

**BEFORE THE ADJUDICATING OFFICER**  
**SECURITIES AND EXCHANGE BOARD OF INDIA**

[ADJUDICATION ORDER: EAD-2/SS/SK/2018-19/1485-1490]

**UNDER SECTION 15-I OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES BY ADJUDICATING OFFICER) RULES, 1995.**

In respect of:

1. <b>Mrunalini Sudhakar Udavant,</b> 603, Pinewood – A Wing, Prestige Residency, Vaghbeel Naka, Ghodbunder Road, Thane West – 400601.	2. <b>Sameer Kumar Behera,</b> B-402, Salasar Aashirwad Pvt. Ltd., Ramdev Park Road, Near K.D. Empire, Mira Road (East), Mumbai – 401107.
3. <b>Swati Ravindra Waikar,</b> Flat No. 1703, Tower B, Orchid Suburbia, Link Road, Kandivili West, Mumbai – 400067.	4. <b>Arvind Raghuvir Singh,</b> 706, Amrut Park, Building No. 02, Bayale Nagar, Khadakpada, Kalyan West – 421301.
5. <b>Hitesh Ashokkumar Shah.</b> A201, Dhuri Smruti, Krishna Township, Ambali Road, Vasai West – 401202.	6. <b>Kunal Dinesh Parashar</b> C117, Govindpuri, Gwalior – 474011.

In the matter of Marksans Pharma Limited

1. During examination in the scrip of Marksans Pharma Limited (hereinafter referred to as ‘MPL’), SEBI observed that Mrunalini Sudhakar Udavant, Sameer Kumar Behera, Swati Ravindra Waikar, Arvind Raghuvir Singh, Hitesh Ashokkumar Shah and Kunal Dinesh Parashar (hereinafter referred to as ‘Noticee No. 1 to 6’ respectively or collectively referred to as ‘the Noticees’) had traded in the scrip of MPL during the period of trading window closure from January 01, 2015 to December 31, 2016. MPL had informed that the Noticees were a ‘designated person’ (employee) of the company. The details of trading activities of the Noticees in the scrip of MPL during the said period of trading window closure are tabulated as under:

Client Name	Date	Broker Name	Client PAN	Gr Buy Vol	Gr Sell Vol	Gr Buy Value (Rs.)	Gr Sell Value (Rs.)	Remarks
Noticee No. 1	30/05/2016	Sharekhan Ltd.	AALPU6324N	500	0	22125.00	0.00	Financial results announced on May 30, 2016. Trading window was closed between May 20, 2016 to May 31, 2016.

Client Name	Date	Broker Name	Client PAN	Gr Buy Vol	Gr Sell Vol	Gr Buy Value (Rs.)	Gr Sell Value (Rs.)	Remarks
Noticee No. 2	07/08/2015	ICICI Securities Ltd	ASTPB7939C	100	0	11100.00	0.00	Financial results announced on August 08, 2015. Trading window was closed between July 30, 2015 to August 09, 2015

Client Name	Date	Broker Name	Client PAN	Gr Buy Vol	Gr Sell Vol	Gr Buy Value (Rs.)	Gr Sell Value (Rs.)	Remarks
Noticee No. 3	06/11/2015	SBICAP Securities Ltd.	ABIPW9644F	50	0	4677.50	0.00	Financial results announced on November 10, 2015. Trading window was closed between November 02, 2015 to November 11, 2015

Client Name	Date	Broker Name	Client PAN	Gr Buy Vol	Gr Sell Vol	Gr Buy Value (Rs.)	Gr Sell Value (Rs.)	Remarks
Noticee No. 4	02/02/2016	Angel Broking Pvt Ltd	AMRPS8 860M	1000	0	61900.00	0.00	Financial results announced on February 12, 2016. Trading window was closed between January 30, 2016 to February 13, 2016
	08/02/2016	Angel Broking Pvt Ltd	AMRPS8 860M	3000	0	169950.00	0.00	
	11/02/2016	Angel Broking Pvt Ltd	AMRPS8 860M	2000	0	101599.85	0.00	
	11/08/2016	Angel Broking Pvt Ltd	AMRPS8 860M	1000	0	46150.00	0.00	Financial results announced on August 13, 2016. Trading window was closed between August 05, 2016 to August 14, 2016

