

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

**SETTLEMENT ORDER**  
**(Application No. 3955/2019)**

**[SETTLEMENT ORDER NO.: EAD-2/SS/SK/2019-20/4329]**

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**In respect of:**

**Mr. Shivanand Shettigar,**  
YES Bank Tower,  
IFC - 2, 15th Floor,  
Senapati Bapat Marg,  
Elphinstone (W),  
Mumbai – 400013.

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1. Securities and Exchange Board of India ("SEBI") observed that YES Bank Ltd. (hereinafter referred to as 'YBL') having its shares listed on BSE Ltd. ('BSE') and National Stock Exchange of India Ltd. ('NSE') made disclosures to the stock exchanges vide letter dated February 13, 2019, under regulation 30 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ('LODR Regulations') enclosing therewith a press release of the same date- titled "Divergence in Asset Classification and Provisioning for position as on March 31, 2018" -stating therein that :-

*"The Reserve Bank of India ('RBI') assesses compliance by Banks with extant prudential norms on income recognition, asset classification and provisioning (IRACP) as part of its supervisory processes. As a part of this process, Yes Bank has received the Risk Assessment Report for FY 2018.*

*The report observes **NIL divergences** in the Banks's assets classification and provisioning from the RBI norms."*

2. SEBI also noted that YBL made another disclosure vide its letter dated February 15, 2019 to the stock exchanges under regulation 30 of LODR Regulations, informing them that it had received RBI's letter on February 15, 2019, which states that:-

*"As the RAR report was marked "confidential", it was expected that no part of the report and information contained therein be divulged except for the information in the form and manner of disclosure prescribed by Regulations. Therefore, the Press Release breaches confidentiality and violates regulatory guidelines. Moreover, NIL divergence is not an achievement to be published and is only compliance with the extant IRACP norms. The RAR also identifies several other lapses and regulatory breaches in various areas of the Bank's functioning and the disclosure of just one part of the RAR is viewed by RBI as a deliberate attempt to mislead the public.*

*The issuance of the said press release been viewed seriously by RBI and could entail further regulatory actions".*

3. Upon examining the aforesaid disclosures made by YBL and considering the responses of YBL, SEBI observed the following:
- a) In accordance with RBI circular dated April 18, 2017 and SEBI circular dated July 18, 2017, banks are required to disclose divergences in the asset classification and provisioning wherever the additional provisioning requirements assessed by RBI exceed 15 percent of the published net profits after tax for the reference period and/or the additional Gross NPAs identified by RBI exceed 15 percent of the published incremental Gross NPAs for the reference period. Thus, disclosure of "NIL" divergence was not mandated by RBI and SEBI.
  - b) YBL made a selective disclosure on February 13, 2019 highlighting "NIL" divergence which had significant positive impact on the price movement and had not disclosed other issues mentioned in the Risk Assessment Report ('RAR') as observed by RBI such as lapses and regulatory breaches in various areas in its functioning.
  - c) In its response to SEBI, YBL had submitted that the contents of the said press release dated February 13, 2019 on 'Divergence' were evaluated / discussed by top management executives of YBL collectively and since the information was considered as an Unpublished Price Sensitive Information ('UPSI') and material in nature, it was decided to disseminate the information.
  - d) As per the material policy of YBL, MD and CEO shall be the Key Managerial Personnel ('KMP') for the purpose of determining materiality of an event or information which qualifies for disclosure under LODR Regulations.
  - e) YBL received RAR for the FY 2018 on February 13, 2019 at around 7.30 PM and the press release was disseminated to the exchanges at around 8:57 on the same day within a gap of 1.30 hours which shows an unprecedented urgency on part of YBL to disclose the information contrary to its previous practices wherein the NPA divergence > 15% (for FYs ending March 31, 2016 and 2017) were disclosed after the board meeting as a part of the financial statements in the prescribed format.
  - f) MD&CEO of YBL is authorized to determine the '*materiality*' of an event, before it is disseminated to the stock exchanges. However, the approval was not taken from MD & CEO of YBL while deciding *materiality* of events or while making disclosure to the stock exchanges on the said 'NIL' divergence.

