QJA/ARB/MIRSD/DOP/28487/2023-24

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

Under Section 12(3) of the Securities and Exchange Board of India Act, 1992 read with Regulation 27 of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008

In respect of –

Name of the Noticee	SEBI Registration No.	PAN
MMTC Limited	**INZ000028733**	**AAACM1433E**

In the matter of National Spot Exchange Limited

BACKGROUND

1. The present proceedings originate from the Enquiry Report dated July 29, 2020, (hereinafter referred to as '**Enquiry Report**'), submitted by the Designated Authority (hereinafter referred to as "**DA**") in terms of regulation 27 of the SEBI (Intermediaries) Regulations, 2008 (hereafter referred to as "**Intermediaries Regulations**") as applicable at the relevant point in time. The DA, based on the facts noted in the said enquiry report, has recommended that the registration of MMTC Limited (hereinafter referred to as the "**MMTC/ noticee**") as a stock broker bearing registration no. INZ000028733 be cancelled.

2. The above mentioned DA was appointed to enquire into and submit a report pertaining to the acts of the noticee and the possible violations of regulations 5(e), 9(b) and 9(f) of the SEBI (Stock Brokers) Regulations, 1992 (hereinafter referred to as "**Stock Brokers Regulations**") read with Schedule II of the Intermediaries Regulations, alleged to have been committed by the noticee.

3. After conducting the enquiry as envisaged under regulation 25 of the Intermediaries Regulations, on the basis of material available on record and after considering the replies filed by the noticee, the DA submitted the Enquiry Report, in respect of the noticee and found that the noticee, as a stock broker of the National Spot Exchange Limited (hereinafter referred to as "**NSEL**"), had facilitated in the trading of the *'paired contracts'* on the exchange platform of NSEL, which was in violation of the applicable provisions of erstwhile Forward Contracts (Regulation) Act, 1952 (hereinafter referred to as "**FCRA**") and the conditions

specified in the Government of India Notification dated June 05, 2007 (hereinafter referred to as "**2007 Exemption Notification**"). It was also observed in the Enquiry Report that the continuance of the Certificate of Registration of the noticee as a stock broker is detrimental to the interest of the securities market and that the noticee is not a '*fit and proper*' person to hold the Certificate of Registration as a stock broker in the Securities Markets which is one of the conditions for grant/ holding/ continuance of registration, in terms of regulations 5(e), 9(b) and 9(f) of the Stock Brokers Regulations read with Schedule II of the Intermediaries Regulations. The DA, in view of the aforesaid finding, has recommended that the Certificate of Registration of the noticee as a trading/ clearing member be cancelled.

4. The relevant excerpt of the Enquiry Report is reproduced below:

> *"37. In view of the facts and circumstances of the case and material placed before me, I am of the view that the Noticee is not a fit and proper person in terms of Regulation 5(e) read with Regulation 27(iv) of the Stock Broker Regulations read with Schedule II of the Intermediaries Regulations. Therefore, in terms of Regulation 27 of the Intermediaries Regulations, I recommend that the registration of the Noticee i.e. MMTC Limited, [Registration No. INZ000028733] as a commodities derivatives broker may be cancelled."*

5. Pursuant to the same, a Post Enquiry Show Cause Notice dated August 18, 2020 (hereinafter referred to as "**SCN**") enclosing therewith the Enquiry Report of the DA and certain other material/information as specified in the said SCN, was issued to the noticee under regulation 28(1) of the Intermediaries Regulations (as applicable at the relevant time) calling upon it to show cause as to why the action of cancellation of Certificate of Registration, as recommended by the DA or any other action as may be considered appropriate by the Competent Authority, should not be taken against it, in terms of regulation 28(2) of the Intermediaries Regulations (as applicable at the relevant time). The SCN further advised the noticee to submit its reply, if any, within 21 days of receipt of the said SCN. The noticee filed its reply vide letter dated February 03, 2021. Pursuant to the same, due to administrative reasons, the competent authority of SEBI, reallocated cases and transferred the present matter to the undersigned for further proceedings.

