

**BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. Order/AN/PR/2025-26/31590]**

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

In respect of:

Motilal Oswal Financial Services Limited

PAN: AAECM2876P

SEBI Registration No. INZ000158836

In the matter of Motilal Oswal Financial Services Limited

A. BRIEF BACKGROUND

1. SEBI along with the Exchanges carried out a comprehensive Joint Inspection of Motilal Oswal Financial Services Limited (hereinafter also referred as 'Noticee' / 'Broker' / 'Member' / 'TM' / 'Trading Member' / 'SB'), inter alia as a Broker during January 2024 for the period April 01, 2022 to October 31, 2023 ('Inspection period' / 'IP').

Pursuant to the inspection, the findings/ observations of inspection were communicated by SEBI to the Broker vide its letter dated April 26, 2024 inter alia seeking its comments / explanations on the same. The Broker submitted its reply to the findings/ observations of inspection vide its letter dated May 20, 2024. Subsequently, SEBI carried out post inspection analysis whereby the findings of the inspection report vis-à-vis reply of the Broker were analysed.

2. Pursuant to the above, SEBI inter alia observed and alleged non-compliance of following provisions of securities laws:

- 2.1. Paragraph 47.4 of SEBI Master circular for stock brokers number SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2024/53 dated May 22, 2024
 - 2.2. Clause 6.1.1.j of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016
 - 2.3. Regulation 26(xix) and Clause A (1) & A (2) of Schedule II of Code of Conduct read with regulation 9 of SEBI (Stock Brokers) Regulations, 1992 ['SEBI (Stock Brokers) Regulations, 1992'/ 'Stock Brokers Regulations'].
 - 2.4. Clause 2(iii), 3(vi) (v), 6 (iv) (v) of NSE circular NSE/COMP/54876 dated December 16, 2022 read with Clause A (5) of Schedule II for Code of Conduct of SEBI (Stock Brokers) Regulations, 1992.
3. In view thereof, SEBI initiated Adjudication Proceedings in respect of the Noticee under Section 15 I of the Securities and Exchange Board of India Act, 1992 ('SEBI Act, 1992', in short), for the aforesaid alleged violations.

B. APPOINTMENT OF ADJUDICATING OFFICER

4. Whereas, the Competent Authority was prima facie of the view that there were sufficient grounds to adjudicate upon the alleged violation by the Noticee, as stated above and therefore, in exercise of the powers conferred under Section 19 of the SEBI Act, 1992 read with Section 15I(1) of the SEBI Act, 1992 and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 ('SEBI Adjudication Rules'), the Competent Authority appointed the undersigned as Adjudicating Officer vide order dated August 22, 2024 (Communique dated August 23, 2024), to inquire into and adjudge under Section 15HB of the SEBI Act, 1992 for the aforesaid alleged violation by the Noticee, as stated.

C. SHOW CAUSE NOTICE, REPLY AND HEARING

5. A Show Cause Notice bearing reference No. SEBI/HO/EAD/EAD5/P/OW/2024/30673/1 dated September 27, 2024 ('SCN') was served upon the Noticee in terms of Rule 4 of SEBI Adjudication Rules vide Speed Post Acknowledgment Due (SPAD) and digitally signed email dated September 27, 2024 inter alia to show cause as to why inquiry should not be held and penalty be not imposed under Section 15HB of the SEBI Act, 1992 for the alleged violations by the Noticee, as stated.
6. The allegations in respect of the Noticee inter alia brought out in the SCN are as under:

4. Findings and Observations by SEBI and Alleged Violations thereto in respect of the Noticee are as under:
Based on the inspection in the matter, briefly summarized findings/allegations by SEBI are inter alia given below:
- 4.1. Monthly / Quarterly settlement of funds and securities
SB has not settled funds of its inactive clients on 1928 instances pertaining to 1794 clients amounting to Rs 6.33 crores.
- 4.1.1. On verification of Settlement sheet, ledger balances and securities holding as reported/ provided by the trading member, it was observed that Trading member has not settled funds of its inactive clients on 1928 instances pertaining to 1794 clients amounting to Rs 6.33 crores. (Refer Exhibit 5)
- 4.1.2. The Noticee in its reply to the findings of Inspection report inter alia submitted the following:
- 4.1.2.1. Exchange during the course of inspection had provided 14,316 instances as observation for non-settlement of client funds of inactive clients who have not done transaction in last 30 days for which MOFSL had provided reply for all instances along with relevant supporting documents.
- 4.1.2.2. Further, in final observation letter provided by SEBI we have received observation for 1,928 instances for non-settlement of client funds of inactive clients for which we wish to state as follows:
- 4.1.2.3. In 1,182 out of mentioned 1,928 instances i.e. 51% of value of total instances; client was active during the month for which observation was provided by Exchange as client had traded in that particular month. Hence, by virtue of trade client is an active client and hence observation provided by exchange is incorrect and is further not required to be settled in that particular month since client had traded in last 30 days from last day of the month.
- 4.1.2.4. Details of trade dates and Exchange / segment where client has traded against these 1,182 instances are plotted in Annexure 1.2.A, which demonstrates that clients were active and hence settlement guidelines are not applicable to them. Further, contract note for sample 50 instances is enclosed as Annexure 1.2.B.
- 4.1.2.5. In 97 out of 1,928 instances; client had provided fresh funds post settlement in particular month and then has traded within 30 days from the date from which funds were provided by client and hence further settlement is not applicable since client has traded within 30 days.
- 4.1.2.6. Details of fund receipt from clients and their subsequent trade dates are plotted in Annexure 1.2.C, which demonstrates that client has traded within 30 days from the date from which funds were received. Further contract note for sample 20 clients is enclosed as Annexure 1.2.D.
- 4.1.2.7. In remaining 649 instances; we wish to submit that there was delay in settlement in that particular month mentioned in the inspection Exhibit and client was then subsequently settled.
- 4.1.2.8. Details of subsequent settlement date against these instances are mentioned in Annexure 1.2.E. Also client ledger for sample 50 instances out of above mentioned to demonstrate that client was subsequently settled is enclosed as Annexure 1.2.F.
- 4.1.2.9. We would like to add that mentioned process of settlement of inactive clients is an automated process and we have regularly released funds to inactive clients who have not traded in last 30 days from last transaction date and during the inspection period we have released funds of Rs.2,298 crores approx. to all such eligible clients to comply with regulatory provisions of inactive client's settlement.
- 4.1.2.10. Also, as can be seen from Annexure 1.2.E instances of non-settlement have drastically reduced during the inspection period from April 2022 to October 2023 which can be seen from following table:
- 4.1.2.11. From above table it can be seen that delayed settlement instances have been observed only in 4 months of inspection period of which 2 months were at the start of inspection period i.e. April 2022 and May 2022 and hence we have significantly improved our systems to ensure that proper settlement is done on timely basis.
- 4.1.2.12. Also, number of instances observed in remaining 2 months i.e. October 2022 and February 2023 are '2' and '1' respectively which also have been reduced to '0' from March 2023 onwards as inspection period was till October 2023.
- 4.1.3. However, SEBI in this regard observed that, in regards to the SB comments on 118 instances out of 1928 instances, NSE has noted that SB has provided evidences of 50 clients which have been found in order. In regards to the SB comments on 97 out of 1,928 instances, NSE has noted that SB has provided documentary evidence of 20 clients which has been found in order. In regard to the remaining 649 instances, SB has accepted that there was a delay in

settlement in that particular month and client was subsequently settled. NSE in its reply to 649 instances has also stated that violation persists. (Flag A/1)

- 4.1.4. In view of the above, it is alleged that the Noticee had violated the following provisions:

Para 47.4 of SEBI Master circular for stock brokers number SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2024/53 and dated May 22, 2024

- 4.2. Analysis of Cash & Cash Equivalents

SB has incorrectly reported the EOD ledger balance in 15 instances amounting Rs 9.04 Crores and Peak ledger balance in 84 instances amounting to Rs 45.59 Crores

- 4.2.1. On verification of the Cash & Cash Equivalent balances on sample dates from the inspection period (April 01, 2022 to October 31, 2023) and the client ledgers provided by the TM, it was observed that member has incorrectly reported the EOD ledger balance in 17 instances amounting Rs 15.33 Crores and Peak ledger balance in 86 instances amounting to Rs.51.45 Crores. Further, it has been observed that TM has incorrectly reported the value of uncleared cheques in 10 instances amounting to Rs. 1,39,371.70/-Details as per Exhibit 6

The Noticee in its reply to the findings of Inspection report interalia submitted the following

- 4.2.2. EOD ledger balance:

- 4.2.2.1. W.r.t above mentioned observation of incorrect EOD ledger balance reported in 17 instances across 15 reporting dates; we wish to submit that 5 out of 17 instances are incorrect observations as mentioned in observation letter and clear balance is correctly reported as per regulatory provisions of C&CE reporting's.

- 4.2.2.2. In case of remaining 12 instances there was unintentional error in upload of EOD ledger balance due to which there is a mismatch in ledger balance of C&CE reporting's; details of which is given below. However, all other fields in same reporting's are correctly uploaded.

| Sr. No. | Remarks | No. of instances |
|---------|--|------------------|
| 1 | Difference is nominal in range of Rs.17.70 to Rs.5,929.50 because of DP charges which was erroneously ignored and lesser ledger balance was reported in reporting of Financial Ledger Balance (Clear) - B but the same was correctly reported in 2 columns i.e. Financial Ledger Balance - A and Peak Financial Ledger Balance (Clear) - C | 11 |
| 2 | Difference is because of Additional Surveillance Margin Deposit amount which was erroneously not considered while calculating clear ledger balance | 1 |

- 4.2.2.3. Above mentioned mismatches have been observed by Exchange only till November 2022 whereas the inspection period was till October 2023 and thus above mentioned errors were already rectified by us during the inspection period itself and stands rectified as on date.

- 4.2.2.4. Detailed comment against all 17 instances are given in Annexure 1.8.A and related supporting's for comments given is enclosed in Annexure 1.8.B.

- 4.2.3. Peak ledger balance:

- 4.2.3.1. W.r.t above mentioned observation of incorrect peak ledger balance reported in 86 instances across 69 reporting dates; we wish to submit that all the instances mentioned in inspection report are incorrect observations as mentioned in observation letter and peak ledger balance is correctly reported as per regulatory provisions of C&CE reporting's. Detailed reasons for the same is mentioned in Annexure 1.8.C and related supporting's for comments given is enclosed as Annexure 1.8.D.