- g) Thus, the practice followed by YBL is found to be in deviation to the previous disclosures made by it in the past two years and disclosing the said 'NIL' divergence was a misleading information to the investors.
4. In terms of Regulation 6 (2) (c) of the LODR Regulations, Mr. Shivanand Shettigar, the Compliance Officer of YBL (hereinafter referred to as 'applicant') was responsible to ensure that the correct procedure is followed that would result in the correctness, authenticity and comprehensiveness of the information, statements and reports filed by YBL. The response dated April 09, 2019, of the applicant had not been found satisfactory by SEBI and it was alleged by SEBI that the applicant had made the said disclosure on 'NIL' divergence without obtaining prior approval of MD&CEO who is authorized to determine '*materiality*' of an event or information before it is disseminated to the stock exchanges and had not ensured the correctness, authenticity and comprehensiveness of the material information while making the said disclosures to the stock exchanges and thus, it was alleged that he had violated the provisions of Regulation 6(2)(c) of the LODR Regulations.
  5. In view of the above, it was decided to inquire into and adjudicate upon the alleged violations as aforesaid and in terms of a *communication-order* dated May 22, 2019, the undersigned was appointed as Adjudicating Officer under Section 15-I of the SEBI Act 1992 (hereinafter referred to as 'the SEBI Act') and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as 'the Adjudication Rules') to inquire into and adjudge under Section 15HB of the SEBI Act the aforesaid alleged violations by the applicant. Accordingly, in terms of Rule 4(1) of the Adjudication Rules read with Section 15I (1) and (2) of SEBI Act, the notice to show cause no. EAD/SKS-SS/13476/1/2019 dated May 28, 2019 (hereinafter referred to as 'the SCN') was issued to him.
  6. Pending the instant proceedings commenced by the aforesaid SCN, the applicant filed a Settlement Application bearing reference no. 3955/2019 dated June 21, 2019 with SEBI in terms of SEBI (Settlement Proceedings) Regulations, 2018 (hereinafter referred to as 'Settlement Regulations'). The applicant, by his Settlement Application, proposed to settle, through a Settlement Order, the pending proceedings initiated vide the aforesaid SCN.
  7. The applicant also had a meeting with the Internal Committee of SEBI on July 12, 2019, wherein the settlement terms were deliberated. Thereafter, the applicant, vide his letter dated July 18, 2019,

proposed payment of ₹ 14,45,000/- (Rupees Fourteen Lakh and Forty Five Thousand Only) towards full and final settlement of alleged default contained in the SCN.

8. The High Powered Advisory Committee on Settlement (hereinafter referred to as 'HPAC') considered the proposed settlement terms on July 30, 2019 and recommended the settlement of instant proceedings upon payment of ₹ 14,45,000/- (Rupees Fourteen Lakh and Forty Five Thousand Only) towards settlement charges. The Panel of Whole Time Members of SEBI approved and accepted the said recommendation of the HPAC on August 22, 2019 and the same was communicated to the applicant vide e-mail dated August 23, 2019. Pursuant to the same, the applicant, vide his letter dated August 28, 2019, remitted a sum of ₹ 14,45,000/- (Rupees Fourteen Lakh and Forty Five Thousand Only) towards the settlement charges through Demand Draft No. 887787 dated August 27, 2019 drawn on YES Bank.
9. Accordingly, in terms of regulation 23(1) and regulation 28 read with regulation 34 of the Settlement Regulations, it is hereby ordered that the instant adjudication proceedings initiated against the applicant vide SCN dated May 28, 2019 are settled and disposed of in terms of above settlement terms.
10. This order is without prejudice to the right of SEBI to take any enforcement action including restoring or initiating the proceedings in respect to which this settlement order is passed, if:
  - (a) any representations made by the applicant in the Settlement Proceedings are subsequently found to be untrue; or
  - (b) the applicant breaches any of the clauses /conditions of undertakings/ waivers filed during the Settlement Proceedings.
11. This settlement order shall come into force with immediate effect. In terms of Regulation 25 of the Settlement Regulations, copy of this order is sent to the applicant and shall also be published on the website of SEBI.

**Date: September 04, 2019**

**Place: Mumbai**

**Santosh Shukla**

**Adjudicating Officer**