6. While the extant proceedings were ongoing, SEBI passed five separate orders rejecting the applications filed by five other entities for registration as commodity brokers in the NSEL matter. Aggrieved by the said SEBI orders, the entities filed

separate appeals before the Hon'ble Securities Appellate Tribunal (hereinafter referred to as "**Hon'ble SAT**"). The Hon'ble SAT vide its common order dated June 09, 2022, remanded the aforesaid SEBI orders to SEBI to decide these matters afresh within six months from the date of the said SAT order. While remanding the aforesaid SEBI orders, the Hon'ble SAT, *inter alia*, held as under:

> *"42…The matters are remitted to the WTM to decide the matter afresh in the light of the observations made aforesaid in accordance with law after giving an opportunity of hearing to the brokers. All issues raised by the brokers for which a finality has not been reached remains open for them to be raised before the WTM. It will be open to the WTM to rely upon other material such as the complaint letters of NSEL, EOW report, EOW charge sheet, etc. provided such copies are provided to the brokers and opportunity is given to rebut the allegations. Such additional documents relied upon by the respondent should form part of the show cause notice for which purpose, it will be open to the WTM to issue a supplementary show cause notice…"*

7. In light of the aforesaid SAT order and certain other subsequent orders passed by the Hon'ble SAT in similar set of cases from time to time, it was felt necessary to furnish certain additional documents/material to the noticee before concluding the present proceedings. Accordingly, SEBI vide Supplementary SCN dated October 11, 2022 (hereinafter referred to as "**SSCN**" and collectively SCN and SSCN being referred to as "**SCNs**") provided certain additional documents/material (as indicated in the SSCN) to the noticee and advised it to submit its reply in addition to its earlier replies, if any, within 15 days of receipt of the SSCN. The noticee was further informed that if no reply is received within 15 days of receipt of the SSCN, it would be presumed that it had no additional comments/reply to submit and the matter would be proceeded in terms of the provisions contained in the Intermediaries Regulations. The SSCN was sent to the noticee through *Speed Post Acknowledgement Due* (for short '**SPAD**') vide letter dated October 11, 2022 and also through email dated October 17, 2022 and proof of delivery of the same to the noticee is on record. Further, the hearing in the matter was also fixed on December 20, 2022, which was later rescheduled to December 22, 2022, due to administrative exigencies.

8. The noticee vide email dated October 19, 2022 requested time till November 30, 2022 to file a reply in the matter and vide letter dated November 24, 2022, the noticee filed its written submissions in the matter.

9. On the scheduled date of hearing, which was held through video conferencing, Ms. Savita Solomon, Mr. Dinesh Dangi, Authorized Representatives of the noticee

along with Advocate Shri S.P. Bharti, appeared and made submissions in line with the reply submitted earlier. As requested, fifteen days' time was granted to the noticee to file the post hearing submissions, if any. The noticee filed the post hearing submissions in the matter vide letter dated January 06, 2023. Thus, the principles of natural justice have been adhered to in the present matter. The matter is fit to be proceeded with, on merit, based on the materials contained in the SCN and SSCN as well as the replies of the noticee available on record.

10. The replies filed by the noticee vide its letters dated February 03, 2021, November 24, 2022, January 06, 2023 and the oral submissions made during the course of the personal hearing held on December 22, 2022, are summarized hereunder:

    i. Considering the scheme of the FCRA, the Securities Contracts (Regulation) Act, 1956 (hereinafter referred to as the **"SCRA"**) and the provisions of the Finance Act, 2015 (hereinafter referred to as **"Finance Act"**), SEBI does not have jurisdiction to initiate the action as proposed in the show cause notice. FMC was the authority under FCRA regulating the trades covered under the FCRA and the noticee traded during the period May 2011 to July 2013 when commodity derivatives were not subject to FCRA;

    ii. The DA has relied upon observations made in the judgments/ orders passed by courts/ tribunal where the noticee was not a party. The letter dated December 30, 2014 issued by Department of Economic Affairs (hereinafter referred to as **"2014 Letter"**) has observations against NSEL and not against the noticee;

    iii. The DA has also overlooked the fact of noticee surrendering its membership of MCX on September 04, 2019 and thus, the recommendation of cancellation does not survive;

    iv. The noticee started trading on the platform of NSEL in agro commodities in May 2011, i.e., much after the introduction of paired contracts by NSEL. The noticee purchased and sold on the same day, leaving no scope for any speculation and there was never any short selling by the noticee. The noticee traded under T+2 and T+25 contracts which were available on the NSEL website. NSEL had provided delivery allocation letters which, *inter alia*, included details of the warehouse receipt number, lot size etc.;

v. The noticee had inspected the warehouses of NSEL monthly in 2012 and 2013 and found that the stock was available at the warehouses but the same had not been tagged, so as to segregate and identify the stock belonging to the noticee. The matter of tagging was taken up with NSEL and minutes of the meeting with NSEL have been attached as annexure to the noticee's reply dated February 03, 2021. Since the stock was available in the warehouse, no foul play was suspected by the noticee;

