

**BEFORE THE ADJUDICATING OFFICER  
SECURITIES AND EXCHANGE BOARD OF INDIA  
[ADJUDICATION ORDER NO. Order/AS/RM/2024-25/31265-31266]**

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

**In respect of:**

<b>Sr. No.</b>	<b>Name</b>	<b>PAN</b>
1.	Mr. Milan Dalal	AAUPD0935H
2.	Mr. Moloy Saha	AIQPS2918H

**In the matter of Foods and Inns Ltd.**

**BACKGROUND OF THE CASE**

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**'), carried out investigation to ascertain whether dealings of certain entities in the scrip of Foods and Inns Limited (hereinafter referred to as '**FIL**' or '**the Company**') during the Investigation Period i.e. July 01, 2022 to November 30, 2022 (hereinafter referred to as '**IP**') was undertaken in violation of the provisions contained in SEBI (Prohibition of Insider Trading) Regulations, 2015 (hereinafter referred to as '**PIT Regulations, 2015**'). During the investigation, SEBI observed certain non-compliances with the provisions of PIT Regulations, 2015 by Mr. Milan Dalal, Managing Director (MD) of FIL (hereinafter referred to as "**Noticee 1**") and Mr. Moloy Saha, Chief Executive Officer (CEO) of FIL (hereinafter referred to as "**Noticee 2**"), (hereinafter collectively referred to as "**Noticees/You**"). Pursuant to the findings of investigation, SEBI initiated adjudication proceedings against Noticees under Section 15HB of SEBI Act for the alleged violation of Regulation 9(1) read with Schedule B of PIT Regulations, 2015.

## **APPOINTMENT OF ADJUDICATING OFFICER**

2. SEBI appointed undersigned as the Adjudicating Officer (AO), vide communique dated November 21, 2024, under Section 15-I (1) of the SEBI Act, 1992 read with Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as 'SEBI Adjudication Rules') to inquire into and adjudge under the provisions of the Section 15HB of the SEBI Act, the violations alleged to have been committed by the Noticees.

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

3. Show Cause Notice No. SEBI/EAD/EAD-8/AS/RM/37239/1-2/2024 dated December 03, 2024 (hereinafter be referred to as, the "SCN") was issued to the Noticees under Rule 4(1) of the Adjudication Rules to show cause as to why an inquiry should not be held and penalty be not imposed on Noticees under Section 15HB of the SEBI Act.
4. The allegations in respect of the Noticees *inter alia* brought out in the SCN are as under:  
'.....'
  3. *During the investigation, vide e-mail dated May 31, 2024, FIL was inter alia advised to provide a copy of 'Code of Conduct for Listed Companies to Regulate, Monitor and Report Trading by Designated Persons'. FIL in its reply vide letter dated June 20, 2024 submitted a copy of the 'Code of Ethics for Directors and Senior Management'.*
  4. *Vide letter dated June 20, 2024, FIL had, inter alia, submitted that trading window was closed from October 01, 2022 to November 16, 2022. In this regard, FIL was advised to provide a copy of the communique which was sent to concerned employees intimating about the closure of trading window. On this, FIL vide its e-mail dated September 02, 2024 inter alia forwarded a copy of the e-mail communique dated September 29, 2022 sent by FIL to its designated persons intimating about closure of trading window, which was noted to refer to one 'Company's Code of Conduct for Prevention of Insider Trading read with SEBI (Prohibition of Insider Trading)*

*(Amendment) Regulations, 2018'. However, upon being asked to provide a copy of the aforesaid Code of Conduct, FIL vide its e-mail dated September 02, 2024 provided a copy of the 'Code of Practices and Procedures for Fair Disclosure of Unpublished Price Sensitive Information'.*