Client Name	Date	Broker Name	Client PAN	Gr Buy Vol	Gr Sell Vol	Gr Buy Value (Rs.)	Gr Sell Value (Rs.)	Remarks
Noticee No. 5	12/08/2016	Angel Broking Pvt Ltd	DFLPS9182C	4000	0	186589.15	0.00	Financial results announced on August 13, 2016. Trading window was closed between August 05, 2016 to August 14, 2016

Client Name	Date	Brk Name	Client Pan	Gr Buy Vol	Gr Sell Vol	Gr Buy Value (Rs.)	Gr Sell Value (Rs.)	Remarks
Noticee No. 6	31/05/2016	Geojit Bnp Paribas Financial Services Limited	AREPP9365J	50	0	2205.00	0.00	Financial results announced on May 30, 2016. Trading window was closed between May 20, 2016 to May 31, 2016

Clnt Name	Date	Brk Name	Clnt Pan	Gr Buy Vol	Gr Sell Vol	Gr Buy Value (Rs.)	Gr Sell Value (Rs.)	Remarks
	12/08/2016	Geojit Bnp Paribas Financial Services Limited	AREPP9365J	100	0	4585.00	0.00	Financial results announced on August 13, 2016. Trading window was closed between August 05, 2016 to August 14, 2016

2. In view of the above, it has been alleged that the Noticees have violated the provisions of clause 4 of the Minimum Standards for Code of Conduct to Regulate, Monitor and Report Trading by Insiders specified in Schedule B read with Regulation 9(1) and (2) of SEBI (Prohibition of Insider Trading) Regulations, 2015 (hereinafter referred to as 'the PIT Regulations'). The said provisions of PIT Regulations read as under:

### **PIT Regulations**

#### ***Code of Conduct.***

*9. (1) The board of directors of every listed company and market intermediary shall formulate a code of conduct to regulate, monitor and report trading by its employees and other connected persons towards achieving compliance with these regulations, adopting the minimum standards set out in Schedule B to these regulations, without diluting the provisions of these regulations in any manner.*

***NOTE:*** *It is intended that every company whose securities are listed on stock exchanges and every market intermediary registered with SEBI is mandatorily required to formulate a code of conduct governing trading by its employees. The standards set out in the schedule are required to be addressed by such code of conduct.*

*(2) Every other person who is required to handle unpublished price sensitive information in the course of business operations shall formulate a code of conduct to regulate, monitor and report trading by employees and other connected persons towards achieving compliance with these regulations, adopting the minimum standards set out in Schedule B to these regulations, without diluting the provisions of these regulations in any manner.*

***NOTE:*** *This provision is intended to mandate persons other than listed companies and market intermediaries that are required to handle unpublished price sensitive information to formulate a code of conduct governing trading in securities by their employees. These entities include professional firms such as auditors, accountancy firms, law firms, analysts, consultants etc., assisting or advising listed companies, market intermediaries and other capital market participants. Even entities that normally operate outside the capital market may handle unpublished price sensitive information. This provision would mandate all of them to formulate a code of conduct.*

### ***SCHEDULE B***

***[See sub-regulation (1) and sub-regulation (2) of regulation 9]***

#### ***Minimum Standards for Code of Conduct to Regulate, Monitor and Report Trading by Insiders***

1. ....
4. *Designated persons may execute trades subject to compliance with these regulations. Towards this end, a notional trading window shall be used as an instrument of monitoring trading by the designated persons. The trading*

*window shall be closed when the compliance officer determines that a designated person or class of designated persons can reasonably be expected to have possession of unpublished price sensitive information. Such closure shall be imposed in relation to such securities to which such unpublished price sensitive information relates. Designated persons and their immediate relatives shall not trade in securities when the trading window is closed.*