vi. On the date of suspension of trading, an amount of ₹225 crore was outstanding but NSEL has only paid an amount of ₹13.43 crore to the noticee. On account of failure of NSEL to pay the noticee, the noticee has filed a suit in the Hon'ble Bombay High Court for recovering the amount due to the noticee;

vii. The authorities were already aware about the trades being executed on the NSEL platform but no action was initiated against the noticee until the merger of FMC with SEBI in 2015. It is totally incorrect on SEBI's part to initiate action and propose penal action as proposed in the SCN. The noticee was not aware about the alleged violations under the FCRA and nothing has been brought on record to suggest that the noticee was aware about such violations;

viii. The noticee never represented itself as a broker, sub-broker and never induced any investor. All the trades executed by the noticee were proprietary in nature and no trades were executed by the noticee for investors/ clients. Since all trades were executed in the proprietary account, the question of marketing/ inducing the clients does not arise. The noticee started dealing with paired contracts on and from May 24, 2011 and continued to deal till July 30, 2013 and all the trades executed by the noticee were proprietary in nature and thus, no loss was caused to any other entity/ person/ investor;

ix. The allegation of the DA that the members were aware of the NSEL dealing in illegal paired contracts is without any basis as FMC itself was conducting enquiry into the alleged violations and was not sure as to whether the NSEL violated the 2007 Exemption Notification;

x. The noticee was trading on NSEL platform wherein the opportunity of sale and purchase was available on the electronic screen and there was no necessity to deal with the other parties. Thus, it may not be

appropriate to say that the transactions entered by the noticee were financing transactions;

xi. The regulations sought to be applied were not applicable in 2011-2013 and thus the same cannot be applied retrospectively. Since the Schedule II of the Intermediaries Regulations came into effect from November 17, 2021, it cannot be applied retrospectively, as the same would have civil consequences and an amendment cannot be applied retrospectively unless specifically given that effect. The First Information Report (hereinafter referred to as **"FIR"**) cannot be relied upon by SEBI as a criterion to determine the '*fit and proper*' status of the noticee as the same has been incorporated in 2021, while the original SCN was issued in 2020. Further, reliance on FIR/ complaint to determine the '*fit and proper*' status is against the fundamental principles of Criminal Jurisprudence which treats a person as innocent until proven guilty;

xii. The interim EOW report has not been provided to the noticee, although referred in the complaint filed by SEBI. The complaint dated July 9, 2018 has not been provided to the noticee which has been referred in the complaint filed against the noticee;

xiii. Reliance on amended Schedule II of the Intermediaries Regulations is beyond the scope of the order passed by the Hon'ble SAT and the liberty granted by Hon'ble SAT was only with respect to '…*other material such as the complaint, letters of NSEL, EOW report, EOW charge sheet, etc….*' and thus, reliance cannot be placed on Schedule II which has come into effect on November 17, 2021;

xiv. The noticee cannot be held liable for trading in paired contracts if there was ambiguity in relations to the violation of exemption in the mind of authorities;

xv. Once the exemption was granted by the statutory authority, the noticee had no reason to doubt the legality of trading at NSEL platform and had reason to believe that such contracts were within the permissibility of exemption granted to NSEL;

xvi. NSEL website on its web page '*Regulatory set up*', stated that the activities of the exchange were regulated by three different regulators, i.e., State Agriculture Marketing Board (hereinafter referred to as

"SAMB"), FMC and Warehouse Development Regulatory Authority (hereinafter referred to as **"WDRA"**), although FMC was not actually regulating NSEL and it was directed to remove such misleading information by FMC;

xvii. The noticee is not a defaulting broker and the said fact has been ignored by the DA;

xviii. Since no application has been made by the noticee before SEBI nor the noticee is in possession of any registration, the present proceedings for cancellation of registration of noticee on ground of '*fit and proper*' is not tenable;

CONSIDERATION OF ISSUE AND FINDINGS

11. I have carefully perused the SCNs issued to the noticee, the Enquiry Report, the replies dated February 03, 2021, November 24, 2022, January 06, 2023 and the oral submissions made during the course of the personal hearing and other material/information available on record. After considering the allegations made/charges levelled against the noticee in the instant matter as spelt out in the SCNs, the issue which arises for my consideration in the present proceedings is whether the noticee satisfies the '*fit and proper person*' criteria as laid down under Schedule II of the Intermediaries Regulations and whether the Certificate of Registration granted to the noticee should be cancelled, as recommended by the DA or any other action should be taken against the noticee.

