that accurate data must be assessed. The Noticee apologises for the errors in the submission of data to the inspection team, with the greatest respect. Besides, it must be remembered that the very object of a quasi-judicial proceeding being provided in the law would be to resolve precisely such errors and to ensure that justice is done and no innocent is punished and no contravention is disproportionately penalized.*
9. *The data/ information that had been previously provided, to the extent they are erroneous cannot*

form the basis of drawing adverse inferences. The scope of the present proceedings is to ascertain whether the Noticee is in violation of the various provisions set out in the SCN and the same has to be ascertained as a matter of fact and not on the basis of information, although provided in prior in time by the Noticee itself, but evidently incorrect owing to explained reasons.

10. Without prejudice to the above, it is also relevant to note that while observations/ findings of the inspection were provided to the Noticee vide letter dated July 20, 2021 to which the Noticee provided its reply vide its letter dated September 06, 2021, an opportunity to provide a reply to the Post Inspection Analysis ("PIA") conducted by NSE/SEBI was never provided. If this exercise had been undertaken, it would have given one more opportunity to analyse the data and reaffirm the same. However, with the opportunity being made available to the Noticee to deal with the content of the PIA pursuant to the SCN, the contents of PIA are up for analysis and upon analysis the errors alluded to in the Reply were discovered.
11. With reference to submissions made in respect of Charge V – Client funding, para 53(ii) of the Reply inadvertently states that "...The debit balance pertaining to August 07, 2019 was cleared by the client on August 22, 2019...". We wish to clarify that August 22, 2019, ought to be read as August 20, 2019.
12. It is settled law that the purpose of carrying out inspection is not punitive but to ensure compliance with procedural requirements. Please see the ruling of the Hon'ble Securities Appellate Tribunal in the case of Religare Securities Ltd. v. SEBI. (Order dated June 16, 2011) and ACML Capital Markets Ltd. v. SEBI (Order dated June 29, 2022). As also set out in the Reply, the Noticee has enhanced its systems to ensure that the procedural irregularities noted during the course of Inspection are rectified and are not repeated. Furthermore, the violations set out in the SCN are technical in nature and no harm/ loss has been caused to any client/ investor of the Noticee.
13. In these circumstances, on facets of the SCN the rectification of errors arising from accurate data does not lead to a finding of non-contravention, the Ld. AO ought to take a lenient view in the matter. Further, it is also a settled principle of law that where a party has not acted deliberately, judicial discretion should be exercised, and no penalty ought to be imposed.
14. In the light of the aforesaid submissions, it is respectfully submitted that no action as contemplated in the SCN is warranted in the facts of the present case. Accordingly, the SCN against the Noticee be dropped and the Noticee be discharged from the present proceedings.

ANNEXURE A - Allegations and response

Sr. No.	Charge (SCN/ Inspection Letter dated July 20, 2021 Annexure 2 to the SCN)	Reconciliation/ methodology adopted by the Noticee
1.	<p><i>Funds raised by pledging client's securities were used by the Noticee other than for the respective client's obligation. Further, Noticee had pledged securities of clients who have a credit balance in their ledger and mis-utilized securities worth Rs. 32.97 Crore.</i></p> <p><i>(Para 6.A.I.(a) and (c) of the SCN)/ (Para.1.1 of the Inspection Letter)</i></p>	<p><i>Post receipt of SCN, upon review of the data provided to NSE during the course of Inspection, it was noted that incorrect party trial balance had been extracted on account of an incorrect query run on the system.</i></p> <p><i>The Noticee identified the system error in extracting/ generating the party trial balance; the Noticee's back-office vendor confirmed and corrected the discrepancy; and extracted/ generated the correct party trial balance.</i></p> <p><i>It was further observed that the pledge holding value considered by NSE was incorrect. Accordingly, the Noticee extracted the correct pledge holding value from its records for the 10 sample dates considered.</i></p> <p><i>The net debit/credit in the client's account was calculated in a manner in which margins and unsettled bills of only one preceding day i.e., T-1 day were considered by setting the formula (mentioned at Para 14, Page 5 of the Reply) to derive the net value of pledged securities.</i></p> <p><i>On the basis of the above, a discrepancy was observed only on 1 day i.e., April 01, 2019, for Rs. 27,206/- only in 15 instances, when shares pledged by the Noticee with the banks were not released on account of it being a bank holiday. The non-release of shares was resolved on the next working day and no harm/ loss was caused to any investor/ client of AOL.</i></p> <p><i>It appears that the team handling Inspection at the relevant point in time had failed to re-verify and ascertain the data on the basis of which findings of Inspection were arrived at and provided its response to the Inspection Letter.</i></p>

Sr. No.	Charge (SCN/ Inspection Letter dated July 20, 2021 Annexure 2 to the SCN)	Reconciliation/ methodology adopted by the Noticee
		<p><i>The inconvenience caused on account of the data inaccuracy that occurred earlier is regretted. The Ld. AO is humbly requested to consider the accurate workings provided by the Noticee in its Reply.</i></p> <p><i>As undertaken at the personal hearing, a confirmation in the form of certification from a Chartered Accountant from the SEBI panel has been submitted.</i></p>
2.	<p><i>Non-reconciliation of client securities as per back-office records of Noticee with holdings as per statement of holdings in case of Kotak Mahindra Bank, HDFC Bank and Bajaj Finance. (Para 6.A.I.(b) and (e) of the SCN)</i></p> <p><i>(Para no.1.2,1.3 of the Inspection Letter)</i></p>	<p><i>In respect of submissions made with respect to mismatch with the holding statement of Kotak, the Noticee verified its back-office records with the records maintained with the depository and observed that there was no difference between the two.</i></p> <p><i>While the Noticee has accepted that there was a mismatch between the Noticee's back-office data and the Kotak Bank Statements, it is relevant to note that there is no requirement for the Noticee to match its records with that of the banks.</i></p> <p><i>In any event, the Noticee's back-office data matches the data available with the depositories.</i></p> <p><i>Further, the Noticee was able to retrieve the email received from Bajaj Finance from its archives. A copy of the email dated October 04, 2022 received from Bajaj has been annexed as Exhibit 1 vide which the holding statement (annexed as Annexure 12 to the Reply) were provided.</i></p> <p><i>It is reiterated that there was thus no mis-match/ non-reconciliation of securities by the Noticee, as alleged.</i></p> <p><i>The inconvenience caused on account of the data inaccuracy that occurred earlier is regretted. The Ld. AO is humbly requested to consider the accurate workings provided by the Noticee in its Reply.</i></p>

Sr. No.	Charge (SCN/ Inspection Letter dated July 20, 2021 Annexure 2 to the SCN)	Reconciliation/ methodology adopted by the Noticee
		As undertaken at the personal hearing, a confirmation in the form of certification from a Chartered Accountant from the SEBI panel has been submitted.
3.	<p>Noticee did not do actual settlement of funds of inactive clients during inspection period in 300 instances for non-settled amount of Rs. 43,96,355/- (Para 6.A.II (a) of the SCN)</p> <p>(Para no. 4.1 of the Inspection Letter)</p>	<p>It is pertinent to note that the PIA categorically records that the Noticee's submissions appear to be legitimate and rejects the Noticee's submissions on the ground that supporting documents/ evidence was not provided. Accordingly, the Noticee in the Reply has provided supporting documents for each instance/ submission.</p> <p>While reconciling the submissions made with the documents/ data provided at the time of Inspection, certain discrepancies were observed. Accordingly, the Noticee has submitted its revised response in the Reply.</p> <p>It is reiterated that non-settlement was observed in only 74 instances involving an amount of Rs. 3,70,620/- as opposed to 300 instances for non-settled amount of Rs. 43,96,355/-, as alleged in the SCN. The Noticee has also provided evidence/ documents to support its submissions.</p> <p>The inconvenience caused on account of the data inaccuracy that occurred earlier is regretted. The Ld. AO is humbly requested to consider the accurate workings provided by the Noticee in its Reply.</p> <p>As undertaken at the personal hearing, a confirmation in the form of certification from a Chartered Accountant from the SEBI panel has been submitted.</p> <p>Subsequently, the Noticee has rectified the technical glitches/ lapses observed in the Noticee's system and these issues no longer persist. In any event, no harm has been caused to any investors as subsequently the settlement has taken place.</p>
4.	<p>Noticee did not do actual settlement of funds of active clients who did not trade in last 3 months in 1081</p>	<p>It is pertinent to note that the PIA categorically records that the Noticee's submissions appear to be legitimate and rejects the Noticee's submissions on the ground that supporting documents/ evidence was not provided.</p>