3. Vide a communication-order dated June 21, 2018, it has been informed that the competent authority in SEBI is satisfied that there are sufficient grounds to inquire into the affairs and adjudicate upon the alleged violation by the Noticees as aforesaid and has appointed the undersigned as Adjudicating Officer under section 15-I(1) of the SEBI Act and Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as 'the Adjudication Rules') to inquire into and adjudge the aforesaid alleged violation.
4. Accordingly, after receipt of records of the proceedings on August 02, 2018, a notice to show cause no. EAD/SS-SKS/OW/21931/2018 dated August 06, 2018 (hereinafter referred to as 'the SCN') was issued to the Noticees, calling upon them to show cause as to why an inquiry should not be held against them in terms of Rule 4 of the Adjudication Rules and penalty be not imposed under Section 15HB of the SEBI Act for the aforesaid alleged violation which read as under:

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

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

5. In response to the SCN, the Noticees No. 1 to 4 filed their replies vide e-mail / letter during the period from August 21, 2018 to September 07, 2018. In case of Noticee No. 5 and 6, the SCN sent through speed post returned undelivered. Pursuant to the same, the SCN was served upon Noticee No. 5 and 6 by way of affixture in terms of Rule 7 (c) of the Adjudication Rules at their last known address.
6. In order to conclude the inquiry in terms of Rule 4 (3) of the Adjudication Rules, the Noticee No. 1 to 4 were granted an opportunity of personal hearing on September 14, 2018 vide hearing notice dated August 30, 2018 and Noticee No. 5 and 6 were granted an opportunity of personal hearing on September 19, 2018 vide hearing notice dated August 30, 2018. The said hearing notice was served upon Noticee No. 1 to 4 through speed post and on Noticee No. 5 and 6 by way of affixture in terms of Rule 7 (c) of the Adjudication Rules at their last known address. In the meantime, Noticee No. 5 submitted his reply to the SCN vide e-mail dated September 11, 2018.

7. In response to the hearing notice, Noticee No. 1 submitted that matter may be decided on the basis of her reply dated September 07 2018 and waived the opportunity of hearing granted to her. On September 14, 2018, Noticee No. 2 and 4 attended the personal hearing and reiterated the submissions made vide their respective letters dated August 30, 2018. Similarly, Noticee No. 5 attended the personal hearing on September 19, 2018 and reiterated the submissions made vide e-mail dated September 11, 2018. In case of Noticee No. 3, the opportunity of personal hearing granted to them was rescheduled in the interest of principles of natural justice on various dates based on their request. On October 03, 2018, Noticee No. 3 attended the personal hearing and reiterated the submissions made vide her letter dated August 30, 2018 and further submitted a copy of her relieving letter dated April 02, 2018 received from MPL. Noticee No. 6 neither submitted any reply nor availed the opportunity of hearing despite service of notice in this regard. The aforementioned details with regard to reply of the Noticees to the SCN, mode of delivery of SCN/hearing notice and details pertaining to hearing are summarized in the table mentioned below:

Sl. No	Noticee No.	Date of reply to the SCN	Mode of reply to SCN	Date of hearing notice	Mode of delivery of SCN and hearing notice	Date of hearing	Date of rescheduled hearing, if requested	Attended in person / or through authorised representative
1	Noticee 1	07/09/18	Letter	30/08/18	SPAD	14/09/18	Waived opportunity of hearing	
2	Noticee 2	30/08/18	Letter	30/08/18	SPAD	14/09/18		In person
3	Noticee 3	30/08/18	Letter	30/08/18	SPAD	14/09/18	03/10/18	In person
4	Noticee 4	30/08/18	Letter	30/08/18	SPAD	14/09/18		In person
5	Noticee 5	11/09/18	E-mail	30/08/18	Affixture	19/09/18		In person
6	Noticee 6	Not received any reply		30/08/18	Affixture	19/09/18	Neither submitted any reply nor attended the hearing	

8. The replies/submissions of the Noticee No. 1 to 5 (except Noticee No. 6 who has neither submitted any reply nor availed the opportunity of hearing) are summarized as under, Noticee wise:

**Noticee No. 1:**

- She is working in MPL in Regulatory department as Assistant Manager. The department that she is working in and the position that she holds do not have any access to Unpublished Price Sensitive Information ('UPSI') and the trades were inadvertently done without knowledge of closure of trading window.
- She had inadvertently traded small quantity of 500 shares @ Rs. 44.55 including brokerage having total buy value of Rs. 22,275/- on 30.05.2016 when the trading window was closed and this was the only transaction in the entire examination period. She was not aware of these trading restrictions and mistake happen inadvertently.
- The results were declared on May 30, 2016 itself and the trading window was closed upto May 31, 2016. Hence, the information about the results was already in public domain when she bought the shares on May 30, 2016. This establishes that she was not having any access to

UPSI. The act of her buying the shares was in close proximity to the declaration of results which establishes that there was no *mens rea* involved.