12. At this juncture, it is relevant to deal with the contention of the noticee that FMC was the authority for regulating the trades covered under the FCRA and the noticee traded during the period May 2011 to July 2013 when commodity derivatives were not subject to FCRA and thus, SEBI does not have power and jurisdiction to initiate the action as proposed in the SCN. In this regard, the issue under consideration in the present proceedings is limited to the determination of "*fit and proper"* status of the noticee under the Intermediaries Regulations and it is a settled position of law that SEBI has statutory authority to determine the "*fit and proper"* status of the intermediaries registered with it. Since the noticee is an intermediary registered with SEBI, I am of the considered view that SEBI is within its jurisdiction to determine the "*fit and proper"* status of the noticee.

13. The noticee has also submitted that the complaint dated July 09, 2018 has not been provided to the noticee. The said complaint has been referred to in the complaint filed against the noticee on September 24, 2018 by SEBI. The copy of

the complaint sought by the noticee, i.e., compliant dated July 09, 2018, pertained to NSEL, its Board of Directors, Key Management Personnel, Management and others, as is clear from the complaint dated September 24, 2018. Since the said complaint has no relevance as regards the noticee and is not being relied upon in the present matter, the request of the noticee does not merit consideration

14. Before I proceed to examine the issue, as stated above, vis-à-vis the material available on record before me, it would be appropriate at this stage, to refer to the relevant provisions of the law applicable, which are alleged to have been violated by the noticee and/or are referred to in the present proceedings. The same are reproduced below for reference:

THE SEBI ACT, 1992

Registration of stock brokers, sub-brokers, share transfer agents, etc.

12 (3) The Board may, by order, suspend or cancel a certificate of registration in such manner as may be determined by regulations:
Provided that no order under this sub-section shall be made unless the person concerned has been given a reasonable opportunity of being heard.

THE STOCK BROKERS REGULATIONS, 1992

Consideration of application for grant of registration.

5. The Board shall take into account for considering the grant of a certificate, all matters relating to trading, settling or dealing in securities and in particular the following, namely, whether the applicant,
(e) is a fit and proper person based on the criteria specified in Schedule II of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008

Conditions of registration.

9. Any registration granted by the Board under regulation 6 shall be subject to the following conditions, namely, -
(b) he shall abide by the rules, regulations and bye-laws of the stock exchange which are applicable to him;
(f) he shall at all times abide by the Code of Conduct as specified in Schedule II

SCHEDULE II

Securities and Exchange Board of India (Stock Brokers and Sub-brokers) 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.

(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.

Liability for action under the Enquiry Proceeding Regulations.

27. A stock broker shall be liable for any action as specified in Chapter V of the Securities and Exchange Board of India (Intermediaries)Regulations, 2008 including suspension or cancellation of his certificate of registration as a stock broker, if he —

(iv) has been found to be not a fit and proper person by the Board under these or any other regulations;

THE INTERMEDIARIES REGULATIONS, 2008

SCHEDULE II

SECURITIES AND EXCHANGE BOARD OF INDIA (INTERMEDIARIES) REGULATIONS, 2008

[See regulation 7]

(1) The applicant or intermediary shall meet the criteria, as provided in the respective regulations applicable to such an applicant or intermediary including:

(a) the competence and capability in terms of infrastructure and manpower requirements; and

(b) the financial soundness, which includes meeting the net worth requirements.

(2) The 'fit and proper person' criteria shall apply to the following persons:

(a) the applicant or the intermediary;

(b) the principal officer, the directors or managing partners, the compliance officer and the key management persons by whatever name called; and

(c) the promoters or persons holding controlling interest or persons exercising control over the applicant or intermediary, directly or indirectly:

Provided that in case of an unlisted applicant or intermediary, any person holding twenty percent or more voting rights, irrespective of whether they hold controlling interest or exercise control, shall be required to fulfil the 'fit and proper person' criteria.

