

**SECURITIES AND EXCHANGE BOARD OF INDIA**

***EX PARTE - AD- INTERIM ORDER***

**UNDER SECTIONS 11(4), 11B AND 11D OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH REGULATION 35 OF SECURITIES AND EXCHANGE BOARD OF INDIA (INTERMEDIARIES) REGULATIONS, 2008. IN RESPECT OF**

- 1) AMRAPALI AADYA TRADING & INVESTMENT PVT. LTD. (PAN-AAECA3909P)**
- 2) AADYA COMMODITIES PVT. LTD( PAN-AAHCA2094C)**
- 3) MR. SANJEEVA KUMAR SINHA (PAN-ALEPS6005L)**
- 4) MR. PAWAN MISHRA (PAN-AMIPM6148D)**
- 5) MS. AMITA SINHA (PAN-AOIPS2038G)**
- 6) MS. VANDANA SINHA (PAN-ASUPS6193E)**
- 7) MR. SUJEET KUMAR SONA (PAN- CWTPS3069L)**
- 8) MR. ABNISH KUMAR SUDHANSHU (PAN-AXQPS1237C)**
- 9) MR. NARAYAN JEE THAKUR (PAN-ADIPT8774F)**

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1. Amrapali Aadya Trading & Investment Pvt. Ltd. (hereinafter referred as 'AATIPL'/'Amrapali'/'Stock Broker'/'Broker'/) having its registered office at 13, Vaishali, Pitampura, Delhi-110088. is registered with SEBI in following categories:

- a) As a stock broker of equity segment of National Stock Exchange Ltd. (NSE) (Registration number: INB231183436),
- b) As a stock broker in equity derivative segment of NSE (Registration number: INF231183436)
- c) As a stock broker in Currency Derivative Segment of NSE (Registration number: INE231183436)
- d) As a stock broker in equity segment of Bombay Stock Exchange Ltd. (BSE) (Registration number: INB011183432)

- e) As a stock broker in equity derivative segment of BSE (Registration number: INF011183432)
- f) As a stock broker in equity segment of MSEI- formerly known as MCX-SX (Registration number: INB261183439)
- g) As a stock broker in equity derivative segment of MSEI (Registration number: INF261183439)
- h) As a Depository Participant of Central Depository Services Ltd. (CDSL) (Registration number: IN-DP-CDSL-487-2008).
- i) As a Registered Portfolio Manager (Registration number: INP000004862)
2. Aadya Commodities Pvt. Ltd. (hereinafter referred as ‘ACPL’/ ‘Aadya’/ ‘CD Broker’) is registered with SEBI as a commodity derivatives broker of Multi Commodity Exchange of India Ltd (MCX) (Registration number: INZ000028637).
3. Mr. Sanjeeva Kumar Sinha (PAN- ALEPS6005L) and Mr. Pawan Mishra (PAN- AMIPM6148D) are the directors of AATIPL.
4. Ms. Amita Sinha (PAN-AOIPS2038G), Ms. Vandana Sinha (PAN- ASUPS6193E), Mr. Sanjeeva Kumar Sinha (PAN- ALEPS6005L) and Mr. Sujeet Kumar Sona (PAN- CWTPS3069L) are the directors of ACPL.
5. The entity wise summary of directorship and their tenure is as under:

<b>S. No</b>	<b>Entity Name</b>	<b>Tenure of the Directors</b>
<b>A</b>	<b>Amrapali Aadya Trading &amp; Investment Pvt. Ltd.</b>	
	<b>Present Directors</b>	
1	Mr. Sanjeeva Kumar Sinha	21/09/11 till date
2	Mr. Pawan Mishra	23/01/17 till date
	<b>Past Directors</b>	
1	Mr. Abnish Kumar Sudhanshu	21/12/13- 24/01/17
2	Mr. Narayan Jee Thakur	12/06/10- 30/04/17

S. No	Entity Name	Tenure of the Directors
<b>B</b>	Aadya Commodities Pvt. Ltd	
	<b>Present Directors</b>	
1	Ms. Amita Sinha	05/08/08 till date
2	Ms. Vandana Sinha	05/08/08 till date
3	Mr. Sanjeeva Kumar Sinha (Date of Appointment as per MCA 01/08/2017)	01/08/17 till date
4	Mr. Sujeet Kumar Sona (Date of Appointment as per MCA - 24/07/2017)	24/07/17 till date