- 4.2.3.2. Breakup of above mentioned 86 instances is provided in below mentioned table:

| Sr. No. | Remarks | No. of instances |
|---------|--|------------------|
| 1 | Difference is due to T-1 MTM bill; which is not considered by Exchange and hence mismatch has been observed | 72 |
| 2 | Reported balance is correct as per ledger which is enclosed herewith as reference | 11 |
| 3 | Ledger balance mentioned by Exchange in Annexure to the observation letter is incorrect and hence mismatch has been observed which is correctly reported in C&CE reporting as per ledger | 2 |
| 4 | Difference is due to fund provided by client which is ignored by Exchange and hence mismatch has been observed | 1 |

- 4.2.4. Uncleared cheques:

- 4.2.4.1. W.r.t above mentioned observation of non-reporting of value of uncleared cheques in case of 9 instances under column 'UNCLEARED CHEQUES' of cash and cash equivalent reporting; we wish to submit that in all the above mentioned instances client had provided funds on T day by way of payment gateway medium which is credited in our client bank account on T+1 day and hence this credit is correctly not updated in clear ledger balance of client on T day and hence financial ledger balance (clear) has been correctly reported on a lower side in cash and cash equivalent reporting. We wish to further submit that ledger balance mentioned by Exchange in exhibit on higher side is incorrect as they have added unclear funds while arriving at clear ledger balance figures.

- 4.2.4.2. Further, these uncleared amounts were erroneously not reported in cash and cash equivalent reporting under column 'UNCLEARED CHEQUES'.

- 4.2.4.3. Above mentioned observation is rectified as on date and also exchange has not observed the same in any further date post September 2022 during the course of inspection.

- 4.2.4.4. Bank statement demonstrating that funds have been received in our client bank account on T+1 day is enclosed as Annexure 1.8.E.

- 4.2.4.5. Thus, as per us there are merely reporting mismatches which are very miniscule in terms of volume and value of reporting's made by us on daily basis. We submit that around 15 lakh client's data are reported on daily basis in C&CE reporting. We additionally wish to submit that these errors are unintentional in nature and are only reporting errors that too observed in very few cases but actual balances lying with MOFSL remains unaffected and properly communicated to clients.

However, SEBI in this regard observed as follows:

- 4.2.5. NSE in its reply has stated that EOD ledger balance is incorrectly reported in 15 instances. TM's reply can be considered in case of 2 client codes *W*P*04 and A*C*0*6. Therefore, the violation will persist.

- 4.2.6. In regard to peak ledger balance, NSE has stated that As per Exchange Circular NSE/INSP/50592 dated December 13 2021, highest net credit balance across all segments & Exchanges during the day is financial ledger balance after adjusting/reversal for open bills of the client, un-cleared cheques deposited or issued and the margin obligations posted in the client ledger. MTM bill posted in the ledger pertaining to T day is not considered as open bill for T+1 day. Accordingly, the violation will persist in 84 instances. TM's reply can be considered in case of 2 client codes DELD1206 and A2758.
- 4.2.7. Further, NSE has stated that the violation persists in regard to uncleared cheques. (Flag A/1)
- 4.2.8. As the number of instances and amount is considerably large, therefore adjudication proceedings is proposed. Further, post incorporating aforementioned NSE comments on reply provided by SB, it is observed that SB has incorrectly reported the EOD ledger balance in 15 instances amounting Rs 15.33 Crores and Peak ledger balance in 86 instances amounting to Rs.51.45 Crores.
- 4.2.9. In view of the above, it is alleged that the Noticee had violated the following provisions:
SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016
- 4.3. Terminal verification and Certifications
In the risk room where admin terminals are located, the terminal in the name of *m*t V*k*a* *h**de was operated through remote excess. Also, it was observed that in 2 cases viz., *ra*h*nt *h*re & Md. **s**d S**di*u*, the terminals were operated by a person other than an approved user.
- 4.3.1. On verification it was observed that TM is not following the Guidelines for execution of Client transactions at the best available market price. TM is executing trades on NSE Exchange without comparing the rates at BSE Exchange. In the risk room where admin terminals are located, the terminal in the name of *m*t V*k*a* *h**de was operated through remote excess. Also, it was observed that in 2 cases viz., *ra*h*nt *h*re & Md. **s**d S**di*u*, the terminals were operated by a person other than an approved user.
- 4.3.2. The Noticee in its reply to the findings of Inspection report interalia submitted the following:
- 4.3.2.1. We wish to state that our client logins through (Mobile App as well as online web) has facility to verify prevailing rates of both Exchange(s) BSE and NSE. Further there is no default Exchange where order placed by client is routed to any specific Exchange. Order is routed only after display of prices of both the Exchange, pop up message regarding best price available on respective Exchange and thereafter option is given to client to select Exchange as per best price. Finally, order is routed to Exchange selected by Client. Accordingly, order is not routed by default to NSE Exchange.
- 4.3.2.2. Recorded videos of both our Application (mobile app as well as web login) is enclosed as Annexure 1.9.A and Annexure 1.9.B respectively.
- 4.3.2.3. In case of CTCL trading terminals, there is also a facility to select Exchange and place the order. Further, although Exchange is selected by AP / dealers on trading terminal while placing order, trades are executed in Exchange where better price is available. Screenshot depicting the same is enclosed herewith as Annexure 1.9.C, which demonstrates that although NSE is selected while placing the order but trade was executed in BSE where better price was available.
- 4.3.2.4. Further, BSE System Audit report has also one audit point no. 4a in half yearly Audit report for half year ended September 2022 and point no. 23h for half year ended March 2023 and September 2023, where system auditors are required to verify whether proper procedures are followed for best execution policy. In this regards our system auditor has never qualified the report and has always marked compliance against the said point. All above 3 system Audit reports are enclosed as Annexure 1.9.D.
- 4.3.2.5. In view of above, we have complied with SEBI circular ref. no. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023 (clause 54.2.6), read with SEBI Circular No. MIRSD/DR-1/Cir-16/09 dated November 06, 2009 (point 1), BSE Notice No. 20230518-1 dated May 18, 2023 and BSE Notice no: 20210805-36 dated August 05, 2010.
- 4.3.2.6. In the risk room where admin terminals are located, the terminal in the name of *m*t V*k*a* *h**de was operated through remote excess. Also, it was observed that in 2 cases viz., *ra*h*nt *h*re and Md. **s**d S**di*u*, the terminals were operated by a person other than an approved user.
- 4.3.2.7. With respect to Remote access of NEAT id *0*6 (Corporate manager terminal of Cash segment) in name of Mr. *m*t *h**de, we wish to state that Risk management of our large number of terminals and client base is handled from our two offices i.e. *a**d office as well as from our registered office located at Motilal Oswal Towers - **a*h*d*v*. Corporate manager terminals are mainly admin terminals used largely for setting, monitoring, controlling overall limits of branch manager terminals as well as dealer terminals and monitor positions and transactions of clients and taking transactions into ERROR account as per regulatory guidelines. Remote access was allowed to authorised user of Risk Management team based out at our *r**h*d*v office for limited purpose of managing risk and positions of clients and terminals.
- 4.3.2.8. We further wish to state that above admin / corporate manager terminal can be logged in only from registered TAP with Exchange which in this case is our *a**d office and we wish to confirm that said terminal was logged in at *a**d office on the day of inspection. As Exchange allots only one Corporate Manager terminal, same was allowed to be operated. Further, it can be accessed only through VNC authentication only on MOFSL LAN and can be accessed only by user who has password to connect with computer machine logged in at Malad office. Kindly find supporting screenshots as Annexure 1.9.E, which demonstrates that corporate manager terminals can only be accessed through VNC application by entering password. Also, screen shot demonstrates that terminal is being remotely accessed from our *r**h*d*v office. We further wish to confirm that no trades were executed from corporate manager id on the day of inspection (January 23, 2024). Hence, we wish to assure SEBI that the said admin terminal was operated by authorised official of MOFSL under our system restrictions just to perform official duties related to RMS and admin functionality.
- 4.3.2.9. Further two NEAT terminals (*5* and *7*2) in name of *ra*h*nt *h*re and Md Rashid Siddique as mentioned in inspection report that the same were being operated by other users, we wish to state that these are corporate manager terminals for F&O and Currency segment of NSE respectively, wherein terminals were created in the name of above employees of MOFSL (approved users). As these are admin terminals and no trading transactions usually occur from these terminals, they were accessed by other authorised officials of Risk Management team. However, we have rectified and updated Exchange records with details of correct user operating the terminals. We wish to confirm that Mr. **ri**va* *es**u*h is RMS officer actually using above NEAT ids for admin purposes whose details are now updated with Exchange. Kindly find enclosed updated records of above two NEAT ids in Exchange records as Annexure 1.9.F.
- 4.3.3. However, SEBI in this regard observed as follows:
- 4.3.3.1. BSE in its reply has stated that reply of the Trading Member is satisfactory with respect to the best available market price which is accordance with SEBI circular ref. no. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023 (clause 54.2.6)
- 4.3.3.2. And has stated the clarification provided by the SB may be accepted and observation may be dropped off.

- 4.3.3.3. In regards to the operation of terminal, BSE has stated that The reply of the Trading Member is not satisfactory with respect to remote access and the terminal were not access by the approved user, which is not accordance as per Exchange Notice No:20171023-30 and hence the clarification provided by the Trading Member may not be accepted and observation may not be dropped off. (Flag A/2)
- 4.3.3.4. Regulation 26(xix) of SEBI (Stock Brokers) Regulations, 1992 provides for monetary penalty for violation pertaining to extending use of trading terminal to any unauthorized person or place.
- 4.3.4. In view of the above, it is alleged that the Noticee had violated the following provisions:
Regulation 26(xix) and Clause A (1) & A (2) of Schedule II of Code of Conduct read with regulation 9 of Securities and Exchange Board of India (Stock Brokers) Regulations, 1992.
- 4.4. Framework on technical glitches at stockbrokers
- Delay in reporting/submission of RCA of the incident by 1 day.
 - Permissible limit of 70% for generation of alerts is not set by SB
 - Discrepancy in calculation of peak load by the SB
 - SB has not conducted live trading from DR site for half year April 2023-Sep 2023.
 - SB is not having Disaster Recovery Site setup
- 4.4.1. Delay in reporting/submission:
As per glitch framework, Stock Brokers are required to submit RCA within T+14 days of the incident

| Sr. No | Date of glitch incident | Date of Incident | Submission of RCA |
|--------|-------------------------|------------------|-------------------|
| 1 | 04/12/2023 | 04/12/2023 | 19/12/2023 |

There is delay submission of RCA report. by the broker. (PIQ) (Annexure A)

4.4.2. Capacity planning and Monitoring

a. Monitoring mechanism:

As per technical glitch framework, Para 4.3 " Stock Brokers shall deploy adequate monitoring mechanisms within their networks and systems to get timely alerts on current utilization of capacity going beyond permissible limit of 70% of its installed capacity"

It is observed that broker has not set permissible limit of 70% for generation of alerts. In view of the same the broker is non compliant to aforementioned clause. (Annexure B)

b. Capacity planning

SEBI circular on Enhance obligations and responsibilities on Qualified Stock Brokers Para 8.3.2 " QSBs, shall, at all times , maintain adequate technical capacity to process 2 times the peak transaction load encountered during the preceding half year and shall also fulfill all other requirements as specified by SEBI/MIs from time to time in this regard."

