

Date: 29.12.2021

National Stock Exchange of India Ltd,  
Exchange Plaza, 5th Floor,  
Plot No. C/1, G Block,  
Bandra Kurla Complex,  
Bandra (East), Mumbai – 400 051

BSE Ltd,  
Department of Corporate Services  
P. J. Towers, Dalal Street,  
Mumbai - 400 001

Scrip Name: Inventure

Scrip Code: 533506

**Ref: - Inventure Growth & Securities Limited.**

**Sub: Disclosure under Regulation 30 of SEBI (Listing Obligations and Disclosure Requirements) 2015**

Pursuant to the requirements under Regulation 30 of SEBI (listing Obligations and Disclosure Requirements) Regulations, 2015, we wish to inform you that, the Company had received an order dated 23.12.2021 as on 28.12.2021 under section 15-1 of the Securities and Exchange Board of India Act, 1992 read with the Rule 5 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 and under Section 23-1 of the Securities Contracts (Regulation) Act, 1956 read with Rule 5 of the Securities Contracts (Regulation) Procedure for Holding Inquiry and Imposing Penalties) Rules, 2005 in respect of the Show Cause Notice dated 9<sup>th</sup> February 2021.

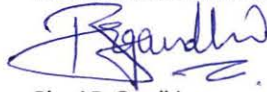
The content of Order is as follows:

*"Having considered all the facts and circumstances of the case, violations established, level of lapses committed and mitigating factors considered, the factors mentioned in Section 15J of the SEBI Act and Section 23J of the SCRA 1956 read with Rule 5 of Adjudication Rules 2005, and Section 15-I of the SEBI Act 1992 read with Rule 5 of the SEBI AO Rules 1995, I hereby impose following penalty under Section 23D of SCRA 1956 and Section 15HA of SEBI Act 1992 and regulation 26(xx) of the Stock Broker Regulations, 1992 on the Noticee:"*

Name of the Noticee	Violation Provisions	Penalty
Inventure Growth & Securities Limited	section 23D of the SCRA, 1956	Rs.4,00,000/- (Rupees Four Lakh Only)
	section 15HB of the SEBI Act, 1992 and regulation 26(xx) of the Stock Broker Regulations, 1992	Rs.1,00,000/- (Rupees One Lakh Only)

Copy of the Order attached herewith for your kind perusal, please take the above on your record.

For Inventure Growth & Securities Ltd



Bhavi R. Gandhi  
(Company Secretary)





भारतीय प्रतिभूति  
और विनियम बोर्ड  
Securities and Exchange  
Board of India

SPAD

OFFICE OF THE ADJUDICATING OFFICER

SEBI/HO/EAD/PB/AS/ 39246 /2021

December 24, 2021

**Inventure Growth & Securities Ltd**

SEBI Regn No: NSE- INB/INF/INE 230901739

BSE- INB/INF/INE 010901730

MCX- SX-INB/INF/INE 260901732

CDSL- IN-DP-CDSL-12-99

Viraj Towers, 201, 2<sup>nd</sup> Floor,

Near Land Mark, Western Express Highway,

Andheri (East), Mumbai - 400093

**Sub: Adjudication Order dated December 23, 2021 in the matter of Inventure Growth & Securities Ltd**

Please find enclosed certified copy of Adjudication Order dated December 23, 2021 in respect of Inventure Growth & Securities Ltd in the captioned matter.

The same is being forwarded to you in terms of provisions of rule 6 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 and rule 6 of SCR(R) (Procedure for Holding Inquiry and Imposing Penalties) Rules, 2005.

Please acknowledge receipt of the same.

**Anshuman Sharma**

**Assistant Manager**

**Encl:-** Certified copy of Adjudication order dated December 23, 2021

सेबी भवन, प्लॉट सं. सी 4-ए, "जी" ब्लॉक, बांद्रा कुर्ला कॉम्प्लेक्स, बांद्रा (पूर्व), मुंबई - 400 051.  
दूरभाष : 2644 9950 / 4045 9950 (आई.वी.आर. एस.), 2644 9000 / 4045 9000 फैक्स : 2644 9019 से 2644 9022 वेब : www.sebi.gov.in



**BEFORE THE ADJUDICATING OFFICER**

**SECURITIES AND EXCHANGE BOARD OF INDIA**

**[ADJUDICATION ORDER NO. Order/PB/AS/2021-22/14557]**

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**UNDER SECTION 15-I OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 1995 AND SECTION 23-I OF THE SECURITIES CONTRACTS (REGULATION) ACT, 1956 READ WITH RULE 5 OF SCR(R) (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 2005**

**In respect of**

**Inventure Growth & Securities Ltd**

**[SEBI Regn No: NSE- INB/INF/INE 230901739**

**BSE- INB/INF/INE 010901730**

**MCX- SX-INB/INF/INE 260901732**

**CDSL- IN-DP-CDSL-12-99]**

**In the matter of Inventure Growth & Securities Ltd**

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**BACKGROUND**

1. Securities and Exchange Board of India (hereinafter referred to as **SEBI**) conducted inspection of operations of Inventure Growth & Securities Ltd (hereinafter referred to as **Noticee**) during June 23, 2015 to June 25, 2015. The period covered under inspection was from April, 2014 till the date of inspection. Pursuant to the inspection, SEBI noted that Noticee allegedly violated the provisions of SEBI circulars and bye-laws and circulars of exchanges as stated below.

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Adjudication Order in the matter of Inventure Growth & Securities Ltd



## APPOINTMENT OF ADJUDICATING OFFICER

2. In this regard, SEBI initiated Adjudication Proceedings against the Noticee and appointed Ms Sangeeta Rathod as the Adjudicating Officer (AO), conveyed vide communique dated June 13, 2019, in the matter:

a. under section 23-I of the Securities Contracts (Regulation) Act, 1956 (hereinafter referred to as **SCRA, 1956**) and rule 3 of Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties) Rules, 2005 (hereinafter referred to as **Adjudication Rules, 2005**) to inquire and adjudge under section 23D of the SCRA, 1956 the alleged violations of SEBI Circular SMD-1/23321 dated November 18, 1993, SEBI Circular MRD/DoP/SE/Cir-11/2008 dated April 17, 2008, BSE Bye-Law 227 for Capital Markets Segment, BSE Bye-Law 6.35 for Derivative Segment and BSE Regulation 4.32 of Capital Markets Regulations, and

b. under section 15-I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as **SEBI Act, 1992**) and rule 3 of Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as **Adjudication Rules, 1995**) to inquire and adjudge under section 15HB of the SEBI Act, 1992 and regulation 26(xx) of SEBI (Stock Brokers) Regulations, 1992 (hereinafter referred to as '**Stock Broker Regulations, 1992**') the alleged violations of SEBI Circular MIRSD/SE/Cir-19/2009 dated December 03, 2009 and NSE Circular NSE/INSP/21651 dated September 07, 2012, by Noticee.

Pursuant to transfer of Ms Sangeeta Rathod, Shri K Saravanan was appointed as AO in the matter, conveyed vide communique dated October 28, 2020. Further, the undersigned was appointed as AO in the matter pursuant to transfer of Shri K Saravanan, conveyed vide communique dated July 14, 2021.

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Adjudication Order in the matter of Inventure Growth & Securities Ltd





### SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

3. A Show Cause Notice ref no EAD-7/ADJ/KS/AS/OW/3851/1/2021 dated February 09, 2021 (hereinafter referred to as **SCN**) was issued to the Noticee:

- under rule 4 of the Adjudication Rules, 2005 to show cause as to why an inquiry should not be held against it and why penalty under section 23D of the SCRA, 1956 be not imposed for the alleged violations of SEBI Circular SMD-1/23321 dated November 18, 1993, SEBI Circular MRD/DoP/SE/Cir-11/2008 dated April 17, 2008, BSE Bye-Law 227 for Capital Markets Segment, BSE Bye-Law 6.35 for Derivative Segment and BSE Regulation 4.32 of Capital Markets Regulations.
- under rule 4 of the Adjudication Rules, 1995 to show cause as to why an inquiry should not be held against it and why penalty under section 15HB of the SEBI Act, 1992 and regulation 26(xx) of Stock Brokers Regulations, 1992 be not imposed, for the alleged violations of SEBI Circular MIRSD/SE/Cir-19/2009 dated December 03, 2009 and NSE Circular NSE/INSP/21651 dated September 07, 2012, and

The allegations made in the SCN are reproduced below:

#### Misuse of client funds

1. *It was observed that calculation regarding misuse of client's funds was done on the basis of data obtained from Noticee for 52 sample dates.*

*Following was observed based on analysis of data submitted in this regard:*

Date	C	D	Bank Account Balances		A	Collateral			B
			Client Bank Account Balance	Settlement Bank Account Balance		FD	BG	CASH	
12-Jun-14	225,922,232	(557,288,105)	(34,713,592)	324027.98	324027.98	7,500,000	212,500,000	26,125,344	139,875,343.71
13-Jun-14	231,173,383	(570,786,306)	(6,822,312)	10806247.32	10806247.32	7,500,000	212,500,000	26,125,344	139,875,343.71
20-Jun-14	189,772,782	(541,930,894)	(27,602,661)	3505514.41	3505514.41	7,500,000	202,500,000	26,125,344	134,875,343.71