5. *During the statement of examination on oath of Noticee 2, carried out on September 17, 2024, Noticee 2 inter alia submitted – '...The company follows requirements stipulated under PIT Regulations, 2015; however, the same is not documented separately. The company has put in place a written Code of Ethics for Directors and Senior Management and the same covers the aspects stipulated under minimum standards for code of conduct, and a copy of the same has also been provided to SEBI...'*
6. *Upon a perusal of the 'Code of Ethics for Directors and Senior Management' provided by FIL, inter alia, following observations were made:*
  - 6.1. *The aforesaid code has been formulated by FIL in terms of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (hereinafter referred to as '**LODR Regulations, 2015**') with a view to follow ethical and lawful code of conduct; and not with a view to govern dealing in securities in accordance with PIT Regulations, 2015.*
  - 6.2. *The aforesaid code does not define 'Designated Persons', and the same is made applicable to 'Officers' which has been defined to include all directors of FIL; senior management of FIL; all employees serving in the roles of finance, tax, accounting, purchase, treasury, internal audit, financial analyst and investor relations; all disclosure committee members; and all members of the senior management of subsidiaries of FIL. As such, it is noted that the aforesaid code does not apply to promoters of the company.*
  - 6.3. *The aforesaid code includes certain aspects on insider trading; however, it draws reference to SEBI (Prohibition of Insider Trading) Regulations, 1992. Herein, the aforesaid code inter alia stipulates that the officers and their relatives should not derive any benefit or assist others to derive any benefit from the access to and possession of insider information; that the officers shall abstain from trading in securities of FIL during closure of trading window; and that the officers should follow the pre-clearance procedure for trading. However, the aforesaid code, among other things, does not prescribe the procedure or format for seeking pre-clearance or the thresholds above which requirement of seeking pre-clearance shall apply or the timeframe within which trades that have been pre-cleared have to be executed. Further, any stipulation in respect of contra trades is also not contained in the aforesaid code.*

7. Upon being asked about any other policies formulated by the company towards achieving compliance with PIT Regulations, 2015, Noticee 2 in discussion with Company Secretary and Compliance Officer of the company viz. Mr. Ameya Masurkar during his statement of examination on oath inter alia provided a policy document on 'Employee Code of Conduct'. The said policy is, however, noted to cover aspects relating to individual conduct, human rights, anti-discrimination, anti-harassment, etc., and not aspects as mentioned under Regulation 9(1) read with Schedule B of PIT Regulations, 2015.
8. The above submissions made by Noticee 2 that 'Code of Ethics for Directors and Senior Management' covers aspects stipulated under minimum standards for code of conduct under PIT Regulations, 2015 is unacceptable in view of the observations made at para 6.1 to 6.3.
9. On the aspect relating to failure to formulate code of conduct under PIT Regulations, 2015, Noticee 1, vide his e-mail dated September 21, 2024 inter alia submitted as – '...The regulation stipulates adoption of Minimum Standards for the Code Of Conduct under Schedule B under PIT Regulations 2015, which we have adopted:
  1. however the heading given by the then Company Secretary/Adopted by the board of the Company is "Code of Practices and procedures for Fair Disclosure of Unpublished Price Sensitive Information"
  2. The Code is already existent and up loaded on our website in 2019
  3. That the format which our company follows is almost in line to the guidance, baring a few points, which off course were unintendedly missed out, and any act of omission may be condoned...'
10. The above submissions made by Noticee 1, that minimum standards for the code of conduct have been adopted and that the heading given by the then company secretary is 'Code of Practices and Procedures for Fair Disclosure of Unpublished Price Sensitive Information' is untenable as code of practices and procedures for fair disclosure of unpublished price sensitive information is required to be formulated by listed companies in terms of Regulation 8(1) read with Schedule A of PIT Regulations, 2015, whereas the code of conduct to regulate, monitor and report trading by designated persons is required to be formulated by listed companies in terms of Regulation 9(1) read with Schedule B of PIT Regulations, 2015.
11. A comparative analysis of key requirements laid down in terms of Schedule B read with Regulation 9(1) of PIT Regulations, 2015 vis-à-vis those adopted by FIL either by way of 'Code of Practices

*and Procedures for Fair Disclosures of Unpublished Price Sensitive Information’ or ‘Code of Ethics for Directors and Senior Management’ was prepared during investigation for reference.*