It is observed during inspection that there is discrepancy in calculation of peak load by the broker. In view of the same the broker is non compliant to aforementioned clause. (Annexure C)

4.4.3. Para 7.4 of SEBI circular on "Framework to address the technical glitches in stock brokers electronic trading systems" dated Nov 25, 2022 states that "Specified stock brokers shall conduct DR drills/live trading from DR site. DR drill /live trading shall include running all operations from DRS for atleast 1 full trading day."

Broker has not conducted live trading from DR site for half year (April 2023-Sep 2023). In view of the same, broker is non compliant to aforementioned clause.

4.4.4. SEBI circular on "Framework to address the technical glitches in stock brokers electronic trading systems" dated Nov 25, 2022 read with Para 6 (iv) of NSE circular on "Framework to address the technical glitches in stock brokers electronic trading systems" dated Dec 16, 2022 states that "DRS shall preferably setup in different seismic zone w.r.t Primary Data Centre or shall be separated from PDC by a distance of atleast 250km . "

Broker is having DR setup which is neither in different seismic zone from that of PDC or 250 km apart from PDC. In view of the same, broker is non-compliant to aforementioned clause. (PIQ) (Annexure A)

4.4.5. The Noticee in its reply to the findings of Inspection report interalia submitted the following:

4.4.5.1. We had reported RCA for incident happened on December 4, 2023 on December 19, 2023 (delay of one day as regulatory due date was December 18, 2023). In this regard, we wish to state that while identifying root cause, we could figure out the issue / problem in a test environment on December 19, 2023 and on the same day, we had reported RCA to Regulators. So, there was delay of one day in submitting RCA report. However, we had done timely submission of one another incident happened on December 6, 2023 during inspection period.

4.4.5.2. We wish to submit that all critical and supporting applications (Trading and Back office) are integrated with LAMA and 70% permissible limit is set in hardware and network in LAMA application as per regulatory requirement and hence we are getting alerts as and when 70% threshold is crossed which is well within regulatory norms. Supporting document for limits set for hardware and network in LAMA application is enclosed as Annexure 1.13.A.

4.4.5.3. We wish to further state that SEBI during the course of inspection had observed different tool (Manage Engine) which is used for entire Motilal Oswal group level monitoring where we have set 80% threshold limit and is separate from LAMA monitoring. We voluntarily are evaluating to reduce this threshold limit from 80% to 70% at Motilal Oswal group level. In view of above we have met compliance.

4.4.5.4. Formula used for identifying peak load was erroneously calculated as average of three years however we have sufficient capacity to handle peak load. Now we have started monitoring of capacity checking on peak load.

4.4.5.5. We wish to submit that we have conducted both DR drills / live trading from DR site prior to as well as after April 2023 - September 2023. We wish to confirm that we had conducted DR drills / live trading on November 25, 2022 for October 2022 to March 2023 and on March 2, 2024 for October 2023 to March 2024. Necessary supporting (DR communication to AP / Dealers for DR on November 25, 2022 and DR report for DR on March 2, 2024) are enclosed as Annexure 1.3.B and Annexure 1.3.C respectively.

4.4.5.6. However, during the said period (April 2023 - September 2023) we were in process of shifting to new DR site i.e. **e*na* which is 250 KM away from primary data centre and therefore could not conduct live trading from DR site for half year (April 2023 - September 2023).

4.4.5.7. We have been informing our progress and implementation date of DR setup in different seismic zone from that of PDC in system Audit report to Exchanges. Accordingly in the system Audit report for the period April 2023 to September 2023 we had provided due date for implementation date of DR set up as December 29, 2023. Further Action taken report to be submitted for the said system Audit report on or before February 29, 2024. Accordingly, we had implemented DR set up requirement on February 29, 2024 and submitted the Action Taken Report to all Exchanges. Further, we wish to state that Exchange did not penalised us for the compliance requirement of DR set up. Kindly find enclosed Corrective Action taken report of NSE and BSE as Annexure 1.3.D where Auditor has marked compliance against DR site.

4.4.6. However, SEBI in this regard observed as follows:

4.4.6.1. TPD has provided the following comments on the reply of SB:

Delay in reporting/submission:

Broker has accepted observation w.r.t delay in submission of RCA report. In view of same broker is non-compliant w.r.t Clause 2(iii) of NSE circular on Framework to address 'technical glitches' dated Dec 16, 2022. (Circular Ref: 93/2022)

Capacity planning and Monitoring

a. Monitoring mechanism:

As per NSE circular on Framework to address 'technical glitches' in Member's electronic trading system Clause 3(vi) "Members shall deploy adequate monitoring mechanisms within their networks and systems to get timely alerts on the current utilization of capacity going beyond the permissible limit of 70% of its installed capacity".

Member has accepted observation w.r.t threshold limit set greater than permissible limit of 70%. In view of same broker is non-compliant to Clause 3(vi) of NSE circular on Framework to address 'technical glitches' in Member's electronic trading system. (Circular Ref: 93/2022)

b. Capacity planning

Broker has accepted violation w.r.t calculation of peak load. In view of same, broker is in violation of Clause 3(v) of NSE circular on Framework to address 'technical glitches' dated Dec 16, 2022. (Circular Ref: 93/2022)

4.4.6.2. Live trading from DR site for half year (April 2023-Sep 2023).

Broker has accepted observation w.r.t non-conduct of live trading from DR site for HY April-Sep 2023. In view of same, broker is non-compliant to Clause 6(v) of NSE circular on Framework to address 'technical glitches' dated Dec 16, 2022. (Circular Ref: 93/2022)

4.4.6.3. DR site

Broker has stated that they have been informing Exchanges regarding the implementation of DR site in different seismic zone. Further, broker has stated they have set up DR set up on Feb 29, 2024 and submitted Action Taken Report(ATR) to Exchanges on Feb 29, 2024. (Flag A)

However, it is observed from the ATR that broker is non-compliant to Clause 6(iv) NSE circular on Framework to address 'technical glitches' dated Dec 16, 2022. (Circular Ref: 93/2022).

4.4.6.4. SB has violated 5 areas pertaining to technical glitch. Further, as per SB he had implemented DR set up requirement on February 29, 2024 and submitted the Action Taken Report to all Exchanges, however as stated by TPD, it is observed from Flag A that SB is non-complaint.

4.4.7. In view of the above, it is alleged that the Noticee had violated the following provisions:

Clause 2(iii), 3(vi) (v), 6 (iv) (v) of NSE circular NSE/COMP/54876 on dated Dec 16, 2022 read with Clause A (5) of Schedule II for Code of Conduct of SEBI (Stock Brokers) Regulations, 1992.

...

7. Vide email dated September 30, 2024, Noticee confirmed the receipt of the SCN. Vide email dated October 10, 2024, Noticee sought further time to file its response to the SCN. Vide letter dated October 21, 2024, Noticee submitted its reply to the SCN.
8. In the interest of principles of natural justice, vide Hearing Notice dated October 28, 2024, inter alia an opportunity of hearing was afforded to the Noticee on November 07, 2024. On the scheduled date of hearing i.e. November 07, 2024, the Noticee availed the opportunity of hearing through its Authorised Representatives (AR) viz., Mr. Samyak Pati i/b M/s. RHP Partners (Authority letter vide email dated November 07, 2024). During the hearing, the AR relied upon and reiterated the submissions made vide Noticee's reply dated October 21, 2024. The ARs sought time till November 11, 2024 to make additional submissions as final and complete submissions in the matter, accordingly the same was allowed. Vide email dated November 11, 2024, Noticee through its AR, filed its written submissions.
9. The key submissions made by the Noticee vide letters dated October 21, 2024 and November 11, 2024 as reply and additional submissions to the SCN (replies to SCN) respectively are as under:

Submissions dated October 21, 2024:

I. NON – SETTLEMENT OF FUNDS OF INACTIVE CLIENTS

1. During the Inspection, SEBI has observed that MOFSL has not settled funds of its inactive clients on 1,928 instances pertaining to 1,794 clients amounting to Rs. 6.33 Crores in violation of Clause 47.4 of SEBI Master Circular dated May 22, 2024, reproduced below:
47.4. For the clients having credit balance, who have not done any transaction in the 30 calendar days since the last transaction, the credit balance shall be returned to the client by TM, within next three working days irrespective of the date when the running account was previously settled.
2. At the outset, it is pertinent to clarify that pursuant to the inspection process, SEBI in its Inspection Report had identified the above 1928 instances where such non – compliance was observed. Accordingly, MOFSL in its Reply had made the following submissions to SEBI:
 - i. In 1,182 instances, the concerned clients were active and had traded during the relevant period and therefore no violation was attracted. In this regard, contract notes on a sample basis of 50 instances were provided as Annexure 1.2.B to the Reply.
 - ii. In 97 instances, the concerned clients had provided fresh funds post settlement in the concerned month and had traded within 30 days and therefore further settlement was not applicable. In this regard, contract notes on a sample basis of 20 instances were provided as Annexure 1.2.C to the Reply.
3. SEBI, in its post inspection analysis as well as in the present SCN has accepted MOFSL's submissions in respect of 1,279 out of the 1,928 instances. As such, the present allegation is limited to the remaining 649 instances only.
4. It is respectfully submitted that MOFSL uses its in-house back-office software by which there is an automated processing of quarterly / monthly settlement of active as well as inactive clients. While this software is routinely, on occasion, there are certain software logic gaps on account of which there are certain data points which are not captured resulting in delays in settling client accounts.
5. In respect of the 649 instances, from the data made available to MOFSL, the instances of delay in settlement were seen in four months as below:

| Observation Month | No. of Instances |
|-------------------|------------------|
| April 2022 | 276 |
| May 2022 | 370 |
| October 2022 | 2 |
| February 2023 | 1 |

6. From the above table, it is seen that a significant number of the instances where there was a delay in settlement were in the months of April and May 2022, while there are only 3 instances of delay in October 2022 and February 2023 combined. It is submitted that the above clearly demonstrates that when such technical issues arise, MOFSL has taken notice and swift action resulting in these occurrences being drastically reduced in frequency.
7. It is submitted that the total quantum of settlement in respect of these 649 instances is approximately Rs. 2.66 Crores only. Accordingly, notwithstanding the delay, in all 649 instances MOFSL has subsequently settled these accounts by the next regular settlement date and there are no further instances of this delay repeating in respect of our clients. .
8. It is pertinent to state and highlight that during the Investigation Period, MOFSL has carried out settlement of inactive clients to the tune of approximately Rs. 2,298 crores which further indicates that there is no willful default on our part and the delay is inadvertent and unintentional.
9. In view of the above, it is submitted that a lenient view ought to be taken in respect of this allegation in light of MOFSL's steps demonstrating that the delay in compliance stands rectified and proactive steps being taken to ensure that there are no reoccurrences of such delay in compliance in the future. We, therefore, submit that no penal action is warranted in this regard.