Adjudication Order in the matter of Inventure Growth & Securities Ltd



30-Jun-14	251,509,690	(463,394,019)	(37,638,824)	157310.85	157310.85	5,000,000	216,125,000	21,393,545	134,456,045.04
08-Jul-14	190,961,318	(501,794,876)	(37,825,547)	12399450.48	12399450.48	2,500,000	222,500,000	26,125,344	139,875,343.71
28-Jul-14	161,384,482	(522,144,245)	(37,629,171)	322782.44	322782.44	2,500,000	222,500,000	26,125,344	139,875,343.71
31-Jul-14	174,109,603	(510,415,749)	(19,629,305)	182511.02	182511.02	2,500,000	222,500,000	26,125,344	139,875,343.71
08-Aug-14	145,834,571	(539,125,424)	(34,567,661)	227965.20	227965.20	2,500,000	214,500,000	26,625,344	136,375,343.71
14-Aug-14	141,998,693	(526,036,511)	(30,541,492)	292081.65	292081.65	2,500,000	194,500,000	26,125,344	125,875,343.71
08-Sep-14	143,496,900	(531,296,325)	(31,968,957)	296293.35	296293.35	2,500,000	212,500,000	26,125,344	134,875,343.71
23-Sep-14	148,314,335	(522,061,080)	(32,627,026)	250790.36	250790.36	2,500,000	214,500,000	26,125,344	135,875,343.71
30-Sep-14	281,083,260	(500,422,092)	(39,907,941)	1844842.17	1844842.17	-	206,250,000	22,304,557	125,429,557.45
19-Nov-14	171,211,570	(502,782,286)	(31,907,989)	134327.30	134327.30	2,500,000	202,500,000	29,000,344	132,750,343.71
25-Nov-14	143,201,210	(535,231,807)	(42,364,274)	147990.48	147990.48	2,500,000	202,500,000	29,000,344	132,750,343.71
16-Dec-14	125,138,258	(532,410,707)	(49,110,558)	191003.80	191003.80	5,000,000	192,500,000	30,500,344	131,750,343.71
31-Dec-14	206,340,450	(440,411,230)	(42,659,991)	238579.73	238579.73	5,000,000	203,625,000	25,929,557	132,742,057.45
06-Jan-15	125,236,982	(469,148,316)	(44,589,381)	175578.12	175578.12	7,500,000	210,000,000	30,500,344	143,000,343.71
30-Jan-15	149,752,965	(481,640,279)	(45,579,350)	173036.23	173036.23	7,500,000	199,000,000	26,500,344	133,500,343.71
02-Feb-15	168,086,433	(477,145,823)	(36,798,208)	186832.72	186832.72	7,500,000	199,000,000	26,500,344	133,500,343.71
10-Feb-15	134,171,920	(497,133,116)	(38,964,513)	221791.60	221791.60	7,500,000	168,000,000	26,500,344	118,000,343.71
11-Feb-15	148,817,494	(503,874,365)	(25,081,344)	209883.70	209883.70	7,500,000	168,000,000	26,500,344	118,000,343.71
23-Feb-15	140,042,537	(473,407,410)	(45,558,156)	8363967.92	8363967.92	4,500,000	173,000,000	31,500,344	122,500,343.71
24-Feb-15	133,030,607	(456,708,721)	(30,760,009)	2845061.07	2845061.07	9,500,000	168,000,000	26,500,344	120,000,343.71
04-Mar-15	160,115,197	(443,643,303)	(22,576,953)	12407377.91	12407377.91	9,500,000	161,500,000	30,976,344	121,226,343.71

Adjudication Order in the matter of Inventure Growth & Securities Ltd





05-Mar-15	161,864,122	(418,450,123)	(18,713,059)	205559.46	205559.46	9,500,000	161,500,000	26,500,344	116,750,343.71
09-Mar-15	157,334,125	(446,202,162)	(30,299,375)	14965678.56	14965678.56	9,500,000	161,500,000	26,500,344	116,750,343.71
11-Mar-15	138,161,990	(447,397,534)	(48,605,561)	4296467.91	4296467.91	9,500,000	161,500,000	22,120,344	112,370,343.71
19-Mar-15	135,883,776	(462,610,475)	(40,563,873)	50532413.53	50532413.53	8,000,000	178,000,000	16,000,344	113,000,343.71
31-Mar-15	127,256,660	(354,882,373)	(12,531,183)	2480539.54	2480539.54	4,500,000	152,625,000	11,429,557	92,242,057.45
07-Apr-15	99,232,004	(437,408,045)	(34,033,381)	630554.80	630554.80	4,500,000	159,000,000	16,000,344	100,000,343.71
27-Apr-15	111,486,799	(503,980,322)	(47,685,569)	22748761.07	22748761.07	4,500,000	184,000,000	16,000,344	112,500,343.71
06-May-15	110,908,209	(457,755,733)	(41,728,818)	221304.77	221304.77	4,500,000	181,500,000	16,000,344	111,250,343.71
12-May-15	107,081,758	(474,068,072)	(29,081,364)	700084.36	700084.36	4,500,000	181,500,000	16,000,344	111,250,343.71
29-May-15	217,823,736	(428,563,063)	(12,416,686)	1032473.32	1032473.32	2,000,000	185,125,000	22,429,557	116,992,057.45
11-Jun-15	94,343,528	(504,454,900)	(44,902,927)	997545.01	997545.01	4,500,000	158,500,000	22,000,344	105,750,343.71
08-Jul-15	123,046,361	(509,913,757)	(49,459,770)	11587042.88	11587042.88	4,500,000	151,700,000	40,843,344	121,193,343.71
21-Jul-15	120,931,879	(543,925,355)	(53,808,453)	25460199.07	25460199.07	4,500,000	181,700,000	29,778,344	125,128,343.71
24-Jul-15	120,819,833	(572,492,356)	(65,252,065)	16922729.57	16922729.57	4,500,000	191,700,000	29,778,344	130,128,343.71
27-Jul-15	127,327,465	(571,143,958)	(49,229,742)	1459951.07	1459951.07	4,500,000	191,700,000	29,778,344	130,128,343.71
04-Aug-15	130,105,671	(570,636,502)	(49,696,298)	7067404.77	7067404.77	4,500,000	196,700,000	22,384,344	125,234,343.71
12-Aug-15	143,963,716	(605,685,348)	(71,123,108)	25527045.56	25527045.56	4,500,000	211,700,000	21,384,344	131,734,343.71
17-Aug-15	121,744,389	(618,471,807)	(70,668,004)	361275.56	361275.56	4,500,000	209,200,000	23,884,344	132,984,343.71
21-Aug-15	132,010,818	(614,142,741)	(65,858,981)	7227328.91	7227328.91	4,500,000	211,700,000	23,884,344	134,234,343.71
24-Aug-15	123,113,002	(629,363,196)	(82,825,670)	212760.16	212760.16	4,500,000	211,700,000	33,884,344	144,234,343.71
25-Aug-15	119,710,019	(652,884,205)	(64,122,356)	325118.41	325118.41	4,500,000	211,700,000	23,884,344	134,234,343.71

Adjudication Order in the matter of Inventure Growth & Securities Ltd



12-Oct-15	121,376,210	(541,649,709)	(42,608,297)	2376187.13	2376187.13	4,500,000	201,700,000	28,684,344	134,034,343.71
29-Oct-15	127,346,098	(548,044,426)	(38,322,464)	264324.13	264324.13	4,500,000	206,700,000	21,780,344	129,630,343.71
05-Nov-15	109,365,204	(570,939,180)	(61,275,843)	5619923.88	5619923.88	4,500,000	211,500,000	26,780,344	137,030,343.71
09-Nov-15	109,753,062	(583,705,421)	(56,039,084)	280905.63	280905.63	4,500,000	216,700,000	21,780,344	134,630,343.71
17-Dec-15	111,213,351	(573,309,169)	(58,702,781)	1107708.93	1107708.93	4,500,000	216,700,000	29,280,344	142,130,343.71
29-Dec-15	130,922,849	(589,528,782)	(80,887,455)	914450.49	914450.49	4,500,000	191,700,000	51,780,344	152,130,343.71
30-Dec-15	125,953,680	(588,337,689)	(59,042,395)	8065945.18	8065945.18	4,500,000	201,700,000	71,780,344	177,130,343.71

Date	G	G/C*100	Funds Misused for Debit Balance Clients	Funds Misused for Own Purpose	% Funds Misused for Debit Balance Clients
	(A+B)-C				
12-Jun-14	(85,722,860.75)	37.94	85,722,860.75	0	37.94
13-Jun-14	(80,491,791.79)	34.82	80,491,791.79	0	34.82
20-Jun-14	(51,391,923.45)	27.08	51,391,923.45	0	27.08
30-Jun-14	(116,896,334.11)	46.48	116,896,334.11	0	46.48
08-Jul-14	(38,686,524.23)	20.26	38,686,524.23	0	20.26
28-Jul-14	(21,186,356.08)	13.13	21,186,356.08	0	13.13
31-Jul-14	(34,051,748.33)	19.56	34,051,748.33	0	19.56
08-Aug-14	(9,231,262.23)	6.33	9,231,262.23	0	6.33
14-Aug-14	(15,831,267.21)	11.15	15,831,267.21	0	11.15
08-Sep-14	(8,325,262.70)	5.80	8,325,262.70	0	5.80
23-Sep-14	(12,188,200.50)	8.22	12,188,200.50	0	8.22
30-Sep-14	(153,808,860.52)	54.72	153,808,860.52	0	54.72

Adjudication Order in the matter of Inventure Growth & Securities Ltd





19-Nov-14	(38,326,898.61)	22.39	38,326,898.61	0	22.39
25-Nov-14	(10,302,875.67)	7.19	10,302,875.67	0	7.19
16-Dec-14	6,803,089.28	-	-	0	-
31-Dec-14	(73,359,813.01)	35.55	73,359,813.01	0	35.55
06-Jan-15	17,938,939.47	-	-	0	-
30-Jan-15	(16,079,585.23)	10.74	16,079,585.23	0	10.74
02-Feb-15	(34,399,256.86)	20.47	34,399,256.86	0	20.47
10-Feb-15	(15,949,784.27)	11.89	15,949,784.27	0	11.89
11-Feb-15	(30,607,266.93)	20.57	30,607,266.93	0	20.57
23-Feb-15	(9,178,225.40)	6.55	9,178,225.40	0	6.55
24-Feb-15	(10,185,202.65)	7.66	10,185,202.65	0	7.66
04-Mar-15	(26,481,475.26)	16.54	26,481,475.26	0	16.54
05-Mar-15	(44,908,218.85)	27.74	44,908,218.85	0	27.74
09-Mar-15	(25,618,103.12)	16.28	25,618,103.12	0	16.28
11-Mar-15	(21,495,178.40)	15.56	21,495,178.40	0	15.56
19-Mar-15	27,648,981.59	-	-	0	-
31-Mar-15	(32,534,062.74)	25.57	32,534,062.74	0	25.57
07-Apr-15	1,398,894.68	-	-	0	-
27-Apr-15	23,762,305.85	-	-	0	-
06-May-15	563,439.25	-	-	0	-
12-May-15	4,868,670.55	-	-	0	-
29-May-15	(99,799,205.41)	45.82	99,799,205.41	0	45.82
11-Jun-15	12,404,361.19	-	-	0	-
08-Jul-15	9,734,025.11	-	-	0	-
21-Jul-15	29,656,663.80	-	-	0	-
24-Jul-15	26,231,240.27	-	-	0	-
27-Jul-15	4,260,829.99	-	-	0	-
04-Aug-15	2,196,077.66	-	-	0	-
12-Aug-15	13,297,672.85	-	-	0	-
17-Aug-15	11,601,230.07	-	-	0	-

Adjudication Order in the matter of Inventure Growth & Securities Ltd



21-Aug-15	9,450,854.68	-	-	0	-
24-Aug-15	21,334,102.32	-	-	0	-
25-Aug-15	14,849,443.34	-	-	0	-
12-Oct-15	15,034,320.37	-	-	0	-
29-Oct-15	2,548,570.10	-	-	0	-
05-Nov-15	33,285,063.75	-	-	0	-
09-Nov-15	25,158,187.79	-	-	0	-
17-Dec-15	32,024,701.40	-	-	0	-
29-Dec-15	22,121,944.85	-	-	0	-
30-Dec-15	59,242,608.92	-	-	0	-

2. As regards above table, meanings of notations are as follows:

A :Total fund balance available in all Client and Settlement Bank Accounts maintained by the Noticee

B :Aggregate value of collateral deposited with clearing corporations and/or clearing broker (in cases where the trades are settled through clearing broker) in form of Cash and Cash Equivalents (Fixed Deposit, Bank Guarantee etc).