6. The list of shareholders holding more than 5% shares of AATIPL is as under:

Sr. No.	Name	Shareholding Pattern	
		No. of shares	% of holding
1	Ms. Vandana Sinha	23,51,700	36.84
2	Tri Deep Leasing And Finance Limited (Directors: Ms. Vandana Sinha, Mr. Sanjeeva Kumar Sinha, Mr. Amit Kumar)	10,14,500	15.89
3	Mr. Sanjeeva Kumar Sinha	6,51,300	10.2
4	Aadya Finsec Pvt Ltd (Directors: Ms. Amita Sinha, Ms. Vandana Sinha, Mr. Sanjeeva Kumar Sinha)	4,60,000	7.21

7. The list of shareholders holding more than 5% shares of ACPL is as under:

Sr. No.	Name	Shareholding pattern	
		No. of shares	% hldg
1	Ms. Vandana Sinha	94,000	52.81
2	Mr. Sanjeeva Kumar Sinha	16,000	8.99
3	Sanjeeva Kumar Sinha and Sons (HUF)	10,000	5.62
4	Shubhshree Portfolios (P) Ltd (Directors: Ms. Amita Sinha, Ms. Vandana Sinha)	10,000	5.62
5	Mr. Vikas Kumar Singh	9,000	5.06

8. SEBI had received a reference dated August 10, 2017 from NSE vide which NSE had forwarded the preliminary findings of inspection of AATIPL for the period April 01, 2016-March 31, 2017 (hereinafter referred to as “reference period”). However, NSE has submitted

that complete data, as required under the inspection has not been submitted by the broker in spite of repeated reminders and visits.

9. In view of the observations made by NSE, email dated August 10, 2017 was sent to CDSL and NSDL by SEBI, seeking details of the securities held by the broker across all demat accounts. Further, vide email dated August 10, 2017, Globe Capital Markets Ltd. (GCML) (Clearing member of the broker) was advised to provide various details such as securities of the broker lying with GCML and securities of the broker pledged with Globe Fincap Ltd./ any other group company of GCML and the loan extended to the broker. A notice dated August 10, 2017 under Section 11(2)(i) of the SEBI Act, 1992 was also issued to the broker seeking various details viz. copies of bank and demat account statements, details of all loans and advances given/ availed by it, receipts/ payments with related parties, details of quarterly settlement, etc. The reply of the Broker has not been received till date. Vide email dated August 10, 2017, BSE, MCX, NSDL and CDSL were advised to closely monitor the activities of AATIPL and ACPL on a regular basis and update SEBI on the same.

10. While conducting a preliminary inquiry into the matter, SEBI perused the documents/records submitted by the broker during the course of inspection conducted by NSE and the materials made available by NSE. Based on the preliminary inquiry by SEBI, the following issues arise for consideration: -

***A. Whether AATIPL has prima facie created pledge of its clients securities and the said creation was not disclosed to the stock exchange, If so whether AATIPL has prima facie violated any provision of securities laws***

11. I observe that NSE sought information from the broker vide e-mail dated April 24, 2017, in order to reconcile the clients' securities in the register of securities maintained by Broker and that available in the DP account. Vide the said e-mail the details of the pledged securities were also sought. Vide its email dated June 12, 2017, broker claimed that securities amounting to Rs. 55.56 crores were available with its clearing member i.e Globe Capital Market Limited (GCML) as on March 31, 2017.

12. However, on further questioning by NSE, the broker admitted that out of securities worth Rs. 55.56 crores, securities worth only Rs.5.8 crores were with GCML and the balance Rs. 49.7 crores of securities were pledged with Globe Fincap Ltd. GCML vide email dated July 11, 2017 to NSE also confirmed the same. AATIPL also provided to NSE, email dated March 31, 2017 from Globe Fincap Ltd. which confirms that Rs. 49.7 crores of securities were pledged with Globe Fincap Ltd.
13. Mr. Sanjeeva Kumar Sinha, Designated Director of AATIPL, also later confirmed to NSE in a meeting held at the office of AATIPL on July 14, 2017, that the clients' securities amounting to Rs. 49.7 crores were pledged with Globe Fincap Limited and Rs. 14.19 crores funds were raised.
14. Therefore, I prima facie find that Rs. 49.7 crores of securities of clients were pledged with Globe Fincap Ltd., as on March 31, 2017, and Rs. 14.19 crores funds were raised out of such creation of pledge and this information was not disclosed until NSE questioned the Broker further.
15. On further verification of trial balance, bank books and beneficiary accounts submitted by the Broker during the course of inspection, NSE had observed that client securities were also pledged with Edelweiss Capital Limited and Axis Bank Limited. The broker had raised funds to the extent of Rs 16.49 crores by pledging client securities with Edelweiss Capital Limited and Axis Bank Limited amounting to Rs. 47.48 crores, out of which Rs. 4.60 crores were not used for respective client obligations.
16. I further prima facie find that the creation of pledge of clients securities with Globe Fincap Ltd. was not disclosed to the NSE in its email dated June 12, 2017.
17. Now, it needs to be considered whether this non-disclosure of creation of pledge is prima facie in violation of any provision of securities laws. Clause A(5) of Code of Conduct