Sr. No.	Charge (SCN/ Inspection Letter dated July 20, 2021 Annexure 2 to the SCN)	Reconciliation/ methodology adopted by the Noticee
	<p>instances for non-settled amount of Rs. 16,65,665/-</p> <p>(Para 6.A.II (a) of the SCN)</p> <p>(Para no. 4.2 of the Inspection Letter)</p>	<p>Accordingly, the Noticee in the Reply has provided supporting documents for each instance/ submission. These can be reviewed to confirm the core substantive accurate position.</p> <p>While reconciling the submissions made with the documents/ data provided at the time of Inspection, certain discrepancies were observed.</p> <p>Accordingly, the Noticee has submitted its revised response in the Reply. It is reiterated that non-settlement was observed in 16 instances involving an amount of Rs. 97,933/- as opposed to 1081 instances for non-settled amount of Rs. 16,65,665/-, as alleged in the SCN. The Noticee has also provided evidence/ documents to support its submissions.</p> <p>The inconvenience caused on account of the data inaccuracy that occurred earlier is regretted. The Ld. AO is humbly requested to consider the accurate workings provided by the Noticee in its Reply. As undertaken at the personal hearing, a confirmation in the form of certification from a Chartered Accountant from the SEBI panel has been submitted.</p> <p>Subsequently, the Noticee has rectified the technical glitches observed in the Noticee's system and these issues no longer persist. In any event, no harm has been caused to any investors as subsequently the settlement has taken place.</p>
5.	<p>Noticee retained the value of funds and securities to the extent of value of turnover executed on date of settlement in cash market segment after January 16, 2020, for 85 active clients out of 200 instances involving an</p>	<p>While reconciling the submissions made with the documents/ data provided at the time of Inspection, the Noticee reviewed the reasons for non-settlement and noted that:</p> <ul style="list-style-type: none"> <li>i. for an amount of Rs. 1,13,03,748/, settlement had been carried out, however the margin of clients was incorrectly considered</li> <li>ii. for 71 instances for a total amount of Rs. 1,39,09,845/-, the Noticee had carried out settlement after considering cash segment margin for these clients.</li> </ul>

Sr. No.	Charge (SCN/ Inspection Letter dated July 20, 2021 Annexure 2 to the SCN)	Reconciliation/ methodology adopted by the Noticee
	<p>amount of Rs. 10,26,72,815/- (Para 6.A.II (a) of the SCN)</p> <p>(Para no. 4.3 of the Inspection Letter)</p>	<p>The Noticee has thus provided detailed explanation along with supporting documents, in respect of instances and amounts for which settlement was carried out, and the veracity can be empirically confirmed.</p> <p>The inconvenience caused on account of the data inaccuracy that occurred earlier is regretted. The Ld. AO is humbly requested to consider the accurate workings provided by the Noticee in its Reply. As undertaken at the personal hearing, a confirmation in the form of certification from a Chartered Accountant from the SEBI panel has been submitted.</p> <p>Subsequently, the Noticee has rectified the technical glitches/ lapses observed in the Noticee's system and these issues no longer persist. In any event, no harm has been caused to any investors as subsequently the settlement has taken place.</p>
6.	<p>Noticee had not done periodic reconciliation between Depository Participant ("DP") accounts and back-office records and that there is a difference of 44.72 Lakh shares having value of Rs. 12,26,73,61,257/- (Para 6.A.III (a) of the SCN).</p> <p>(Para no.2 of the Inspection Letter)</p>	<p>The Noticee has provided a more detailed explanation, along with supporting documents, to buttress the submissions made in the Reply to the Inspection Letter.</p> <p>Furthermore, as explained in the Reply, the Noticee had inadvertently provided details of the EPI account held with BSE due to which NSE has submitted that "the demat accounts for which the observation has been mentioned in the report is not pertaining to the Early Pay-in Account 1100001100014641".</p> <p>The Noticee has also provided detailed explanations along with supporting documents in respect of mismatch of 44,220 shares having absolute value of Rs. 8,00,183/-.</p> <p>It is reiterated that these shares were lying in the EPI Account and were parked with NSE/BSE and there was no misuse of securities by the Noticee and no loss/ harm has been caused to any client.</p> <p>The inconvenience caused on account of the data inaccuracy that occurred earlier is regretted. The Ld. AO is humbly requested to consider the accurate workings provided by the Noticee in its Reply.</p>



Sr. No.	Charge (SCN/ Inspection Letter dated July 20, 2021 Annexure 2 to the SCN)	Reconciliation/ methodology adopted by the Noticee
		As undertaken at the personal hearing, a confirmation in the form of certification from a Chartered Accountant from the SEBI panel has been submitted.
7.	<p>There was a mismatch between fund balances as per ledger and daily margin statement (DMS) in case of 4 clients</p> <p>(Para 6.A.IV(a) of the SCN)</p> <p>(Para no. 5 of the Inspection Letter)</p>	<p>It is pertinent to note that the Noticee has categorically mentioned in the Reply to the Inspection Letter that the Noticee is unable to determine the balance considered by NSE to arrive at the findings. Accordingly, the Noticee has provided its revised working of fund ledger balance in respect of all 4 clients in Annexure 26 and 27 of the Reply.</p> <p>Further, the Noticee has provided its explanation/ reasons for each instance, along with supporting documents:</p> <ol style="list-style-type: none"> <li>i. With respect to A16829, ledger entry for cheque for Rs. 36,35,000/- and revised provisional entries have not been considered while generating the DMS report.</li> <li>ii. With respect to S139362, ledger entry for cheque of Rs. 71,00,000/- and Rs. 5,08,800/- have not been considered while generating the DMS report.</li> <li>iii. With respect to K88456, unsettled entries have not been considered which generating the DMS Report.</li> <li>iv. With respect to PY03, supporting document have been provided.</li> </ol> <p>Thus, the discrepancies noted in the ledger balance and the DMS was on account of unsettled entries in the ledger balance not being considered and the same ought not to be considered as non-compliance, as alleged in the SCN.</p> <p>The inconvenience caused on account of the data inaccuracy that occurred earlier is regretted. The Ld. AO is humbly requested to consider the accurate workings provided by the Noticee in its Reply. As undertaken at the personal hearing, a confirmation in the form of certification from a Chartered Accountant from the SEBI panel has been submitted.</p>

Sr. No.	Charge (SCN/ Inspection Letter dated July 20, 2021 Annexure 2 to the SCN)	Reconciliation/ methodology adopted by the Noticee
8.	In 5 instances (for 3 client codes), Noticee has provided exposure to its clients beyond T+2+5 days, amounting to Rs. 2,10,46,428.41/- in spite of non-recovery of debit balances.	<p>It appears that while replying to the Inspection Letter, the team handling the Inspection at the relevant point in time did not provide an instance wise reply, which has now been provided by the Noticee in the Reply, along with supporting documents.</p> <p>As also mentioned in the Reply to the Inspection Letter, no exposure was given beyond T+2+5 days. Furthermore, due to technical issues the MTM debit arising out of position in derivative segment has been considered towards granting of exposure in respect of client code V905.</p> <p>It is humbly submitted that the Ld. AO ought to take a considered and lenient view and no adverse observations ought to be made on account of a technical default.</p>
9.	In 35,179 instances of PAN mismatch between Unique Client Code ("UCC") and Noticee's back-office record.	<p>It is pertinent to note that the PIA categorically records that the Noticee's submissions were not accepted on the ground that supporting documents/ evidence was not provided.</p> <p>Accordingly, the Noticee in the Reply has provided supporting documents for each submission, which can be empirically confirmed. Thus, it cannot be concluded that the Noticee is in violation, as alleged in the SCN.</p>
10.	In 2,227 instances where email IDs of clients were not matching between the Noticee's database and BSE/MCX's database.	<p>The Noticee has provided a more detailed response to the charge. It is reiterated that the mismatch observed during the course of Inspection has been subsequently rectified and no longer persists. Furthermore, no harm/ loss was caused to any client on account of the same.</p> <p>It is humbly submitted that the Ld. AO ought to take a considered and lenient view and no adverse observations ought to be made on account of a venial/ technical default, which in any event have been rectified.</p>
11.	2,336 instances where mobile numbers of clients in the Noticee's database was not matching with the details in BSE/MCX database.	<p>It is reiterated that the mismatch observed during the course of Inspection has been subsequently rectified and no longer persists. Furthermore, no harm/ loss was caused to any client on account of the same.</p> <p>It is humbly submitted that the Ld. AO ought to take a considered and lenient view and no adverse observations ought to be made on account of a venial/ technical default, which in any event have been rectified.</p>

Sr. No.	Charge (SCN/ Inspection Letter dated July 20, 2021 Annexure 2 to the SCN)	Reconciliation/ methodology adopted by the Noticee
12.	Noticee has reported incorrect ledger balances of 30,602 clients (net difference of Rs. 340.81 Crores) to the exchanges for the month of October 2020.	<p>The Noticee has provided a more detailed response. It is reiterated that no harm/ loss was caused to any client on account of the same.</p> <p>It is humbly submitted that the Ld. AO ought to take a considered and lenient view and no adverse observations ought to be made on account of a venial/ technical default, which in any event have been rectified.</p>
13.	Noticee did not rightly report the value of collaterals of debit balance clients and there was a difference of Rs. (7,56,80,20,796) between the balances reported to the exchanges (Rs. 8,04,89,01,455) under RBS and weekly holding submission Rs (48,08,80,658).	Upon receipt of the SCN, the Noticee has re-verified the date of submission of data for half yearly RBS within the time specified by the stock exchanges and the data had been submitted within the timelines specified.
14.	In case of client code S386216, the documents provided by the Noticee during the course of inspection did not adequately prove that the POA was provided to the client along with the welcome kit. Furthermore, as no other welcome kit was provided for any other	<p>The Noticee provided a more detailed response along with documentary evidence in support of its submissions, which can be empirically confirmed.</p> <p>It is submitted that no violation/non-compliance can be made out against the Noticee, as alleged in the SCN.</p>