C :Aggregate value of Credit Balances of all clients as obtained from trial balance across stock exchanges (after adjusting for open bills of clients, uncleared cheques deposited by clients and uncleared cheques issued to clients)

D :Aggregate value of Debit Balances of all clients as obtained from trial balance across stock exchanges (after adjusting for open bills of clients, uncleared cheques deposited by clients, uncleared cheques issued to clients)

$G=(A+B)-C$ : Negative value depicts extent of misuse of client funds by Noticee for debit balance client or for own purpose.





3. Further, Noticee interalia submitted revised calculation regarding misuse of client's funds in Annexure 10 to the Reply of Noticee dated September 22, 2016, by taking into account details of all Fixed Deposits (FDs). However, it was observed that the alleged FDs had been created out of own funds of Noticee, so that they could not be considered while calculating total client fund balance available.
4. It was observed that the total available funds i.e. cash and cash equivalents with the Noticee and with the clearing corporation/ clearing broker (A + B) should always be equal to or greater than clients' funds as per ledger balance (C), so that money given by clients had to be available with Noticee at all times. Thereby, it was observed on the basis of analysis stated in para 3 above, that in 27 out of 52 cases, Noticee allegedly misused client funds, and the misuse of funds ranged from 6% to 54% of funds of credit balance clients. It was further observed that Noticee allegedly used funds of credit balance clients for purpose of debit balance clients.
5. Based on above observations, Noticee is alleged to have violated SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and SEBI Circular MRD/DoP/SE/Cir-11/2008 dated April 17, 2008.

Misuse of client securities

6. It was observed that the Noticee pledged client securities with Kotak Mahindra Bank and availed overdraft. It was observed that Noticee submitted pledge statement for December 18, 2014 from Kotak Mahindra Bank, as the date when there was maximum utilization of overdraft during Fiscal Year 2014-15, and that securities of 106 clients had been pledged on the aforesaid date. Further, Ledgers of top 40 clients based on value of securities pledged were sought from Noticee. Submission of Noticee regarding pledging of securities is enclosed as Annexure 11 to the Reply of



Noticee dated September 22, 2016. It was observed that in following 16 instances, Noticee pledged securities of clients in spite of credit balance:

S. No.	Client Code	Value of pledged securities as on date 17.12.2014	Ledger Balance as on 17.12.2014 adjusted for open bills
1	N1218	2403150	65298.02
2	N1205	2191125	35814.81
3	MHKA002021	1928105	73651.09
4	H19124	1763817	430480.84
5	TY012	1104200	25500.71
6	DM091	673790	7859.3
7	4766	660560	2806.54
8	DD121	582825	994270.29
9	P18991	549745	5039.67
10	BP004	482514.25	3430.83
11	K11019	456150	617.5
12	J72	426255.5	1074019.35
13	G1485	376408.5	20673.32
14	GW029	346846.5	450042.35
15	PCS009	342600	228645.44
16	R1RD15	322611.05	65025.3

7. Following instances were noted as example:

- (a) In case of the client DM091, there was no bill posting throughout the year and the client had credit balance throughout. However, securities worth ₹6,73,790 had been pledged.
- (b) Similarly, in the case of client PCS009, there was no debit balance throughout the year. However, securities worth ₹3,42,600 had been pledged.

It was also observed that funds raised from pledging client securities had been credited to own account of Noticee with Account number as 09582650004823.





8. Based on above observations, Noticee is alleged to have violated SEBI Circular MRD/DoP/SE/Cir-11/2008 dated April 17, 2008, BSE Bye-Law 227 for Capital Markets Segment, BSE Bye-Law 6.35 for Derivative Segment and BSE Regulation 4.32 of Capital Markets.

Running Account Settlement

9. It was observed that the trial balance of client ledger balances of all clients registered with the Noticee as on the last day of every quarter were extracted from its back office database. All non-zero credit balances which were not relevant to the observation have been depicted as zero for illustration purposes in the said Annexure.
10. Based on aforementioned observations made during inspection, initial submissions made by Noticee regarding RAS2, RAS3, RAS4, and RAS5 tables and revised submissions made by Noticee dated October 21, 2016, following data regarding status of running account settlement done by Noticee was observed:

Table: RAS1

Quarter	No. of UCCs whose balances have remained same on last dates of successive quarters	Credit Balance not settled (in ₹)
Jul 12-Sep 12	3190	2,19,82,386.19
Oct 12-Dec 12	3428	4,21,79,202.11
Jan13-Mar 13	2764	2,23,18,940.81
Apr 13-Jun 13	3081	1,83,78,730.84
Jul 13-Sep 13	3325	3,67,93,023.18
Oct 13-Dec 13	3265	3,18,18,688.97
Jan 14-Mar 14	2796	1,27,75,631.8
Apr 14-Jun 14	2699	1,12,85,509.17
Jul 14-Sep 14	3054	1,59,95,607.21
Oct 14 -Dec 14	3195	1,50,62,510.51
Jan 15-Mar 15	2962	1,16,64,510.08



Table: RAS2 (Overall Status of Running Account Settlement)

Quarterly settlement	Total number of clients during the period	Number of active clients during the period	Number of inactive clients during the period	No of clients required to be settled	No. of clients settled	No. of clients unsettled
	a	b	c	d	e	f
April - June 2013	38189	4706	33483	38189	35332	2857
Oct - Dec 2013	38295	5340	32955	38295	35037	3258
April - June 2014	39486	6546	32940	39486	36524	2962
July - Sep 2014	40866	6683	34183	40866	37920	2946
Jan - Mar 2015	39366	5884	33482	39366	36677	2689

Table: RAS3 (Number of clients unsettled: Overall)

As on Quarter ended	Total no. of unsettled clients	Inactive clients > 90 days balance	Active Clients with balance > 90 days	Amount not settled during the quarter (In ₹ Crs.)
	f=g+h	g	h	
April - June 2013	2857	2710	147	7.27
Oct-Dec 2013	3258	2616	642	8.92
April - June 2014	2962	2132	830	7.24
July - Sep 2014	2946	2352	594	5.8
Jan - Mar 2015	2689	2413	276	3.3

Table: RAS4 (Credit balance of unsettled inactive clients in ₹Crores)

As on Quarter ended	No. of clients	Credit balance (in ₹ Crs.)
April - June 2013	2710	4.43
Oct-Dec 2013	2616	4.25
April - June 2014	2132	1.7
July - Sep 2014	2352	2.01
Jan - Mar 2015	2413	1.65

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Table: RAS 5 (Credit balance of unsettled active clients in ₹Crores)

As on Quarter ended	No. of clients (with amounts > Rs. 10,000)	Credit balance (in ₹ Crs.)
April - June 2013	147	2.84
Oct-Dec 2013	642	4.67
April - June 2014	830	5.54
July - Sep 2014	594	3.79
Jan - Mar 2015	276	1.65

11. Thus, it was observed on the basis of submissions placed at Tables RAS1 to RAS5 that Noticee had not done running account settlement for both, active and inactive clients. Thereby, Noticee is alleged to have violated SEBI Circular MIRSD/SE/Cir-19/2009 dated December 03, 2009 and NSE/INSP/21651 dated September 07, 2012.

4. The SCN was served on the Noticee vide Speed Post Acknowledgement Due (SPAD) and vide digitally signed email dated February 11, 2021. The acknowledgement receipt duly signed by Noticee is on record. Vide email dated February 23, 2021, Noticee contended that it had received the CD containing annexures to the SCN in broken condition, and requested for another copy of the aforesaid CD. Pursuant to the aforesaid request, vide emails dated February 24, 2021, Noticee was provided the annexures to the SCN in soft copy. Vide letter and email dated March 12, 2021, Noticee was provided opportunity of personal hearing on April 06, 2021. Vide email dated April 05, 2021, Noticee requested for additional time for submitting reply to the SCN and for adjournment of personal hearing in the matter. Vide email dated April 06, 2021, Noticee's request was acceded to and it was advised to submit reply to the SCN by April 30, 2021 in the matter. Vide email dated April 27, 2021, Authorized Representative of the Noticee, Mr Kunal Katariya (Advocate) requested for additional time for submitting reply to the SCN.



5. Vide email dated April 28, 2021, Noticee's request was acceded to and it was advised to submit reply to the SCN by May 13, 2021. Vide emails dated May 25, 2021, Noticee submitted reply to the SCN. The main contentions made by the Noticee in aforesaid reply are summarized below:

- SCN in the matter has not been issued for adjudication purpose, but to decide whether any inquiry is required in the matter or not.
- SCN suffers from unreasonable delay of more than 5 years from date of inspection, which has defeated the purpose of proceedings and therefore, renders present proceeding unsustainable. In this regard, Noticee cited judgement passed by the Hon'ble SAT in the matters of Ashok Shivlal Rupani & Anr. V. SEBI dated August 22, 2019, Sanjay Jethlal Soni & Ors. V. SEBI dated November 14, 2019 and M/s HCG Stock & Share Brokers Ltd v. SEBI & Anr. dated January 16, 2019.
- As regards allegations of not settling clients' accounts, Noticee contended that the workings/ calculations made by SEBI during the course of inspection had not been provided. In this regard, Noticee cited judgement of the Hon'ble SAT in the matter of SEBI v. Price Waterhouse dated January 10, 2017.

Misuse of client' funds

- SEBI considered only 50% of Bank Guarantee (i.e. funded portion of Bank Guarantee) while calculating the aggregate value of collateral deposited with clearing corporations and / or clearing houses in form of cash and cash equivalents, while it should have considered 100% of Bank Guarantee (both funded and non-funded portions). At the time of inspection, the extant circulars viz. SEBI Circular dated November 18, 1993 and SEBI Circular dated April 17, 2008 did not stipulate that Bank Guarantee for the purpose of collateral will be considered only at 50%. Further, although as per SEBI circular dated September 26, 2016, although Noticee is allowed to report only funded portion of Bank Guarantee, Exchanges provide exposure on entire





amount of collateral and funds which include non-funded portion of Bank Guarantee. Therefore, SEBI should have considered 100% of Bank Guarantee in its calculations.

- SEBI has considered only settlement bank account in its calculations which is erroneous. Overdraft facility was running against certain client' bank account against own collateral, to ensure that necessary pay-in/ pay-out obligations were met for exchange without fail due to delay in receipt of funds from clients. Therefore, SEBI must consider bank account of clients having positive bank balance to ascertain fair picture of the allegations.
- Details of all Fixed Deposits (FDs) were not considered by SEBI.
- Noticee submitted revised calculations as regards misuse of clients' funds by including non-funded portion of bank guarantee, positive client bank balance (excluding negative balance) and Fixed Deposit, and contended that no misuse of clients' funds can be ascertained thereafter. However, the daily balance for the same is not available and Noticee could not get the exchange file that contained those balances.
- No client has ever alleged that Noticee failed or ignored in making payment to any of them.
- Noticee is also a member of MSEIL in cash and F&O segment, and of BSE F&O and Currency Derivatives segment. If Noticee's balances lying with BSE and MSEIL in the aforesaid segments are considered, allegations of misuse of clients' funds will be unsustainable.
- Noticee has not mis-utilized funds of credit balance clients, as such clients were also using their credit balance for margin requirements.
- Noticee never faced any liquidity problem, as sufficient funds in the form of FDs were available with the Noticee. In this regard, Noticee submitted its net worth certificate dated March 21, 2014 and March 31, 2015.