- d) Her volume of 500 shares is very miniscule i.e. 0.04% of the total market volume, hence, the act of her buying such a miniscule quantity will never impact the volume and/ or price in the scrip. Further, she had bought the said shares at the rate of Rs 44.55 and the rate on June 01, 2016 i.e. when the trading opened was Rs. 44.80.
- e) On realizing something wrong, she had sold the same lot of 50 shares June 01, 2016 @ Rs. 44.83 (which is not a window closure day) and hence this transaction is not disputed. She has earned Rs. 450 gross profit from the said transaction and after considering brokerage paid the net profit is Rs. 142.55. If her intention was to earn profit using company information, she would have traded large quantity of shares. But, this was an inadvertent trading due to ignorance of law.
- f) Further, on being pointed out by her employer, she has immediately paid this profit of Rs.450 to MPL by cheques dated 17.07.2017 even though this is an inadvertent mistake. It will be inappropriate to hold the enquiry as MPL had already recovered the profit amount and also issued warning letter to me and as matter is closed.
- g) She is small investor and operate online for trading of shares. She has not received any alert regarding such restrictions while buying the shares online and hence she had proceeded with buying the shares. If there is any such restriction, then online facility should flash alert about such restriction which happen during any financial transaction by bank.
- h) In a similar case i.e. Shri Gautam Anand in the matter of ITC Limited, Adjudicating Officer of SEBI has set aside the proceedings in view of miniscule amount of inadvertent transaction vide order no. AO/SBM/EAD-3/29/2016. Applying the rationale of the said judgement, proceedings initiated against her be set aside.
- i) This being inadvertent trading, no penalty is imposable on her as there is no provision for imposition of penalty for inadvertent trading. Hence, provisions of Section 15HB is not applicable to her as said Section 15HB is provided for when no separate penalty is provided.
- j) Even if penalty is imposable, penalty should be in line with the provision contained in Section 15J of the SEBI Act such as profit earned, quantum of gain and repetitive nature of offence. In the instant case, the amount of profit is Rs. 142/- (Gross Rs. 450/-) and the same have been recovered from her by MPL and incidence is not repetitive. Incidence took place only once and that too was inadvertently done.
- k) Provisions of the SEBI Act appears to be trapping the employees and penalizing them. Instead of that, there should be some restrictions automatically applied at buying or selling stage only which will not allow the employee to trade by mistake also. As SEBI has failed to impose online buying / selling restriction on employee, it cannot charge employee for their inadvertent mistake and hence no penalty is imposable.
- l) She is drawing a total annual salary of Rs. 10 lakhs and has a full family to support. Hence, she does not have any corpus to pay penalty, if any levied by SEBI.

- m) Her violation, if any, is technical and venial in nature, same is unintentional. Due to not filing of relevant disclosures no gain or advantage has occurred to her and no loss or harm been caused to any investors. The same was only a procedural lapse/unawareness of the window closing time, and devoid of any malafide intention. She has further undertaken that such kind of violation will not be repeated in future.

**Noticee No. 2:**

- a) He is working in MPL for the last around 5 Years in Regulatory department as Assistant Manager. The department that he is working in and the position that he holds do not have any access to UPSI and the trades were inadvertently done without knowledge of closure of trading window.
- b) He had only bought a total of 100 shares on August 07, 2015 when the trading window was closed and this was the only transaction in the entire examination period and not gained any benefits out of this transaction since the same have not been sold.
- c) The results were declared on August 08, 2015 itself and the trading window was closed upto August 09, 2015. The act of his buying the shares was in close proximity to the declaration of results which establishes that there was no *mens rea* involved. His volume of 100 shares is very miniscule i.e. 0.001% of the total market volume, hence, the act of his buying such a miniscule quantity will never impact the volume and/ or price in the scrip. Further, he had bought the said shares at the rate of Rs 111.00 and the rate on August 10, 2015 i.e. when the trading opened was Rs. 111.00.
- d) His violation, if any, is technical and venial in nature, same is unintentional. Due to not filing of relevant disclosures no gain or advantage has occurred to him and no loss or harm been caused to any investors. The same was only a procedural lapse/unawareness of the window closing time, and devoid of any malafide intention. He has further undertaken that such kind of violation will not be repeated in future.