Sr. No.	Charge (SCN/ Inspection Letter dated July 20, 2021 Annexure 2 to the SCN)	Reconciliation/ methodology adopted by the Noticee
	<i>client(s), it is alleged that in general, the Noticee was not providing the POA to its clients, along with the welcome kit.</i>	
15.	<i>Client details like code, name etc., were not captured/ confirmed in the records submitted in 4 instances in respect of client codes V11001, L16870, VBB48 and RPRC1005</i>	<i>The Noticee has provided a more detailed explanation to the findings/ charge. It is reiterated that calls were made and received from the client's registered mobile numbers mentioned in the KYC. Further, no complaints have been raised by any client in respect transactions executed on the dates of the disputed call transactions</i>
16.	<i>In 6 instances (5 PANs and 6 ISINs), the balances of Holding Statement and Register of Securities ("RoS") of the Noticee, did not match.</i>	<i>It is pertinent to note that the Noticee's submissions in respect of 5 out of 6 instances have been accepted. In respect of 1 instance, the Noticee's submission has been rejected as supporting documents were not provided. Accordingly, the Noticee has provided the RoS for MMLB011. In respect of MMLB011 also, there is no stock mismatch and thus, the violation alleged is not established.</i>
17.	<i>In 4 instances (2 ISINs – INF179KB1HT1 and INF109KC10O2) the mutual fund units held in the proprietary account of the Noticee of 78,44,091 units with value of Rs. 109 Crore were not reported.</i>	<i>It appears that the team handling Inspection at the relevant point in time had failed to re-verify and ascertain the data on the basis of which findings of Inspection were arrived at and provided its response to the Inspection Letter. Upon receipt of the SCN, the Noticee re-verified the NSDL DP holding statement and the holding statement reporting file, no mismatch was observed. The Noticee has also provided documents in support of its submissions, which can be empirically confirmed. As set out in the Reply to the SCN, there is no mismatch and thus, the violation alleged is not established.</i>

Sr. No.	Charge (SCN/ Inspection Letter dated July 20, 2021 Annexure 2 to the SCN)	Reconciliation/ methodology adopted by the Noticee
18.	<p>In 8 instances (8 PANs and 6 ISINs), the available records were insufficient to justify securities mismatch and the securities movement.</p> <p>The SCN further alleges that the Noticee failed to provide supporting documents in respect of client codes A1121461, DELP5896, G937 and K59425, M127145, P120593.</p>	<p>It is pertinent to note that the PIA categorically records that the Noticee's submissions were not accepted on the ground that supporting documents/ evidence was not provided. Accordingly, the Noticee in the Reply has provided supporting documents for each submission. Thus, it cannot be concluded that the Noticee is in violation, as alleged in the SCN.</p>
19.	<p>PAN – ABCDE1234F has been mapped to multiple clients and on 4 sample dates in January 2020, the said PAN has been mapped to 1179 clients.</p>	<p>It appears that the team handling Inspection at the relevant point in time had failed to re-verify and ascertain the data on the basis of which findings of Inspection were arrived at and provided its response to the Inspection Letter. On further verification post receipt of the SCN, the Noticee observed that there was no discrepancies, as alleged in respect of 1175 out of 1179 instances. The Noticee has also provided a detailed explanation, along with supporting documents, in respect of the remaining 4 instances. It is reiterated that these 4 client accounts have been suspended for trading and as such, no harm has been caused to any client.</p> <p>It is humbly submitted that the Ld. AO ought to take a considered and lenient view and no adverse observations ought to be made on account of a venial/ technical default, which in any event have been rectified.</p>
20.	<p>The Noticee was following verification process for mobile and</p>	<p>The Noticee has always obtained express consent of the client before undertaking online KYC, as required. The Noticee has provided a date-wise depiction of express consent provided by clients (para 94</p>

Sr. No.	Charge (SCN/ Inspection Letter dated July 20, 2021 Annexure 2 to the SCN)	Reconciliation/ methodology adopted by the Noticee
	<p>email through One Time Password (OTP), however, it did not have provision to obtain express consent of the investor before undertaking online KYC, as mentioned in SEBI Circular dated April 24, 2020.</p>	<p>of the Reply). In light of the same, it cannot be alleged that the Noticee is in non-compliance, as alleged in the SCN.</p> <p>While the Noticee, vide its letter dated November 13, 2021, had stated that the express consent would be available on the Angel One Mobile App and Angel One website by December 2021, the same cannot be inferred to mean that the Noticee did not take express consent prior to December 2021, as evidenced by the table set out in Para 94 of the Reply.</p>
21.	<p>Noticee did not capture live photograph of client with time stamping and geo-tagging liveliness check for the accounts opened with online KYC through the Aadhaar as officially Valid Document (OVD), any other OVD or through download of KYC from KYC Registration Agency (KRA).</p>	<p>The Noticee has provided a detailed explanation in the Reply.</p> <p>It is humbly submitted that the Ld. AO ought to take a considered and lenient view and no adverse observations ought to be made on account of a venial/ technical default, which in any event have been rectified.</p>
22.	<p>In 414 instances out of 501 instances, the Noticee cropped beneficial owner (BO) signature from pan card and uploaded in CDAS and did not obtain wet signature on record or</p>	<p>It is pertinent to note that the PIA categorically records that the Noticee could be charged only for 185 instances which occurred after the period when the relevant circular came into effect i.e., instances occurring between April 24, 2020 to December 2020. Despite the same, the SCN has been issued alleging violation/ non-compliance in respect of 414 instances.</p>

Sr. No.	Charge (SCN/ Inspection Letter dated July 20, 2021 Annexure 2 to the SCN)	Reconciliation/ methodology adopted by the Noticee
	<i>cropped signature (cropped from a signed cancelled cheque or signature on a white paper or signature made on the screen of a device).</i>	<i>Upon receipt of the SCN, the Noticee has reviewed the regulatory requirement and provided a breakup of accounts opened post clarification received from CDSL.  Upon review of the findings, as set out in the SCN, the Noticee has observed that out of 414 instances, only 41 accounts were opened post clarifications received from CDSL vide its circular dated August 10, 2020. Thus, it cannot be alleged that the Noticee failed to obtain wet signatures, as required, in 414 instances, as 373 accounts were opened prior to the period in which the requirement came into effect. It is humbly submitted that the Ld. AO ought to take a considered and lenient view and no adverse observations ought to be made on account of a venial/ technical default, which in any event have been rectified.</i>

## CONSIDERATION OF ISSUES AND FINDINGS

11. I have taken into consideration the facts and material available on record. The issues that arise for consideration in the present case are as follows:

11.1 Whether the Noticee has committed the violations as brought out in the SCN, as mentioned at para 6 above?

11.2 Whether the violations, if any, attract monetary penalty under Section 15HB of the SEBI Act, Section 23D of the SCRA and Section 19G of the Depositories Act?

11.3 If so, what would be the monetary penalty that can be imposed upon the Noticee?

**Issue No. I: Whether the Noticee has committed the violations as brought out in the SCN**

12. I note that SEBI along with the Stock Exchanges and Depositories had conducted a Comprehensive Joint Inspection of the Noticee as a Stock broker and Depository Participant from December 2020 to January 2021. SEBI from the findings of the inspection, observed that the Noticee had allegedly violated, the provisions of SEBI Act, SCRA and Depositories Act. I note that the Comprehensive Joint Inspection report containing the findings of the inspection, was communicated by SEBI to the Noticee, vide letter dated July 20,2021.
13. I note that the Noticee was provided with sufficient time and opportunities to submit its reply to the findings of the inspection. The Noticee had submitted its reply with regard to the allegations observed by SEBI, at different periods, wherein the first reply was submitted by the Noticee vide letter dated November 13, 2021 after the inspection report was communicated to the Noticee. The second reply submitted by the Noticee was vide letter dated December 07, 2022, which was in reply to the SCN issued to the Noticee. The third reply submitted by the Noticee was vide letter dated January 22, 2023 as additional submissions made after the hearing was granted to the Noticee. I note that there was a vast difference in the submissions made by the Noticee, pre and post SCN.
14. In view of the above, I proceed further to adjudge the allegations against the Noticee as a Stock broker and Depository Participant.

**A. WITH REGARD TO THE ALLEGATIONS AGAINST THE NOTICEE AS A STOCK BROKER**

**14.1 Pledging of clients Securities**

- 14.1.1 I note that the allegation against the Noticee is that the funds raised by pledging client's securities were used for other than respective clients'



obligation by the Noticee. I note that the Noticee had pledged securities of clients who have a credit balance in their ledger and the mis-utilization was to the extent of Rs. 32.97 crores.