prescribed for the Stock Brokers under the SEBI(Stock Brokers and Sub-brokers) Regulations, 1992 stipulates that the stock-broker shall abide by all the provisions of the Act and the rules and regulations issued by the Government, the Board and the Stock Exchanges from time to time as may be applicable to him.

18. Regulation 7.3.1 of NSE (CM & FO) Regulations, Bye-Law 2(f) of Chapter V of NSEIL Bye laws and Bye-Law 2(h) of Chapter V of NSEIL Bye-Law impose an obligation on the brokers to provide information to Stock Exchange. Since the same has not been provided by the Stock broker, the same is in violation of Clause A(5) of Code of conduct prescribed for the Stock Brokers under the SEBI (Stock Brokers and Sub-brokers) Regulations, 1992.

19. Clause A(1) of Code of conduct prescribed for the Stock Brokers under the SEBI (Stock Brokers and Sub-brokers) Regulations, 1992 stipulates that the stock-broker, shall maintain high standards of integrity, promptitude and fairness in the conduct of all his business.

20. In view of the above provisions of law, with regard to above observations relating to non-disclosure in respect of pledge creation to the Stock Exchange, I am prima facie of the view that AATIPL has violated the provisions of Clause A(1) and (5) of the Code of Conduct prescribed for the stock brokers under the SEBI (Stock Brokers and Sub-brokers) Regulations.

***B. Whether AATIPL has prima facie falsified its accounts to conceal the creation of pledge of its clients securities and entries on debtors liability. If so whether AATIPL has prima facie violated any provision of securities laws.***

21. On examination of the bank statement of Broker, there are entries of receipt / payment of money from Globe Fincap Limited indicating the receipt of money out of pledge from Globe Fincap Limited. However, on examination of the books of the broker it is observed that the fact of creation of pledge was concealed in the trial balance of the Broker. The receipt of funds by way of pledge was also concealed in the trial balance and bank books submitted by

Broker as no details of funds received from Globe Fincap Limited by pledging client securities were appearing therein. It fraudulently concealed the fact of receipt of payment against the pledged shares in its records.

22. Out of 4090 entries pertaining to the period April 1, 2016 to March 31, 2017 in the back office ledger of Broker, 2999 entries pertained to Axis Bank (the account of the Broker). Out of these 2999 entries, 34 entries amounting to Rs. 10.30 crores for receipt and Rs. 3.55 crores for payment pertained to Globe Fincap Limited but were not reflected as such. Further, specifically, in 18 entries out of the 34 entries in the back office bank ledger, for the receipt entries of Rs 8.05 crores and payment entries of Rs. 26.96 Lacs, accounting has been done in different names instead of Globe Fincap Limited. This is borne out by the examination of the bank statements of the Broker where the payment and receipt entries are shown in the name of Globe Fincap Limited. In order to conceal this, the ledger has been falsified as if the receipt and payment of funds are from R2v Business Solutions Pvt Ltd, Adhinath Enterprises, Westlink Trading Pvt Ltd. Therefore, I prima facie, find that the ledger account has been falsified to conceal the full facts of receipt of funds and payment of funds from/ to Globe Fincap Limited.
23. It is also noted that overall 465 entries out of 2999 entries of Axis Bank pertaining to Rs.50.47 crores payment and Rs. 23.43 crores receipt have been verified with the Bank Statement of the Broker. On verification it is observed that ledger has been falsified in respect of entries amounting to Rs. 12.90 crores payment and Rs. 9.73 crores receipts by falsely recording different names in the back office ledger in as many as 107 entries. Therefore, I prima facie find that the Broker has falsified its back office records.
24. On examination of the trial balance, it is observed that the trial balance has also been falsified in respect of the entries relating to the debtors. As per trial balance as on March 31, 2017 submitted on April 19, 2017 by the Broker, an amount of Rs. 16.80 crores were appearing as debtors. However as per trial balance as on March 31, 2017 submitted on August 3, 2017 by the Broker, an amount of Rs. 22.23 crores are appearing as debtors. This further shows that the trial balance details in respect of debtors have also *prima facie* been falsified.