**Noticee No. 3:**

- a) She had worked in MPL for 5 Years in Regulatory department as Manager. The department that she was working in does not have any access to UPSI and the trades were inadvertently done without knowledge of closure of trading window. She had quit her job in MPL on April 02, 2018 and currently not working anywhere. Therefore, she has no source of income.
- b) She had only bought a total of 50 shares on November 06, 2015 when the trading window was closed and this was the only transaction in the entire examination period. She had not gained any benefits out of this transaction since the same have not been sold. There was no *mens rea* involved in her buying shares.
- c) Her volume of 50 shares is very miniscule i.e. 0.004% of the total market volume, hence, the act of her buying such a miniscule quantity will never impact the volume and/ or price in the scrip. Further, she had bought the said shares at the rate of Rs 93.55 and the rate on Nov 13, 2015 i.e. day when trading window opened was Rs 97.
- d) Her violation, if any, is technical and venial in nature, same is unintentional. Due to not filing of relevant disclosures no gain or advantage has occurred to her and no loss or harm been

caused to any investors. The same was only a procedural lapse/unawareness of the window closing time, and devoid of any malafide intention. She has further undertaken that such kind of violation will not be repeated in future.

**Noticee No. 4:**

- a) He is working in MPL for the last around 17 years in Export-Logistics department at the post of Manager. The department that he is working in and the position that he holds do not have any access to UPSI and the trades were inadvertently done without knowledge of closure of trading window.
- b) He is the only income earner in the family in which he is also paying housing loan monthly to bankers. I have a full family to support. Hence, he does not have any corpus to pay penalty, if any levied by SEBI.
- c) He had only bought a total of 7000 shares on February 2, 2016, February 08, 2016, February 11, 2016 and August 11, 2016 when the trading window was closed and this was only four transactions in the entire examination period and he had not earned any benefit out of it since the same have not been sold. There was no *mens rea* involved in the said dealings.
- d) His volume of 7000 shares is very miniscule i.e only 0.06% of the total market volume on the dates he bought the shares, hence, the act of his buying such a miniscule quantity will never impact the volume and / or price in the scrip. Further, he had bought the said shares at the rate of Rs 61.90 - Rs 46.15 and the rate on 15.02.2016 and 16.08.2016 i.e. day when trading window opened was Rs 44.00 and Rs 41.00 respectively.
- e) His violation, if any, is technical and venial in nature, same is unintentional. Due to not filing of relevant disclosures no gain or advantage has occurred to him and no loss or harm been caused to any investors. The same was only a procedural lapse/unawareness of the window closing time, and devoid of any malafide intention. He has further undertaken that such kind of violation will not be repeated in future.

**Noticee No. 5:**

- a) He is working in MPL for the last around 8 Years in Purchase department as Manager. The department that he is working in and the position that he holds do not have any access to UPSI and the trades were inadvertently done without knowledge of closure of trading window.
- b) He had only bought a total of 4000 shares on August 12, 2016 when the trading window was closed and this was the only transaction in the entire examination period and had not gained any benefits out of this transaction since the same have not been sold. Moreover, he claimed that he was not present in the office during that particular period and did not have any access to e-mail/ intimation of closing of window. In order to substantiate his claim, air tickets were submitted to demonstrate that he was on tour during the period from July 31, 2016 to late night of August 11, 2016.
- c) His volume of 4000 shares is very miniscule; hence, the act of his buying such a miniscule quantity will never impact the volume and/ or price in the scrip. Further, he had bought the



said shares on August 12, 2016, at the rate of Rs 46.60 and the rate on August 14 was 40.45 and further reduced on August 21, 2016 was Rs 37.40 that proves that he does not possess any internal price sensitive information.