14.1.2 I note that the Noticee in its reply to the SCN submitted the following with regard to the above allegation;

14.1.2.1 That prior to June 2019, stock brokers/ trading members were allowed to pledge securities of clients in the event these clients were having a debit balance in their account. Accordingly, pledging of securities were undertaken by the Noticee, only in respect of those clients that had a debit balance in their accounts.

14.1.2.2 the trial balance data retrieved by NSE contained the erroneous information and that NSE has accepted the revised trial balance data retrieved by the Noticee and conducted inspection of the Noticee's records on the basis of the revised trial balance. Similarly, the revised trial balance, i.e., the correct trial balance ought to be considered in the instant matter also.

14.1.2.3 in terms of the Noticee's calculations, the amount of purported mis-utilization, if any, is Rs. 27,206/- in only 15 cases and not Rs. 32.97 Crores as alleged in the SCN. Moreover, the purported misutilization in respect of the said amount of Rs. 27,206/- is in respect of 15 instances that too only on April 01, 2019. It was submitted that since April 01, 2019 was a bank holiday, shares pledged by the Noticee with the banks, i.e., shares having value of Rs. 27,206/- were not released by the bank. It was due to this non-release of shares by the bank, it appears that excess shares remained pledged. However, the purported misutilization of Rs. 27,206/- is not attributable to the Noticee and was only on account of non-release of shares by the banks due to bank

holiday. The said issue i.e., non-release of shares was resolved on the next working day and does not persist.

14.1.2.4 pledging activities have been completely stopped and there is no pledging of securities since August 19, 2019, in due compliance with the regulatory mandate.

14.1.3 I note from the above that the submissions made by the Noticee in response to the SCN are subsequent to a revised trial balance calculation. I note that the Noticee provided the data during inspection and had the opportunity to provide fresh data, if any, during the post inspection opportunity provided to it, however the same was not availed by it and hence, since the fresh data submitted by the Noticee in response to the SCN cannot be verified at this stage, the same cannot be accepted. From the findings, based on verified trial balance, I note that balances in the Party Trial Balance is the same balance as per client ledgers across all exchanges and all segments which is ideally considered for calculating value of securities that can be pledged with Bank/NBFC. I note that standard process has been followed by NSE in doing all the calculations.

14.1.4 Also it is pertinent to mention the following judgement of the Hon'ble Securities Appellate Tribunal (Hon'ble 'SAT') in Samco Securities Ltd. vs SEBI (Appeal No. 493 of 2021 decided on March 30, 2022) the Hon'ble SAT held as under: - *"We find that mis-utilization of the clients' credit funds is a grave issue and not in the interest of the securities market. A stockbroker has to treat each of its client as separate and independent entity and ensure that each clients' accounts are settled separately and individually. In this regard, the appellant was statutorily obliged to abide by the directions issued under the SEBI circulars dated November 18, 1993 and September 26, 2016."*

14.1.5 In view of the same, the Noticee's reply cannot be accepted and it is established that the Noticee has violated provisions of SEBI Circular

SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 2.5 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

- 14.1.6 With regard to non-reconciliation of client securities as per back office records with holdings as per Statement of Holding in case of Kotak Mahindra Bank, I note that the allegation is that Noticee did not provide Holding Statement from HDFC Bank and Bajaj Finance w.r.t client securities pledged for 10 sample dates and hence, the same could not be reconciled with back office holding records. Since Pledge Holding Statements from these Banks/NBFC was not received, working for pledging of client securities was done based on back office holdings only. The number of instances were 10 and total amount of misutilisation was alleged to be Rs.32.9 crores.
- 14.1.7 The Noticee has submitted that while carrying out stock reconciliation of back office holding, the back office records are compared with the Depository Participant holding data of the depositories (CDSL and NSDL) on a daily basis. The holding and transaction data of the depositories is the 'source of truth' and appropriate evidence to be considered and the Noticee had carried out reconciliation on the basis of the same. The back-office records of the Noticee ought not to have been compared by the holding statements issued by the banks and instead, the comparison ought to be with the statement of the depositories.
- 14.1.8 With specific reference to non-reconciliation as per back-office records and holding statement of Kotak Mahindra Bank, it has been submitted by Noticee that the number of shares pledged with Kotak Mahindra Bank is the same as shown in CDSL's records. Hence, it cannot be alleged that there are any reconciliation issues at the Noticee's end.

14.1.9 I note that the Noticee, with regard to non-reconciliation of client securities as per back office records and holding statements of Kotak Mahindra Bank, accepted the violation before inspection team. With regards to holding statement from Bajaj Finance, the Noticee failed to provide any substantiating evidence that Bajaj Finance did not provide holding statement. Thus, it is established that the Noticee is not compliant with Clause 6.1.1(j) of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

#### **14.2 Monthly / Quarterly Settlement of Funds and Securities**

14.2.1 SEBI observed that the Noticee did not do actual settlement of funds of inactive clients during inspection period (300 instances and non-settled amount is Rs.43,96,355). It was observed that Noticee did not do actual settlement of funds of clients who did not trade in last 3 months (1081 instances and non-settled amount was Rs.16,65,665). It was observed that the member retained the value of funds & securities to the extent of value of turnover executed on date of settlement in cash market segment after January 16, 2020 (85 instances out of total 200 instances observed and deemed non-settled amount was Rs.10,26,72,815). The number of instances were 1466 (300 inactive and 1081 + 85 active) and the maximum amount involved in this regard was 8.26 crores (43.96 lakhs inactive and 7.83 crores active).

14.2.2 The Noticee in reply to the inspection findings made the following submissions regarding the non-settlement of funds {total 1381 (300+1081) instances} –

14.2.2.1 some funds were blocked against DP charges in 1117 (1051+66) instances,

14.2.2.2 clients were not traceable and the bank account mapped is inactive in 86 instances

14.2.2.3 some clients were having debit ledger balances in 177 (147+30) instances

14.2.2.4 Pay-out released in case of 1 client.

14.2.3 The Noticee in reply to the SCN submitted that upon receipt of the SCN, the Noticee re-worked the settlement calculation for the instances provided in the SCN. In terms of the Noticee's calculation, non-settlement is observed in only 74 instances involving an amount is Rs.3,70,620/- as opposed to in 300 instances involving an amount of Rs. 43,96,355/-, as alleged in the SCN. I note that the Noticee provided the data during inspection and had the opportunity to provide fresh data, if any, during the post inspection opportunity provided to it, however the same was not availed by it and hence, since the fresh data submitted by the Noticee in response to the SCN cannot be verified at this stage, the same cannot be accepted.

14.2.4 I note from the submissions of the Noticee, that though the reason given by Noticee seemed legitimate, that the amount was blocked against DP charges in 1117 instances, it failed to provide any substantiating evidence regarding the same. It is the duty of the stock broker to ensure that bank accounts mapped are active so that timely settlement can be done. Further, Noticee submitted that it kept clients' funds separately as Fixed deposits. But that does not absolve the Noticee from its duty of settling the account once in 30/90 days. The Noticee submitted that client ledgers were having debit balance in 177 instances, but it failed to provide any evidence to prove its point. The Noticee submitted that it released payout in 1 instance. However, no evidence regarding the same was provided.

14.2.5 In case of retention of funds and securities to the extent of value of turnover executed on the date of settlement in cash market segment, the Noticee has accepted that due to some technical issues settlement was not done. The Noticee had accepted the violation, therefore, it is established that the Noticee has not complied with SEBI Circular SEBI/MIRSD/SE/Cir-19/2009 dated December 03, 2009 and Clause 8.1 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/ 2016/95 dated September 26, 2016 r/w BSE Notice No. 20200116-44 dated January 16,2020.

### **14.3 Stock Reconciliation**

14.3.1 It was observed that Noticee had not done periodic reconciliation between DP accounts and back office records. There was a total quantity difference of 44.72 lakhs having absolute value of Rs. 12,26,73,61,257.

14.3.2 The Noticee had stated in its reply to the inspection report findings stated that the reconciliation of back office records with DP statement is done on daily basis. The reason for the difference was that, while reporting the holding statement on weekly basis, balance of stock lying in EPI account was also considered, whereas the same was not considered by NSE while reconciling the same. The PAN number captured by CDSL in EPI was not of the Noticee, due to which there was a mismatch in holding reported by Noticee and the holding considered by NSE. Noticee raised the matter with CDSL, wherein the same was rectified by CDSL in July 2021 post which there has been no mismatch in holding reported by Noticee and as considered by NSE. The reason for mismatch was beyond the control of Noticee, stated the Noticee.

14.3.3 The Noticee in its reply to the SCN stated that it had inadvertently provided details of the EPI account held with BSE and if the EPI account having no. 1100001000014641 (held with NSE) is considered, there would be no

mismatch as alleged in the SCN. Thus, once the shares in the EPI account of the Noticee is considered, there would be no reconciliation mismatch. The Noticee submitted that there is a total mismatch of 44,220 shares having absolute value of Rs. 8,00,183 as against 42.76 Lakh shares having absolute value of Rs. 1226 Crores, as alleged in the SCN. I note that the Noticee provided the data during inspection and had the opportunity to provide fresh data, if any, during the post inspection opportunity provided to it, however the same was not availed by it and hence, since the fresh data submitted by the Noticee in response to the SCN cannot be verified at this stage, the same cannot be accepted.