25. Therefore, the further question that arises for prima facie consideration is whether the above said falsification is in violation of any provision of securities law. Regulation 4(2) (p) the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (PFUTP Regulations) prohibits an intermediary predating or otherwise falsifying records such as contract notes. Reg. 4(1) prohibits any person from indulging in a fraudulent or an unfair trade practice in securities. This is prima facie in violation of the provisions of Regulations 4(1) and 4(2)(p) of PFUTP Regulations. Further this is also in prima facie violation of the provisions of Clause A(1) and (5) of the Code of Conduct prescribed for the Stock brokers under the SEBI(Stock Brokers and Sub-brokers) Regulations, 1992.

***C. Whether AATIPL has prima facie failed to segregate client funds and paid clients funds to non clients. If so whether AATIPL has prima facie violated any provision of securities laws.***

26. On examination of bank accounts, it is observed that the net amount transferred from client bank accounts of the Broker to its own bank account is Rs. 21 crores during the period April 1, 2016 to March 31, 2017. It is also observed from the back office ledger of the Broker that there was non segregation of transaction between own and client bank accounts. It is further observed that the Broker is not able to explain further on this failure to segregate the accounts.

27. It has also been observed from some of the bank statements for the period of April 1, 2016 to March 31, 2017 that payments have been made to entities who are not registered as clients of the AATIPL, details of which are as follows:

<b>S. No</b>	<b>Particular</b>	<b>Amount (Rs.)</b>
1	OMNIS DEVELOPERS PVT LTD	3,10,00,000
2	WESTLINK TRADING PVT LTD	3,00,00,000
3	INTECHFLOCK SOFTWARE	2,05,40,000
4	R2V BUSINESS SOLUTIONS PVT LTD	1,20,00,000
5	ADHINATH ENTERPRISES	1,14,00,000
6	INFINITY CORPORATION	1,00,00,000



<b>S. No</b>	<b>Particular</b>	<b>Amount (Rs.)</b>
7	AMETHEUS COMMODITIES PVT LTD	60,00,000
8	MANAV INTERNATIONAL	1,35,24,153
9	AMBIKA MARJORIE DAS	41,00,000
10	TIPPLE CASA PVT. LTD	35,00,000
11	NALCO SALES (INDIA)	25,00,000
12	REGENT INTERNATIONAL	10,34,822
13	M K TRADERS	4,50,000
	<b>Total</b>	<b>14,60,48,975</b>

28. Given the fact that the client funds have been transferred to the own account of the broker and there is a transfer of Rs. 14,60,48,975 to non-clients has serious ramification to the investors.

29. I further prima facie find that non segregation of clients funds from own funds is in violation of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993. Further, non-segregation of clients funds from own funds and using the clients funds for the non-clients is in violation of Clause 15 of Rights and Obligations document for Stock Broker, Sub-brokers and Clients as prescribed by SEBI vide its circular dated August 22, 2011. I am prima facie of the view that AATIPL has failed to segregate its own funds and clients' funds in prima facie violation of the above mentioned circulars.

***D. Whether AATIPL has prima facie transferred its clients' funds and securities to ACPL. If so whether AATIPL and ACPL have prima facie violated any provision of securities laws.***

30. On the examination of the DP statement of Broker, it is observed that the Broker has transferred the securities of other clients to its sister concern i.e. Aadya commodities Pvt. Ltd. during the period April 1, 2016 to March 31, 2017, details of which are as under:-

<b>Particulars</b>	<b>Amount in Rs. Crores</b>
Transfer of securities from Aadya to AATIPL	0.50
Transfer of securities from AATIPL to Aadya	1.86

Net securities of clients transferred to Aadya	1.36
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31. As found prima facie earlier, the AATIPL has not maintained the segregation between own and clients funds. Therefore, it is prima facie clear that the clients' money is available in the business account of the Broker. On the examination of the Bank statements of the AATIPL, it is observed that there is transfer of funds to/ from own account of AATIPL from/to ACPL. Since the clients' money is available in the business account of the Broker, in view of non-separation of its own and clients' funds, prima facie it can be observed that the client money in the Business account is being transferred by the AATIPL to ACPL. Net amount received from Aadya commodities Pvt. Ltd is Rs. 2.57 crores.