Explanation *–For the purpose of this sub-clause, the expressions "controlling interest" and "control" in case of an applicant or intermediary, shall be construed with reference to the respective regulations applicable to the applicant or intermediary.*

(3) For the purpose of determining as to whether any person is a 'fit and proper person', the Board may take into account any criteria as it deems fit, including but not limited to the following:

(a) integrity, honesty, ethical behaviour, reputation, fairness and character of the person;

(b) the person not incurring any of the following disqualifications:

- *(i) criminal complaint or information under section 154 of the Code of Criminal Procedure, 1973 (2 of 1974) has been filed against such person by the Board and which is pending;*
- *(ii) charge sheet has been filed against such person by any enforcement agency in matters concerning economic offences and is pending;*
- *(iii) an order of restraint, prohibition or debarment has been passed against such person by the Board or any other regulatory authority or enforcement agency in any matter concerning securities laws or financial markets and such order is in force;*
- *(iv) recovery proceeding s have been initiated by the Board against such person and are pending;*
- *(v) an order of conviction has been passed against such person by a court for any offence involving moral turpitude;*
- *(vi) any winding up proceedings have been initiated or an order for winding up has been passed against such person;*
- *(vii) such person has been declared insolvent and not discharged;*
- *(viii) such person has been found to be of unsound mind by a court of competent jurisdiction and the finding is in force;*
- *(ix) such person has been categorized as a wilful defaulter;*
- *(x) such person has been declared a fugitive economic offender; or*
- *(xi) any other disqualification as may be specified by the Board from time to time.*

(4) Where any person has been declared as not 'fit and proper person' by an order of the Board, such a person shall not be eligible to apply for any registration during the period provided in the said order or for a period of five years from the date of effect of the order, if no such period is specified in the order.

(5) At the time of filing of an application for registration as an intermediary, if any notice to show cause has been issued for proceedings under these regulations or under section 11(4) or section 11B of the Act against the applicant or any other person referred in clause (2), then such an application shall not be considered for grant of registration for a period of one year from the date of issuance of such notice or until the conclusion of the proceedings, whichever is earlier.

(6) Any disqualification of an associate or group entity of the applicant or intermediary of the nature as referred in sub -clause (b) of clause (3), shall not have any bearing on the 'fit and proper person' criteria of the applicant or intermediary unless the applicant or intermediary or any other person referred in clause (2), is also found to incur the same disqualification in the said matter:

Provided that if any person as referred in sub-clause (b) of clause (2) fails to satisfy the 'fit and proper person' criteria, the intermediary shall replace such person within thirty days from the date of such disqualification failing which the 'fit and proper person' criteria may be invoked against the intermediary:

Provided further that if any person as referred in sub -clause (c) of clause (2) fails to satisfy the 'fit and proper person' criteria, the intermediary shall ensure that such person does not exercise any voting rights and that such person divests their holding within six months from the date of such disqualification failing which the 'fit and proper person' criteria may be invoked against such intermediary.

(7) The 'fit and proper person' criteria shall be applicable at the time of application of registration and during the continuity of registration and the intermediary shall ensure that the persons as referred in sub -clause s (b) and (c) of clause (2) comply with the 'fit and proper person' criteria."

Recommendation of action

26. (1) After considering the material available on record and the reply, if any, the designated authority may by way of a report, recommend the following measures, –

(i) disposing of the proceedings without any adverse action;

(ii) cancellation of the certificate of registration;

(iii) suspension of the certificate of registration for a specified period;

(iv) prohibition of the noticee from taking up any new assignment or contract or launching a new scheme for such the period as may be specified;

(v) debarment of an officer of the noticee from being employed or associated with any registered intermediary or other person associated with the securities market for such period as may be specified;
(vi) debarment of a branch or an office of the noticee from carrying out activities for such period as may be specified;
(vii) issuance of a regulatory censure to the noticee:
Provided that in respect of the same certificate of registration, not more than five regulatory censures under these regulations may be recommended to be issued, thereafter, the action as detailed in clause (ii) to (vi) of this sub-regulation may be considered.

Order.

27. (5) After considering the facts and circumstances of the case, material on record and the written submission, if any, the competent authority shall endeavor to pass an appropriate order within one hundred and twenty days from the date of receipt of submissions under sub-regulation (2) or the date of personal hearing, whichever is later.