### Misuse of client' securities

- The clients whose securities have been pledged have debit balances, if the margin utilization of such clients is considered along with their credit balances in ledger.
- One client, Mr Nilesh K Agrawal was associated with Noticee as business partner and AP in cash and F& O segment. Accordingly, Noticee pledged his securities as security deposit.
- Noticee had appropriate authorization to pledge the securities.
- After introduction of the margin pledge system and new margin regime promulgated by SEBI, Noticee no longer has any shares of its clients pledged with any banks.
- Noticee pledged securities of clients to ensure that sufficient balance is available whenever client intends to transact.
- If Noticee does not keep sufficient balance available by pledging the securities at appropriate time, the client will not be able to place order at the right opportunity and time.
- Noticee maintains surplus with the Exchange, so that the same is readily available for clients when they want to place the order.
- Value of pledged securities also included Noticee's own stocks.
- SEBI Circular dated April 17, 2008 did not bar pledging of clients' securities.

### Running Account Settlement

- Noticee was informed that calculation/ working done by SEBI would be provided to the Noticee along with the Inspection Report. However, the same has not been provided to the Noticee till date. For the said allegation, the SCN does not provide the breakup of the workings and does not identify the clients. Noticee is unable to identify how the said allegations has been made and the delay in the matter has caused prejudice to the Noticee. In this regard, Noticee cited judgements of the Hon'ble SAT in the matters of Price





Waterhouse vs. SEBI (decided on June 01, 2011) and Smitaben N. Shah vs. SEBI (decided on July 30, 2010).

- Noticee has always made prompt payments to clients and there has been no instance of clients' grievance or complaint.
- NSE circular dated September 07, 2012 places FAQs on actual settlement of funds and securities. The said FAQs do not mention anything about settlement of accounts of inactive clients whose NEFT were bounced/ not received. NSE vide circular dated February 10, 2020 for the first time laid down guidelines as regard the treatment of inactive clients.
- The amounts of non-settlement must not be considered as total of 4 quarters during the year, but only the highest amount of all 4 quarters might be treated to be non-settled.
- Noticee achieved 96.50% and 98.28% quarterly settlement for December, 2017 and March, 2018 respectively, which indicates that Noticee is consistently working to improve its operational capabilities.

6. Vide email dated July 29, 2021, Noticee was intimated that the undersigned was appointed as AO in the matter, conveyed vide communique dated July 14, 2021. Vide aforesaid email, Noticee was also granted opportunity of personal hearing on August 11, 2021. Further, Noticee had contended vide its reply dated May 25, 2021, that as regards alleged violation of SEBI Circular MIRSD/SE/Cir-19/2009 dated December 03, 2009 and NSE circular NSE/INSP/21651 dated September 07, 2012 made out in the SCN, it needed access to the documents in which workings/ calculations were made by SEBI during the course of inspection and which had been relied upon in framing the instant allegation. In this regard, vide the aforesaid email, it was conveyed to the Noticee that no such calculations had been relied upon as per the record and that the documents relied upon in framing the aforesaid allegation had been provided to it as Annexures to the SCN in the matter.



7. Vide email dated August 07, 2021, Noticee requested for adjournment of personal hearing in the matter. Vide email dated August 09, 2021, Noticee was granted final opportunity of personal hearing on August 18, 2021. Vide email dated August 17, 2021, Noticee confirmed its presence for the personal hearing as scheduled. The personal hearing in the matter was held on August 18, 2021 via video conferencing over webex platform. During the course of hearing, as regards the allegations pertaining to Running Account Settlement made in the SCN, AR/ Noticee requested for data/documents relied upon for calculation and preparation of Tables RAS 1 to 5. In this regard, it was informed to the AR/ Noticee that the data relied upon for preparation of Table RAS1 were provided to Noticee as *Annexure I* and *J* to the SCN. Further, it was also informed to the AR/ Noticee that vide letter dated October 21, 2016 (provided as *Annexure L* to the SCN), Noticee had submitted revised Table RAS 1 and Tables RAS 2 to 5 made on the basis of its own calculations to Operational Department of SEBI, which were finally accepted and relied upon in SCN thereafter. AR/ Noticee also requested for copy of *Annexure J* to the SCN in MS Excel format. However, it was informed that the aforesaid annexure in only pdf format was available on record, and the Noticee was requested to undertake conversion of the such document in desired format for making any calculations.
8. Further, during the course of hearing, Noticee requested for additional time for making post hearing submissions. Acceding to the request, time till September 02, 2021 was granted to Noticee to make the aforesaid submissions. However, no post hearing submissions were made by the Noticee, as per the records.

### **CONSIDERATION OF ISSUES AND FINDINGS**

9. I have carefully examined the allegations levelled in the SCN, material available on record, and submissions made by the Noticee. The issues that arise for consideration in the present case are:





- (a) Whether the Noticee violated provisions of SEBI Circular SMD-1/23321 dated November 18, 1993, SEBI Circular MRD/DoP/SE/Cir-11/2008 dated April 17, 2008, BSE Bye-Law 227 for Capital Markets Segment, BSE Bye-Law 6.35 for Derivative Segment and BSE Regulation 4.32 of Capital Markets Regulations?
- (b) Whether the Noticee violated provisions of SEBI Circular MIRSD/SE/Cir-19/2009 dated December 03, 2009 and NSE circular NSE/INSP/21651 dated September 07, 2012?
- (c) If yes, then, whether the Noticee is liable for monetary penalty under section 23D of the SCRA, 1956, and/or under section 15HB and regulation 26(xx) of Stock Broker Regulations, 1992 of the SEBI Act, 1992?
- (d) What would be the monetary penalty, if any, that can be imposed upon Noticee under section 23D of the SCRA, 1956 taking into consideration the factors stipulated in section 23J of the SCRA, 1956 and under section 15HB of the SEBI Act, 1992 and regulation 26(xx) of Stock Broker Regulations, 1992 taking into consideration the factors stipulated in section 15J of the SEBI Act, 1992?

## **FINDINGS**

10. Before I proceed with the matter, it is pertinent to mention the relevant legal provisions alleged to have been violated by the Noticee and the same are reproduced below:

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

***Requirements relating to dealings between a Client and Stock Broker  
(Annexure A to the Circular)***

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### **Running Account Authorization**

12. Unless otherwise specifically agreed to by a Client, the settlement of funds/securities shall be done within 24 hours of the payout. However, a client may specifically authorize the stock broker to maintain a running account subject to the following conditions:

- a. The authorization shall be renewed at least once a year and shall be dated.
- b. The authorization shall be signed by the client only and not by any authorised person on his behalf or any holder of the Power of Attorney.
- c. The authorization shall contain a clause that the Client may revoke the authorization at any time.
- d. For the clients having outstanding obligations on the settlement date, the stock broker may retain the requisite securities/funds towards such obligations and may also retain the funds expected to be required to meet margin obligations for next 5 trading days, calculated in the manner specified by the exchanges.
- e. The actual settlement of funds and securities shall be done by the broker, at least once in a calendar quarter or month, depending on the preference of the client. While settling the account, the broker shall send to the client a 'statement of accounts' containing an extract from the client ledger for funds and an extract from the register of securities displaying all receipts/deliveries of funds/securities. The statement shall also explain the retention of funds/securities and the details of the pledge, if any.
- f. The client shall bring any dispute arising from the statement of account or settlement so made to the notice of the broker preferably within 7 working days from the date of receipt of funds/securities or statement, as the case may be.
- g. Such periodic settlement of running account may not be necessary:
- i. for clients availing margin trading facility as per SEBI circular





ii. for funds received from the clients towards collaterals/margin in the form of bank guarantee (BG)/Fixed Deposit receipts (FDR).

h. The stock broker shall transfer the funds / securities lying in the credit of the client within one working day of the request if the same are lying with him and within three working days from the request if the same are lying with the Clearing Member/Clearing Corporation.

i. There shall be no inter-client adjustments for the purpose of settlement of the 'running account'.

j. These conditions shall not apply to institutional clients settling trades through custodians. The existing practice may continue for them.

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#### **SEBI Circular SMD/SED/CIR/93/23321**

#### **Regulation of Transactions between Clients and Brokers**

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C] What moneys to be paid into "clients account". No money shall be paid into clients account other than –

i. money held or received on account of clients;

ii. such money belonging to the Member as may be necessary for the purpose of opening or maintaining the account;

iii. money for replacement of any sum which may by mistake or accident have been drawn from the account in contravention of para D given below;

iv. a cheque or draft received by the Member representing in part money belonging to the client and in part money due to the Member.

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D] What moneys to be withdrawn from "clients account". No money shall be drawn from clients account other than –

- i. money properly required for payment to or on behalf of clients or for or towards payment of a debt due to the Member from clients or money drawn on client's authority, or money in respect of which there is a liability of clients to the Member, provided that money so drawn shall not in any case exceed the total of the money so held for the time being for such each client;
- ii. such money belonging to the Member as may have been paid into the client account under para 1 C [ii] or 1 C [iv] given above;
- iii. money which may by mistake or accident have been paid into such account in contravention of para C above.

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**SEBI Circular MRD/DoP/SE/Cir-11/2008 dated April 17, 2008**

**Sub: Collateral deposited by clients with brokers**

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2. In continuation of earlier circulars and in order to reiterate the need for brokers to maintain proper records of client collateral and to prevent misuse of client collateral, it is advised that: -

2.1 Brokers should have adequate systems and procedures in place to ensure that client collateral is not used for any purposes other than meeting the respective client's margin requirements / pay-ins. Brokers should also maintain records to ensure proper audit trail of use of client collateral.