Particulars	Amount in Rs. Crores
Receipt in AATIPL from Aadya	8.57
Payment from AATIPL to Aadya	6.00
Net payment received in AATIPL	2.57

32. It is further noted that during the period, ACPL is a registered client of AATIPL. However, the client has not traded in the reference period. Since the client has not traded, the need for securities/ funds being transferred to/ from the client does not arise which in other case would have arisen as pay-in/ pay-out. Further, as per confirmation received from MCX vide email dated August 14, 2017 by SEBI, AATIPL is not registered as a client with ACPL.

33. By transferring clients' funds and securities to ACPL, I am prima facie of the view that AATIPL is in violation of SEBI Circular no. SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 15 of Rights and Obligations document for Stock Broker, Sub-brokers and Clients as prescribed by SEBI vide its circular dated August 22, 2011.

34. Based on available records, the registered office address of both AATIPL and ACPL is observed to be 13, Vaishali, Pitampura, Delhi-110088. Further, as observed from MCA records the Directors of AATIPL are Mr. Sanjeeva Kumar Sinha and Mr. Pawan Mishra and ACPL are Mr. Sanjeeva Kumar Sinha, Ms. Amita Sinha, Ms. Vandana Sinha and Mr. Sujeet

Kumar Sona. ACPL is a related party of AATIPL. Further, Mr. Sanjeeva Kumar Sinha and Ms. Vandana Sinha are the two major shareholders in both AATIPL and ACPL .

35. Therefore, prima facie AATIPL and ACPL are related/connected to each other. Therefore, I am of the prima facie view that ACPL was aware that the securities and money of the clients of AATIPL had been transferred to ACPL.

36. Therefore, the question that arises for consideration is whether transfer of clients' money by AATIPL to ACPL to which ACPL was a party is in violation of any of the provision of securities law. Regulation 9 of the SEBI (Stock Brokers and Sub Brokers) Regulations, 1992 mandates the stock brokers to abide by the Code of Conduct as specified in Schedule II. Clause A(1) of the Code of Conduct for Stock Brokers provides that a stock broker shall maintain high standards of integrity, promptitude and fairness in the conduct of all his business. Further, clause A(5) of the Code of Conduct for Stock Brokers provides that a stock-broker shall abide by all the provisions of the SEBI Act and the rules, regulations issued by the Government, SEBI and the Stock Exchanges from time to time as may be applicable to him. Therefore, AATIPL and ACPL have violated Clause A (1) and clause A (5) of the Code of Conduct for Stock Brokers for the transfer of clients funds and securities.

***E. Whether the clients' securities have been prima facie sold by AATIPL for itself in violation of any provision of securities law.***

37. It is observed that the account of Mr. Deepak Kumar, an employee of the AATIPL has been used to sell securities worth Rs. 99 crores and buy securities worth Rs. 97 crores (combined in NSE and BSE) by the Broker. Since, the security register submitted by Broker for this client is prima facie observed to be incorrect, Pay-in/Pay-out of securities could not be verified. It is observed that Deepak Kumar's (employee of the Broker) account has been used to sell other clients' securities.

38. Mr. Sanjeeva Kumar Sinha of AATIPL while appearing before SEBI on August 11, 2017 admitted through his written statement "*For the functioning of the company we had been*

*providing a certain amount of fixed return to certain clients and on their stock holdings kept with the company. Some of the clients stocks were sold off in the company.....through some of the employee's account and the loss of the company was covered.....”*

39. Clause 15 of Rights and Obligations document for Stock Broker, Sub-brokers and Clients as prescribed by SEBI vide its circular dated August 22, 2011 stipulates that securities of the clients cannot be used for itself. Admittedly since the securities of the clients have been used by AATIPL, I am prima facie of the view that AATIPL has violated this provision.

***F. Whether AATIPL and ACPL have prima facie failed to carry out running account settlement in violation of any provision of securities law***

40. It is observed from the trade records of clients, client ledgers, Register of Securities and trial balance submitted by Broker and verified by NSE during their inspection that the Broker has not made actual settlement of funds and securities of Rs. 32.79 crores for 2296 clients as on March 31, 2017 breaching the requirement of running account settlement of funds and securities as mandated by SEBI. I am prima facie of the view that AATIPL has failed to settle the funds/securities of clients.