II. INCORRECT REPORTING OF CASH AND CASH EQUIVALENTS BALANCES

10. SEBI has observed that MOFSL has incorrectly reported EOD ledger balance in 15 instances amounting to Rs. 9.04 Crores and Peak ledger balance in 84 instances amount to Rs. 45.59 Crores in violation of SEBI Circular dated September 26, 2016. EOD ledger balance
11. SEBI had originally noted 17 instances incorrect reporting. In this regard, MOFSL, in its Reply, had clarified that in 5 instances, the reporting was correctly carried out, however, SEBI has accepted these submissions only in respect of 2 instances i.e., client codes *W*P*04 and A*C*0**6.
12. It is, therefore, respectfully submitted that even in the case of client codes *L*3*0, *S*A*72, and *C*D*1**9, MOFSL has accurately reported the ledger balance as per the client ledger and applicable regulatory provisions. It is, therefore submitted that, no allegation is attracted in these 3 instances...
13. In respect of the remaining 12 instances, it is reiterated that the mismatch in reporting was an inadvertent and unintentional error due to the following reasons:
 - i. In 11 instances, error had occurred on account of non – consideration of DP charges for which amounts are in the range of Rs. 17.70 to Rs. 5,959.50. However, it is necessary to clarify that the balance was only incorrectly reported in one field of reporting i.e. Financial Ledger Balance (Clear) – B whereas it was correctly reported in the fields Financial Ledger Balance – A and Peak Financial Ledger Balance (Clear) – C.
 - ii. In the remaining 1 instance, this error occurred due to non – consideration of Additional Surveillance Margin Deposit.
14. It is submitted that the Cash and Cash Equivalent reporting requires submission of data to be reported in 26 different heads. The data required for this reporting is system generated and there is no manual intervention in this regard. Consequently, certain system errors had inadvertently crept into the reporting at the relevant time.
15. It is pertinent to state and highlight that the ledger mismatches observed by SEBI was infrequently until November 2022 whereas the inspection period was until October 2023. As such, these mismatches stood rectified during the inspection period itself. Therefore, it further lends credence to MOFSL's submissions that the mismatches in question are neither deliberate nor a regular occurrence.

Peak ledger balance

16. At the outset, it is submitted that there is an infirmity in this allegation in the SCN as SEBI initially states that the observation is only in respect of 84 instances whereas it concludes that reporting is incorrect in respect of 86 instances. Without prejudice to the same, however, it is respectfully submitted that the said allegation is denied and MOFSL is addressing its submissions in respect of 86 instances for SEBI's consideration.

17. It is submitted that pursuant to the inspection, SEBI had observed 86 instances of mismatch of Peak ledger balance. In this regard, MOFSL in its Reply had clarified that in 14 instances, the reported balance was correct, and the observation was erroneous as SEBI has set out hereunder:

| Sr. No. | Response to observation | No. of instances |
|---------|--|------------------|
| 1 | Reported balance is correct as per client ledger | 11 |
| 2 | Ledger balance as per exchange is incorrect and hence mismatch was observed | 2 |
| 3 | Ledger balance as per exchange is incorrect as fund provided by client has not been considered | 1 |

18. In respect of the remaining 72 instance, it is submitted that mismatch is observed by SEBI due to non – consideration of T-1 MTM bill of the clients as part of the ledger balance. As per NSE Circular dated December 13, 2021, the guideline for Peak ledger balance reporting is reproduced below:
Financial ledger balance, after adjusting/reversal for open bills (open bills also contain 'value of credit entry posted in client ledger in lieu of successful EPI to CC') of the client, un-cleared cheques deposited or issued and the margin obligations posted in the client ledger, if any.
19. It is submitted that while the reporting requires peak clear ledger balance, the above guideline does not state any time for which open bill is considered on T+1 day. As T-1 debit bill is effective on T day, MOFSL had considered this in its peak ledger balance reporting at the relevant time.
20. It is NSE's position that T-1 debit bill cannot be considered as the pay-in is done by the trading member and pursuant to this clarification, MOFSL had stopped including this in their reporting from April 2024 onwards. However, at the relevant time, MOFSL had carried out the reporting in a bona fide manner as the guidelines were understood to be applicable for reporting purposes.
21. It is necessary to clarify that while NSE had objected to the inclusion of T-1 debit bill, vide a recent NSE Circular dated September 20, 2024, NSE has now clarified that T-1 debit bill of all segments can be added back to compute peak ledger balance for T day.
while reporting peak ledger balance of Reporting date, Member is not required to reduce the debit bill, if any of Cash Market, FO, CD and Commodity segment which are due for settlement on the Reporting date.
These 72 instances amounting to Rs. 26.23 crores out of 86 cases amounting to Rs.51.45 crores account for major part of SEBI observations where NSE has released clarificatory circular as mentioned above.
22. It is, therefore, submitted that present guidelines for Peak ledger balance reporting is aligned with the way MOFSL had carried out the reporting in the 86 instances. Therefore, it is respectfully submitted that there is no incorrect reporting of Peak ledger balance by MOFSL and the allegation in the SCN in this regard cannot be sustained.

Uncleared cheques

23. At the outset, it is submitted that while the SCN's overarching allegation does not mention the issue of non – reporting of 'uncleared cheques' as part this head of allegation, a finding has been rendered in paragraph 4.2.7 of the SCN that violation persists in regard to unclear cheques. As such, by way of abundant caution, MOFSL shall also address submissions in this regard.
24. Pursuant to the inspection, SEBI had observed that MOFSL had incorrectly reported the value of uncleared cheques in 10 instances amounting to Rs. 1,39,371.70/-. The allegation is that ledger balance had been underreported as a result of not accounting for the uncleared cheques...
25. In this regard, it is necessary to first clarify that the value of uncleared cheques is not part of the clear ledger balance which is required to be reported to the exchange as stated in the NSE Circular dated December 13, 2021. In the present case, MOFSL has correctly reported the ledger balance in all 9 instances as the funds received on T day were only credited into MOFSL's account on T+1 day...
26. In the interest of transparency, it is submitted that in these 9 instances MOFSL had erroneously missed reporting the value of funds received as part of its reporting under the field 'uncleared cheques'. However, it is submitted that the same is merely a clerical error which has no bearing on the quantum of the ledger balance which have been otherwise been accurately reported. It is, therefore, respectfully submitted that no violation is attracted in this regard.

III. TERMINAL VERIFICATION AND CERTIFICATIONS

27. SEBI, during the course of its inspection, has observed that (i) terminal bearing NEAT ID No. *0*6 in the name of Amit Shinde was being operated through remote access and that (ii) terminals bearing NEAT ID Nos. *5* and *7*2 in the names of *ra*h*nt *h*reand Md. **s**d S**di*u* were being operated by different user.
28. At the outset, it is clarified that NEAT ID Nos. *0*6, *5*, and *7*2 are corporate manager / administrative terminals in respect of Cash, F&O, and Currency segments respectively. These terminals are used only in respect of administrative operations such as setting, monitoring, controlling overall limits of MOFSL branch terminals as well as dealer terminals to monitor positions as well as take transactions into ERROR account as per regulatory guidelines. MOFSL does not use these terminals for carrying out trades of its clients.
29. It is submitted that as only one corporate manager / admin terminal is granted in respect of each segment, MOFSL's risk management operations of MOFSL, in view of its large client base, is carried out from two locations namely its registered office at Motilal Oswal Tower based in **a*h*d*v* and our other office which is based in Malad. The NEAT ID No. *0*6 can only be accessed from registered TAP with exchange which is our *a**d office and the same is accessed remotely from our *r**h*d*v office.
30. It is submitted that MOFSL is duly cognizant of the security aspects while granting remote access and therefore MOFSL has placed the following systems in place to ensure there are no issues in respect of such access. In this regard it is submitted that the terminal can be accessed only through VNC authentication only on MOFSL LAN and only by a user who has password to connect with computer machine logged in at Malad office. Therefore, there are no security issues in respect of this remote access from the *r**h*d*v office.
31. In respect of NEAT ID Nos. *5* and *7*2, it is submitted that these corporate manager / admin terminals were being used / accessed by Mr. **ri**va* *es**u*h who is a RMS officer of MOFSL. It is clarified that while the above admin terminals were in the name of *ra*h*nt *h*reand Md. **s**d S**di*u*, the terminal access details were not updated in the name of Mr. **ri**va* *es**u*h at the time of the inspection. It is submitted that MOFSL has now updated the exchange records in this regard...
32. It is submitted that MOFSL use of its admin terminals are not violative of Exchange Notice No. 20171023-30 as no individual, otherwise not entitled to have access to the admin terminal, has access to the same. It is submitted that in case of remote access, the person having such access is Mr. *i*in* *h**d*ar* who has the necessary NCFM / NISM Series VII certification .. Similarly, Mr. **ri**va* *es**u*h is also duly qualified and his records have been updated with the exchange.
33. It is, therefore, respectfully submitted that there is no violation of the Exchange Notice or the provisions of Stock Broker regulations. Without prejudice to the same, it is respectfully submitted that a lenient view may be taken in this regard.

IV. TECHNICAL GLITCHES AT STOCK BROKERS

34. It is submitted that SEBI has made the following observations:
 - i. Delay in reporting / submission of RCA by 1 day
 - ii. Permissible limit of 70% for generation of alerts is not set
 - iii. Discrepancy in calculation of peak load
 - iv. No live trading from DR site for half year April 2023 to September 2023
 - v. No Disaster Recovery site set up

Delay in RCA submission

35. It is submitted that MOFSL had reported RCA for incident dated December 4, 2023 on December 19, 2023. It is submitted that while admittedly there is a delay, the same was on account of ascertaining the issue and determining the nature of the problem in a test environment.
36. It is submitted that while every effort was made to meet the compliance timeline, due to issues beyond MOFSL's control it required one additional day. It is submitted that MOFSL was able to complete its RCA on December 19, 2023, on which day it was duly reported.
37. It is submitted that MOFSL duly makes RCA reporting in the specified timelines and the same is evident from the incident dated December 6, 2023, observed during inspection period in respect of which MOFSL had submitted its RCA on December 20, 2023, well within regulatory deadline of T+14 days. Therefore, it is submitted that delay of one day may be condoned and no adverse observation is attracted in this regard.

Limits for alert generation

38. In respect of this allegation, it is submitted that all critical and supporting applications of MOFSL are integrated with LAMA and 70% permissible limit is set in hardware and network in the front end software "Manage Engine" used by MOFSL. Screenshot of the application evidencing the limits set for 70% ..
39. It is respectfully submitted that this observation has been erroneously made as the inspection team during the course of the inspection had observed a different tool i.e., Manage Engine which is used for the entire group level monitoring where the limit is set at 80%. It is submitted that this is separate from LAMA application monitoring. Therefore, no allegation has been made out in this regard.