2.2 Brokers should further be able to produce the aforesaid records during inspection. The records should include details of: -

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- a. *Receipt of collateral from client and acknowledgement issued to client on receipt of collateral*
- b. *Client authorization for deposit of collateral with the exchange/clearing corporation / clearing house towards margin*
- c. *Record of deposit of collateral with exchange/clearing corporation/clearing house*
- d. *Record of return of collateral to client*
- e. *Credit of corporate action benefits to clients*

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

2.4 *Brokers should issue a daily statement of collateral utilization to clients which shall include, inter-alia, details of collateral deposited, collateral utilised and collateral status (available balance / due from client) with break up in terms of cash, Fixed Deposit Receipts (FDRs), Bank Guarantee and securities.*

3. *In case of complaints against brokers related to misuse of collateral deposited by clients, exchanges should look into the allegations, conduct inspection of broker if required and based on its findings take necessary action.*

4. *In case client collateral is found to be mis-utilised, the broker would attract appropriate deterrent penalty for violation of norms provided under Securities Contract Regulation Act, SEBI Act, SEBI Regulations and circulars, Exchange Byelaws, Rules, Regulations and circulars.*

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**BSE Bye-Law 227 for Capital Markets Segment**

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**Broker's Lien**

227. (a) Whenever and so often as a constituent is indebted to a member all securities and other assets from time to time lodged with the members by such constituent or held by the member for and on behalf of such constituent and any cash lying to the credit of such constituent with the member shall be subject to the lien of such member for any general balance of account or margin or other monies that maybe due at any time by such constituent singly or jointly with another or others to such member in respect of any business done subject to the Rules, Bye-laws and Regulations of the Exchange and shall be deemed a general security for payment to such member of all such monies (including interest, commission, brokerage and other expenses) as may be due by such constituent in such manner.

**Right to sell**

(b) A member entitled to lien or security as provided in sub-clause (a) shall be at liberty to sell, pledge or borrow money against such securities and assets in such manner and on such terms and at such time as he may deem advisable and may pay to himself or to any other any such money due to him by or due by him on behalf of such constituent in respect of business done subject to the Rules, bye-laws and Regulations of the Exchange.

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**BSE BYE-Law 6.35 for Derivative Segment**

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**Member's Lien**

6.35(a) Whenever and so often as a Client is indebted to a Member all securities and other assets from time to time lodged with the Member by such Client or held by the Member for and on behalf of such Client and any cash lying to the credit of such Client with the Member shall be subject to the lien of such member for any general balance of account or margin or other moneys that may be due at any time by such client singly or jointly with another or others to such Member in respect of any business done subject to the Rules, Bye-Laws and Regulations of the Exchange and shall be deemed a general security for payment to such Member of all such moneys (including interest, commission, brokerage and other expenses) as may be due from such client.

**Right to sell**

(b) A Member entitled to lien or security as provided in sub-clause (a) shall be at liberty to sell, pledge or borrow money against such securities and assets in such manner and on such terms and at such time as he may deem advisable and may pay to himself or to any other person any such money due to him or due by him, to such person on behalf of such Client in respect of business done subject to the Rules, Bye-laws and Regulations of the Exchange.

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**BSE Regulation 4.32 of Capital Markets Regulations**

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**Margin Deposit by Constituents**

4.32 When so specially agreed upon between a member and his constituent the constituent may furnish margin in the form of securities instead of in cash. In that event the member shall have a first and paramount general lien on such securities and he shall be entitled to sell, pledge or borrow against such securities as provided in these Bye-laws and Regulations.

.....

**Issue (a) Whether the Noticee violated provisions of SEBI Circular SMD-1/23321 dated November 18, 1993, SEBI Circular MRD/DoP/SE/Cir-11/2008 dated April 17, 2008, BSE Bye-Law 227 for Capital Markets Segment, BSE Bye-Law 6.35 for Derivative Segment and BSE Regulation 4.32 of Capital Markets Regulations?**

11. Before I proceed to deal with the matter on merits, I would like to address the preliminary objections raised by Noticee as regards the SCN. Noticee has *interalia* contended that SCN in the matter has not been issued pursuant to adjudication proceedings, but to ascertain whether an inquiry is required in the matter, so that no penalty may be imposed basis the instant SCN. I note that rule 4 of Adjudication Rules, 1995 and rule 4 of Adjudication Rules, 2005 lay down the procedure for holding an inquiry for adjudging *interalia* under various provisions of the SEBI Act, 1992 and the SCRA, 1956 respectively by the Adjudicating Officer (AO). I note that as per the aforesaid rule, AO is *interalia* mandated to issue a Show Cause Notice explaining the nature of offence alleged to have been committed by a Noticee. Based on response received to the aforesaid notice, AO is required to consider the same and form an opinion as regards holding the inquiry. Thereafter, AO is





mandated to holds the inquiry *interalia* involving issuing of hearing notice to the Noticee, and such process culminates in imposition of penalty deemed fit by the AO. I note that in the instant matter, SCN dated February 09, 2021 was issued to the Noticee wherein all the allegations levied against the Noticee along with the provisions of law alleged to be violated were explained. Noticee submitted its reply dated May 25, 2021 to the notice. Thereafter, hearing notices for scheduling hearing on April 06, 2021, August 11, 2021 and August 18, 2021 were issued to the Noticee acceding to requests of adjournment made by it, pursuant to which finally hearing was held in the matter on August 18, 2021. I note that the inquiry as per provisions of Adjudication Rules applicable in the matter was completed, so that penalty, if any, could be imposed on the Noticee. Therefore, I hold that Noticee's contentions in this regard are liable to be rejected.

12. Further, Noticee has contended that SCN was issued in the matter with an unreasoned delay, and that adjudication proceedings in the matter must be set aside on this ground alone. I note that inspection of the Noticee's operations in the matter was held during June 23, 2015, June 25, 2015 to July 01, 2015. The inspection report was provided to the Noticee who then replied to the same vide letter dated September 22, 2016. Based on the same, post inspection analysis was carried out in the matter, pursuant to which competent authority approved adjudication proceedings in the matter on March 05, 2019. Thereafter, Ms. Sangeeta Rathod was appointed as AO in the matter, conveyed vide communique dated June 13, 2019. Pursuant to transfer of Ms Sangeeta Rathod, Shri K Saravanan was appointed as AO in the matter conveyed vide communique dated October 28, 2020. Finally, pursuant to transfer of Shri K Saravanan, the undersigned was appointed as AO in the matter, conveyed vide communique dated July 14, 2021. I note that there was no delay the way it has been argued by the Noticee and that the Noticee has also not specified what prejudice has been caused to it. I also note from the record that Noticee was provided multiple extensions as regards submission of reply to the SCN and opportunities for personal hearing,

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acceding to its requests. I note that the Hon'ble SAT in the matter of Pooja Vinay Jain vs SEBI (Appeal No. 152 of 2019) decided on March 17, 2020 held that, *".....It was simply stated that since the proceedings were launched by respondent SEBI after a period of seven years, the same should be quashed on the ground of delay. The record would show that all the documents concerning the defense of the appellant were filed by her before the AO. Therefore, for want of any prejudice the proceedings cannot be quashed simply on the ground of delay in launching the same....."*

13. I further note that Noticee has relied on certain case laws to buttress its arguments as regards to the plea of laches. I note that Noticee has relied on judgement of the Hon'ble SAT in the matter of Ashok Shivalal Rupani & Anr. Vs SEBI decided on August 22, 2019, which was also upheld by the Hon'ble Supreme Court. I note that in the referred matter, there was a delay of 8 years after the occurrence of cause of action, and that the Hon'ble Tribunal had *inter alia* held that the alleged violations were technical in nature. Noticee has also relied on the judgement of the Hon'ble SAT in the matter of Sanjay Jethalal Soni & Ors. Vs SEBI decided on November 14, 2019. I note that in the aforesaid matter, a second SCN was issued after a time gap of 5 years of issuance of first SCN pertaining to the same matter, without any justification. Further, Noticee has relied upon the judgement of the Hon'ble SAT in the matter of HCG Stock & Share Brokers Ltd vs SEBI decided on January 16, 2019. I note that in the referred matter, there was a delay of 14 years in raising the demand for balance amount of principal outstanding. I note that the facts in the instant matter are different from the case facts of the referred matters, so that the aforesaid judgements do not apply in the form as argued by the Noticee to the present proceedings. Therefore, I reject the preliminary contentions of the Noticee as discussed above and proceed to deal with the matter on merits as per available records.





14. It was observed that calculation regarding misuse of client's funds was done on the basis of data obtained from Noticee for 52 sample dates. Based on the calculations, it was observed that on 27 out of 52 dates, Noticee allegedly misused clients' funds as the total available funds i.e. cash and cash equivalents with the Noticee and the clearing corporation/ clearing broker were lesser than the clients' funds as per ledger balance. Further, the misuse of funds ranged from 6% to 54% of funds of credit balance clients. Therefore, it was alleged that Noticee violated provisions of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and SEBI Circular MRD/DoP/SE/Cir-11/2008 dated April 17, 2008.
15. I note that for a trading member, the total available funds i.e. cash and cash equivalents with the Noticee and with the clearing corporation/ clearing broker should always be equal to or greater than credit balance of clients as per the ledger, so that money given by clients have to be available with the member at all times. Any deviation from the aforesaid principle indicates misuse of the clients' funds, and that funds of credit balance clients have been used for debit balance clients. I note that based on aforesaid principle, the difference between total available funds with the Noticee and clients' funds as per ledger balance was calculated for 52 sample dates. I reproduce the data as regards aforesaid calculation from the SCN below:

Date	G	G/C*100	Funds Misused for Debit Balance Clients	Funds Misused for Own Purpose	% Funds Misused for Debit Balance Clients
	(A+B)-C				
12-Jun-14	(85,722,860.75)	37.94	85,722,860.75	0	37.94
13-Jun-14	(80,491,791.79)	34.82	80,491,791.79	0	34.82
20-Jun-14	(51,391,923.45)	27.08	51,391,923.45	0	27.08
30-Jun-14	(116,896,334.11)	46.48	116,896,334.11	0	46.48
08-Jul-14	(38,686,524.23)	20.26	38,686,524.23	0	20.26
28-Jul-14	(21,186,356.08)	13.13	21,186,356.08	0	13.13

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31-Jul-14	(34,051,748.33)	19.56	34,051,748.33	0	19.56
08-Aug-14	(9,231,262.23)	6.33	9,231,262.23	0	6.33
14-Aug-14	(15,831,267.21)	11.15	15,831,267.21	0	11.15
08-Sep-14	(8,325,262.70)	5.80	8,325,262.70	0	5.80
23-Sep-14	(12,188,200.50)	8.22	12,188,200.50	0	8.22
30-Sep-14	(153,808,860.52)	54.72	153,808,860.52	0	54.72
19-Nov-14	(38,326,898.61)	22.39	38,326,898.61	0	22.39
25-Nov-14	(10,302,875.67)	7.19	10,302,875.67	0	7.19
16-Dec-14	6,803,089.28	-	-	0	-
31-Dec-14	(73,359,813.01)	35.55	73,359,813.01	0	35.55
06-Jan-15	17,938,939.47	-	-	0	-
30-Jan-15	(16,079,585.23)	10.74	16,079,585.23	0	10.74
02-Feb-15	(34,399,256.86)	20.47	34,399,256.86	0	20.47
10-Feb-15	(15,949,784.27)	11.89	15,949,784.27	0	11.89
11-Feb-15	(30,607,266.93)	20.57	30,607,266.93	0	20.57
23-Feb-15	(9,178,225.40)	6.55	9,178,225.40	0	6.55
24-Feb-15	(10,185,202.65)	7.66	10,185,202.65	0	7.66
04-Mar-15	(26,481,475.26)	16.54	26,481,475.26	0	16.54
05-Mar-15	(44,908,218.85)	27.74	44,908,218.85	0	27.74
09-Mar-15	(25,618,103.12)	16.28	25,618,103.12	0	16.28
11-Mar-15	(21,495,178.40)	15.56	21,495,178.40	0	15.56
19-Mar-15	27,648,981.59	-	-	0	-
31-Mar-15	(32,534,062.74)	25.57	32,534,062.74	0	25.57
07-Apr-15	1,398,894.68	-	-	0	-
27-Apr-15	23,762,305.85	-	-	0	-
06-May-15	563,439.25	-	-	0	-
12-May-15	4,868,670.55	-	-	0	-
29-May-15	(99,799,205.41)	45.82	99,799,205.41	0	45.82
11-Jun-15	12,404,361.19	-	-	0	-
08-Jul-15	9,734,025.11	-	-	0	-