- d) His violation, if any, is technical and venial in nature, same is unintentional. Due to not filing of relevant disclosures no gain or advantage has occurred to him and no loss or harm been caused to any investors. The same was only a procedural lapse/unawareness of the window closing time, and devoid of any malafide intention. He has further undertaken that such kind of violation will not be repeated in future.
9. Since the allegation that the Noticees were 'designated employees' is based on the information provided by MPL and few of them have even claimed that they were not aware of closures of trading window at the relevant time, for the purpose of the inquiry it was considered relevant to seek further information from MPL. Therefore, in terms of Rule 4(6) of the Adjudication Rules read with section 15I (2) of the SEBI Act further information in the above regard was sought from MPL vide Notice dated October 09, 2018 and it was also asked to depute a person acquainted with facts of the case to be present with relevant documents/ records on October 15, 2018. By this Notice, following information relevant to the inquiry were sought from MPL:
- a) Copy of Code of Conduct laid down, if any, by it to regulate, monitor and report trading by insiders in compliance with Regulation 9 of the PIT Regulations.
- b) Whether the employees were, at the relevant times, the designated person based upon his functional role in MPL in terms of the code of conduct.
- c) Functional Role and Designation of the employees of MPL during the time of their respective trades as well as their present designation and role.
10. On October 15, 2018, Mr. Harshavardhan Panigrahi, Company Secretary of MPL, Authorised Representative ('AR'), appeared on behalf of MPL and provided the information along with letter dated October 13, 2018 and explained the content thereof. Relying upon the said letter, he explained that MPL had intimated its employees about closure of trading window from time to time through e-mail(s) and notice board. In its letter dated October 13, 2018, MPL has confirmed the following:-
- a) It has in place a Code of Conduct to regulate, monitor and report trading in securities in compliance with Regulation 9 of the PIT Regulations. The same was approved by its Board of Directors on May 30, 2015. Subsequently, MPL circulated a revised Code of Conduct approved by the Board of Directors on August 11, 2017. It also provided copies of its Code of Conduct and has confirmed that the Code of Conduct is informed to all the employees through e-mails and notice board and has also been uploaded in the Company's website [www.marksanspharma.com](http://www.marksanspharma.com).

- b) As per the Code of Conduct approved by the Board of Directors on May 30, 2015 which remained valid during the subject period between May 2015 and December 2016, all employees of MPL comprising top tier of the management upto the Manager level and all employees in the Corporate Office at Mumbai are included in the definition of “Designated Person”. Accordingly, the employees under reference are Designated Persons.
  - c) In terms of its code of conduct, all its employees were intimated about the closures of trading window from time to time through e-mail and notice board. It has provided copies of e-mail communication in support of this submission.
  - d) On receipt of information from SEBI, the matter was taken up by the Board of Directors in its meeting held on May 29, 2017 wherein it was decided to issue warning letters to the employees who made profit of less than ₹10 Lakh and to withhold promotion, salary increment, LTA and Bonus for one year of those employees who made profit of more than ₹10 Lakh and debar from trading in the shares of the Company for one year. It was further decided to recover the amount of profit from such employees for credit into the Investor Protection and Education Fund administered by SEBI.
  - e) MPL has already recovered the amount from the employees, to the extent possible, and deposited the same in ‘Investor Protection and Education Fund’ and also informed SEBI about the same and provided a copy of the communication sent to SEBI.
11. I have carefully considered the allegations levelled in the matter, the submissions of the Noticee and the relevant material available on record. Admittedly, this is not a case where an insider has been alleged to have traded in the shares of MPL on the basis of any UPSI. The charge in this case is that the Noticees being ‘designated persons’ of MPL have traded in the scrip of MPL when the trading window was closed and has thus, alleged to have violated the provisions of Clause 4 of the Minimum Standards for Code of Conduct to Regulate, Monitor and Report Trading by Insiders specified in Schedule B read with Regulation 9(1) and (2) of the PIT Regulations. In this regard, it is noted that in terms of Regulation 9(1) of the PIT Regulations, all listed companies are obligated to frame a Code of Conduct as near to the Model Code of Conduct as set out in Schedule B to the PIT Regulations. The similar obligation under Regulation 9 (2) is intended for persons other than listed companies and market intermediaries. In this case, MPL being a listed company, the allegation of non-compliance of Regulation 9 (2) does not sustain.
12. In terms Clause 3 to Schedule B of the Code of Conduct, the listed company has to designate the employees and connected persons (‘designated persons’) on the basis of their functional role. A bare perusal of the various provisions stipulated under the Model Code of Conduct for listed companies under Regulation 9 of the PIT Regulations will make it clear that these provisions are formulated with a view to serve as a guiding charter