12. *It is noted that in respect of reason(s) for not formulating the code of conduct under PIT Regulations, 2015, Noticee 2 during his statement of examination on oath inter alia submitted – ‘...We will comply with such requirement by placing the same before our board in the upcoming meeting...’. Furthermore, FIL vide its e-mail dated September 25, 2024 had submitted – ‘...as stated by Mr. Moloy Saha, CEO in the physical meeting with you and as per Mr. Milan Dalal, MD’s email reply, few amendments of the Code of Insider trading that we missed, have been discussed and approved at the Board Meeting Yesterday and we will comply with the regulations upon final draft being approved by our legal advisors...’.*
13. *In view of above, it is noted that Noticee 1 as MD of the company and Noticee 2 as CEO of the company, failed to formulate code of conduct for FIL, being a listed company, to regulate, monitor and report trading by designated persons and their immediate relatives. Therefore, the **Noticees 1 and 2 are alleged to be in violation with Regulation 9(1) read with Schedule B of PIT Regulations, 2015.***

*.....’*

5. The SCN was issued at the last known address of Noticees through Speed Post Acknowledgement Due (SPAD) and email on December 03, 2024, and was duly delivered to the Noticees. The Noticees vide email dated December 18, 2024, sought an extension of 7 days for submitting reply to SCN, and accordingly extension was granted till December 25, 2024 to submit the reply. The Noticees submitted their reply to SCN vide letter dated December 19, 2024. Vide Hearing Notice dated December 24, 2024 an opportunity of hearing on January 07, 2025 was granted to the Noticees. The authorised representatives (ARs) of the Noticees attended the hearing on January 07, 2025 and reiterated the submissions made by the Noticees vide letter dated December 19, 2024. Further, the ARs undertook to submit additional submissions in the matter. The ARs submitted additional submissions in the matter on January 14, 2025.

6. With respect to allegations in the SCN, the key contentions of the Noticees made vide letters dated December 19, 2024, and January 14, 2025 are as under:

1. SEBI addressed an email dated 31<sup>st</sup> May 2024, inter alia seeking to investigate the trading activities of the Company during the period of 1<sup>st</sup> July 2022 to 30 November 2022. By the said email, SEBI also directed the Company to provide a copy of the "Code of Conduct for Listed Companies to Regulate, Monitor, and Report Trading by Designated Persons" (mentioned at Item 11 of SEBI's email dated 31<sup>st</sup> May 2024).
2. Pursuant to the said email dated 31<sup>st</sup> May 2024, by way of a Reply dated 20<sup>th</sup> June 2024, the Company, inter alia, furnished all the relevant information and documentation as sought by SEBI in the said email. In response to the query at Item 11 of SEBI's email dated 31<sup>st</sup> May 2024, the Company furnished "The Code of Ethics For Directors and Senior Management (the Company Code)".
3. SEBI subsequently examined Noticee No. 2. Mr. Moloy Saha under oath as per Sec. 11(C)(5) and 11 (7) of the SEBI Act. At the said time, during the examination of Mr. Moloy Saha, a query was addressed to Mr. Saha as to why the Company Code was not in compliance with the existing Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations 2015 (as amended till date.) ("the PIT Regulations"), Mr. Moloy Saha informed SEBI that the Company Code would be amended at the next Board Meeting of the Company, to ensure compliance with the PIT Regulations.
4. By way of the Company's email dated 25<sup>th</sup> September 2024, inter alia, the Company stated that the amendments to the Company Code, to ensure compliance with the PIT Regulations, was to be approved at a Board Meeting to be held on 30<sup>th</sup> October, 2024.
5. The Company thereafter acted bona fide with expedition, as demonstrated hereinbelow
6. The Company had, within 5 days, addressed an email dated 1<sup>st</sup> October 2024 to its employees directing them to ensure compliance with the said pre-clearance procedures. A copy of the said email dated 1<sup>st</sup> October 2024 is annexed as Exhibit "1" to the Reply. The relevant portion of the said email is reproduced hereinbelow:

*"This is to inform you that in terms of Company's Code for Fair Disclosure and Conduct and for Prevention of Insider Trading" every employee of the Company needs to take pre-clearance approval from the Compliance Officer of the Company in the format attached to the email. This needs to be taken for both buy and sell transactions.*

*It Contains Pre-trading application and undertaking for not carrying any Unpublished Price Sensitive Information ("UPSI").*

*Any contravention of the above will invite disciplinary action by the Company and such disciplinary action will be irrespective of action that may be taken by SEBI under the Regulations."*

7. By way of a subsequent Board Resolution dated 30<sup>th</sup> October 2024, the forms as contained in the PIT regulations, with respect to pre-clearance procedures, were approved and were

adopted by the Company. A copy of the Board Resolution dated 30<sup>th</sup> October, 2024 is placed on records.

8. The Noticees, in bona fide good faith, believed that the Company was compliant of the PIT Regulations in spirit, as the Company had adopted two codes, i.e., "The Code of Ethics For Directors and Senior Management" (i.e., the Company Code) and The Code of Practices and Procedures For Fair Disclosure of Unpublished Price Sensitive Information."
9. However, pursuant to the receipt of the captioned Show Cause Notice, the Company subsequently undertook a comprehensive review of the Codes adopted by the Company to ensure that they are compliant with the PIT Regulations, as amended until 4<sup>th</sup> December 2024.
10. In this regard, the Company adopted the "Code of Conduct to Regulate, Monitor and Report Trading by Designated Persons pursuant to Regulation 9 (I) and Schedule B of the SEBI Prohibition of Insider Trading) Regulations 2015 as amended from time to time" by way of a Board Resolution dated 6 January 2025. A copy of the said Code is placed on records. A copy of the Board Resolution dated 6<sup>th</sup> January 2025 is placed on records.
11. As per Reg. 9(1) of the PIT Regulations, the Board of Directors are required to ensure compliance of the Company policies with the PIT Regulations. However, the captioned Show Cause is only addressed to the Noticees herein, and not to the Board of Directors.
12. Without prejudice, the captioned Show Cause Notice:
  - i. does not allege any offense committed by the Noticees, and I or any one claiming through and/or under them, under the SEBI Act and/or the Rules I Regulations, inter alia, with respect to insider trading or misuse of JPSI; and/or
  - ii. Does not allege any actual breach of the PIT Regulations (as amended till date)
  - iii. does not allege that the Noticees has committed any fraudulent actions that has caused loss to the public and/or caused unjust enrichment to the Noticees and I or any one claiming through and/or under them.
13. The Company has always endeavoured and shall endeavour in future to comply with the statutory regime, as amended from time to time. Further, it is apparent that the object of the captioned Show Cause Notice is remedial and not penal. As the Company has undertaken remedial measures to ensure compliance, it is humbly requested that no penalty is levied on the Company or its Key Personnel.
14. Pertinently, it is relevant to point out that the object of the present enquiry is remedial, and not penal / punitive, in nature. In SEBI vs Cabot International Capital Corporation (Appeal No. 7 of 2001 in SEBI Appeal No. 24 of 2000], the Hon'ble Bombay High Court held as under:

28. thus, the following extracted principles are summarized:

A.....

G). Though looking to the provisions of the statute, the delinquency of the defaulter may itself expose him to the penalty provision yet despite, that in the statute minimum penalty is prescribed, the authority may refuse to impose penalty for justifiable reasons like the default occurred due to bonafide belief that he was not

*liable to act in the manner prescribed by the statute or there was too technical or venial breach etc.*