41. Further there are pending Investor Grievances which are, prima facie, yet to be resolved by AATIPL and ACPL. For instance SEBI received 113 complaints against AATIPL involving claim value of approx. 7.52 crores and 3 complaints against ACPL involving claim value of approx. Rs. 0.11 crores. As per NSE, there are about 78 complaints pending with NSE having claim value of Rs. 20.44 crores. BSE also informed that it has received one complaint having claim value of approx. Rs. 0.97 crores. MCX, vide its emails dated August 14 and 16, 2017, informed that there are 09 pending complaints having claim value of approx. 0.41 crores. The complaints pertain to non-receipt of funds and securities of the clients. It is pertinent to note that majority of the above complaints have been received between August 7-18, 2017. Therefore, I am of the prima facie view that AATIPL and ACPL are not in a position to pay funds and/or securities of the clients who are demanding the same.

42. On analysis of the financial statements given by the Broker to NSE, it is observed that client funds to the extent of Rs. 5.27 crores in client bank account/ clearing member/ clearing corporation as on March 31, 2017 as against creditors (i.e. clients having credit balance) of Rs. 11.24 crores are not available. However, given the fact that Broker has falsified the accounts, it would require further verification so as to ascertain existence of any other creditors. Therefore, I am of the prima facie view that AATIPL is not in a position to pay funds of the clients who are demanding the same from AATIPL.

43. This is in prima facie violation of Clause 12 of SEBI circular no. MIRSD/SE/Cir-19/2009 dated December 03,2009 and Clause 31 of Rights and Obligations document for Stock Brokers, Sub-Brokers and Clients as prescribed by SEBI vide its circular dated August 22, 2011.

***G. Whether AATIPL has prima facie failed to report its DP accounts to NSE in violation of any provision of Securities law:***

44. On examination of reported accounts and CDSL records, it is stated that AATIPL has not reported the following CDSL accounts till date to NSE.

DP Id	Depository	Account No	DP Name
11000010	CDSL	22760	Indian Clearing Corporation Limited
11000011	CDSL	17894	National Securities Clearing Corporation Ltd.
12020600	CDSL	19714	Globe Capital Market Limited
12020600	CDSL	762767	Globe Capital Market Limited
12032300	CDSL	890824	Edelweiss Securities Limited
12059200	CDSL	3016	Amrapali Aadya Trading & Investment Pvt. Ltd.
12059200	CDSL	3113	Amrapali Aadya Trading & Investment Pvt. Ltd.
12059200	CDSL	3128	Amrapali Aadya Trading & Investment Pvt. Ltd.
12059200	CDSL	12198	Amrapali Aadya Trading & Investment Pvt. Ltd.
12059200	CDSL	29771	Amrapali Aadya Trading & Investment Pvt. Ltd.
12059200	CDSL	29784	Amrapali Aadya Trading & Investment Pvt. Ltd.
12059200	CDSL	209803	Amrapali Aadya Trading & Investment Pvt. Ltd.
16014800	CDSL	40878	Il&Fs Securities Services Limited
16014800	CDSL	40882	Il&Fs Securities Services Limited

43 SEBI vide its Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 regarding Enhanced Supervision of Stock Brokers stipulated that all stock brokers are required to report the details of their existing DP accounts to the Exchange. The Broker ought to have made this disclosure to the stock exchange by July 1, 2017. In view of the failure of AATIPL to report the DP accounts AATIPL has prima-facie violated SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

44 Mr. Sanjeeva Kumar Sinha of AATIPL appeared before SEBI on August 11, 2017. He made certain written submissions during the meeting wherein he admitted that AATIPL had liabilities totaling approximately Rs. 56 crores. The submissions are summarized as under:

- *"I have come to SEBI in view of the serious violation, manipulation and falsification observed by NSE during the inspection of AATIPL during the ongoing inspection.*

- *My present assets and liabilities are as under:*

*Funds creditors approx. 45 cr*

*And also funds obligation to ECL app 14 cr*

*Debtors approx 25 cr*

*FDR 13cr*

*Securities liability app 35 cr (shortfall)*

- *Some of the clients stocks were sold off in the company.....through some of the employee's account and the loss of the company was covered....*

*Details of employees in whose name stocks were sold:*

*1) Deepak Kumar*

*2) Ranjeet Kumar*

*3) Sanjeet Kumar*

*4) Mukesh Kumar"*

45 It is further observed that NSE as confirmed by its email dated August 11, 2017 had restrained the Broker on August 10, 2017 from opening new client accounts till further notice for the regulatory breaches observed by NSE. NSE has also withdrawn the trading rights of AATIPL in all segments w.e.f. August 11, 2017. A circular dated August 11, 2017 was also issued by NSE in this regard.