15. I note that prior to merger of FMC with SEBI on September 28, 2015, the noticee was required to be a member of recognized commodity derivative exchanges and was not required to be registered with either FMC or any other regulatory authority under the FCRA. The Parliament, noticing that the intermediaries dealing with commodities derivatives market were not required to be registered under FCRA and thus were not under control of any competent authority, rectified the same through the Finance Act, 2015 by bringing them under the regulatory supervision of SEBI. In this regard, it is also noted that the Hon'ble Bombay High Court while dealing with the Writ Petition Nos. 3262, 3266, 3294 and 3295 of 2018 in the matter of *Anand Rathi Commodities Limited, Motilal Oswal Commodities Broker Private Limited, Geofin Comtrade Limited and IIFL Commodities Limited* vs. SEBI, vide its Order dated October 04, 2018, observed as under:

"It is not in dispute that prior to the coming into effect of the Finance Act, 2015, the intermediaries dealing with the commodity derivatives were not required to be registered under any of the provisions of law including the FCR Act. We find that the said mischief was noticed by the Parliament. As such, by virtue of the Finance Act, 2015, the said intermediaries dealing with commodity derivatives have been brought under the control of SEBI. We find that the reason as to why by Finance Act, 2015, the said intermediaries were brought under the control of

SEBI appears to be that the Parliament found that the activities of intermediaries dealing in commodity derivatives should not remain uncontrolled and they should be brought under the control of competent authority".

16. Thus, it is an admitted position that prior to the date of merger of FMC with SEBI (i.e. September 28, 2015), the noticee was not required to be registered under the FCRA or any other regulation to act as a commodity derivatives broker. However, after the merger of FMC with SEBI, a commodity derivatives broker was mandatorily needed to have a certificate of registration from SEBI in case it sought to remain associated with the securities market as a commodity derivatives broker. It is seen that the Finance Act, 2015 (as notified on May 14, 2015) conferred the power of regulation over intermediaries dealing in commodity derivatives to SEBI and also mandated regulation of commodity derivatives brokers by SEBI, which included their registration as commodity derivatives broker with SEBI. In this regard, vide Section 131B of the Finance Act, 2015, a transitory period of 3 months was provided to all the intermediaries which were associated with commodity derivatives market under the erstwhile FCRA but did not require a registration certificate earlier, to continue to deal in commodity derivatives as a commodity derivatives broker, provided it made an application of registration to SEBI within 3 months from September 28, 2015. Accordingly, the noticee applied for a certificate of registration and was registered as a broker *w.e.f.* December 25, 2015 and since then it has been acting as a market intermediary registered with SEBI.

17. In light of the order passed by the Hon'ble SAT on June 09 2022 (hereinafter referred to as "**SAT Order**") in the NSEL matters, a SSCN dated October 11, 2022 enclosing a copy of the SAT Order was issued to the noticee calling upon the noticee to show cause as to why the following information/material along with the enquiry report dated July 29, 2020, should not be considered against it for determining whether the noticee satisfies '*fit and proper person*' criteria as laid down under Schedule II of the Intermediaries Regulations:

    a. SEBI complaint dated September 24, 2018 filed with Economic Offence Wing ('**EOW**');
    b. First Information Report ('**FIR**') dated September 28, 2018; and
    c. Amended Schedule II of the Intermediaries Regulations.

18. Before moving forward to test the fulfilment of the *'fit and proper person'* criteria by the noticee, on the basis of available material including the additional material as detailed in paragraph 17 above, the background facts necessary for the present proceedings are narrated in brief, hereunder:

i. The noticee, MMTC Limited, is a commodity derivatives broker registered with SEBI having Registration No. INZ000028733 with effect from December 25, 2015 and is currently a member of the Multi Commodity Exchange of India Ltd. (hereinafter referred to as "**MCX**").

ii. NSEL was incorporated in May, 2005 as a Spot Exchange, *inter alia*, as an electronic exchange for trading in commodities. In exercise of powers conferred under Section 27 of the FCRA, the Central Government vide its 2007 Exemption Notification granted an exemption to all forward contracts of one-day duration for the sale and purchase of commodities traded on the NSEL from operations of the provisions of the FCRA subject to certain conditions, *inter alia*, including "*no short sale by the members of the exchange shall be allowed*" and "*all outstanding positions of the trades at the end of the day shall result in delivery*".

iii. NSEL was granted conditional exemption from the provisions of the FCRA by the Department of Consumer Affairs, Ministry of Consumer Affairs (for short "**MCA**"), Food and Public Distribution, Government of India, vide Gazette Notification No. S0906(E) dated June 05, 2007, in exercise of the powers conferred under Section 27 of the FCRA, for (i) forward contracts, (ii) for sale and purchase of the commodities, of one–day duration, traded on NSEL subject to certain conditions which, *inter alia*, included that '*no short sale by members of the NSEL shall be allowed*' and that all '*outstanding positions of the trade at the end of the day shall result in delivery*'. It was also stipulated that all information or returns relating to the trade as and when asked for shall be provided to the Central Government or its designated agency.