Discrepancy in peak load calculation

40. It is respectfully submitted that MOFSL has adequate infrastructure in place and possesses sufficient capacity to handle peak load.
41. It is submitted that MOFSL has, from time to time, participated in Exchange mocks where MOFSL has demonstrated technical capacity of its infrastructure to handle 3.5 million trades without any issues.
42. Furthermore, the requirement of maintaining technical capacity to process 2 times the peak transaction load is demonstrated by a load test report prepared by an external agency "stara" which was commissioned by MOFSL to carry out an independent assessment.
43. As per the report submitted by "stara", MOFSL is able to hold up to 2,41,000 clients logged in on its server, which is more than double the current average 1,00,000 clients of MOFSL..

DR Site and Live Trading

44. It is submitted that pursuant to the introduction of the requirement to set up a Disaster Recovery Site by SEBI vide its circular dated November 25, 2022, MOFSL had initially set up its DR Site in Motilal Oswal Tower (MOT) - "ahdv" where it also has a corporate office.
45. Simultaneously, MOFSL was in the process of setting up the DR Site as per the requirements set out in "ena" and accordingly MOFSL have been informing our progress and implementation date of DR setup in different seismic zone from that of PDC in system Audit report to Exchanges. In this regard, in the system Audit Report for the period April 2023 to September 2023, MOFSL had provided due date for implementation date of DR set up as December 29, 2023..
46. Presently, MOFSL's DR Site has been set-up and is operational and this has been demonstrated by way of Action Taken Report dated February 29, 2024 which has been submitted to the exchange..
47. Insofar as live trading drills, it is respectfully submitted that as MOFSL was in the process of setting up its DR Site in "ena", it could not carry out the DR drills / live trading for the period April 2023 to September 2023. However, MOFSL has duly carried out DR drills / live trading from DR site prior to and as well as after April 2023 to December 2023.
48. It is submitted that MOFSL had carried out live drills on November 25, 2022 for the period October 2022 to March 2023 and on March 2, 2024 for the period October 2023 to March 2024..
49. It is, therefore, submitted that MOFSL is duly compliant with the requirements of NSE Circular dated December 16, 2022.
50. It is submitted that MOFSL has duly taken note of the observations in the Show Cause Notice and undertakes to correct and improve its operations as well as take such steps to remedy any future reoccurrence. We seek to rely upon the observation of the Hon'ble Securities Appellate Tribunal in Religare Securities Limited vs Securities and Exchange Board of India (Order dated June 16, 2011 in Appeal No. 23 of 2011) where the Hon'ble Tribunal has set out the objective of inspection as under: "It must be remembered that the purpose of carrying out inspection is not punitive and the object is to make the intermediary comply with the procedural requirements in regard to the maintenance of records. We also cannot lose sight of the fact that every minor discrepancy/irregularity found during the course of inspection is not culpable and the object of the inspection could well be achieved by pointing out the irregularities/deficiencies to the intermediary at the time of inspection and making it compliant. This will, of course, depend on the nature of the irregularity noticed and we hasten to add a caveat that it is not being suggested that if any serious lapse is found during the course of the inspection, the Board should not proceed against the delinquent."

[Emphasis added]

...

Additional submissions dated November 11, 2024:

...

GIST OF SUBMISSIONS ON BEHALF OF MOFSL

4. The submissions of MOFSL in respect of the allegations are set out as under:

| Sr. No. | UCC & Client Name | Observation / Allegation | MOFSL's Reply |
|---------|---|--|--|
| 1. | Non settlement of funds of inactive clients | During the Inspection, SEBI has observed that MOFSL has not settled funds of its inactive clients on 1928 instances pertaining to 1794 clients amounting to Rs. 6.33 Crores in violation of Clause 47.4 of SEBI Master Circular dated May 22, 2024 | <p>1. SEBI, in its post inspection analysis as well as in the present SCN has accepted MOFSL's submissions in respect of 1279 out of the 1928 instances. As such, the present allegation is limited to the remaining 649 instances only.</p> <p>2. MOFSL uses in-house back-office software which is an automated process of settlement. The present discrepancy has arisen on account of a logic gap on account of which there are data points are not captured resulting in non-settlement within the given period.</p> <p>3. The instances where there was a delay in settlement were largely in the months of April and May, 2022, while there are only 3 instances of delay in October 2022 and February 2023 combined. This clearly demonstrates that MOFSL has taken notice and corrective action resulting in these occurrences being drastically reduced in frequency.</p> <p>4. It is submitted that MOFSL has carried out settlement of inactive clients to the tune of approximately Rs. 2,298 Crores which further indicates that there is no wilful default on our part and the delay is inadvertent and unintentional.</p> |
| 2. | Incorrect reporting of Cash and Cash Equivalents balances | SEBI has observed that MOFSL has incorrectly reported EOD ledger balance in 15 instances amounting to Rs. 9.05 Crores and Peak ledger balance in 84 instances amount to Rs. 45.59 Crores in violation of SEBI Circular dated September 26, 2016. | <p><u>EOD Ledger Balance</u></p> <p>1. In 3 out of 15 instances, the EOD Ledger Balance had been correctly reported.</p> <p>2. In the remaining 12 instances, due to inadvertent and unintentional computation error, the reporting was erroneous.</p> <p>3. In 11 instances, DP Charges in the range of Rs. 17.70 to Rs. 5959.50 were not considered however it was only incorrectly reported in in one field of reporting i.e., Financial Ledger Balance (Clear) – B whereas it was correctly reported in the fields Financial Ledger Balance – A and Peak Financial Ledger Balance (Clear) – C.</p> <p>4. In the remaining 1 instance, this error occurred due to non – consideration of Additional Surveillance Margin Deposit.</p> <p><u>Peak Ledger Balance</u></p> <p>1. In 14 out of 86 instances, the Peak Ledger Balance had been correctly reported.</p> <p>2. In the remaining 72 instances, the alleged misreporting is on account of non – consideration of T-1 debit bill.</p> <p>3. As guidelines in respect of accounting for T-1 debit bill was not clear, MOFSL had carried out the reporting in a bona fide manner.</p> <p>4. Pertinently, NSE has now introduced clarified that T-1 debit bill of all segments can be added back to compute peak ledger balance for T-day. Therefore, there was no misreporting by MOFSL.</p> <p><u>Uncleared cheques</u></p> <p>1. It is submitted that the value of uncleared cheques is not part of the clear ledger balance which is required to be reported to the exchange as stated in the NSE Circular dated December 13, 2021.</p> <p>2. In the present case, MOFSL has correctly reported the ledger balance in all 9 instances, however, had erroneously missed reporting the value of the cheques as part of its reporting under the field 'uncleared cheques'. It is submitted that the same is merely a clerical error and maybe looked at leniently.</p> |
| 3. | Terminal verification and certifications | SEBI, during the course of its inspection, has observed that (i) terminal bearing NEAT ID No. *0*6 in the name of Amit Shinde was being operated by remote access and that (ii) terminals bearing NEAT ID Nos. *5* and *7*2 in the names of *ra*h*nt *h*reand Md. **s**d S**di*u* were being operated by different user. | <p>1. NEAT ID Nos. *0*6, *5*, and *7*2 are administrative terminals in respect of Cash, F&O, and Currency segments respectively. These terminals are used only in respect of administrative operations and only one admin terminal is granted in respect of each segment.</p> <p>2. The NEAT ID No. *0*6 can only be accessed from registered TAP with exchange which is in MOFSL's *a**d office and the same is accessed remotely from MOFSL's *r**h*d*v office to carry out risk management operations of its large client base effectively.</p> <p>3. NEAT ID Nos. *5* and *7*2 are admin terminals being used by Mr. **ri**va* *es**u*h who is an RMS officer of MOFSL. The observation of violation has only arisen as these admin terminals were not updated in the name of Mr. **ri**va* *es**u*h at the time of the inspection and were still in the name of the prior officers.</p> <p>4. At no point has MOFSL allowed any person who is otherwise not entitled or qualified to access these systems. Consequently, these instances may not be considered as violations of the Stock Broker Regulations.</p> |
| 4. | Technical glitches at stock brokers | It is submitted that SEBI has made the following observations: i. Delay in reporting / submission of RCA by 1 day ii. Permissible limit of 70% for generation of alerts is not set iii. Discrepancy in calculation of peak load iv. No live trading from DR site for half year April 2023 to September 2023 v. No Disaster Recovery site set up | <p>1. It is submitted that while every effort was made to meet the RCA compliance timeline, due to issues beyond MOFSL's control it required one additional day to be able to complete its RCA and the same was duly reported on December 19, 2023.</p> <p>2. It is submitted that MOFSL's system infrastructure limits is aligned with the regulatory requirement for duly generating alerts at 70% threshold and the same is also seen the NSE LAMA application. The observation of violation has been made incorrectly as the inspection team observed a different system infrastructure tool used for MOFSL group level monitoring.</p> <p>3. MOFSL has adequate infrastructure in place and possesses sufficient capacity to handle peak load. MOFSL has demonstrated technical capacity of its infrastructure to handle 3.5 million trades without any issues. Independent assessment demonstrates that MOFSL is able to hold up to 2,41,000 clients logged in on its server, which is more than double the current average 1,00,000 clients.</p> <p>4. Presently, MOFSL's DR Site has been set-up and is operational and this has been demonstrated by way of Action Taken Report dated February 29, 2024 which has been submitted to the exchange.</p> <p>5. Insofar as live trading drills, it is respectfully submitted that as MOFSL was in the process of setting up its DR Site in **e*na*, it could not carry out the DR drills / live trading for the period April 2023 to September 2023. However, MOFSL has duly carried out DR drills / live trading from DR site prior to and as well as after April 2023 to December 2023.</p> |

POST HEARING SUBMISSIONS

- It is respectfully submitted that the observations and allegations in present Show Cause Notice are largely instances where no violation is established and, in some instances, the purported violation so noted is a technical infraction which can be remedied and corrected. Pertinently, all observations noted in the present Show Cause Notice emanate from day-to-day operational activities of a stock broker in the ordinary course of business and are not egregious acts or delinquent conduct.
- It is submitted that MOFSL has duly taken note of the observations in the Show Cause Notice and undertakes to correct and improve the operations to remedy any future reoccurrence. We seek to rely upon the observation of the Hon'ble Securities

Appellate Tribunal in Religare Securities Limited vs Securities and Exchange Board of India (Order dated June 16, 2011 in Appeal No. 23 of 2011) where the Hon'ble Tribunal has set out the objective of inspection as under:

"It must be remembered that the purpose of carrying out inspection is not punitive and the object is to make the intermediary comply with the procedural requirements in regard to the maintenance of records. We also cannot lose sight of the fact that every minor discrepancy/irregularity found during the course of inspection is not culpable and the object of the inspection could well be achieved by pointing out the irregularities/deficiencies to the intermediary at the time of inspection and making it compliant. This will, of course, depend on the nature of the irregularity noticed and we hasten to add a caveat that it is not being suggested that if any serious lapse is found during the course of the inspection, the Board should not proceed against the delinquent."

