

ORDER PASSED BY THE MEMBER COMMITTEE OF BSE LTD. (“COMMITTEE”) UNDER THE RULES, BYE-LAWS AND REGULATIONS OF BSE LTD. IN THE MATTER OF MAX GROWTH CAPITAL PRIVATE LIMITED (CLEARING NO. 3293)

1. This Order is being passed under the Rules, Bye-laws & Regulations of BSE Ltd in the matter of Max Growth Capital Private Limited (Clearing No. 3293 (“**Max-Growth/Member**”).

Background:

2. The relevant background facts are as follows:

2.1 Membership at the Exchange

Max-Growth is a Trading Member of BSE Ltd. (“**Exchange**”).

2.2 Deactivation by the Exchange

- i. Max-Growth was required to deposit Additional Surveillance Deposit (ASD) under Graded Surveillance Measure (GSM) amounting to ₹ 46.26 Lakhs, on account of transactions carried out by its clients during the period from February 08, 2022 to March 07, 2022. However, despite multiple follow-ups and grant of sufficient time, Member deposited only ₹ 6.65 Lakhs as ASD.
- ii. Further, on account of the Member’s inability to deposit ASD amounting to ₹ 39.60 Lakhs and to curtail further default from the Member, the Exchange deactivated trading terminals of Max-Growth with effect from March 22, 2022, on account of the Member’s inability to deposit the ASD.

2.3 Investor Complaints/Arbitration proceedings against Max-Growth at the Exchange

- i. The Exchange received various complaints against the Member, inter alia, alleging non-receipt of payment / securities, delay in payment / securities, and unauthorized trades / misappropriation.

Out of these 24 complaints were closed based on response received from the Member.

ii. Claims decided by Investor Grievances Redressal Committee of the Exchange (“IGRC”):

- a. Thereafter, the IGRC decided claims in favour of 23 clients aggregating to ₹ 15.40 Lakhs against Max-Growth, which are as follows:

Sr. No.	Complaint No.	Name of Complainant	Date of IGRC decision	Claim Amount decided in IGRC against Member
1	202208/62	Michael Bose	27/09/2022	450,420.40
2	202207/21	Arijit Mondal	17/10/2022	279,901.66
3	202207/25	Dipankar Sadhukhan	17/10/2022	51,045.00
4	202207/56	Partha Sengupta	17/10/2022	40,774.00
5	202207/57	Chhote Lal Gupta	17/10/2022	10,828.00
6	202207/58	Om Prakash Singh	17/10/2022	12,047.00
7	202207/55	Sanjoy Kumar Dey	18/10/2022	110,962.50
8	202207/93	Indrajit Nath	18/10/2022	24,609.20
9	202207/59	Tonmoy Makar	18/10/2022	29,824.00
10	202207/62	Somenath Garai	18/10/2022	23,328.15
11	202207/63	Jiaul Haque Mondal	18/10/2022	10,504.45
12	202207/61	Rakhahari Ghosh	18/10/2022	20,382.70
13	202207/64	Kishor Kumar Roy	20/10/2022	67,748.40
14	202207/67	Raja Sam	20/10/2022	10,126.55
15	202207/81	Arijit Kundu	20/10/2022	24,770.45
16	202207/52	Bablu Ghosh	20/10/2022	11,880.80
17	202207/53	Prasanta Kumar Das	20/10/2022	118,493.33
18	202207/95	Ajoy Roy	21/10/2022	27,637.00
19	202207/44	Sibsankar Bandyopadhyay	21/10/2022	1,451.00
20	202207/48	Ashoke Kumar Das	21/10/2022	35,912.00
21	202207/39	Bibhash Dhar	21/10/2022	38,643.85
22	202207/38	Mainak Pal	21/10/2022	79,930.00
23	202207/43	Sumit Mukherjee	21/10/2022	48,965.00
			Total	15,40,185.44

- b. The Member settled claims of only two (2) clients who had IGRC order in their favour amounting to ₹7.30 lakhs namely Michael Bose and Arjit Mondal. The Member failed to comply with IGRC order amounting to ₹ 8.10 lakhs from the aforesaid list.
- c. As provided in circular no. SEBI/HO/DMS/CIR/P/2017/15 dated February 23, 2017, issued by Securities and Exchange Board of India ("SEBI"), the Exchange is required to block the claim amount decided by IGRC immediately from the deposits of the Trading Member.