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21-Jul-15	29,656,663.80	-	-	0	-
24-Jul-15	26,231,240.27	-	-	0	-
27-Jul-15	4,260,829.99	-	-	0	-
04-Aug-15	2,196,077.66	-	-	0	-
12-Aug-15	13,297,672.85	-	-	0	-
17-Aug-15	11,601,230.07	-	-	0	-
21-Aug-15	9,450,854.68	-	-	0	-
24-Aug-15	21,334,102.32	-	-	0	-
25-Aug-15	14,849,443.34	-	-	0	-
12-Oct-15	15,034,320.37	-	-	0	-
29-Oct-15	2,548,570.10	-	-	0	-
05-Nov-15	33,285,063.75	-	-	0	-
09-Nov-15	25,158,187.79	-	-	0	-
17-Dec-15	32,024,701.40	-	-	0	-
29-Dec-15	22,121,944.85	-	-	0	-
30-Dec-15	59,242,608.92	-	-	0	-

The meaning of notations is as given below:

- A :Total fund balance available in all Client and Settlement Bank Accounts maintained by the Noticee
- B :Aggregate value of collateral deposited with clearing corporations and/or clearing broker (in cases where the trades are settled through clearing broker) in form of Cash and Cash Equivalents (Fixed Deposit, Bank Guarantee etc).
- C :Aggregate value of Credit Balances of all clients as obtained from trial balance across stock exchanges (after adjusting for open bills of clients, uncleared cheques deposited by clients and uncleared cheques issued to clients)
- G=(A+B)-C: Negative value depicts extent of misuse of client funds by Noticee for debit balance client or for own purpose.



16. I note that on 27 out of 52 sample dates, the value of G came out as negative, indicating that on those dates, funds of credit balance clients were used for debit balance clients, and the misuse of funds ranged from 6% to 54% of fund of credit balance clients.
17. Noticee has *interalia* contended that SEBI considered only 50% of Bank Guarantee (i.e. funded portion of Bank Guarantee) while calculation of aggregate value of collateral deposited with clearing corporations and /or clearing houses in the form of cash and cash equivalents, while it should have considered 100% of Bank Guarantee (both funded and non-funded portions), as the inspection took place in 2015 when the extant circulars viz. SEBI Circular dated November 18, 1993 and SEBI Circular dated April 17, 2008 did not stipulate that Bank Guarantee for the purpose of collateral must be 50%. I note that non-funded portion of the Bank Guarantee, which is admittedly 50% of Bank Guarantee in instant matter, is the leveraged portion over and above the money held for clients by Noticee i.e. the funded portion. Such non-funded portion does not involve any funds and cannot be taken in to account for calculation of funds of clients as regards impugned calculations. Therefore, I reject contentions of Noticee in this regard.
18. Noticee has contended that details of all FDs were not considered by SEBI while making calculations as regards instant allegations, and has submitted that, after considering *interalia* additional FDs lying with the Noticee, no misuse of clients' funds can be brought out. I note from the record that vide email dated November 05, 2016, Noticee informed that the aforesaid FDs were created out of own funds of Noticee. I further note from available record that it cannot be established that the aforesaid FDs formed part of collateral of Noticee lying with the exchanges. Therefore, the funds in the form of aforesaid FDs cannot be used while calculating





total funds held by Noticee on behalf of clients, so that I reject the contentions of Noticee in this regard.

19. Noticee has further contended that SEBI considered only settlement bank account balances in its calculations which is erroneous, and that SEBI should have considered total of client' bank account balances. Noticee has further contended that overdraft facility was running against certain client' bank accounts against own collateral, to ensure that necessary pay-in/ pay-out obligations were met for exchange without fail due to delay in receipt of funds from clients. Noticee has also contended that SEBI must consider bank account balances of clients having positive bank balance to ascertain fair picture of the allegations. I note that while calculating misuse of client's funds, the accounts against which overdraft has been claimed are ignored while calculating total fund balance available in all Client and Settlement Bank Accounts maintained by the Noticee. Further, even after considering the positive bank balances for each sample date as contended by Noticee in calculation of fund balance and making the revised calculation thereafter, the total funds available with Noticee comes out to be lesser than clients' funds as per ledger balances on all of the 27 dates. Therefore, even after undertaking revised calculations by considering positive bank balances of clients in calculation of total funds with Noticee, I note that the allegation of misuse of clients' funds against the Noticee stands established.
20. Noticee has contended that if the balances lying with clearing corporation of BSE F&O and Currency Derivatives segment, MSEIL Cash and F&O segment and NSE currency Derivatives segment are considered, the allegation of misuse of clients' funds would be unsustainable. I note that Noticee has not submitted any data or evidentiary proof in this regard to substantiate its claim, so that these contentions are hereby rejected.



21. Noticee has further contended that none of its clients had ever alleged that Noticee failed to make payments to them. Also that, Noticee never faced any liquidity problem, because of availability of sufficient funds in the form of FDs with the Noticee. Further, the clients having credit balance were using the same for their margin requirements. I note that Noticee was obligated to ensure that the funds of credit balance clients are either present in their accounts or are with the exchange as margin. The aforesaid contentions do not dispute the allegations made against Noticee as regards aforesaid principle, and thus, are not relevant as regards the charges levied against it and are liable to be rejected.
22. I note that Noticee carried out misuse of clients funds, indicated through the calculations as discussed in the preceding paragraphs whereby on 27 out of 52 samples dates, the total funds held by Noticee in bank account and as margin with exchanges was lesser than credit balance of clients as per the ledger. Therefore, I note that Noticee violated provisions of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and SEBI Circular MRD/DoP/SE/Cir-11/2008 dated April 17, 2008.
23. Further, it was observed that the Noticee pledged client securities with Kotak Mahindra Bank and availed overdraft. It was further observed that Noticee submitted pledge statement for December 18, 2014 from Kotak Mahindra Bank, as the date when there was maximum utilization of overdraft during Fiscal Year 2014-15, and that securities of 106 clients had been pledged on the aforesaid date. Further, Ledgers of top 40 clients based on value of securities pledged were analyzed, out which in 16 instances, it was observed that Noticee pledged securities of clients in spite of credit balance. Also that, the funds raised from pledging the clients' securities were credited to own account of Noticee with Account Number as 09582650004823. Therefore, it was alleged that Noticee violated provisions of SEBI Circular MRD/DoP/SE/Cir-11/2008 dated April 17, 2008, BSE Bye-Law 227





for Capital Markets Segment, BSE Bye-Law 6.35 for Derivative Segment and BSE Regulation 4.32 of Capital Markets.

24. I note that Noticee pledged securities of clients with Kotak Mahindra Bank and used the same for availing overdraft. Further that, Noticee submitted pledge statement for December 18, 2014, as same was the date when there was maximum utilization of overdraft during Fiscal Year 2014-15. I note that for the aforesaid date, Noticee pledged securities of 16 clients despite them having credit balance. I reproduce the following table from SCN, carrying details of each of the 16 clients:

S. No.	Client Code	Value of pledged securities as on date 17.12.2014	Ledger Balance as on 17.12.2014 adjusted for open bills
1	N1218	2403150	65298.02
2	N1205	2191125	35814.81
3	MHKA002021	1928105	73651.09
4	H19124	1763817	430480.84
5	TY012	1104200	25500.71
6	DM091	673790	7859.3
7	4766	660560	2806.54
8	DD121	582825	994270.29
9	P18991	549745	5039.67
10	BP004	482514.25	3430.83
11	K11019	456150	617.5
12	J72	426255.5	1074019.35
13	G1485	376408.5	20673.32
14	GW029	346846.5	450042.35
15	PCS009	342600	228645.44
16	R1RD15	322611.05	65025.3

25. I note for instance that for client codes DM091 and PCS009, the clients had credit balance throughout, still securities worth ₹6,73,790 and ₹3,42,600 respectively had been pledged by Noticee. Further, the funds raised from pledging the securities were credited to own account of Noticee with account no as 09582650004823.



26. In this regard, Noticee has *interalia* contended that if the margin requirements of clients are considered, then majority of clients had debit balance, which allowed Noticee to pledge their securities. Noticee has submitted details of margin utilization as regards each of the clients, as Annexure E to its reply dated May 25, 2021. I note that Noticee has *interalia* considered 50% of the value of pledged securities in the aforesaid table for making the calculations on grounds that the Bank gave overdraft on the same value of securities. However, I note that the haircut applied by banks are as per their own policy, and are not relevant here. Further, considering the ledger balance of clients along with their respective margin requirements, as submitted by Noticee as Annexure E to its reply, I note the following details as regards the balances of the 16 clients:

S. No.	Client Code	Value of pledged securities as on date 17.12.2014 (A)	ledger balance as on 17.12.2014 adjusted for open bills.(C) without margin	MG-13 FNO (17/12/2014) margin (D)	Net Balance (E)= C+D (Balance)	Actual bal on 17/12/2014 with margin as per TB	Member Remarks
1	N1218	2403150	65298.02	-1801278.2	-1735980.2	-1668109.3	No Misuse of client securities, As client having debit balance due to margin utilisation
2	H19124	1763817	430480.84	-1548391.3	-1117910.5	-1118021.5	No Misuse of client securities, As client having debit balance due to margin utilisation
3	G1485	376408.5	20673.32	-210971.5	-190298.18	-188548.18	No Misuse of client securities, As client having debit balance due to margin utilisation
4	N1205	2191125	35814.81	-474395.7	-438580.89	-431935.76	No Misuse of client securities, As client having debit balance due to margin utilisation
5	MHKA002021	1928105	73651.09	-419765	-346113.91	-248768.84	No Misuse of client securities, As client having debit balance due to margin utilisation
6	TY012	1104200	25500.71	-250561.8	-225061.09	-218936.09	No Misuse of client securities, As client having debit balance due to margin utilisation