[Emphasis added]

..

7. Reliance is also placed on DSE Financial Services Ltd. vs Securities and Exchange Board of India (Order dated September 11, 2012 in Appeal No. 153 of 2012) where the Hon'ble Tribunal has held as under:

Under similar circumstances in one of the cases decided by us earlier (Religare Securities Limited vs. SEBI Appeal no. 23 of 2011 decided on 16.6.2011), we have observed that it must be remembered that the purpose of carrying out inspection is not punitive and the object is to make the intermediary comply with the procedural requirements in regard to the maintenance of records. We have also observed that every minor discrepancy/irregularity found during the course of inspection is not culpable and the object of the inspection could well be achieved by pointing out the irregularities/deficiencies to the intermediary at the time of inspection and making it compliant. As per the observations made by the adjudicating officer himself, the violations committed by the appellant are mostly technical in nature; some of them are solitary instances and for others the appellant has mostly taken/initiated corrective measures. In view of this, we are of the view that the adjudicating officer was not justified in taking punitive action.

[Emphasis added]

...'

D. CONSIDERATION OF ISSUES AND FINDINGS

10. The issues that arise for consideration in the instant matter are:

Issue No. I: Whether the Noticee had violated the provisions of SEBI (Stock Brokers) Regulations, 1992 and Circulars, as alleged?

Issue No. II: If yes, whether the violations on the part of the Noticee would attract monetary penalty under Sections 15HB of the SEBI Act, 1992?

Issue No. III: If yes, what should be the monetary penalty that can be imposed upon the Noticee?

11. I now proceed to deal with the matter on merits as regards alleged violations in respect of the Noticee, as per the SCN.

Issue No. I: Whether the Noticee had violated the provisions of SEBI (Stock Brokers) Regulations, 1992 and Circulars, as alleged?

11.1. Monthly / Quarterly settlement of funds and securities:

In this regard, it was inter alia observed and alleged that SB had not settled funds of its inactive clients on 1928 instances pertaining to 1794 clients amounting to Rs 6.33 crores.

In view thereof, it was inter alia alleged that Noticee had violated provisions of Paragraph 47.4 of SEBI Master circular for stock brokers SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2024/53 dated May 22, 2024.

11.1.1. Here it would first be pertinent to refer to the text of the provisions alleged to have been violated in this regard, which inter alia read as under:

SEBI Master circular SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2024/53 dated May 22, 2024:

‘...
47.4 For the clients having credit balance, who have not done any transaction in the 30 calendar days since the last transaction, the credit balance shall be returned to the client by TM, within next three working days irrespective of the date when the running account was previously settled.
...’

From the plain reading of the text above, I note that for the clients having credit balance inter alia a TM is required to return the credit balance of a client within next three working days if the client has not done any transaction in the 30 calendar days since the last transaction.

11.1.2. In this regard, Noticee as part of its replies to the SCN inter alia contended that ‘...SEBI, in its post inspection analysis as well as in the present SCN has accepted MOFSL’s submissions in respect of 1,279 out of the 1,928 instances. As such, the present allegation is limited to the remaining 649 instances only...’

In this regard, I note from material available on record that pursuant to the post inspection analysis whereby the findings of the Inspection report vis-à-vis reply of the Broker were analysed, SEBI had observed that in 1182 instances out of 1928 instances, NSE

had noted that SB had provided evidences of 50 clients which were been found in order. In regard to the SB comments on 97 out of 1,928 instances, NSE had noted that SB had provided documentary evidence of 20 clients which had been found in order. In regard to the remaining 649 instances, it was observed that SB had accepted that there was a delay in settlement in that particular month and client was subsequently settled. NSE in its reply to 649 instances had also stated that violation persisted. In view of the above, I note from the material available on record that SEBI itself has brought out during the post inspection analysis that the alleged violation pertained to 649 instances.

11.1.3. As regards the 649 instances, I note that the submissions of the Noticee as part of its replies to the SCN are similar to the submissions made earlier in its reply to the findings of inspection before SEBI. I note that the submissions during the instant proceedings are in the nature of admission in so far as the Noticee has submitted that *'...there are certain software logic gaps on account of which there are certain data points which are not captured resulting in delays in settling client accounts... the delay is inadvertent and unintentional...'* and that *'...The present discrepancy has arisen on account of a logic gap on account of which there are data points are not captured resulting in non-settlement within the given period....'*

11.1.4. In view thereof, I find that the allegation that SB had not settled funds of its inactive clients, as brought out in the foregoing, stands established. Therefore, I hold that the Noticee had violated provisions of Paragraph 47.4 of SEBI Master circular for stock brokers number SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2024/53 and dated May 22, 2024.

11.2. Analysis of Cash & Cash Equivalents:

In this regard, SEBI inter alia observed and alleged that SB had incorrectly reported the EOD ledger balance in 15 instances amounting Rs 9.04 Crores and Peak ledger balance in 84 instances amounting to Rs 45.59 Crores.

In view thereof, it was inter alia alleged that Noticee had violated the provisions of Clause 6.1.1.j of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016

11.2.1. Here it would first be pertinent to refer to the text of the provisions alleged to have been violated in this regard, which inter alia read as under:

SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016:

‘...

6.1.1.Monitoring criteria for Stock Brokers

...

j.In case stock broker shares incomplete/wrong data or fails to submit data on time

...’

11.2.2. As regards three out of 15 instances of incorrect reporting of EOD ledger balance, following is noted from material available on record:

| Clnt Mrg Trd Dt | Clnt Cd | Reported Ledger bal | Actual Ledger bal | Difference |
|-----------------|-----------|---------------------|-------------------|------------|
| 12/Sep/2023 | *L*3*0 | 46,71,87,464 | 46,71,88,107 | 643 |
| 5/May/2022 | *S*A*72 | 13,85,956 | 13,72,148 | 13,808 |
| 5/Jul/2023 | *C*D*1**9 | 31,94,44,237 | 31,94,44,707 | |

In this regard, Noticee, as part of its replies to the SCN inter alia submitting the ledgers of the three clients, has contended that ‘...in the case of client codes *L*3*0, *S*A*72, and *C*D*1**9, MOFSL has accurately reported the ledger balance as per the client ledger and applicable regulatory provisions...’.

In this regard, on perusal of the client ledgers as submitted by the Noticee, I note that the reported ledger balance and the balance reflected in the ledgers are same. Therefore, having regard to the

submissions of the Noticee, I am inclined to allow benefit of doubt to the Noticee with respect to these three clients viz., *L*3*0, *S*A*72, and *C*D*1**9.

- 11.2.3. As regards 12 out of 15 instances of incorrect reporting of EOD ledger balance, the submissions of the Noticee as part of its replies to the SCN are in the nature of admissions in so far as the Noticee has submitted that *'...In respect of the remaining 12 instances, it is reiterated that the mismatch in reporting was an inadvertent and unintentional error... In 11 instances, error had occurred on account of non – consideration of DP charges... In the remaining 1 instance, this error occurred due to non – consideration of Additional Surveillance Margin Deposit...'*
- 11.2.4. In view thereof, I find that the allegation that SB had incorrectly reported the EOD ledger balance with regard to 12 instances, as brought out and dealt with in the foregoing, stands established. Therefore, I hold that the Noticee had violated provisions of Clause 6.1.1.j of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.
- 11.2.5. As regards incorrect reporting of Peak ledger balance, I note from material available on record and as also contended by the Noticee that initially during the inspection, the allegations were with respect to 86 instances. Pursuant to the post inspection analysis, the allegation in respect of two client codes were dropped and accordingly, the instant allegation is with respect to 84 instances.
- 11.2.6. Further regarding incorrect reporting of Peak ledger balance, I note that the submissions of the Noticee as part of its replies to the SCN are similar to the submissions made earlier in its reply to the findings of inspection before SEBI whereby the Noticee has contended that *'...it is submitted that mismatch is observed by SEBI due to non – consideration of T-1 MTM bill of the clients as part of the ledger*

balance...It is submitted that while the reporting requires peak clear ledger balance, the above guideline does not state any time for which open bill is considered on T+1 day. As T-1 debit bill is effective on T day, MOFSL had considered this in its peak ledger balance reporting at the relevant time... while NSE had objected to the inclusion of T-1 debit bill, vide a recent NSE Circular dated September 20, 2024 NSE has now clarified that T-1 debit bill of all segments can be added back to compute peak ledger balance for T day....’.

In this regard, I note that NSE, vide its circular dated September 20, 2024, bearing reference number NSE/INSP/64053 clarified that for the purpose of calculating the peak ledger balance of reporting date, the debit bill, if any, which is due for settlement on the Reporting date, is not required to be deducted. Therefore, having regard to the submissions of the Noticee and to the material available on record, I am inclined to allow benefit of doubt to the Noticee in this regard.

11.3. Terminal verification and Certifications:

In this regard, SEBI inter alia observed and alleged that in the risk room where admin terminals were located, the terminal in the name of *m*t V*k*a* *h**de was operated through remote access. Also, it was observed that in 2 cases viz., *ra*h*nt *h*re& Md. **s**d S**di*u*, the terminals were operated by a person other than an approved user.

In view thereof, it was inter alia alleged that Noticee had violated provisions of Regulation 26(xix) and Clause A (1) & A (2) of Schedule II of Code of Conduct read with regulation 9 of Securities and Exchange Board of India (Stock Brokers) Regulations, 1992.

- 11.3.1. Here it would first be pertinent to refer to the text of the provisions alleged to have been violated in this regard, which inter alia read as under:

SEBI (Stock Brokers) Regulations, 1992:

‘ ...

Conditions of registration.

9. Any registration granted by the Board under regulation 6 shall be subject to the following conditions, namely, -

...

(f) he shall at all times abide by the Code of Conduct as specified in Schedule II; and

....

Liability for monetary penalty.

26. A stock broker ⁶⁴[***] shall be liable for monetary penalty in respect of the following violations, namely—

...

(xix) Extending use of trading terminal to any unauthorized person or place

...

SCHEDULE II

Securities and Exchange Board of India (Stock Brokers 103[***]) Regulations, 1992

CODE OF CONDUCT FOR STOCK BROKERS

[Regulation 9]

....

A. General.

(1) Integrity: A stock-broker, shall maintain high standards of integrity, promptitude and fairness in the conduct of all his business.

(2) Exercise of due skill and care : A stock-broker shall act with due skill, care and diligence in the conduct of all his business.

...’

11.3.2. In this regard, Noticee as part of its replies to the SCN inter alia contended that ‘...it is clarified that NEAT ID Nos. *0*6, *5*, and *7*2 are corporate manager / administrative terminals in respect of Cash, F&O, and Currency segments respectively. These terminals are used only in respect of administrative operations such as setting, monitoring, controlling overall limits of MOFSL branch terminals as well as dealer terminals to monitor positions as well as take transactions into ERROR account as per regulatory guidelines. MOFSL does not use these terminals for carrying out trades of its clients... The NEAT ID No. *0*6 can only be accessed from registered TAP with exchange which is our *a**d office and the same is accessed remotely from our *r**h*d*v office... In respect of NEAT ID Nos. *5* and *7*2, it is submitted that these corporate manager / admin terminals were being used / accessed by Mr. **r**i**va* *es**u*h who is a RMS officer of MOFSL...’.