- 46 Further, BSE informed SEBI that it had conducted an inspection of the broker on August 08, 2017 for FY 2016-17. BSE has made several adverse preliminary observations against the broker such as non segregation of client and own securities, pledging of client securities in respect of clients having credit balance, use of Clients' funds for purposes other than authorized purposes(Eg- HDFC Car Loan amount Rs. 2,24,576.00 total EMI in 11 months). BSE has also observed that a number of clients were demanding their pay-outs from the Broker but the Broker has neither acknowledged nor registered their grievances.
- 47 It is informed by BSE vide its email dated August 11, 2017 that it has deactivated the trading terminal of the stock broker w.e.f. 11.08.2017.
- 48 Vide email dated August 14, 2017, the NSE stated that AATIPL has securities pay-in shortfall to the tune of Rs.28.25 lacs in CM Segment on NSE as on August 14, 2017. It also has an outstanding amount of Rs. 19.17 lacs towards NSE. BSE has vide e-mail dated August 14, 2017 inter-alia stated that AATIPL has failed to meet settlement obligation of around Rs. 85.20 lakhs.
- 49 Mr. Abnish Kumar Sudhanshu ceased to be Director of AATIPL with effect from 24/01/2017 and Mr. Narayan Jee Thakur ceased to be Director of AATIPL with effect from 30/04/2017. However, they were acting as Directors of AATIPL when the violations observed above were on going though they have since then ceased to be Directors. Mr. Sanjeeva Kumar Sinha and Mr. Pawan Mishra are the Directors of AATIPL, Ms. Amita Sinha , Ms. Vandana Sinha, Mr. Sujeet Kumar Sona and Mr. Sanjeeva Kumar Sinha are the Directors of ACPL during the period when the violations were committed by AATIPL and ACPL and are ongoing.
- 50 Any Company though a legal entity cannot act by itself, it can act only through its Directors. They are expected to exercise their power on behalf of the company with utmost care, skill and diligence. In terms of section 179 of the Companies Act, 2013, the Board of Directors of a company shall be entitled to exercise all such powers and do all such acts and things as the company is authorized to exercise and do. Therefore, the Board of Directors being

responsible for the conduct of the business of a company are liable for any non-compliance of law and such liability shall be upon the individual directors also. Hon'ble Supreme court while describing what is the duty of a Director of a company held in *Official Liquidator v. P.A. Tendolkar (1973) 1 SCC 602* that a Director may be shown to be placed and to have been so closely and so long associated personally with the management of the company that he will be deemed to be not merely cognizant of but liable for fraud in the conduct of business of the company even though no specific act of dishonesty is provided against him personally. He cannot shut his eyes to what must be obvious to everyone who examines the affairs of the company even superficially. Further, in cases of fraud, it is settled position of law, the corporate veil can be lifted and the directors can be held liable for the fraud of the Company.

- 51 A person acting as a securities market intermediary is expected to protect the interest of investors in the securities market in which he operates. Such a person is required to maintain high standards of integrity, promptitude and fairness in the conduct of his business dealings, and not be motivated purely by prospects of financial gain.
- 52 As a regulator of the capital markets, SEBI has the duty to safeguard the interest of investors and protect the integrity of the securities market. Since the conduct of AATIPL, ACPL, and their directors is not in the interest of investors in the securities market, necessary action has to be taken against them immediately, else it may lead to loss of investors' trust in the securities market. I am also convinced that this is a case where effective and expeditious action is required to be taken not only to prevent any further harm to investors but also to prevent the ongoing violations.
- 53 Pending detailed inquiry, in view of the liabilities of AATIPL and ACPL and transfer of clients' funds and securities from AATIPL to ACPL, it is also essential to take urgent steps to prevent AATIPL, ACPL and its directors not to alienate any assets, whether movable or immovable, or any interest or investment or charge in any of such assets, so that the final remedies, if any, do not become infructuous.



54 Further, in order to maintain the *status quo*, pending detailed inquiry, I also find it appropriate that the holdings of the financial assets of AATIPL and ACPL are also impounded.