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7	R1RD15	322611.05	65025.3	-208786.88	-143761.58	-152555.46	No Misuse of client securities, As client having debit balance due to margin utilisation
8	K11019	456150	617.5		617.5	617.5	Client Having debit bal of Rs.69382.50 on 11/12/14 & received cheque of Rs. 70000/- on 12/12/14 & clear on 15/12/14, but due to delay in reconcile, we were unable to unpledge securities of said clients, Kindly refer the snap attached in sheet-2
9	4766	660560	2806.54		2806.54	2806.54	
10	BP004	482514.25	3430.83		3430.83	3430.83	
11	P18991	549745	5039.67		5039.67	5039.67	
12	DM091	673790	7859.3		7859.3	7859.3	Mr. Vishal Bhatia is director of company & suspicious clients for IT department, hence we are not unpledge his shares.
13	GW029	346846.5	450042.35	-427194.48	22847.87	27567.81	Client traded regularly in Cash & F&O Segments & also associate with us as approved user/dealer/employee & he given us his securities as deposit.
14	PCS009	342600	228645.44		228645.44	228645.44	
15	DD121	582825	994270.29	-432589.85	561680.44	585103.22	Client traded regularly in Cash & F&O Segments, further he is our associate partner & registered as AP in NSE/BSE/ FNO segments & said stock given as deposit.
16	J72	426255.5	1074019.4	-217186.25	856833.1	855763.03	No Misuse of client securities, MCXCDS Margin requirements of Rs. 855763.03

27. I note from the above table, that for clients at S No 1 to 7, even if their margin utilization as contended by Noticee is taken into account, the value of securities pledged is still greater than the debit balance for each of these clients. I note that

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for client at Sr no 8, Noticee has contended that he had a debit balance of ₹69,382 on December 11, 2014, and that Noticee received a cheque of ₹70,000/- on December 12, 2014, which was cleared on December 15, 2014. Noticee has further stated that due to delay in reconciliation, it was unable to unpledge the securities of the aforesaid client as on December 14, 2014. I note that the value of securities of the aforesaid client pledged was admittedly ₹4,56,150, which was greater than the debit balance of client viz. ₹ 70,000/- as per Noticee's own submissions. I note that for client at S No 14, the client admittedly had credit balance of ₹2,28,645 despite which Noticee pledged its securities amounting to ₹3,42,600.

28. Noticee has further contended that entities at S No 12, 13 and 15 in the table above, were associated with Noticee *interalia* through common directorship, as approved user or were Noticee's associate partner. I note that Noticee could pledge the securities of only the debit balance client with their authorization, with the value of pledged securities not exceeding the debit balance for such clients. I note that the contentions made by Noticee do not establish such facts. Further, Noticee has contended that client at S No 16 had a margin requirement of ₹8,55,763.03. I note that even after accepting Noticee's contention as regards such margin requirement, the client still had a credit balance, while Noticee pledged its securities amounting to ₹4,26,255. Therefore, I note on the basis of Noticee's submissions, that it pledged securities of clients at S No 9 to 16 in the table above, when they still had a credit balance.
29. Noticee has *interalia* contended that it had appropriate authorization to pledge the securities. I note Noticee could pledge the securities of only debit balance clients, with due authorization obtained from them. I note that in each of the instances, Noticee has either pledged securities of credit balance clients, or has pledged securities in excess of debit balance of the clients. Further, Noticee has not brought any evidentiary proof as regards authorization obtained from clients on record.





30. Noticee has further contended that SEBI Circular dated April 17, 2008 alleged to have been violated by the Noticee does not bar pledging of clients' securities. I note that Noticee has allegedly violated provisions of SEBI Circular MRD/DoP/SE/Cir-11/2008 dated April 17, 2008, BSE Bye-Law 227 for Capital Markets Segment, BSE Bye-Law 6.35 for Derivative Segment and BSE Regulation 4.32 of Capital Markets. I note that the aforesaid SEBI circular dated April 17, 2008 *inter alia* states:

.....  
2. *In continuation of earlier circulars and in order to reiterate the need for brokers to maintain proper records of client collateral and to prevent misuse of client collateral, it is advised that :-*

2.1 *Brokers should have adequate systems and procedures in place to ensure that client collateral is not used for any purposes other than meeting the respective client's margin requirements / pay-ins. Brokers should also maintain records to ensure proper audit trail of use of client collateral.*

.....  
4. *In case client collateral is found to be mis-utilised, the broker would attract appropriate deterrent penalty for violation of norms provided under Securities Contract Regulation Act, SEBI Act, SEBI Regulations and circulars, Exchange Byelaws, Rules, Regulations and circulars.*

5. *The Stock Exchanges are advised to :-*

5.1. *make necessary amendments to the relevant bye-laws, rules and regulations for the implementation of the above decision.*

.....  
Further, BSE Bye-Law 227 for Capital Market Segment states that,

227. (a) *Whenever and so often as a constituent is indebted to a member all securities and other assets from time to time lodged with the members by such constituent or held by the member for and on behalf of such constituent and any cash lying to the credit of such constituent with the member shall be*

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subject to the lien of such member for any general balance of account or margin or other monies that maybe due at any time by such constituent.....

*Right to sell*

(b) A member entitled to lien or security as provided in sub-clause (a) shall be at liberty to sell, pledge or borrow money against such securities and assets in such manner and on such terms and at such time as he may deem advisable and may to himself or to any other any such money due to him.....

I note that aforesaid provisions along with BSE Bye-Law 6.35 for Derivative Segment and BSE Regulation 4.32 of Capital Markets allow the member to lien securities of a client who has a debit balance to the extent of monies owed to the member. Therefore, I note basis the considerations made in the preceding paragraphs that the contentions of Noticee in this regard are without merits.

31. Noticee has further contended that after introduction of the margin pledge system and new margin regime promulgated by SEBI, Noticee no longer has any shares of its clients pledged with any banks, and that Noticee pledged securities of clients to ensure that sufficient balance is available whenever client intends to transact. Noticee also contended that it maintains surplus with the Exchange, so that the same is readily available for clients when they want to place the order, and that value of pledged securities also included Noticee's own stocks. I note that as per the record, Noticee pledged securities of clients either in excess of their debit balance or pledged them despite clients having credit balance. The aforesaid contentions do not dispute the findings in this regard, and are not relevant as regards instant considerations.
32. Therefore, based on the considerations made in the preceding paragraphs, I am of the view that Noticee carried out misutilization of clients' securities and has violated





provisions of SEBI Circular MRD/DoP/SE/Cir-11/2008 dated April 17, 2008, BSE Bye-Law 227 for Capital Markets Segment, BSE Bye-Law 6.35 for Derivative Segment and BSE Regulation 4.32 of Capital Markets.

33. **Issue (b) Whether the Noticee violated provisions of SEBI Circular MIRSD/SE/Cir-19/2009 dated December 03, 2009 and NSE circular NSE/INSP/21651 dated September 07, 2012?**
34. It was further observed that trial balance of client ledger balances of all clients as on last date of every quarter during the period from June 2012 to March 2015 were extracted from back office database of Noticee. Thereafter, Noticee was provided the aforesaid data and the calculations as regard to the number of UCCs whose balances had remained same on last date of successive quarters. Basis the aforesaid data as provided to Noticee, it provided submissions *inter alia* as regards the number of active and inactive clients whose balances had not been settled over successive quarters vide letter dated October 21, 2016. Based on aforesaid submissions of Noticee, it was alleged that it had not done running account settlement for both, active and inactive clients, and therefore, had violated provisions of SEBI Circular MIRSD/SE/Cir-19/2009 dated December 03, 2009 and NSE circular NSE/INSP/21651 dated September 07, 2012.
35. I note that Noticee made following submissions as regards settlement of running accounts of clients, both active and inactive, vide its letter dated October 21, 2016:

Table: RAS2 (Overall Status of Running Account Settlement)

Quarterly settlement	Total number of clients during the period	Number of active clients during the period	Number of inactive clients during the period	No of clients required to be settled	No. of clients settled	No. of clients unsettled
	a	b	c	d	e	f
April - June 2013	38189	4706	33483	38189	35332	2857
Oct - Dec 2013	38295	5340	32955	38295	35037	3258
April - June 2014	39486	6546	32940	39486	36524	2962
July - Sep 2014	40866	6683	34183	40866	37920	2946
Jan - Mar 2015	39366	5884	33482	39366	36677	2689

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Table: RAS3 (Number of clients unsettled: Overall)

As on Quarter ended	Total no. of unsettled clients	Inactive clients > 90 days balance	Active Clients with balance > 90 days	Amount not settled during the quarter (In ₹Cr.)
	f=g+h	g	h	
April - June 2013	2857	2710	147	7.27
Oct-Dec 2013	3258	2616	642	8.92
April - June 2014	2962	2132	830	7.24
July - Sep 2014	2946	2352	594	5.8
Jan - Mar 2015	2689	2413	276	3.3

Table: RAS4 (Credit balance of unsettled inactive clients in ₹Crores)

As on Quarter ended	No. of clients	Credit balance (in ₹Cr.)
April - June 2013	2710	4.43
Oct-Dec 2013	2616	4.25
April - June 2014	2132	1.7
July - Sep 2014	2352	2.01
Jan - Mar 2015	2413	1.65

Table: RAS 5 (Credit balance of unsettled active clients in ₹Crores)

As on Quarter ended	No. of clients (with amounts > Rs. 10,000)	Credit balance (in ₹Cr.)
April - June 2013	147	2.84
Oct-Dec 2013	642	4.67
April - June 2014	830	5.54
July - Sep 2014	594	3.79
Jan - Mar 2015	276	1.65

I note from the above that as regards inactive clients, there were unsettled clients ranging from 2132 to 2710 over the quarters from April – June 2013 to January – March 2015. Similarly, as regards active clients, the unsettled clients ranged from 147 to 830 in the aforesaid quarters.

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36. I note the following from SEBI Circular MIRSD/SE/Cir-19/2009 dated December 03, 2009:

*Running Account Authorization*

*Unless otherwise specifically agreed to by a Client, the settlement of funds/securities shall be done within 24 hours of the payout. However, a client may specifically authorize the stock broker to maintain a running account subject to the following conditions:*

.....

.....

- e. The actual settlement of funds and securities shall be done by the broker, at least once in a calendar quarter or month, depending on the preference of the client. While settling the account, the broker shall send to the client a 'statement of accounts' containing an extract from the client ledger for funds and an extract from the register of securities displaying all receipts/deliveries of funds/securities. The statement shall also explain the retention of funds/securities and the details of the pledge, if any*

.....

I note that Noticee was obligated to settle the accounts of such clients who were maintaining running accounts once in a calendar quarter or month. However, I note that Noticee in the instant matter had admittedly not settled accounts of clients, both active and inactive, as per details in the tables RAS 4 and 5 above.

37. Noticee has *interalia* contended that the allegation as regards running account settlement was made on the basis of certain calculations and documents, which had not been provided to the Noticee, and that Noticee was informed that such calculations will be provided to it at the time of inspection. Noticee has contended that as it has not been provided copies of the aforesaid letters/ documents, the instant SCN is violative of principles of administrative law and natural justice. In this



regard, Noticee has relied upon judgements of the Hon'ble SAT in the matters of Price Waterhouse vs SEBI and Smitaben N. Shah vs SEBI.