11.3.3. In this regard, I note from the submissions of the Noticee as part of its replies to the SCN that the Noticee has neither denied nor

disputed that Mr. *m*t V*k*a* *h**de was approved user for NEAT ID No. *0*6 and that *ra*h*nt *h*re and Md. **s**d S**di*u* were approved used for NEAT ID Nos. *5* and *7*2, respectively.

11.3.4. In this regard, I note from NSE circular NSE/MSD/67755 dated April 29, 2025 that user id is a system generated number which is allotted to an individual who is recognized as “approved user of the trading member. NEAT user ids are issued to approved user depending on fulfillment of the certification requirement as may be specified from time to time. The trading terminals are required to be under the direct control of the trading member and be managed either by an authorized employee or by an approved Authorized person of the trading member.

11.3.5. I also note from the plain reading of the text of the Regulation 26(xix) of SEBI (Stock Brokers) Regulations, 1992 that a stock broker is prohibited from extending use of trading terminal to any unauthorized person or place.

11.3.6. In this regard, I note that the submissions of the Noticee as part of its reply to the SCN are in the nature of admission in so far as, in respect of NEAT ID No. *0*6 the Noticee has submitted that *‘...terminal can be accessed only through VNC authentication only on MOFSL LAN and only by a user who has password to connect with computer machine logged in at Malad office. . It is submitted that in case of remote access, the person having such access is Mr. *i*in* *h**d*ar* who has the necessary NCFM / NISM Series VII certification...’*. Further, in respect of NEAT ID Nos. *5* and *7*2, the Noticee has submitted that *‘...these corporate manager / admin terminals were being used / accessed by Mr. **ri**va* *es**u*h who is a RMS officer of MOFSL...’*. I note that Noticee itself has submitted that the terminals were being used by other than the approved users.

11.3.7. In view thereof, I find that the allegation that the terminal in the name of *m*t V*k*a* *h**de was operated through remote access and that in 2 cases viz., *ra*h*nt *h*re& Md. **s**d S**di*u*, the terminals were operated by a person other than an approved user, stands established. Therefore, I hold that Noticee had violated provisions of Regulation 26(xix) and Clause A (1) & A (2) of Schedule II of Code of Conduct read with regulation 9 of Securities and Exchange Board of India (Stock Brokers) Regulations, 1992.

11.4. Framework on technical glitches at stockbrokers:

In this regard, SEBI inter alia observed and alleged the following:

- Delay in reporting/submission of RCA of the incident by 1 day.
- Permissible limit of 70% for generation of alerts is not set by SB
- Discrepancy in calculation of peak load by the SB
- SB has not conducted live trading from DR site for half year April 2023-Sep 2023.
- SB is not having Disaster Recovery Site setup

In view thereof, it was inter alia alleged that Noticee had violated provisions of Clause 2(iii), 3(vi) (v), 6 (iv) (v) of NSE circular NSE/COMP/54876 dated December 16, 2022 read with Clause A (5) of Schedule II for Code of Conduct of SEBI (Stock Brokers) Regulations, 1992.

11.4.1. Here it would first be pertinent to refer to the text of the provisions alleged to have been violated in this regard, which inter alia read as under:

NSE circular NSE/COMP/54876 dated December 16, 2022:

- ...
2. *Reporting Requirements for Technical Glitch Incidents:*
-
- iii. *Members shall submit a Root Cause Analysis (RCA) Report of the technical glitch to the stock exchange, within 14 days from the date of the incident. The RCA report, for all technical glitch incidents greater than 45 minutes, shall also be verified by an independent auditor appointed by the Member.*

3. Capacity Planning:

- iv. The capacity planning by Members should be done every year to review the available capacity, peak capacity, and new capacity required to tackle future load on the system. The purpose shall include all 'Critical Systems' operated in-house or through a Vendor/Application service provider (ASP).
- v. Members shall monitor peak load in their 'Critical Systems' including the trading applications, servers, and network architecture. The Peak load shall be determined based on the highest peak load observed by the Members during a calendar quarter. The installed capacity shall be at least 1.5 times (1.5x) of the observed peak load.
- vi. Members shall deploy adequate monitoring mechanisms within their networks and systems to get timely alerts on the current utilization of capacity going beyond the permissible limit of 70% of its installed capacity. In case the actual capacity utilization nears 70% of the installed capacity, immediate action shall be taken to avoid a breach of capacity.

6. Business Continuity Planning (BCP) and Disaster Recovery Site (DRS):

- iv. The DRS shall preferably be set up in different seismic zones. In case, due to any reasons like operational constraints, such a geographic separation is not possible, then the Primary Data Centre (PDC) and DRS shall be separated from each other by a distance of at least 250 kilometers to ensure that both do not get affected by the same natural disaster. The DR site shall be made accessible from the primary data center to ensure syncing of data across two sites.
- v. 'Specified Members' shall conduct DR drills/live trading from the DR site on half yearly basis. DR drills/ live trading shall include running all operations from DRS for at least 1 full trading day.

Clause A (5) of Schedule II for Code of Conduct of SEBI (Stock Brokers) Regulations, 1992:

SCHEDULE II
Securities and Exchange Board of India (Stock Brokers 103[***])Regulations, 1992
CODE OF CONDUCT FOR STOCK BROKERS
[Regulation 9]

A. General.

(5) Compliance with statutory requirements: A stock-broker shall abide by all the provisions of the Act and the rules, regulations issued by the Government, the Board and the Stock Exchange from time to time as may be applicable to him.

11.4.2. As regards allegation that there was delay in reporting/submission of RCA of the incident by one day, following is noted from material available on record:

| Date of glitch incident | Date of Incident | Submission of RCA |
|-------------------------|------------------|-------------------|
| 04/12/2023 | 04/12/2023 | 19/12/2023 |

11.4.2.1. In this regard, I note from plain reading of the text of Clause 2(iii) of NSE circular NSE/COMP/54876 dated December 16, 2022 that inter alia Members were required to submit a Root Cause Analysis (RCA) Report of the technical glitch to the stock exchange, within 14 days from the date of the incident.

However, in the instant case, it is observed that the date of incident was December 04, 2023 and Member was required to submit RCA report on December 18, 2023, however, the same was submitted on December 19, 2023 i.e. with delay of one day.

11.4.2.2. In this regard, I note that the submissions of the Noticee as part of its replies to the SCN are also in the nature of admission in so far as the Noticee has submitted that '*...MOFSL had reported RCA for incident dated December 4, 2023 on December 19, 2023. It is submitted that while admittedly there is a delay, the same was on account of ascertaining the issue and determining the nature of the problem in a test environment....*'.

11.4.2.3. As regards Noticee's contention that the delay was on account of ascertaining the issue and determining the nature of the problem in a test environment, I note that Noticee has not demonstrated that it had informed concerned Stock Exchange about the delay and/ or sought relief etc in this regard. Generally speaking, in my opinion, for any timeline based requirement, it is onerous on the entity to adhere to the same unless there may be compelling circumstances and about which the entity has proactively and diligently kept the concerned authorities informed and sought relief.

11.4.2.4. In view thereof, I find that the allegation that there was delay in reporting/submission of RCA of the incident by one day, stands established. Therefore, I hold that the Noticee had violated the provisions of Clause 2(iii) of NSE circular NSE/COMP/54876 dated December 16, 2022.

11.4.3. As regards allegation that permissible limit of 70% for generation of alerts was not set by SB, I note from material available on record that Noticee had made similar submissions earlier too in its response to the findings of inspection before SEBI and also during the instant proceedings in its replies to the SCN. The Noticee contended that *'...all critical and supporting applications of MOFSL are integrated with LAMA and 70% permissible limit is set in hardware and network in the front end software "Manage Engine" used by MOFSL...inspection team during the course of the inspection had observed a different tool i.e., Manage Engine which is used for the entire group level monitoring where the limit is set at 80%. It is submitted that this is separate from LAMA application monitoring. Therefore, no allegation has been made out in this regard...'*

11.4.3.1. In this regard, I note from the text of paragraph 3(vi) of NSE circular NSE/COMP/54876 dated December 16, 2022 that inter alia Members shall deploy adequate monitoring mechanisms within their networks and systems to get timely alerts on the current utilization of capacity going beyond the permissible limit of 70% of its installed capacity. In case the actual capacity utilization nears 70% of the installed capacity, immediate action shall be taken to avoid a breach of capacity.

11.4.3.2. In this regard, I note from the copy of Annexure B to the Inspection Report / SEBI observation letter dated April 26, 2024, as available on record that the configured threshold limit was at 90%.

11.4.3.3. In this regard, I also note that though Noticee has contended supporting applications of MOFSL were integrated with LAMA and 70% permissible limit was set in hardware and network in the front end software "Manage Engine" used by MOFSL and has submitted a screenshot in this regard, however, I note that

the same does not bear any date. Further from the submission of the Noticee itself evidently LAMA was one amongst the different tool(s) / engine(s). In this regard, I note that Noticee has not demonstrated with relevant details and documents that there was any exception available to it for tools /engines not connected to LAMA. I note that as per the provisions of the circular Noticee was inter alia required to deploy adequate monitoring mechanisms within its networks and systems.

In this regard, I also note that Noticee itself as part of its reply has inter alia submitted that for Manage Engine tool which was used for the entire group level monitoring the limit was set at 80%.

11.4.3.4. In view thereof, I find that the allegation that permissible limit of 70% for generation of alerts was not set by SB, stands established. Therefore, I hold that the Noticee had violated the provisions of Clause 3 (vi) of NSE circular NSE/COMP/54876 dated December 16, 2022.

11.4.4. As regards allegation that there was discrepancy in calculation of peak load by the SB, I note from material available on record that in its response to the findings of inspection Noticee had submitted before SEBI that *'...Formula used for identifying peak load was erroneously calculated as average of three years however we have sufficient capacity to handle peak load...'* I note that now during the instant proceedings the Noticee, as part of its replies to the SCN, has submitted that *'...the requirement of maintaining technical capacity to process 2 times the peak transaction load is demonstrated by a load test report prepared by an external agency **st*a**ra which was commissioned by MOFSL to carry out an independent assessment. As per the report submitted by **st*a**ra,*

MOFSL is able to hold up to..clients logged in on its server, which is more than double the current average ... clients of MOFSL...’.

11.4.4.1. In this regard, I note that the Noticee has submitted a report dated August 09, 2024, however, I note that the alleged violation is with respect to Inspection period April 01, 2022 to October 31, 2023. I note that the actions taken subsequently would not absolve the Noticee of the violations during the Inspection Period. He submissions, may at best be considered as mitigating factors. Further, I note that the submissions of the Noticee in its response to the findings of inspection were in the nature of admission in so far as the Noticee had submitted that ‘...*Formula used for identifying peak load was erroneously calculated...*’.