55 It is noted that Mr. Sanjeeva Kumar Sinha is the promoter of AATIPL and has been its director from September 21, 2011 till date. He was also the designated director of AATIPL during the reference period and has also been managing the day to day affairs of the company including overseeing the regulatory compliance and corresponding with the stock exchanges. Further, Mr. Sanjeeva Kumar Sinha also became a director of ACPL on August 1, 2017 and as per the relevant Form 32 available in MCA's records, he is shown as a promoter of ACPL. He also holds substantial shareholding in both AATIPL and ACPL. The association of Mr. Sanjeeva Kumar Sinha with AATIPL and ACPL and his position particularly in AATIPL *prima facie* shows that he had an active role in the acts and omissions of AATIPL and ACPL discussed hereinabove. In view of the *prima facie* fraud and failure to repay the investors, pending detailed inquiry, it is also appropriate that the holdings of the financial assets of Mr. Sanjeeva Kumar Sinha are also impounded in order to maintain the *status quo*.

56 In view of the above, I, in exercise of powers conferred upon me by virtue of section 19 read with sections 11(1), 11(4), 11B and 11D of the SEBI Act, 1992, Regulation 35 of Securities And Exchange Board Of India (Intermediaries) Regulations, 2008, by way of this Ex Parte - Ad- Interim Order, hereby issue the following directions:

- i. Amrapali Aadya Trading & Investment Pvt. Ltd, Aadya Commodities Pvt. Ltd., Mr. Sanjeeva Kumar Sinha, Mr. Pawan Mishra, Ms. Amita Sinha, Ms. Vandana Sinha, Mr. Sujeet Kumar Sona, Mr. Abnish Kumar Sudhanshu and Mr. Narayan Jee Thakur are restrained from accessing the securities market and are further prohibited from buying, selling or otherwise dealing in securities, either directly or indirectly, or being associated with the securities market in any manner whatsoever, till further directions;

- ii. The aforesaid entities and persons shall cease and desist from undertaking any activity in the securities market, directly or indirectly, in any manner whatsoever till further directions;
- iii. The aforesaid entities and persons are directed to provide a full inventory of all their assets whether movable or immovable, or any interest or investment or charge in any of such assets, including details of all their bank accounts, demat accounts and mutual fund investments immediately but not later than 5 working days from the date of receipt of these directions.
- iv. The aforesaid entities and persons are directed not to dispose off or alienate any assets, whether movable or immovable, or any interest or investment or charge in any of such assets excluding money lying in bank accounts except with the prior permission of SEBI.
- v. Till further directions in this respect, the assets of these entities shall be utilized only for the purposes of payment of money and/or delivery of securities, as the case may be, to the clients/investors under the supervision of the concerned stock exchange(s).
- vi. The depositories are directed to ensure that no debits are made in the demat accounts, held jointly or severally, of the aforesaid entities and persons except for the purpose mentioned in para 56(v) after confirmation from the concerned stock exchange in this regard.
- vii. The banks are directed to ensure that no debits are made in the bank accounts held jointly or severally by Amrapali Aadya Trading & Investment Pvt. Ltd. and Aadya Commodities Pvt. Ltd. and Mr. Sanjeeva Kumar Sinha except for the purpose of payment of money to the clients/investors under the written confirmation of the concerned stock exchange(s).
- viii. The above directions are without prejudice to the right of SEBI to take any other action that may be initiated in respect of Entities mentioned in para 56(i).
- ix. Since AATIPL is a DP with CDSL having Registration no. IN-DP-CDSL-487-2008, CDSL is also directed to closely monitor the activities of AATIPL as a DP.

57 The findings recorded in the order are based on the *prima facie* examination of facts and *prima facie* violation of law.

58 This order shall come into force with immediate effect. A copy of this order shall be forwarded to all the Stock Exchanges, the relevant banks and the Depositories to ensure that the directions given above are strictly complied with.

59 The entities/persons against whom this Order is being passed may file their objections, if any, within twenty one (21) days from the date of this Order and, if they so desire, may avail themselves of an opportunity of personal hearing before the Securities and Exchange Board of India at its Head Office at SEBI Bhavan, Plot No.C4-A, G Block, Bandra Kurla Complex, Bandra (East), Mumbai-400051 on a date and time to be fixed on a specific request in writing, to be received in this regard from the entities/persons.

Sd/-

**DATE: August 22, 2017**

**PLACE: MUMBAI**

**MADHABI PURI BUCH**

**WHOLE TIME MEMBER**

**SECURITIES AND EXCHANGE BOARD OF INDIA**