14.3.4 I note that NSE, vide email dated October 29, 2021, submitted that the demat accounts for which the observation has been mentioned in the report does not pertain to the Early Pay-in Account 1100001100014641. Noticee did not comment on differences arising in the demat accounts for which observation has been put in the report. Thus, it is established that the Noticee had not done periodic reconciliation between DP accounts and back office records and was not compliant with Regulation 17(1)(g) of Brokers Regulations.

#### **14.4 Discrepancies in daily margin statement sent to clients**

14.4.1 SEBI observed that there was a mismatch between fund balances as per ledger and daily margin statement in case of 4 clients (Percentage of irregularity – 40.00%).

14.4.2 The Noticee in its reply to inspection findings had stated that for client codes AJ6829, K88456, PY03, it was unable to determine the balance considered by inspecting officials in the column Funds balance as per ledger. For the client code S139362, a cheque of Rs.76,08,800/- was

deposited by the client but was not intimated to the inspection team. Post intimation the entry was passed due to which the difference was noticed.

14.4.3 The Noticee in its reply to the SCN stated that the discrepancies noted in the ledger balance and the DMS provided to the clients was on account of unsettled entries in the ledger balance not being considered and the same ought not to amount to non-compliance with Clause 3 of SEBI Circular dated August 22, 2011 r/w A(2) and A(5) of the Code of Conduct under Schedule 2 r/w Regulation 9(f) of the SB Regulations.

14.4.4 I observe that NSE, vide email dated October 29, 2021, submitted that Funds Balances that were considered by inspecting officials in case of client codes A16829, K88456 & PY03 were clear ledger balances as on T day i.e after reversal of unsettled bills (T day Bill in case of FO Segment & CD Segment and T day and T-1 day Bill in case of CM Segment). Backdated entry pertaining to deposit of cheque by client leads to mismatch in balance as per ledger and funds balance as appearing in Daily Margin Statement and hence was not acceptable.

14.4.5 In view of the same, the Noticee had failed to comply with the circular at the time of inspection and did not exercise due skill and care with regard to maintenance of clients records. The Code of Conduct specifically states that a stock broker shall maintain high standards of integrity, exercise due skill and care and comply with statutory requirements, which was not followed by the Noticee.

14.4.6 Thus, it is established that the Noticee was non-compliant with Clause 3 of SEBI circular No. CIR/HO/MIRSD/16/2011 dated August 22, 2011 r/w clause A (2) & A (5) of Code of Conduct specified in schedule 2 of Brokers Regulations and regulation 9 (f) of Broker Regulations.

## **14.5 Client Funding**



- 14.5.1 SEBI observed that the Noticee has provided exposure to the client beyond T+2+5 days, amounting to Rs. 2,10,46,428.41/- in spite of non-recovery of debit balances.
- 14.5.2 The Noticee submitted to the inspection team that MTM generated from position in Derivative segment was considered towards granting of exposure. However, the Noticee failed to provide any evidence to corroborate its submission.
- 14.5.3 The Noticee in reply to the SCN submitted that in respect of 1 out of 3 clients, the Noticee had provided exposure to the clients beyond T+2+5, as alleged in the SCN days due to a technical glitch. Further, in respect of 2 clients, there was no exposure beyond T+2+5 days, as alleged in the SCN. In these circumstances, it is submitted that the charge of non-compliance with Clause 2.6 of Annexure of SEBI Circular dated September 26, 2016 r/w Clause 2(d) of SEBI Circular dated June 22,2017 ought not to be concluded against the Noticee and a considered and lenient view ought to be taken.
- 14.5.4 I note that the Noticee has submitted that MTM generated from position in Derivative segment was considered towards granting of exposure. However, it failed to provide any evidence to corroborate its submission. Further, the Noticee has accepted the non-compliance in 1 case due to technical glitch. Hence, it is established that the Noticee has not complied with Clause 2.6 of Annexure of SEBI Circular SEBI/HO/MIRSD/ MIRSD2/ CIR/ P/2016/95 dated September 26, 2016 read with Clause 2(d) of SEBI circular CIR/HO/MIRSD/MIRSD2/CIR/ P/2017/64 dated June 22, 2017.

#### **14.6 Verification of UCC/Email ID and Mobile numbers**

- 14.6.1 I note that SEBI had observed 35,179 instances of PAN mismatch between UCC & TM back office record. It was observed that in 2,227 instances e-

mail IDs of the clients in the Noticee's database were not matching with the details in exchange database. It was observed that there were 2,336 instances where mobile numbers of clients in the Noticee's database were not matching with the details in exchange database.

14.6.2 I note that the Noticee submitted to the inspection team that for 35,154 instances, there is no mismatch found. However, the Noticee failed to provide any evidence to substantiate its submission. The Noticee further in its reply to the SCN has submitted that on a sample basis, contract notes (issued at the relevant time) with correct PAN as mentioned in the UCC, for 3566 clients i.e. approximately 10% of the purported discrepancies, is annexed and if required, contract notes in respect of the remaining 31,588 clients can be produced and brought on record. Therefore, it is evident that there is no mismatch between UCC and Noticee's back office in respect of PAN of clients. I note that the Noticee provided the data during inspection and had the opportunity to provide fresh data, if any, during the post inspection opportunity provided to it, however the same was not availed by it and hence, since the fresh data submitted by the Noticee in response to the SCN cannot be verified at this stage, the same cannot be accepted.

14.6.3 The Noticee submitted that with specific reference to remaining 25 cases where a mismatch in the PAN was observed, it is submitted that in respect of 22 clients out of 25, the trading accounts for these clients were opened before 2012, when the systems were not totally automated, and inadvertently a typographical error occurred in these cases while uploading the PAN details in UCC manually. The Noticee would have corrected the discrepancies, however, BSE and MCX do not allow PAN modification. Thus, the mismatch in respect of 22 clients was because of reasons not under the Noticee's control. In respect of the remaining 3

clients (i.e., 25-22 clients), it is submitted that BSE did not allow PAN of the client to be changed.

14.6.4 The Noticee submitted that, it is pertinent to note that since the PAN records as maintained by BSE and MCX cannot be modified/ rectified, the Noticee has diligently blocked these 25 clients' account. It is further submitted that the Noticee once again attempted to resolve this issue and wrote to BSE in respect of PAN mismatch for the specified 25 clients, however, BSE vide its email dated September 29, 2022 has rejected the Noticee's request. Further, in respect of the 2,227 instances where E-mailIDs and 2,336 instances where mobile numbers of the clients in the Noticee's database were not matching with the details in BSE/MCX database, it is submitted that the mismatch was on account of clerical errors. It is submitted that the discrepancy between the Noticee's records and stock exchange database was on account of clerical errors which have been subsequently corrected pursuant to the Inspection. It has been further submitted by the Noticee that all clients were duly receiving contract notes/ other alerts from the Noticee on their email IDs/ mobile numbers as per the records and to avoid instances of such mismatch, the Noticee has started weekly reconciliation process in UCC database and back-office.

14.6.5 For remaining 25 instances, Noticee submitted that it had updated the correct PAN in exchange database. Thus, I note that earlier there was mismatch between PAN as per back office and UCC data. I note that regarding mismatch in email ID (2227 instances) and mobile numbers (2336 instances) between member database and exchange database, Noticee has accepted that mismatches were found owing to clerical errors.

14.6.6 I note that the Noticee failed to provide any evidence to substantiate its submission initially when it had submitted its reply to the inspection findings. However, in its reply to the SCN the Noticee has provided a

sample of the contract notes for verification. I note that the Noticee's submissions on sample contract notes cannot be verified at this stage. However, for 25 instances, Noticee has submitted that he has updated the correct PAN in exchange database. Thus, the mismatch between PAN as per back office and UCC data is established during the period of inspection. Thus, it is established that the Noticee, during the period covered under inspection, violated Regulation 6.1.5 of the NSE (F&O segment) Trading Regulations and Regulation 6.1.4 of Part A of the NSE (Capital Market Segment) Trading Regulations read with clause A (2) and A(5) of code of conduct for stock brokers under Regulation 9 of SEBI (stock brokers) Regulations, 1992. However, as the mismatch has been corrected, I am inclined to a lenient view, in this regard.

14.6.7 I note that with regard to mismatch in email ID (2227 instances) and mobile numbers (2336 instances) between member database and exchange database, the member has accepted that mismatches were found owing to clerical errors. Hence, the violation of Clause 2(B) of SEBI Circular CIR/MIRSD/15/2011 dated August 02, 2011 by the Noticee during the period covered under inspection stands established.

#### **14.7 Analysis of Enhanced Supervision Data**

14.7.1 I note that, SEBI observed that the Noticee reported incorrect ledger balances of 30,602 clients (net difference of Rs.340.81 Cr.) to the exchange for the month of October 2020.