11.4.4.2. In view thereof, I find that the allegation that there was discrepancy in calculation of peak load by the SB, stands established. Therefore, I hold that the Noticee has violated provisions of Clause 3(v) of NSE circular NSE/COMP/54876 dated December 16, 2022.

11.4.5. As regards allegation that SB had not conducted live trading from DR site for half year April 2023-Sep 2023, I note from the text of the paragraph 6 (v) of NSE circular NSE/COMP/54876 dated December 16, 2022 that inter alia ‘Specified Members’ are required to conduct DR drills/live trading from the DR site on half yearly basis. DR drills/live trading shall include running all operations from DRS for at least 1 full trading day.

11.4.5.1. In this regard, I note from material available on record that the Noticee had made similar submissions earlier before SEBI in its response to the findings of inspection as well as during the instant proceedings in its reply to the SCN. I note that the submissions of the Noticee in this regard are in the nature of

admission in so far as the Noticee had inter alia submitted that *'...MOFSL was in the process of setting up its DR Site in **e*na*, it could not carry out the DR drills / live trading for the period April 2023 to September 2023....'*

11.4.5.2. In view thereof, I find that the allegation that SB had not conducted live trading from DR site for half year April 2023-Sep 2023, stands established. Therefore, I hold that the Noticee has violated provisions of Clause 6(v) of NSE circular NSE/COMP/54876 dated December 16, 2022.

11.4.6. As regards allegation that SB was not having Disaster Recovery Site setup, I note that in terms of SEBI circular on "Framework to address the technical glitches in stock brokers electronic trading systems" dated November 25, 2022 read with Para 6 (iv) of NSE circular on "Framework to address the technical glitches in stock brokers electronic trading systems" dated December 16, 2022 that 'Specified Members' and Members with a minimum client base of 50,000 clients across all Exchanges, are to mandatorily establish a 'Business Continuity'/ 'Disaster Recovery setup. The DRS shall preferably be set up in different seismic zones. In case, due to any reasons like operational constraints, such a geographic separation is not possible, then the Primary Data Centre (PDC) and DRS shall be separated from each other by a distance of at least 250 kilometers to ensure that both do not get affected by the same natural disaster. The DR site shall be made accessible from the primary data center to ensure syncing of data across two sites.

11.4.6.1. In this regard, I note that the Noticee has made similar submissions earlier before SEBI in its response to the findings of inspection as well as during the instant proceedings in its reply to the SCN. The Noticee has inter alia submitted that

*‘...pursuant to the introduction of the requirement to set up a Disaster Recovery Site by SEBI vide its circular dated November 25, 2022, MOFSL had initially set up its DR Site in ..(MOT) - **a*h*d*v* where it also has a corporate office. Simultaneously, MOFSL was in the process of setting up the DR Site as per the requirements set out in **e*na* and accordingly MOFSL have been informing our progress and implementation date of DR setup in different seismic zone from that of PDC in system Audit report to Exchanges. MOFSL’s DR Site has been set-up and is operational and this has been demonstrated by way of Action Taken Report dated February 29, 2024 which has been submitted to the exchange...’.*

11.4.6.2. In this regard, I note that though the Noticee has contended that it had setup its initial DRS at **a*h*d*v*, however, I note that the Noticee has not demonstrated with relevant details and documents that the DR site during the inspection period was in terms of the provisions of the aforesaid circulars inter alia including that the DR site was in different seismic zone and in case such a geographic separation was not possible, then the Primary Data Centre and DRS were separated from each other by a distance of at least 250 kilometers.

11.4.6.3. Further, as regards the DRS set up in **e*na*, I note from SEBI circular on “Framework to address the technical glitches in stock brokers electronic trading systems” bearing ref no. SEBI/HO/MIRSD/TPD-1/P/CIR/2022/160 dated November 25, 2022 that ‘... This circular shall come into effect from April 01, 2023...’, however, I note from the submissions of the Noticee that the DRS at **e*na* was set-up and made operational in February 2024, which is after the stipulated time in the aforesaid circular. In view thereof, the contentions of the

Noticee in this regard are devoid of merit and hence not acceptable.

11.4.6.4. In view thereof, having regard to the material available on record and the submissions of the Noticee, I find that the allegation that SB was not having Disaster Recovery Site setup, stands established. Therefore, I hold that the Noticee has violated provisions of Clause 6(iv) of NSE circular NSE/COMP/54876 dated December 16, 2022.

11.4.7. In this regard, I note that in terms of Clause A (5) of Schedule II for Code of Conduct of SEBI (Stock Brokers) Regulations, 1992, a stock-broker is required to abide by all the provisions of the Act and the rules, regulations issued by the Government, the Board and the Stock Exchange from time to time as may be applicable to the broker. However, as brought out above, the Noticee failed to abide by the framework on technical glitches viz., delay in reporting/submission of RCA of the incident by 1 day, permissible limit of 70% for generation of alerts was not set by SB, discrepancy in calculation of peak load by the SB, SB had not conducted live trading from DR site for half year April 2023-Sep 2023, SB was not having Disaster Recovery Site setup. Therefore, I hold that Noticee had violated provisions of Clause A (5) of Schedule II for Code of Conduct of SEBI (Stock Brokers) Regulations, 1992.

Issue No. II: If yes, whether the violations on the part of the Noticee would attract monetary penalty under Sections 15HB of the SEBI Act, 1992?

12. It has been established in the foregoing paragraphs that Noticee had violated provisions of Stock Brokers Regulations, SEBI circulars and NSE Circular.

13. In this regard, Noticee, as part of its replies to the SCN, has placed reliance upon the observation of the Hon'ble Securities Appellate Tribunal in *DSE Financial Services Ltd. vs Securities and Exchange Board of India (Order dated September 11, 2012 in Appeal No. 153 of 2012)* and on *Religare Securities Limited vs Securities and Exchange Board of India (Order dated June 16, 2011 in Appeal No. 23 of 2011)* where the Hon'ble Tribunal has set out the objective of inspection as under:

"It must be remembered that the purpose of carrying out inspection is not punitive and the object is to make the intermediary comply with the procedural requirements in regard to the maintenance of records. We also cannot lose sight of the fact that every minor discrepancy/irregularity found during the course of inspection is not culpable and the object of the inspection could well be achieved by pointing out the irregularities/deficiencies to the intermediary at the time of inspection and making it compliant. This will, of course, depend on the nature of the irregularity noticed and we hasten to add a caveat that it is not being suggested that if any serious lapse is found during the course of the inspection, the Board should not proceed against the delinquent."

[Emphasis added]

In this regard, in my opinion each case is peculiar in its facts and circumstances based on which the violations are ascertained. Whether adjudication proceedings are to be initiated in a case would depend on the facts and circumstances of each case. I also note that, initiation of Adjudication proceedings under the appropriate provisions is a prerogative of SEBI depending upon the outcome of such exercise viz., Inspection and findings thereof. It would also be relevant to state that the subject matter of instant proceedings are as per the Communique of appointment of AO, duly approved by the Competent Authority.

I also note from the text of Hon'ble SAT in the matter of *Religare Securities Limited Vs. SEBI (Appeal No. 23 of 2011)*, as also relied upon by the Noticee itself that Hon'ble SAT had inter alia held that "... *This will, of course, depend on the nature of the irregularity noticed and we hasten to add a caveat that it is not being suggested that if any serious lapse is found during the course of the inspection, the Board should not proceed against the delinquent...*".

In this regard, I note that Noticee has merely drawn generic parallel to these cases and has not brought out as to how this case has bearing in the instant proceedings. I note that the nature of violations in the instant case are

distinguishable from the nature of violations dealt in the aforesaid case in so far as in the instant matter the violations, as dealt with and brought out in the foregoing, inter alia pertain to Monthly / Quarterly settlement of funds and securities, Analysis of Cash & Cash Equivalents, Framework on technical glitches at stockbrokers.

In view thereof, the contention of the Noticee in this regard are devoid of merit and hence cannot be accepted.

14. In this regard, it is noted that the Hon'ble Supreme Court of India in the matter of SEBI v/s Shri Ram Mutual Fund [2006] 68 SCL 216(SC) inter alia 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...."

15. Therefore, for the established violations, as brought out in the foregoing paragraphs, I find that the Noticee is liable for monetary penalty under section 15HB of the SEBI Act, 1992 which reads 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.

...'

Issue No. III: If yes, what should be the monetary penalty that can be imposed upon the Noticee?

16. While determining the quantum of penalty under Section 15HB of the SEBI Act, 1992, it is important to consider the factors as stipulated in Section 15J of the SEBI Act, 1992, which inter alia reads as under: -

SEBI Act, 1992:

'...

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:—

- 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.

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.

Note: for detailed/ complete /exact text of the provisions, relevant Acts, Circulars etc., may please be referred.

17. In the instant matter, I note that the material on record does not indicate the amount of disproportionate gain or unfair advantage made by the Noticee, or the amount of loss caused to an investor or group of investors as a result of the aforesaid violations by the Noticee. However, I note from SEBI website that various Adjudication Orders have been passed in respect of Noticee inter alia imposing monetary penalty, to cite viz., Adjudication orders dated February 28, 2020; April 29, 2022; December 31, 2024; January 30, 2025; and June 09, 2025. In this regard, I note that compliance with the provisions of the Stock Brokers Regulations and circulars as applicable in this case, was obligatory upon the Noticee, which the Noticee failed to, as dealt with and brought out in the foregoing and which SEBI is duty bound to enforce compliance of. Such non-compliance accordingly needs to be dealt with suitable penalty.

E. ORDER

18. After taking into consideration the facts and circumstances of the case, material available on record, submissions made by the Noticee and also the factors mentioned in the preceding paragraphs, in exercise of the powers conferred upon me under section 15-I of the SEBI Act, 1992 read with Rule 5 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995, I hereby impose the following penalty, as per the table below, on the Noticee, for the aforementioned violations, as discussed in this order. In my view, the said penalty will be commensurate with the violations committed by the Noticee in this case:

| Noticee Name | Penalty under Section | Penalty Amount (In Rs.) |
|--|----------------------------|---|
| Motilal Oswal Financial Services Limited | 15HB of the SEBI Act, 1992 | Rs. 11,00,000/- (Rupees Eleven Lakhs Only) |

19. The Noticee 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 on the following path, by clicking on the payment link:

ENFORCEMENT > Orders > Orders of AO > PAY NOW

20. 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 for realization of the said amount of penalty along with interest thereon, inter alia, by attachment and sale of movable and immovable properties.
21. In terms of the provisions of Rule 6 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995, a copy of this order is being sent to the Noticee and also to the Securities and Exchange Board of India.

PLACE: MUMBAI
DATE: AUGUST 12, 2025

AMAR NAVLANI
ADJUDICATING OFFICER