38. I note from the record that format for tables RAS 2 to 5 were provided to Noticee by inspection team of SEBI vide email dated May 08, 2015. Thereafter, Noticee itself submitted the data in the aforesaid tables, finally vide letter dated October 21, 2016. Also, the workings of Table RAS1 which were done by inspection team, were provided to Noticee as Annexure 12 to the inspection report. Further, I note that UCC wise balances not settled over successive quarters were provided as Annexure J to the SCN in the matter. I also note that the following was conveyed *interalia* to the Noticee vide email dated August 23, 2021:

*..... In your aforesaid reply, you have interalia requested to allow inspection of documents in which workings/ calculations were made by SEBI during the course of inspection, which have been relied upon in framing the impugned allegation.*

*In this regard, it is conveyed to you that no such calculations have been relied upon as per the record and that the documents relied upon in framing the aforesaid allegation have been provided to you as Annexures to the SCN in the matter. The details of documents relied upon and provided to you as Annexures to the SCN as regards impugned allegation are as follows:*

<u>Annexure to the SCN</u>	<u>Details of Annexure</u>
Annexure I	Trial balance of clients of Noticee (your letter dated June 26, 2015)
Annexure J	Unique Client Code wise balances not settled over successive quarters (June 2012 to March 2015)
Annexure K	Initial submissions made by you regarding RAS (Running Account Settlement) 2, RAS3, RAS4, and RAS5 tables
Annexure L	Your reply dated October 21, 2016





.....  
Further, the following was conveyed *interalia* to the Noticee during the course of personal hearing conducted on August 23, 2021, recorded in the hearing minutes:

..... *As regards the allegations pertaining to Running Account Settlement made in the SCN, AR/ Noticee requested for data/documents relied upon for calculation and preparation of Tables RAS 1 to 5.*

*In this regard, it was informed to the AR/ Noticee that the data relied upon for preparation of Table RAS1 were provided to Noticee as Annexure I and J to the SCN.*

*Further, vide letter dated October 21, 2016 (provided as Annexure L to the SCN), Noticee had submitted revised Table RAS 1 and Tables RAS 2 to 5 made on the basis of its own calculations to Operational Department of SEBI, which were finally accepted and relied upon in SCN thereafter.....*

Therefore, I note that the data relied upon in framing the instant allegations was provided by Noticee itself, based on its own calculations, and that the same was conveyed cogently to the Noticee during the course of adjudication proceedings, so that contentions of Noticee in this regard are without merits.

39. Noticee has contended that as regards the instant allegation of violation of NSE Circular dated September 07, 2012, the referred circular carries FAQs which do not mention anything about settlement of accounts of inactive clients whose NEFTs had bounced/ not received. I note that Noticee is alleged to have violated provisions of SEBI Circular MIRSD/SE/Cir-19/2009 dated December 03, 2009 and NSE circular NSE/INSP/21651 dated September 07, 2012. The provisions of aforesaid SEBI circular dated December 03, 2009 are reproduced below:



Running Account Authorization

12. Unless otherwise specifically agreed to by a Client, the settlement of funds/securities shall be done within 24 hours of the payout. However, a client may specifically authorize the stock broker to maintain a running account subject to the following conditions:

.....

e. The actual settlement of funds and securities shall be done by the broker, at least once in a calendar quarter or month, depending on the preference of the client. While settling the account, the broker shall send to the client a 'statement of accounts' containing an extract from the client ledger for funds and an extract from the register of securities displaying all receipts/deliveries of funds/securities. The statement shall also explain the retention of funds/securities and the details of the pledge, if any.

.....

.....

18. The stock broker shall frame the policy regarding treatment of inactive accounts which should, inter-alia, cover aspects of time period, return of client assets and procedure for reactivation of the same. It shall display the same on its web site, if any.

.....

I note from the above that Noticee was obligated to carry out settlement of running accounts of both active/ inactive clients. I also note that as per the SEBI circular dated December 03, 2009 and relevant circulars issued by exchanges, brokers were directed to frame a policy to deal with the inactive/dormant client accounts. Therefore, I note that Noticee was obligated to ensure that running accounts of inactive clients, along with that of active clients were settled, so that contentions of Noticee in this regard are liable to be rejected.





40. Noticee has contended that it has always made prompt payments to clients, and that there have been no complaints against it in this regard. I note that the contention of Noticee as regards payments to clients are vague and do not address the instant allegations. Further that, the present considerations do not rely upon any complaints made by clients in this regard.
41. Therefore, I note that Noticee did not carry out settlement of running accounts of both active and inactive clients during the IP, as referred in Tables RAS2 to 5 above, leading to violation of provisions of SEBI Circular MIRSD/SE/Cir-19/2009 dated December 03, 2009 and NSE circular NSE/INSP/21651 dated September 07, 2012.
42. **Issue (c) If yes, then, whether the Noticee is liable for monetary penalty under section 23D of the SCRA, 1956 and under section 15HB of the SEBI Act, 1992 and regulation 26(xx) of Stock Brokers Regulations, 1992?**
43. The Hon'ble Supreme Court of India in the matter of Chairman, SEBI vs. Shriram Mutual Fund {[2006] 5 SCC 361} decided on May 23, 2006 held that *"In our view, the penalty is attracted as soon as contravention of the statutory obligations as contemplated by the Act is established and, therefore, the intention of the parties committing such violation becomes immaterial ..... Hence, we are of the view that once the contravention is established, then the penalty has to follow and only the quantum of penalty is discretionary"*.
44. In view of the above, I am convinced that it is a fit case to impose monetary penalty on the Noticee under the provisions of section 23D of the SCRA, 1956, and under section 15HB of the SEBI Act, 1992 and regulation 26(xx) of Stock Brokers Regulations, 1992, which read as under:



## **SCRA, 1956**

### **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 <sup>1</sup>[liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees].

## **SEBI Act, 1992**

### **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 <sup>2</sup>[liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.]

## **Broker Regulations, 1992**

### **Liability for monetary penalty**

26. A stock broker <sup>3</sup>[\*\*\*] shall be liable for monetary penalty in respect of the following violations, namely

.....

(xx) Violations for which no separate penalty has been provided under these regulations.

<sup>1</sup> Substituted for the words "liable to a penalty not exceeding one crore rupees" by the Securities Laws (Amendment) Act, 2014, w.e.f 08-09-2014.

<sup>2</sup> Substituted for the words "liable to a penalty which may extend to one crore rupees" by the Securities Laws (Amendment) Act, 2014, w.e.f. 08-09-2014

<sup>3</sup> The words "or a sub-broker" omitted by SEBI (Stock Brokers and Sub-Brokers) (Second Amdt.) Regulations, 2018 w.e.f 01-04-2019





45. Issue (d) What would be the monetary penalty, if any, that can be imposed upon Noticee under section 23D of the SCRA, 1956 taking into consideration the factors stipulated in section 23J of the SCRA, 1956 and under section 15HB of the SEBI Act, 1992 and regulation 26(xx) of the Stock Broker Regulations, 1992 taking into consideration the factors stipulated in section 15J of the SEBI Act, 1992?
46. While determining the quantum of penalty under section 23D of the SCRA, 1956, and under section 15HB of the SEBI Act, 1992 and regulation 26(xx) of the Stock Broker Regulations, 1992, it is important to consider the factors stipulated in section 23J of the SCRA, 1956 read with rule 5(2) of the Adjudication Rules, 2005 and in section 15J of the SEBI Act, 1992 read with rule 5(2) of the Adjudication Rules, 1995 respectively, which read as under: -

**SCRA, 1956**

*23J While adjudging quantum of penalty under Section 23-I, 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.*

**SEBI Act, 1992**

*15J. While adjudging quantum of penalty under section 15-I, 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;*

---

Adjudication Order in the matter of Inventure Growth & Securities Ltd



(c) the repetitive nature of the default.

45. I observe, that the material available on record does not quantify any disproportionate gains or unfair advantage, if any, made by the Noticee and the losses, if any, suffered by the investors due to such violations on the part of the said Noticee. Further, as per the available records, it has not been brought out that the said failure is repetitive.
46. I note that Noticee violated the provisions of SEBI Circular SMD-1/23321 dated November 18, 1993, SEBI Circular MRD/DoP/SE/Cir-11/2008 dated April 17, 2008, BSE Bye-Law 227 for Capital Markets Segment, BSE Bye-Law 6.35 for Derivative Segment, BSE Regulation 4.32 of Capital Markets Regulations, SEBI Circular MIRSD/SE/Cir-19/2009 dated December 03, 2009 and NSE circular NSE/INSP/21651 dated September 07, 2012.

### **ORDER**

47. Having considered all the facts and circumstances of the case, the material available on record, the factors mentioned in section 23J of the SCRA, 1956 and section 15J of the SEBI Act, 1992 and in exercise of power conferred upon me under section 23-I of the SCRA, 1956 read with rule 5 of the Adjudication Rules, 2005 and section 15-I of the SEBI Act, 1992 read with rule 5 of the Adjudication Rules, 1995, I hereby impose following penalty under section 23D of the SCRA, 1956, and section 15HA of the SEBI Act, 1992 and regulation 26(xx) of the Stock Broker Regulations, 1992 on the Noticee:

---

Adjudication Order in the matter of Inventure Growth & Securities Ltd





Name of the Noticee	Violation provisions	Penalty
Inventure Growth & Securities Ltd	section 23D of the SCRA, 1956	₹4,00,000/- (Rupees Four Lakh Only)
	section 15HB of the SEBI Act, 1992 and regulation 26(xx) of the Stock Broker Regulations, 1992	₹1,00,000/- (Rupees One Lakh Only)

I am of the view that the said penalty is commensurate with the lapse/omission on the part of the Noticee.

48. The Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, OR 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.**

49. The Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid to "The Division Chief (Enforcement Department - DRA-III), Securities and Exchange Board of India, SEBI Bhavan, Plot No. C – 4 A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051.". The Noticee shall also provide the following details while forwarding DD / payment information:

- Name and PAN of the Noticee
- Name of the case / matter
- Purpose of Payment – Payment of penalty under AO proceedings
- Bank Name and Account Number
- Transaction Number

Adjudication Order in the matter of Inventure Growth & Securities Ltd



50. 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 under section 28A of the SEBI Act, 1992 for realization of the said amount of penalty along with interest thereon, *inter alia*, by attachment and sale of movable and immovable properties.
51. In terms of rule 6 of the Adjudication Rules, 2005 and rule 6 of the Adjudication Rules, 1995, copy of this order is being sent to the Noticee viz. Inventure Growth & Securities Ltd and also to SEBI.

**Date: December 23, 2021**

**Place: Mumbai**



**PARAG BASU**  
**ADJUDICATING OFFICER**



CERTIFIED TO BE TRUE COPY

Amhemant,

DATE OF CERTIFICATION: 24/12/2021  
TOTAL NUMBER OF PAGES CERTIFIED: 52