iv. In October 2008, the NSEL commenced operations providing an electronic trading platform to its participants for spot trading of commodities, such as bullion, agricultural produce, metals, etc. It is observed that the NSEL had introduced the concept of '*paired contracts*' in September 2009 which allowed buy and sell in same commodity through two different contracts at two different prices on the exchange platform wherein the investors could buy a short duration contract and sell a long duration contract and vice versa at the same time at a pre-determined price. The trades for the Buy contract (T+2 / T+3) and the Sell contract (T+25/ T+36) used to happen on the NSEL on the same day at same time and at different prices, involving the same counterparties. The transactions were structured in a manner that buyer of the short duration contract always ended up making profits.

v. On February 06, 2012, the erstwhile FMC was appointed by the Department of Consumer Affairs, Government of India as the 'designated agency' as stipulated in one of the conditions prescribed under the said 2007 Exemption Notification, authorizing it to collect the trade data from NSEL and to examine the same for taking appropriate measures, if needed, to protect investors' interest. FMC had accordingly called for the trade data from different spot exchanges, including NSEL in the prescribed reporting formats. After analyzing the trade data received from NSEL, FMC passed Order No. 4/5/2013-MKT-1/B dated December 17, 2013 in the matter (hereinafter referred to as "**FMC Order**") wherein it was, *inter alia*, observed that 55 contracts offered for trade on the NSEL platform were in violation of the relevant provisions of the FCRA and that the condition of *'no short sale by members of the exchange shall be allowed'* was being not complied with by the NSEL and its members. FMC further observed that the '*paired contracts*' offered for trading in the NSEL platform were in violation of the provisions of the FCRA and also in violation of the conditions specified by the Government of India in its 2007 Exemption Notification, while granting exemptions to the one day forwards contract for sale and purchase of commodities traded on the NSEL, from the purview of the FCRA.

19. From the perusal of the FMC Order in respect of the '*paired contracts*', which were traded on the NSEL platform during the relevant period, I note that the FMC had, *inter alia*, observed that the following conditions stipulated in the 2007 Exemption Notification were violated:

a. Short Sale

NSEL had not made it mandatory for the seller to deposit goods in its warehouse before taking a sell position. Hence, the condition of "*no short sale by members of the NSEL shall be allowed*" was not being met by the NSEL and its trading/clearing members who traded in the '*paired contracts'* during the relevant period.

b. Contracts with Settlement Period going beyond 11 days

Some of the contracts offered for trade on the NSEL had settlement periods exceeding 11 days and therefore, such contracts were "*non-transferable specific delivery*" contracts under the FCRA. As per the FCRA, the "*ready delivery contracts*" were required to be settled within 11 days of the trade and hence, the contracts traded on the NSEL, which provided settlement schedule for a period

exceeding 11 days were not allowed and were in violation of 2007 Exemption Notification.

20. In this regard, the relevant observations of the FMC as recorded in its Order dated December 17, 2013 and also captured in the Enquiry Report are reproduced as under:

> *"….a large number of NSEL exchange trades were carried out with paired back-to-back contracts. Investors simultaneously entered into a "short term buy contract" (e.g. T+2 — i.e. 2 day settlement) and a "long term sell contract" (e.g. T + 25 i.e. 25 day settlement). The contracts were taken by the same parties at a pre-determined price and always registering a profit on the long-term positions. Thus, there existed a financing business where a fixed rate of return was guaranteed on investing in certain products on the NSEL....."*
>
> *NSEL conducted its business not in accordance with the conditions stipulated in the notification dated 05.06.2007 granting it exemption from the operation of FCRA, 1952, with regard to the one-day forward contracts to be traded on its exchange platform. As noted in the SCN, the condition of 'no short-sell' and 'compulsory delivery of outstanding position at the end of the day' stipulated in the notification were violated by NSEL. NSEL Board allowed launching of paired back-to-back contracts on its exchange platform comprising a short-term buy contract (T+2 settlement) and a long-term sell contract (T+25 settlement) with predetermined price and profit for the buyer and seller, which violated the very concept of spot market of commodities and the transactions ultimately were in the nature of financial transactions" (emphasis supplied)*