14.7.2 I note that the Noticee submitted its reply to the inspection team stating that the client ledger considered for reporting weekly enhanced supervision data was as per the voucher date due to which there was a difference in reporting of client ledger. The Noticee submitted that it has rectified the same and as a process they reconcile the Enhance

supervision data along with the client ledger and only then submit the data to Regulator. The Noticee submitted that the difference was due to voucher date it has rectified the cause which was leading to reporting of incorrect ledger balances to Exchange.

14.7.3 I note that the Noticee in its reply to the SCN submitted that the net difference is Rs. 34.08 Crores and not Rs. 340.81 Crores as recorded in the SCN. It is submitted that the Noticee had adopted a process of reporting ledger balances on the basis of Voucher Date Balance ("VDT") entries, instead of EDT/clear balance. Since September 2021, the Noticee has corrected its methodology. The Noticee submitted that accounts/balances were duly maintained by and only due to inadvertence/ incorrect understanding, the wrong entries were considered for the reporting, i.e., the VDT entries instead of the EDT/ clear balance entries, on account of which there is a discrepancy in the reporting. In the event the ledger balances are generated/ converted using the EDT method and compared with the revised party trial balance there would be no discrepancy, as alleged in the SCN.

14.7.4 I note that the Noticee with regard to reporting weekly enhanced supervision data has admitted that there was a difference in reporting of client ledger and has also submitted that since September 2021, the Noticee has corrected its methodology. Thus, it is established that the Noticee was non-compliant during the inspection period till September 2021 and as alleged the Noticee has violated Clause 7 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016, for the said period.

## **14.8 Risk based supervision**

- 14.8.1 I note that, SEBI observed that the Noticee did not rightly report the value of collaterals of debit balance clients. There was a difference of Rs. (7,56,80,20,796) between the balances reported to the exchange (Rs.8,04,89,01,455) under RBS and the weekly holding submission (Rs.48,08,80,658).
- 14.8.2 The Noticee submitted to the inspection team that the figure submitted in RBS is the valuation of the holding for the debit balance clients and in the holding statement there is actual holding (Qty) of scrips of the clients and not the valuation. The Noticee stated that there is no difference on the same.
- 14.8.3 The Noticee submitted in its reply to the SCN that there was a difference of Rs.7,56,80,20,796/- between the balances reported to the Exchanges under RBS and the weekly holding submissions, it appears that the RBS for March 2020 has been compared to the weekly holding submissions for September 2020. However, the Noticee has not substantiated its response.
- 14.8.4 I note that Member's contention that only quantity of actual holding has been considered by NSE cannot be accepted as NSE had calculated the value by multiplying quantity of securities reported by member in Holding Submission as on 30.09.2020 with rate of securities as on the same day. Thus, it is established that the Noticee was non-compliant with Clause 6.1.1.e of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

## **14.9 Complaints and Arbitration**

- 14.9.1 I note that SEBI observed that the Noticee highlighted the practice, that new clients are provided with the welcome kit which inter-alia contains the POA form. However, in case of client code S386216, it was noted that

the documents provided by the Noticee do not adequately prove that the POA was provided to the client along with the welcome kit. In addition, as no other welcome kit for any other client(s) was provided by the Noticee, it was observed that the said document(s), in general, are not provided to the clients along with the welcome kit.

- 14.9.2 The Noticee submitted to the inspection team that it had sent POA form as an attachment to the welcome mail. However, the Noticee did not provide the forwarded mail along with all the attachments. Instead it provided a copy of the mail from which it is not clear if POA was attached or not along with the welcome mail.
- 14.9.3 The Noticee in its reply to the SCN stated that a pre-filled POA form is provided along with a welcome kit to each client. On a sample basis, email logs showing that Noticee has sent welcome kit along with a pre-filled voluntary POA form to all its clients has been annexed. With specific reference to client code S386216, it is submitted that the complaint filed by the said client was adequately addressed and resolved by the Noticee. As explained to the client, the shares purchased by the said client could not be held more than 7 days in Client Unpaid Securities Account (CUSA Account) as no POA was signed and sent by the said client to the Noticee, accordingly, the shares were sold by the Noticee on BSE platform in compliance of SEBI's own Circular.
- 14.9.4 I observe from the submissions made by the Noticee, that client kit contains the POA. However, it failed to produce due evidence to the inspecting team and the status of compliance during the inspection period cannot be ascertained at this point in time. Thus, it is established that Noticee was not in compliance with clauses A(1) & A(2) of code of conduct for stock brokers under Regulation 9 of Brokers Regulations.

#### **14.10 Client order recording**

- 14.10.1 It was observed that client details like code, name, etc., were not captured/ confirmed in the records submitted for clients i.e. V11001, L16870, VBB48 and RPRC1005.
- 14.10.2 The Noticee submitted to the inspection team that APs have the practice of confirming trade only by mentioning the name of client as most of them are regularly into trading and are known clients at AP's office.
- 14.10.3 The Noticee in its reply to the SCN stated that no complaints have been raised by the aforesaid clients in disputing the trades in their accounts. Further, in respect of all 4 clients, and in all instances, bills for transactions executed on the dates of the disputed call transactions were posted in the ledger of these clients and no dispute has been raised in respect of the same. The Noticee submitted that in 3 out of 4 instances mentioned, client's mobile number appearing on the file of the call recording is the same as that mentioned in the KYC documents. In 1 instance, the call was received from the client. Since the calls were being made on/from the registered mobile no. of the clients, it could be reasonably assumed that the call was answered/ made by the client himself and therefore, there was no requirement to confirm details such as client code etc. As also submitted vide the Reply to the Inspection Letter, these clients had been trading with the Noticee for more than a year and hence the clients were known to the dealers. The Noticee submitted that in light of the fact that no disputes have been raised by any of these clients, it is evident that no loss/ harm has been caused to the clients and thus, there is no non-compliance/ violation, as alleged in the SCN.
- 14.10.4 I note from the submissions made by the client, that aforesaid clients have not disputed the trades in their accounts due to non- confirmation



of client code. However, as Clause ii of SEBI circular CIR/HO/MIRSD/MIRSD2/ CIR/P/2017/108 dated September 26, 2017 clearly states that “*The members shall execute the trade of clients only after keeping evidence of the client placing such order*” there is no exception for regular trading or known clients. Thus, it is established that the Noticee has violated clause 2 & 3 of SEBI circular CIR/HO/MIRSD/MIRSD2/CIR/ P/2017/108 dated September 26, 2017.

#### **14.11 Stock Mismatch Analysis**

14.11.1 I note that w.r.t. stock mismatch, the Noticee has submitted that a difference has arisen on account of non-consideration of BSE holding in all 6 instances. For 5 instances, Noticee has provided the ROS of BSE. However, Noticee has failed to provide the ROS in one instance bearing ISIN no. INE274G01010. Thus, there is total mismatch of 15350 securities.

14.11.2 It note that there were 4 instances (2 ISINs - INF179KB1HT1 & INF109KC1OO2) where the mutual funds units (mismatch quantity of 78,44,091 with value Rs.109 Cr.) pertaining to the proprietary account were not reported. For 4 instances (2 ISINs-INF179KB1HT1 and INF109KC1OO2), Noticee has accepted that due to clerical error, there was mismatch.

14.11.3 In 8 instances (8 PANs & 6 ISINs), the available records were insufficient to justify the securities mismatch and the securities movement. (net negative mismatch quantity 5,23,867; net negative value Rs2.14 Cr.) With regard to client code A112461, Noticee has submitted that shares sold by clients were auction settled at exchange level. However, Noticee has not provided any substantiating evidence to corroborate the same. With regard to client codes DELP5896, G937 and K59425, Noticee has

submitted the contract notes to substantiate the reasons of mismatch. But contract note is just the confirmation of trade, it does not substantiate the movement of securities. Hence, contract notes submitted by member cannot be accepted as valid evidence to provide for mismatch. With regard to client codes DELP988 and P2840, Noticee has submitted that it has already reported holdings on the date of observation and holding statements substantiate the same. For an instance bearing client code M1271 45, Noticee has not provided the relevant explanation. For an instance bearing client code P120593, member has submitted that shortage of shares was internal and settled with financial closure. However, it has not provided any evidence regarding the same. Hence, its reply cannot be accepted. Thus there is total mismatch of 418221 securities with mismatch value of 1.35 crores

14.11.4 From the holding statements submitted by the Noticee for the month of January 2020, I note that the PAN - ABCDE1234F was mapped to multiple clients. For 4 sample dates of January 2020 viz. 7<sup>th</sup>, 8<sup>th</sup>, 30<sup>th</sup> and 31<sup>st</sup>, the said PAN is mapped to 1,179 different clients. With regards to mapping of single PAN to multiple clients (1179 clients), Noticee has accepted the violation and attributed it to technical bug of IT system. With regards to mapping of single PAN to multiple clients (1179 clients), Noticee has accepted the observation and attributed it to technical bug of IT system. Thus, it is established that the Noticee was not in compliance with clause 6.1.1 (j) of SEBI Circular No. SEBI/HO/MIRSD/MIRSD02/CIR/P/2016/95 dated September 26, 2016.