*33. Now, the question, of the penalty, by the Adjudicating Authority, in the facts and circumstances of the case, was warranted or not. We find that the allotment in question was undoubtedly covered under the exemption provided in Regulation 3(1). There could not have been insistence by the Appellants -SEBI to comply with the requirements of Regulation 3(4). It is also clear that when an acquisition is covered under Regulation 3 the acquirer is required to report to the Board under the Sub-Regulation 3(4) within the specified time, as referred above. In view of this undisputed position, merely because there was no Report filed, that itself cannot be read as serious defect or non compliances of the said provisions. The Appellate Authority, after considering the material on record, including the events, referred in the pleadings, found that the respondents-Company had no intention to suppress any material information from the appellants or the share holders. The Company had informed the Stock Exchange, Registrar of Companies and complied with all other provisions of other laws, well in time. It cannot be overlooked that information about the preferential allotment was well within the knowledge of the appellants as reflected from the letter dated 2nd January, 1997. The appellants were aware of the preferential allotment in question and in fact prevented the Respondent-Company from monitoring and pursuing further course of action. It is also clear from the record that SR. Batliboi & Associates, Chartered Accountants, being statutory Auditors of the Company, had written on 14th January, 1997 to the respondents, the Reserve Bank of India and reported the Company's decision to make preferential allotment. It appears that there was no intention of the respondents to avoid filing of such a Report with the appellants, as the respondents had in fact complied with and notified the relevant details to all other concerned Authorities, like Registrar of Companies, Reserve Bank of India and Stock Exchange in respect of the preferential allotment and the relevant details. Therefore, SAT, cannot be said to have erred in the factual background of the case that, the respondents never intended or consciously or deliberately avoided to comply with the obligations under the SEBI Act and the Regulations and the non filing of the Report in question was a technical and a minor defect or breach based on bonafide belief that respondents were not liable or required to submit the said Report in view of the admitted exemption available under the SEBI Act and the Regulations. In the facts and circumstances of the present case the reversal of the order of the Adjudicatory Authority, by the SAT cannot be faulted."*

*The decision in Cabot international Capital Corporation (supra) is placed on records. The other relevant decisions are also placed on records).*

**15. In summary:**

*a. The Noticees, in bona fide good faith, believed that the Company was compliant of the PIT Regulations in spirit, as the Company had adopted two codes, i.e. "The Code of Ethics For Directors and Senior Management" (i.e. the Company Code) and "The Code of Practices and Procedures For Fair Disclosure of Unpublished Price Sensitive Information."*



*b. Pursuant to receipt of the captioned Show Cause Notice the Company has undertaken a comprehensive review of the said Codes adopted by the Company to ensure that they are compliant with the PT Regulations as amended until 4 December 2024.*

*c. The Company has adopted the "Code of Conduct to Regulate, Monitor and Report Trading by Designated Persons pursuant to Regulation 9 (I» and Schedule B of the SEBI Prohibition of Insider Trading) Regulations, 2015 as amended from time to time" by way of a Board Resolution dated 6" January 2025.*

*d. The captioned Show Cause Notice (i) does not allege any offense committed by the Noticees and / or anyone claiming through and/or under them, under the SEBI Act and/or the Rules Regulations, inter alia with respect to insider trading or misuse of UPSI: and/or (ii) Does not allege any actual breach of the PIT Regulations (as amended till date)*

*e. As held in SEBI vs Cabot International Capital Corporation (supra) the object of the present enquiry is remedial, and not penal / punitive, in nature.*

7. I now proceed to examine the case based on the facts and circumstances and the material available on record.

### **CONSIDERATION OF ISSUES AND EVIDENCE**

8. I have carefully perused the allegations levelled against the Noticees in the SCN, their replies and the material / documents available on record. In the instant matter, the following issues arise for consideration and determination: -

- I. Whether the Noticees have violated the provisions of the Act, Regulations and Circulars as indicated at Para 1?***
- II. Do the violations, if any, on the part of the Noticees attract monetary penalty under Section 15HB of the SEBI Act?***
- III. If so, what would be the monetary penalty that can be imposed upon the Noticees taking into consideration the factors stipulated in Section 15-J of the SEBI Act read with Rule 5(2) of the SEBI Adjudication Rules?***

9. Before proceeding with the matter on merits, it would be relevant to reproduce the provisions of law:

**SEBI (Prohibition of Insider Trading) Regulations, 2015**

*9.(1) The board of directors of every listed company and the board of directors or head(s) of the organisation of every intermediary shall ensure that the chief executive officer or managing director shall formulate a code of conduct with their approval to regulate, monitor and report trading by its designated persons and immediate relatives of designated persons towards achieving compliance with these regulations, adopting the minimum standards set out in Schedule B (in case of a listed company) and Schedule C (in case of an intermediary) to these regulations, without diluting the provisions of these regulations in any manner.*