for all concerned persons associated with the functioning of the company and their trading in its securities. For this purpose, designated employees are to be designated on the basis of their functional role ("designated persons") and are to be governed by an internal code of conduct governing dealing in securities. It is also noted that Regulation 9 (3) of the PIT Regulations casts obligation on the listed company to designate a compliance officer to administer the code of conduct and monitor compliance. As explained in the Note appended to this regulation, the provision is intended that the designated compliance officer identified by the listed company has the responsibility to administer the code of conduct and monitor compliance. Further, in terms of Clause 12 of Schedule B to the Code of Conduct shall stipulate the sanctions and disciplinary actions including wage freeze, suspension etc., for contravention of the Code of Conduct. These actions are without prejudice to the power of the Board under the SEBI Act.

13. In this case, MPL had framed a Code of Conduct prescribing various requirements including the requirement that Designated Persons and their immediate relatives shall not trade in securities of the Company when the trading window is closed. The Noticees were considered as 'Designated Persons' as per MPL's Code of Conduct which covers employees comprising top tier of the management upto the Manager level and all employees in the Corporate Office at Mumbai. Admittedly, the Noticees fall in the category comprising top tier of the management upto the Manager level. Thus, the Noticees have been considered a 'designated person' on the basis of their functional role. The Noticees have not disputed their respective transactions or the allegations levelled against them. From the information provided by the MPL, it is established that the e-mails dated July 30, 2015, November 02, 2015, January 30, 2016, May 20, 2016 and August 05, 2016 whereby the Company intimated its employees about trading window closure and prohibition of trading at the relevant times were received by them. The Noticees being designated by the company as 'designated person' under its Code of Conduct and being aware of the trading window closures, were not supposed to trade during such trading window closure. Having done so, the Noticees have violated the Code of Conduct of MPL and in turn Clause 4 of Schedule B to the Model Code of Conduct which *inter-alia* stipulates that the 'designated persons' and their immediate relatives shall not trade in securities of the concerned listed company when the trading window is closed.
14. It is noted that Noticee No. 1 had purchased 500 shares of MPL for ₹ 22,125/- on May 30, 2016 when the trading window was closed from May 20, 2016 to May 31, 2016 and she had sold the said 500 shares immediately on June 01, 2016 (when the trading window

closure period was over) i.e. two days from the date of purchase at the rate of ₹ 44.83 and earned ₹ 450 gross profit from the said transaction and after considering brokerage paid, the net profit was ₹ 142.55. This is the only transaction done by the Noticee No. 1 during the entire examination period of two years. Noticee No. 1 has submitted that she was not aware of the rules and consequences. On realizing her mistake, she disposed of all the 500 shares bought by her within two days. I note that as empowered under the Model Code of Conduct prescribed under the PIT Regulations, MPL had issued warning letter to Noticee No. 1 and recovered the said profit amount of ₹ 450 from her by cheque dated July 17, 2017 and the said amount of ₹ 450 which was recovered from her by MPL was transferred to SEBI- Investor Protection and Education Fund ('IPEF') by cheque dated January 04, 2018.