**B. With regard to the allegations against the Noticee as a Depository Participant**

## **14.12 Account opening and KYC**

14.12.1 I note that in case of online account opening, it was observed that the Noticee is following verification process of mobile and email through One Time Password (OTP), however, it was supposed to make provision for express consent of the investor before undertaking online KYC as mentioned in SEBI Circular dated April 24, 2020. The Noticee vide letter dated 13-11-2021 informed that Client consent for online account opening will be available in new version of Angel One Mobile App and Angel One website by December 2021. The Noticee vide letter dated 13-11-2021 informed that Client consent for online account opening will be available in new version of Angel One Mobile App and Angel One website by December 2021 from DP's end. Therefore, I note that the violation persisted during inspection period and the same was also confirmed by CDSL vide mail dated December 28, 2021. Further, all instances for which violation was observed pertain to the period between April 24, 2020 to December 2020 i.e. the period when the circular pertaining to E-KYC came into effect.

14.12.2 I note that Noticee had not captured the live photograph of the client with time stamping and geo-location tagging and liveness check for the accounts opened with online KYC through the Aadhaar as OVD, any other OVD or through download of KYC from KRA. The DP has vide letter dated 13-11-2021 informed that they have implemented the same as on 1st September, 2021 and the same was under UAT/testing phase. Later on, they decided to develop the same internally due to unsuccessful vendor implementation. Thus, the entire development was delayed and implemented successfully by October, 2021. From the reply of Noticee, it was clear that DP had implemented the same on 1st September, 2021. Thus, the violation persisted during the inspection period as also

confirmed by CDSL vide mail dated December 28, 2021. Further, all instances for which violation is observed pertain to the period between April 24, 2020 to December 2020 i.e. the period when the circular pertaining to E-KYC came into effect.

14.12.3 I note that in 414 instances out of 501 instances, Noticee cropped BO signature from pan card and uploaded in CDAS, Noticee did not obtain wet signature on record or cropped signature. The Noticee vide letter dated 13-11-2021 informed that the specified procedure for cropping of signature is under development and the same will go live in new version of Angel One Mobile App by end of December-2021. Therefore, it is evident that the same was not implemented during the inspection period and the violation persisted during that period in 185 out of 501 instances.

14.12.4 I see that the Noticee in reply to the SCN had stated that it has always been diligent regarding taking express consent of its clients before undertaking online KYC process. The express consent of the client is obtained once in terms of SEBI Circular dated April 24, 2020, and only after taking such consent, the account is opened for the client.

14.12.5 The Noticee has further stated that it is in due compliance with requirements and had implemented capturing of live photographing etc., in terms of SEBI Circular dated April 24, 2020, however, the application rolled out by the Noticee was facing technical glitches and the success percentage was low (around 70%). Due to these technical glitches in the Noticee's application/ website, the Noticee had to develop the same internally and the newly developed software was rolled out by October 2021. Thus, while the Noticee's software was facing glitches, it cannot be alleged that the Noticee has not complied with the requirements. It was on account of the Noticee's endeavours to develop and provide a more seamless application for its clients, there was a delay in rolling out the

revised software. The Noticee has further stated that it is incorrect to allege that in 414 instances out of 501, the Noticee did not obtain wet signature. A breakup of the accounts opened (in respect of the alleged 414 accounts) vis-a-vis the date on which the requirement to obtain wet signatures or cropped signature (from cancelled cheque or white paper) came into effect i.e., post issuance of the SEBI Circular dated April 24, 2020 has been 170 accounts. A further breakup of the accounts opened (in respect of the alleged 414 accounts) vis-a-vis the date on which the requirement to obtain wet signatures or cropped signature (from cancelled cheque or white paper) came into effect i.e., from the clarification provided by CDSL vide its Circular dated August 10, 2020 has been set out as 41 accounts. In light of the above, it is incorrect to allege that the Noticee failed to obtain wet signatures in respect of 414 accounts as only 41 accounts were opened post clarifications received from CDSL.

14.12.6 I note that the Noticee as a DP has submitted that it had taken express consent of the clients and provided a screenshot of the consent taken from clients, therefore I am inclined to take a lenient view in this regard.

14.12.7 Further I note that with regard to capturing of live photographing of clients etc., in terms of SEBI Circular dated April 24, 2020, the Noticee due to technical glitches had rolled out the newly developed software by October 2021. However, there is a non-compliance of the SEBI Circular dated April 24, 2020, from April 24, 2020 till October 2021. Therefore, I hold the Noticee is in violation of SEBI Circular dated April 24, 2020, by not doing live photographing of clients.

15. From the above it is established that the Noticee as a Stock broker and Depository Participant has been non-compliant with the following provisions:

- 15.1 Section 23D of SCRA r/w SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 2.5 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.
- 15.2 Section 23D of SCRA r/w Clause 6.1.1(j) of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016
- 15.3 SEBI Circular SEBI/MIRSD/SE/Cir-19/2009 dated December 03, 2009 and Clause 8.1 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 r/w BSE Notice No. 20200116-44 dated January 16,2020.
- 15.4 Regulation 17(1)(g) of SEBI (Stock Brokers) Regulations, 1992 (hereinafter referred to as "Brokers Regulations")
- 15.5 Clause 3 of SEBI circular CIR/HO/MIRSD/16/2011 dated August 22, 2011 r/w clause A (2) & A (5) of code of conduct specified in schedule 2 of Brokers Regulations and Regulation 9 (f) of Brokers Regulations.
- 15.6 Clause 2.6 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016 /95 dated September 26, 2016 r/w Clause 2(d) of SEBI circular CIR/HO/MIRSD/MIRSD2/CIR/P/2017/ 64 dated June 22, 2017.
- 15.7 Regulation 6.1.5 of the NSE (F&O segment) Trading Regulations and Regulation 6.1.4 of Part A of the NSE (Capital Market Segment) Trading Regulations r/w clause A (2) and A(5) of code of conduct for stock brokers u/r 9 of Brokers Regulations.
- 15.8 Clause 2(B) of SEBI Circular CIR/MIRSD/15/2011 dated August 02, 2011.
- 15.9 Clause 7 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/ CIR/P/2016 /95 dated September 26, 2016.
- 15.10 Clause 6.1.1.e of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/ CIR/P/2016 /95 dated September 26, 2016.
- 15.11 Clauses A(1) & A(2) of code of conduct for stock brokers under Regulation 9 of Brokers Regulations.

- 15.12 Clause 2 & 3 of SEBI circular CIR/HO/MIRSD/MIRSD2/CIR/P/2017/108 dated September 26, 2017.
- 15.13 Clause 6.1.1 (j) of SEBI Circular No. SEBI/HO/MIRSD/MIRSD02/ CIR/P/2016/95 dated September 26, 2016.
- 15.14 SEBI Cir no. SEBI/HO/MIRSD/DOP/CIR/P/2020/73 dated April 24, 2020
16. The provisions of the regulations and circulars violated are given below as extract or link for reference: -

**Section 23D of SC (R) Act, 1956**

*23D. Penalty for failure to segregate securities or monies of client or clients. —If any person, who is registered under section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), as a stock broker or sub-broker, fails to segregate securities or moneys of the client or clients or uses the securities or moneys of a client or clients for self or for any other client, he shall be liable to a penalty not exceeding one crore rupees.*

**Clause 1 of the Annexure to SEBI Circular no. SMD/SED/CIR/93/23321 dated November 18, 1993**

[https://www.sebi.gov.in/legal/circulars/nov-1993/regulation-of-transactions-between-clients-and-brokers\\_19445.html](https://www.sebi.gov.in/legal/circulars/nov-1993/regulation-of-transactions-between-clients-and-brokers_19445.html)

**Clause 3 of Annexure to SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 (herein after referred to as “Enhanced Supervision Circular”)**

**Clause 8.1 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.**

**Clause 2.6 of Annexure to SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016**

**Clause 6.1.1.e of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/ CIR/P/2016 /95 dated September 26, 2016.**

**Clause 6.1. 1(j) of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016**

**Clause 7 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/ CIR/P/2016 /95 dated September 26, 2016.**

[https://www.sebi.gov.in/legal/circulars/sep-2016/enhanced-supervision-of-stock-brokers-and-depository-participants\\_33334.html](https://www.sebi.gov.in/legal/circulars/sep-2016/enhanced-supervision-of-stock-brokers-and-depository-participants_33334.html)

**SEBI Circular SEBI/MIRSD/Se/Cir-19/2009 dated December 03, 2009**

[https://www.sebi.gov.in/legal/circulars/dec-2009/dealings-between-a-client-and-a-stock-broker-trading-members-included\\_2891.html](https://www.sebi.gov.in/legal/circulars/dec-2009/dealings-between-a-client-and-a-stock-broker-trading-members-included_2891.html)

**BSE Notice No. 20200116-44 dated January 16,2020**

<https://www.bseindia.com/markets/MarketInfo/DispNewNoticesCirculars.aspx?page=20200116-44>

**Regulation 17(1)(g) of SEBI (Stock Brokers) Regulations, 1992**

CHAPTER IV

GENERAL OBLIGATIONS AND RESPONSIBILITIES

To maintain proper books of account, records, etc

17. (1) Every Stock Broker shall keep and maintain the following books of account, records and documents, namely:—

(g) Documents register containing, inter alia, particulars of securities received and delivered in physical form and the statement of account and other records relating to receipt and delivery of securities provided by the depository participants in respect of dematerialized securities

**Clause 3 of SEBI circular CIR/HO/MIRSD/16/2011 dated August 22, 2011**

[https://www.sebi.gov.in/legal/circulars/aug-2011/simplification-and-rationalization-of-trading-account-opening-process\\_20483.html](https://www.sebi.gov.in/legal/circulars/aug-2011/simplification-and-rationalization-of-trading-account-opening-process_20483.html)

**Clause A (2) & A (5) of the Code of Conduct, read with Regulation 9(f) of the SEBI (Stock Brokers) Regulations, 1992**

**Regulation 9(f) of the SEBI (Stock Brokers) Regulations, 1992**

9. Any registration granted by the Board under regulation 6 shall be subject to the following conditions, namely, -

(f) he shall at all times abide by the Code of Conduct as specified in Schedule II;

**Clause**

A. General.

**(2) Exercise of due skill and care:**

A stock-broker shall act with due skill, care and diligence in the conduct of all his business.