*[Explanation –For the avoidance of doubt it is clarified that intermediaries, which are listed, would be required to formulate a code of conduct to regulate, monitor and report trading by their designated persons, by adopting the minimum standards set out in Schedule B with respect to trading in their own securities and in Schedule C with respect to trading in other securities.]*

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

**Issue I - Whether the Noticees have violated the provisions of the Act, Regulations and Circulars as indicated at Para 1?**

10. Based on perusal of the material available on record, submissions of the Noticees and giving regard to the facts and circumstances of the case, I record my findings hereunder:
11. SCN alleges that FIL failed to have a properly documented Code of Conduct as mandated under Regulation 9(1) read with Schedule B of PIT Regulations. The Code of Conduct submitted by FIL during the investigation, titled as 'Code of Ethics for Directors and Senior Management' (hereinafter referred as Code of Ethics) was

formulated under LODR Regulations, 2015, rather than the PIT Regulations. Additionally the submitted code lacked key elements such as the identification of designated persons, pre-clearance procedures, execution timelines, and contra trade restrictions. Consequently, the Noticees were alleged to have failed to formulate the Code of Conduct as required under Regulation 9(1) read with Schedule B of PIT Regulations.

12. In response, the Noticees have contended that the company acting in good faith, believed its existing 'Code of Ethics' and 'The code of Practices and Procedures for Fair Disclosure of Unpublished Price Sensitive Information' were sufficient to ensure compliance with the PIT Regulations in spirit. However, upon receiving SEBI's query by SEBI about the Company Code not being compliant with PIT Regulations, following corrective actions were taken:
  - a) An email was sent to employees on October 01, 2024 instructing them to ensure compliance with the pre-clearance procedure.
  - b) The board approved and adopted amendments to Company Code with respect to pre-clearance procedure on October 30, 2024.
  - c) Company engaged legal advisors for a comprehensive review of the Codes to ensure compliance with the PIT Regulations, as amended till December 04, 2024.
  - d) Company formally adopted the "Code of Conduct to Regulate, Monitor and Report Trading by Designated Persons pursuant to Regulation 9 (I) and Schedule B of the SEBI Prohibition of Insider Trading) Regulations 2015 as amended from time to time" by way of a Board Resolution dated 6 January 2025.
13. In this regard, I note that the Regulation 9(1) of PIT Regulations explicitly mandates a listed company to establish a Code of Conduct to regulate, monitor and report trading by its designated persons and immediate relatives of designated persons.

This code must adhere to the minimum standards set out in the Schedule B of the Regulations to ensure compliance with the prescribed framework.

14. I note that the Code submitted by FIL during the investigation i.e., Code of Ethics for Directors and Senior Management does not fulfill this mandate for the following reasons:
- a) Regulation 9(1) specifically mandates a Code of Conduct aimed at regulating, monitoring, and reporting trading activities by designated persons to prevent insider trading. However, the Code of Ethics was formulated under the LODR Regulations, which focus on general ethical conduct for directors and senior management rather than insider trading.
  - b) The Code of Ethics and the Code for Fair Disclosure of UPSI lack several key provisions mandated under Regulation 9(1) read with Schedule B of the PIT Regulations, including:
    - i. Non-conformity with Clause 3 of Schedule B – The Code of Conduct under the PIT Regulations must govern securities trading. While FIL defined Designated Persons under its Code for Fair Disclosure of UPSI, this definition serves a different purpose, making it inapplicable for compliance under Regulation 9(1).
    - ii. Non-conformity with Clauses 6, 8, and 9 of Schedule B – The Code of Ethics applies to 'Officers,' which excludes Promoters. The PIT Regulations require that the Code of Conduct apply to Designated Persons, including Promoters, as per Regulation 9(4)(iii). Further, the Code lacks provisions for pre-clearance thresholds (Clause 6), required declarations (Clause 8), and execution timeframes (Clause 9).
    - iii. Non-conformity with Clause 10 of Schedule B – The Code does not contain provisions restricting contra trades.
    - iv. Non-conformity with Clause 11 of Schedule B – The Code does not prescribe a format for pre-clearance applications, not to trade after

securing pre-clearance trade reporting, or disclosure of holdings at specified intervals.