15. In the case of Noticee No. 2, 3, 4 and 5, I note that:

- a) Noticee No. 2 had purchased 100 shares for ₹11,100/- on August 07, 2015 when the trading window of MPL was closed from July 30, 2015 to August 09, 2015.
- b) Noticee No. 3 had purchased 50 shares for ₹ 4,677.50/- on November 06, 2015 when the trading window of MPL was closed from November 02, 2015 to November 11, 2015.
- c) Noticee No. 4 had purchased a total of 7000 shares on February 2, 2016, February 08, 2016, February 11, 2016 and August 11, 2016 for a total amount of ₹ 3,79,599.85/- when the trading window was closed from January 30, 2016 to February 13, 2016 and August 05, 2016 to August 14, 2016.
- d) Noticee No. 5 had purchased 4000 shares for ₹ 1,86,589.15 /- on August 12, 2016 when the trading window of MPL was closed from August 05, 2016 to August 14, 2016.

16. As per the records, the aforesaid trade details are the only transactions done by the aforesaid four Noticees during the entire examination period of two years. I note that they have not gained any benefit out of their respective transactions since the shares acquired were not sold. I am of the view that the said total quantity of 100 shares and 50 shares transacted by the Noticee No.2 and 3, respectively during the entire examination

period of two years is very miniscule. These Noticees are still holding this miniscule quantity of shares.

17. I note that when Noticee No. 4 and 5 purchased the shares of MPL, the prices were ₹ 54.23 (₹ 3,79,599.85 / 7000 shares) and ₹ 46.65 (₹ 1,86,589.15 / 4000 shares) and at present, the price of shares of MPL on stock exchanges where it is listed is ₹ 28 (approx.). I note that an amount of ₹ 27,108.15/- and ₹ 26,061.70/- was recovered by MPL from Noticee No. 4 and 5, respectively representing profit earned by them from their trades in the scrip of MPL and the same was transferred to SEBI- IPEF by cheque dated January 04, 2018.

18. Noticee No. 6 had purchased 50 shares for ₹ 2,205/- on May 31, 2016 and 100 shares for ₹ 4,585/- on August 12, 2016, when the trading window of MPL was closed from May 20, 2016 to May 31, 2016 and from August 05, 2016 to August 14, 2016, respectively. As per the records, these were the only transactions done by the Noticee No. 6 during the entire examination period of two years. MPL had recovered the profit made out of contra trading amounting to ₹ 2,818/- and transferred the said amount to SEBI- IPEF by cheque dated September 14, 2018.

19. The aforesaid trades of the Noticees are summarized as under:

Noticee	No. of shares		Gross value (₹)		No. of transactions		No. of instances of window closure
	Buy	Sell	Buy	Sell	Buy	Sell	
1*	500		22,125.00	-	1	0	1
2#	100		11,100.00	-	1	0	1
3#	50		4,677.50	-	1	0	1
4#	7000		3,79,599.85	-	4	0	2
5#	4000		1,86,589.15	-	1	0	1
6*	150		6,790.00	-	2	0	2

\* - Profit made out of contra trades recovered by MPL and transferred to SEBI-IPEF.

# - No profit made since the shares acquired were not sold.

20. I note that there is no material on record to indicate any design that the Noticees have indulged in any market manipulation or made wrongful gain or caused any wrongful loss to other investors due to their trading in the shares of MPL during the respective window closure periods. The Noticees have further undertaken that such kind of violation will not be repeated in future. From the letter dated June 30, 2017 of MPL to SEBI, I note that, apart from recovering the profits wherever earned by the respective Noticee and

transferring them to SEBI-IPEF, MPL had issued warning to all these Noticees to trade in the shares of MPL in compliance with SEBI Regulations and MPL's Code of Conduct. Considering the pattern of the transactions, the position and role of these employees in MPL, I am of the view that the Noticees have been adequately sanctioned/penalized by MPL for their defaults which resulted in the violation of the Model Code of Conduct prescribed under Clause 4 of Schedule B of the PIT Regulations. Considering the facts and circumstances, I am of the view that the action taken by MPL on Noticees herein is commensurate with the violations committed by them and accordingly, no penalty is warranted to be imposed upon them under Section 15 HB of the SEBI Act. The SCN issued to them is disposed of accordingly.

21. In terms of Rule 6 of the Adjudication Rules, copy of this order is sent to the Noticees and also to SEBI.

**Date: October 31, 2018**

**Place: Mumbai**

**Santosh Shukla**

**Adjudicating Officer**