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

**Clause 2(d) of SEBI Circular CIR/HO/MIRSD/MIRSD2/CIR/P/2017/64 dated June 22, 2017.**

[https://www.sebi.gov.in/legal/circulars/jun-2017/clarification-to-enhanced-supervision-circular\\_35165.html](https://www.sebi.gov.in/legal/circulars/jun-2017/clarification-to-enhanced-supervision-circular_35165.html)

**Regulation 6.1.5 of the NSE (F&O segment) Trading Regulations**

6.1.5 Trading Members shall maintain and preserve for a period of seven years a mapping of client IDs used at the time of order entry in the trading system with those unique client IDs along with client name, address and other particulars given in the Know your Client form.

**Regulation 6.1.4 of Part A of the NSE (Capital Market Segment) Trading Regulations**

6.1.4 Trading Members shall maintain and preserve for a period of seven years a mapping of client IDs used at the time of order entry in the trading system with those unique client IDs along with client name, address and other particulars given in the Know Your Client form.

**SEBI Circular CIR/MIRSD/15/2011 dated August 02, 2011**

[https://www.sebi.gov.in/legal/circulars/aug-2011/sms-and-e-mail-alerts-to-investors-by-stock-exchanges\\_20373.html](https://www.sebi.gov.in/legal/circulars/aug-2011/sms-and-e-mail-alerts-to-investors-by-stock-exchanges_20373.html)

**SEBI circular CIR/HO/MIRSD/MIRSD2/CIR/P/2017/108 dated September 26, 2017**

[https://www.sebi.gov.in/legal/circulars/sep-2017/prevention-of-unauthorised-trading-by-stock-brokers\\_36079.html](https://www.sebi.gov.in/legal/circulars/sep-2017/prevention-of-unauthorised-trading-by-stock-brokers_36079.html)

**SEBI Cir no. SEBI/HO/MIRSD/DOP/CIR/P/2020/73 dated April 24, 2020**

<https://img1.digitallocker.gov.in/circulars/SEBI%20circular%20on%20KYC%20process%20and%20use%20of%20technology%20for%20KYC%20%2024-Apr-20.pdf>

## **ISSUE II: Whether the violations attract monetary penalty under Section 15HB of the SEBI Act, Section 23D of the SCRA and Section 19G of the Depositories Act?**

17. The aforesaid violations, having been proved, makes the Noticee liable for monetary penalty u/s Section 15HB of the SEBI Act, Section 23D of the SCRA and Section 19G of the Depositories Act, which is reproduced below for reference:

### ***SEBI Act***

#### ***Penalty for contravention where no separate penalty has been provided***

*15HB. Whoever fails to comply with any provision of this Act, the rules or the Regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.*

### ***SCRA***

#### ***Penalty for failure to segregate securities or moneys of client or clients.***

*23D. If any person, who is registered under section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) as a stock broker or sub-broker, fails to segregate securities or moneys of the client or clients or uses the securities or moneys of a client or clients for self or for any other client, he shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.*

### ***Depositories Act***

#### ***Penalty for contravention where no separate penalty has been provided.***

*19G. Whoever fails to comply with any provision of this Act, the rules or the regulations or bye-laws made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.*

18. I note that the limited purpose of these proceedings is to determine if Noticee has violated provisions of securities laws and if so whether it warrants imposition of penalty. I note that the Noticee had submitted that, each of alleged mistakes/errors and violations is either technically wrong reading, or erroneous extraction of data, or erroneous reading of the information in question, and reconciliations could easily be achieved once the perception of discrepancy is crystallized.

**ISSUE III: If so, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in Section 15J of the SEBI Act, Section 23J of the SCRA and Section 19 I of the Depositories Act?**

19. While determining the quantum of penalty, it is important to consider the factors stipulated in Section 15J of the SEBI Act, Section 23J of the of the SCRA and Section 19 I of the Depositories Act, which reads as under: -

***Factors to be taken into account by the adjudicating officer***

***15J.*** While adjudging quantum of penalty under [15-I or section 11 or section 11B, the Board or the adjudicating officer] shall have due regard to the following factors, namely:—

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;*
- (b) the amount of loss caused to an investor or group of investors as a result of the default;*
- (c) the repetitive nature of the default.*

***Factors to be taken into account while adjudging quantum of penalty.***

23J. While adjudging the quantum of penalty under section 12A or section 23-I, the Securities and Exchange Board of India or the adjudicating officer shall have due regard to the following factors, namely:—

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
- (b) the amount of loss caused to an investor or group of investors as a result of the default;
- (c) the repetitive nature of the default.

**Factors to be taken into account while adjudging quantum of penalty**

19-I. While adjudging the quantum of penalty under section 19 or section 19H, the Board or the adjudicating officer shall have due regard to the following factors, namely:—

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
- (b) the amount of loss caused to an investor or group of investors as a result of the default;
- (c) the repetitive nature of the default

20. The available records do not reveal specific loss suffered by the clients due to violations by the Noticee. I note from the replies submitted by the Noticee that violations in its operations were at a lesser percentage considering the massive client base. Nevertheless, the amount of mis-utilisation, quantity of shares mis-utilised, period of non-compliance and the number of provisions violated cannot be overlooked. In terms of governing provisions under securities law, the Noticee is duty bound to take appropriate measures to ensure compliance with all Regulations, it is stipulated to abide by.

21. Since the violation of Regulations is established, a commensurate penalty is required to be imposed. However, on account of various factors, such as corrective

measures taken subsequently and the difficulties during the Covid-19 pandemic, I would like to take a lenient view with regard to the penalty to be imposed for certain technical violations by the Noticee. However, where the violations are grave, I am inclined to impose a proportionate penalty.

22. I note that the Noticee as a SEBI registered Intermediary, is under a statutory obligation to abide by the provisions of the SCRA, SEBI Act and Depositories Act. The Noticee is also bound to cooperate and be cautious during regulatory procedures such as inspections. However, the Noticee has not been diligent in abiding by all the provisions of law under the respective Acts, has not fulfilled all its statutory obligations as a stock broker and depository participant and has not been cautious in providing data during inspection. Considering all the above facts related to the matter, I am inclined to levy an appropriate penalty on the Noticee, which should act as a deterrent. I note that adjudication proceedings have been initiated by SEBI against the Noticee in the past also and penalty imposed on the Noticee in more than one matter.

## **ORDER**

23. Therefore, in exercise of powers conferred upon me under u/s 19 of the SEBI Act, 1992, r/w Section 15-I (1) of the SEBI Act and Rule 3 of Adjudication Rules, u/s 23 I of SCRA r/w Rule 3 of the SC(R) Rules and Section 19 of Depositories Act, 1996 r/w Rule 3 of the Depositories Rules, I hereby impose a penalty of Rs. 10,00,000/- (Rupees Ten Lakhs only), upon the Noticee i.e., Angel Broking Limited (PAN: AAACM6094R) under section Section 15HB of the SEBI Act, Section 23D of the SCRA and Section 19G of the Depositories Act for violation of Regulation under SEBI Act, under SCRA and under the Depositories Act as provided in para 15

above. I find that the said penalty is commensurate with the violations committed by the Noticee in this case.

24. The Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order through online payment facility available on the website of SEBI, i.e. [www.sebi.gov.in](http://www.sebi.gov.in) on the following path, by clicking on the payment link:

**ENFORCEMENT → ORDERS → ORDERS OF AO → PAY NOW**

25. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, SEBI may initiate consequential actions including but not limited to recovery proceedings u/s 28A of SEBI Act, 23JB of the SCRA and 19-IB of Depositories Act for realization of the said amount of penalty along with interest thereon, inter alia, by attachment and sale of movable and immovable properties.
26. In terms of Rule 6 of the Adjudication Rules, a copy of this order is sent to the Noticee and also to the Securities and Exchange Board of India.

**Place: Mumbai**

**Date: April 28, 2023**

**AMIT KAPOOR**

**ADJUDICATING OFFICER**