- d. The Exchange had deposits of ₹10 Lakhs of Max-Growth then available with the Exchange which were blocked towards the Exchanges dues of ₹ 24.44 lakhs and therefore there were no funds to block / set aside the outstanding IGRC claim amount of ₹ 8.10 lakhs. In terms of and pursuant to requirements of aforesaid SEBI circular, the Exchange vide its email dated November 12, 2022, *inter alia*, advised Max-Growth:
- To comply with the IGRC decisions by making payment to respective clients; or
 - To deposit the admissible claim amount with the Exchange by submitting the cheque drawn in the name of "BSE Ltd."; or
 - To instruct Indian Clearing Corporation Ltd. ("ICCL") under intimation to the Exchange, to transfer the aforesaid amounts from the collateral / deposits available with ICCL to the Exchange.
 - To inform the Exchange within 7 days from the date of IGRC meeting, wherein the decisions were passed, whether it intends to challenge the decisions of IGRC, by filing arbitration proceedings against the clients.
- e. Vide the aforesaid email, the Exchange also informed Max-Growth that, in case, it fails to comply with the aforesaid Exchange's communication, the Exchange shall proceed to initiate disciplinary action under the Rules, Bye-laws and Regulations of the Exchange.
- f. The Exchange neither received any reply from the Max-Growth nor Max-Growth deposited the requisite funds with the Exchange for blocking of the client's claims decided by IGRC against it. Further, the Exchange also did not receive any communication from the aforesaid complainants informing about resolution of their complaints lodged against Max-Growth.
- g. Furthermore, three (3) more IGRC claims were decided after November 12, 2022 in favour of clients aggregating to ₹ 6.24 lakhs against Max-Growth.

2.4 Trigger of Standard Operating Procedure in the cases of Trading Member /Clearing Member leading to default

- i. There was a sudden increase in the number of investor complaints since July 2022, wherein around 50 investor complaints were received with total claim value of ₹ 64.72 lakhs. Out of this, 24 complaints were closed basis the response from the member with claim value of ₹ 19.19 lakhs, and 2 investor complaints involving IGRC order with claim value of ₹ 7.30 lakhs. Max-Growth

failed to redress the remaining 26 investor complaints amounting to Rs. 21.64 lakhs crystallised in GRC despite granting adequate opportunities.

- ii. As per the provision of SEBI circular No. SEBI/HO/MIRSD/DPIEA/CIR/P/2020/115 dated July 01, 2020 prescribing Standard Operating Procedure in the cases of Trading Member /Clearing Member leading to default, which provides as under:

4. On analysis of early warning signals or any of the following triggers, if the SE / CC is of the view that the TM / CM is likely to default in the repayment of funds / securities to its clients and / or fail to meet the settlement obligations to CM / CC, where:

a.

b.

c. There is sudden increase in the number of investor's complaints against the TM / CM for non-payment of funds and / or transfer of securities, the Exchange must initiate action.

- iii. On account of aforesaid trigger mentioned at point no. i, and as per SEBI Circular No. SEBI/HO/MIRSD/DPIEA/CIR/P/2020/115 dated July 01, 2020 ("Circular"), the Exchange has carried out the following actions as mandated in the Circular:

- a. Other Stock Exchanges / Clearing Corporations / Clearing Member were informed to invoke the BGs of the Member and all unencumbered deposit of Member available with them, after adjusting for any dues of those Stock Exchanges / Clearing Corporations and maintaining the minimum BMC, to be transferred to Initiating Stock Exchange (BSE) for settling the funds of creditors.
- b. As per point no. 4.14 of the aforesaid circular the Exchange has conducted the forensic audit of books of accounts of the Member. The Forensic Audit was conducted by the auditor P C Bindal & Co., the auditor submitted a report stating that there were total 538 Creditors of Max-Growth as on January 19, 2023 and net amount of claims payable to these investors is ₹ 129.74 lakhs.
- c. There were 25 clients who obtained IGRC orders in their favour out of which 9 clients were a part of the creditors as ascertained by the Forensic Audit . Accordingly after considering unique clients with GRC orders and those ascertained by forensic auditor, there is a list of total 554 clients who have outstanding claims amounting to ₹136.38 lakhs against the Max-Growth.
- d. Max-Growth was instructed to pay small investors out of available funds or own resources under supervision of Initiating Stock Exchange (BSE).

However, the Member failed to settle the claims as advised. Thereafter as provided under the aforesaid SEBI circular, the Exchange received deposits of member from other exchanges and clearing corporations amounting to ₹49.26 lakhs for settling the credit balances of clients of Max-Growth as identified by the Forensic Auditor.

- e. The Exchange has initiated the payments to be released to small investors out of available funds i.e. to investors starting from the lowest claims from the available deposits of the Max-Growth.

2.5 Show Cause Notice (SCN) issued by the Exchange to Max-Growth and Response by Max-Growth thereof:

- a. Considering the aforesaid, the Exchange issued a Show Cause Notice dated June 06, 2024 to Max-Growth advising to show cause as to why the Exchange should not initiate necessary disciplinary action against Max-Growth in terms of provisions of the Rules, Bye-laws and Regulations of the Exchange.
- b. In response to the SCN, Max-Growth vide its email dated June 29, 2024 from unknown ID replied that they have paid all clients and they do not have any outstanding creditors other than the clients holding IGRC admissible claim.
- c. Thereafter, the Exchange vide email dated July 01, 2024 informed the Max-Growth to submit the response from a registered email id or on letter head. Max-Growth was further advised to provide the documentary evidence of payments made to the 538 clients as mentioned in our SCN.
- d. The Exchange has not received any response from the Max-Growth on the aforesaid email dated July 01, 2024.