- v. Non-conformity with Clause 12 of Schedule B – The Code does not prescribe code for sanctions, disciplinary actions that may be imposed for the contravention of the code of conduct, and the amount collected under this shall be remitted by the Board for credit to IPEF.
- vi. Non-conformity with Clause 13 of Schedule B – The Code does not stipulate that in case of regulatory violations, the company must promptly inform stock exchanges.
- vii. Non-conformity with Clause 14 of Schedule B – The Code lacks provisions detailing the disclosures required from Designated Persons.
- viii. Non-conformity with Clause 15 of Schedule B – No stipulation exists for process for how and when people are brought ‘inside’ on sensitive transactions, and for informing Individuals about the duties and responsibilities attached to the receipt of Inside Information, and the liability that attaches to misuse or unwarranted use of such information.

- 15. I also note that, when SEBI specifically sought a Code of Conduct compliant with Regulation 9(1) of the PIT Regulations, FIL submitted the Code of Ethics and The Code of Practices and Procedures for Fair Disclosure of Unpublished Price Sensitive Information. As discussed earlier, the Code of Ethics falls under the LODR Regulations, while the latter pertains to Regulation 8(1) read with Schedule A; neither of which satisfies the requirements of Regulation 9(1) read with Schedule B. This misinterpretation of regulatory obligations underscores the company’s non-compliance.
- 16. The Noticees have contended that they acted in good faith belief, and believed they were in compliance with regulations. I note that the argument of ‘good faith’ is not a valid defense, as the regulatory requirement in this regard is quite explicit

and the non-compliance is objectively verifiable. However, I note that the company has contended that they proactively engaged with SEBI and took corrective actions before and after the issuance of the SCN.

17. Noticees have further cited the Cabot International Capital Corporation case to argue that technical lapses without mala fide intent should not attract penalties. While remedial measures are acknowledged, it is imperative to note that regulatory compliance is a legal obligation, not a discretionary practice. The fact remains that FIL only adopted a compliant Code of Conduct after SEBI's intervention in October 2024 and subsequently in January 2025. The delay in compliance reflects a failure in regulatory adherence rather than proactive governance, and cannot be treated as a technical lapse. While corrective actions may be considered as mitigating factors under Section 15J of the SEBI Act, they do not negate past non-compliance. Moreover, the Cabot case does not grant blanket immunity for all regulatory breaches but applies only to violations which are technical, venial and bona fide mistakes. The violation by the Noticees is not mere technical or venial lapse but an ongoing violation leading to fundamental regulatory failure that weakens the framework of Insider Trading prevention, making enforcement ineffective. The compliance was essential for preventive compliance to safeguard market integrity. In view of the same, above referred judgment doesn't apply in the instant matter.
18. The Noticees have argued that the SCN does not allege insider trading or misuse of UPSI and that there was no fraudulent activity, investor harm, or unjust enrichment. While it is true that no insider trading violation has been alleged, Regulation 9(1) mandates preventive compliance irrespective of whether insider trading occurs. The absence of direct harm does not absolve a company of its regulatory obligations. Failure to implement a proper Code of Conduct creates systemic risks and undermines the regulatory framework. Therefore, this contention is not accepted.