2.6 Status of personal hearings availed by Max-Growth

- a. Max-Growth, represented by Ms. Anita Sarna, and Mr. Ashray Sarna, attended personal hearing before the Member Committee on August 06, 2024 wherein they once again submitted that Max-Growth has already settled the outstanding claims of all its clients except a few.
- b. The Committee observed that the Exchange had already informed Max-Growth to provide necessary documentary evidence to demonstrate that it has settled the claims of clients against which Max-Growth requested for additional time to provide the documentary evidence as required by the Exchange.
- c. Considering the submission by Max-Growth and to provide a final opportunity to Max-Growth to demonstrate satisfaction of client's claims, the Committee

directed the Max-Growth to submit within 3 weeks from the date of hearing i.e. on or before August 26, 2024, any evidence, records, or documentation in support of their submission that they have settled the claims of their clients, failing which the Committee shall be constrained to take necessary disciplinary action as provided under Rules, Bye-laws of the Exchange including declaring Max-Growth as defaulter, without giving any further notice and based on available records/ submissions.

- d. Max-Growth represented by Ms. Anita Sarna, submitted her response dated August 26, 2024 to the Exchange seeking additional time of 2 weeks for submission of documents to demonstrate that Max-Growth has settled claims of the 554 clients, citing the reason of hospitalization of her daughter, due to which she was unable to arrange for the submission.
- e. Despite expiry of an additional period of 2 weeks as sought by Ms. Anita Sarna, Max-Growth failed to any document demonstrating that the client's claims are satisfied by Max-Growth.

2.7 Consideration of SCN, submissions of Max-Growth, Findings and Observations of the Member Committee:

- a. Thus, the Member Committee in its meeting held on September 19, 2024 considered the matter of Max-Growth based on available facts and the submissions made by Max-Growth.
- b. The Member Committee noted the following:

Deposit or assets of Max-Growth available with the Exchange

The assets position of Max-Growth is as under:

Details	₹ (In Lakhs)
Assets with Exchange	
i. Base Minimum Capital	13,82,000.00
Total Assets (A)	13,82,000.00
Collaterals with Clearing Corporation	
i. Deposit from ICCL	36,298.00
ii. Deposit from NSE	31,47,176.29
iii. Deposit from NCL	17,42,455.00
Total Deposits (B)	49,25,929.29
Total Assets available (A) + (B) = (C)	63,07,929.29

The present liability position of Max-Growth is as under:

Details	₹ (In Lakhs)
Outstanding Liabilities	
i. Exchange Dues	24,44,371.55
ii. ICCL Dues	39,60,774.74
iii. Claims of 554 Investors	1,36,38,472.99
Total Liabilities	2,00,43,619.28

- a. The Committee observed that there is total liability amounting to ₹200.44 lakhs of Max-Growth. After adjusting the assets of ₹63.08 lakhs, a substantial amount of ₹137.36 lakhs is still recoverable from Max-Growth.
- b. As provided under SEBI circular No. SEBI/HO/MIRSD/DPIEA/CIR/P/2020/115 dated July 01, 2020 (as amended on May 27, 2022) the deposits amounting to ₹ 49.29 lakhs as assets from clearing corporation are being utilized for making payments to the clients whose claims are crystallized as per the forensic auditor report and GRC orders.
- c. The Committee noted that till date of the meeting, i.e. September 19, 2024, TM has not submitted any supporting documents as assured during the last meeting.

2.8 Decision of the Committee

The Committee post deliberations in this matter, decided as under:

1. The Member has failed to settle the claims of 554 clients as per the admissible claim amount decided in GRC and as per the forensic audit report amounting to Rs. 136.38 lakhs and other outstanding liabilities as mentioned in table above and there being no sufficient funds to in the account of member to settle same, the Member is eligible to be declared as defaulter for violation of the following Rules, Bye-laws and Regulations of the Exchange.
 - Rule 1 and 7 of Chapter IV of the Rules of the Exchange
 - Bye-law 1(a), 1(b) and 1(c) of Chapter XIV of the Bye – laws of the Exchange
 - Regulation 4.2.1.(e), 4.6.2(b) and 4.6.3(f) of Chapter 4 of the Capital Market Segment of the Exchange

In view of this, the Committee decided to declare the Trading Member, Max-Growth Capital Pvt. Ltd. (Clg. No. 3293) as a defaulter in all segments at the Exchange with immediate effect.

Date: October 22, 2024

Sd/-
Shri. Pramod Agrawal - Chairman
Member Committee (BSE Ltd)

Sd/-
Sushri. Jayshree Vyas - Member
Member Committee (BSE Ltd)

Sd/-
Shri. Jagannath Mukkavilli - Member
Member Committee (BSE Ltd)

Sd/-
Shri. Nandkumar Sarvade - Member
Member Committee (BSE Ltd)

Sd/-
Shri. Sundararaman Ramamurthy-
Member
Member Committee (BSE Ltd)