19. Noticees have contended that the Regulation 9(1) places responsibility on the Board of Directors, but the SCN was issued to specific individuals (MD & CEO) instead.
20. In this regard, I note that Regulation 9(1) explicitly states that the Board of Directors shall ensure that the chief executive officer or managing director of the listed company must formulate the Code of Conduct. Noticee 1 is Managing Director and a Board member of the company and Noticee 2 is the CEO of the company. The regulation explicitly and specifically mandate that the MD and CEO are responsible for formulating the Code of Conduct. Accordingly, the contention of selective issuance of SCN to the Noticees is untenable, as regulation place direct statutory obligation on these executives to ensure that the Code of Conduct is formulated. Further, though the regulation also mandate that the Board of Directors shall ensure that these executives should have fulfilled their obligation; other board members are not part of the present proceedings, hence their role in the violation is outside the purview of these adjudication proceedings.
21. In view of the above, it is established that **Noticees 1 and 2 are in violation of Regulation 9(1) read with Schedule B of PIT Regulations, 2015.**

***Issue II. Do the violations, if any, on the part of the Noticees attract monetary penalty under Section 15HB of the SEBI Act?***

22. In the light of findings and observations made against the Noticees brought out in the foregoing paragraphs, it is established that Noticees are in violation of Regulation 9(1) read with Schedule B of PIT Regulations, 2015.

23. The aforesaid violations, makes the Noticees liable for penalty under Section 15HB of the SEBI Act.
24. The Noticees have sought leniency by contending that SCN's objective is remedial, not punitive, and since the company has taken corrective actions, a penalty should not be levied. In this regard, I note that the timely compliance of the provisions by the listed company is essential for the efficient working of the securities market, and remedial measures post-SCN do not erase past violations, but however may be considered as mitigating factors.
25. In this context, I would also like to refer to the order of the Hon'ble Supreme Court of India in the matter of Chairman, SEBI Vs Shriram Mutual Fund wherein Hon'ble Supreme Court of India held that *"In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established and hence the intention of the parties committing such violation becomes wholly irrelevant. A breach of civil obligation which attracts penalty in the nature of fine under the provisions of the Act and the Regulations would immediately attract the levy of penalty irrespective of the fact whether contravention must made by the defaulter with guilty intention or not."*
26. The text of the above referred Section 15HB of SEBI Act is reproduced herein below:
- 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 liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.*



**Issue III. If so, what would be the monetary penalty that can be imposed upon the Noticees taking into consideration the factors stipulated in Section 15-J of the SEBI Act read with Rule 5(2) of the SEBI Adjudication Rules?**

27. While determining the quantum of penalty, it is important to consider the factors stipulated in Section 15-J of the SEBI Act, which reads as under: -

**SEBI Act**

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

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

*the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;*

*the amount of loss caused to an investor or group of investors as a result of the default;*

*the repetitive nature of the default.*

*[Explanation. —For the removal of doubts, it is clarified that the power to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section.]*

28. In this case, from the material available on record, any quantifiable gain or unfair advantage accrued to the Noticees or the extent of loss suffered by the investors as a result of non-compliance to the provisions is not available. I note that the Noticees have placed on records, wherein it has been showcased that correctional measures have been taken. The violations are established, however the efforts undertaken by the Noticees are considered as mitigating factors. Since, the Noticees are found to be in non-compliance of regulatory requirements, therefore, monetary penalty is imposed on the Noticees as effective deterrence.

**ORDER**

29. Considering all the facts and circumstances of the case including the submissions of the Noticees and exercising the powers conferred upon me under section 15-I

of SEBI Act read with Rule 5 of the SEBI Adjudication Rules, I hereby impose the following monetary penalty under section 15HB of the SEBI Act on the Noticees:

Sr. No.	Name of the Noticee	Penalty Provisions	Amount of penalty (in ₹)
1	Mr. Milan Dalal	Section 15HB of SEBI Act	₹ 2,00,000/- (Rupees Two Lakhs only)
2	Mr. Moloy Saha	Section 15HB of SEBI Act	₹ 2,00,000/- (Rupees Two Lakhs only)

In my view, the said penalty is commensurate with the violations committed by the Noticees in this case.

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

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

31. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, recovery proceedings may be initiated under section 28A of the SEBI Act for realization of the said amount of penalty along with interest thereon, inter alia, by attachment and sale of movable and immovable properties.
32. In terms of Rule 6 of the SEBI Adjudication Rules, 1995, copy of this order is sent to the Noticees and also to the SEBI.

**Place: Mumbai**

**Date: March 13, 2025**

**ASHA SHETTY**

**ADJUDICATING OFFICER**