21. It is therefore, clear that the NSEL was given permission to setup as a spot exchange for trading in commodities. It was essentially meant to only offer forward contracts having one-day duration as per 2007 Exemption Notification. I note from the FMC Order that FMC had observed that the 55 contracts offered for trade on the NSEL were with settlement periods exceeding 11 days and all such contracts traded on the NSEL were in violation of provisions of FCRA. As per the FMC Order under the FCRA, a "*forward contract*" is defined as a "*contract for delivery of goods and which is not a ready delivery contract*". A '*ready delivery contract*' is defined as "*a contract which provides for the delivery of goods and the payment of a price therefor, either immediately or within such period not exceeding eleven days*". Given the said definition contained in FCRA, FMC was of the view that all the contracts traded on the NSEL which provided settlement schedule exceeding 11 days were treated as *Non-Transferable Specific Delivery contracts*. It is therefore

seen that, even though MCA had stipulated in the 2007 Exemption Notification that only contracts of one-day duration were permitted to be offered on the NSEL, FMC, in its Order, relying on the definition of "*forward contract*" under FCRA held that NSEL was allowed to trade only in one-day forward contracts and was obliged to ensure delivery and settlement within 11 days. However, it is beyond doubt that NSEL had permitted 55 contracts of various commodities having duration longer than 11 days and these contracts were in contravention of the exemption granted to the NSEL.

22. At this stage, it is also pertinent to refer to the judgment of the Hon'ble Supreme Court of India in the matter of *63 Moons Technologies Ltd. (formerly known as Financial Technologies India Ltd.) & Ors. v. Union of India & Others (Civil Appeal No. 4476 of 2019 decided on April 30, 2019)* (hereinafter referred to as the **"merger petition"**), wherein it was, *inter alia*, held that:

> "*There is no doubt that such Paired Contracts were, in fact, financing transactions which were distinct from sale and purchase transactions in commodities and were, thus, in breach of both the exemptions granted to NSEL, and the FCRA".*

23. It is also necessary to refer to the judgment dated April 22, 2022 passed by the Hon'ble Supreme Court in the matter of *The State of Maharashtra vs. 63 Moons Technologies Ltd. (Civil Appeal No. 2748-49 of 2022)* (hereinafter referred to as "**MPID matter**"), wherein the Hon'ble Supreme Court while drawing reference to the presentations made by the NSEL in respect of the '*paired contracts*' has *inter alia* held that:

> *"The above representation indicates that 'paired contracts' were designed as a unique trading opportunity by NSEL under which a trader would, for instance, purchase a T+2 contract (with a pay-in obligation on T+2) and would simultaneously sell a T+25 contract (with a pay-out of funds on T+25). The price differential between the two settlement dates was represented to offer an annualized return of about 16%. NSEL categorically represented that all trades were backed by collaterals in the form of stocks and its management activities included selection, accreditation, quality testing, fumigation and insurance. Therefore, NSEL represented that on receiving money and commodities, the members would receive assured returns and a service. Though NSEL has been receiving deposits, it has failed to provide services as promised against the deposits and has failed return the deposits on demand. Therefore, the*

State of Maharashtra was justified in issuing the attachment notifications under Section 4 of the MPID Act." (emphasis supplied)

24. Thus, the Hon'ble Supreme Court has already described the nature of the '*paired contracts*' offered on the NSEL platform. In the merger petition (*63 Moons Technologies Ltd. vs. UOI*), it was held by the Hon'ble Supreme Court that these contracts were in the nature of financing transactions. In the MPID matter (*The State of Maharashtra vs. 63 Moons Technologies Ltd.*), the Hon'ble Supreme Court has held that such transactions come within the definition of '*deposits*' under the MPID Act.

25. The Hon'ble Supreme Court in the MPID matter, has extensively referred to the claims made on the website of the NSEL and the contents of the publicity material and other investor resources. The Hon'ble Supreme Court has also observed that NSEL was advertising an annualized return of about 16% p.a. for the '*paired contracts'* traded on its platform where the return offered was same across the commodities. The return remained the same irrespective of the duration of the contract. In the said order, the Hon'ble Supreme Court has also depicted certain examples of '*paired contracts'*, which offered assured returns. For example, a T+2 & T+25 paired contract in steel had the same offered return as a T+ 5 & T + 35 paired contract in castor oil. The '*paired contracts'* were being marketed as an alternative to fixed deposits.

26. It was also noted in the judgment of the Hon'ble Supreme Court in the MPID matter that the overwhelming majority of the sale leg of the '*paired contracts'* which were executed were short sales i.e., commodities to back such sales were not available at the designated warehouses of the NSEL.

27. The aforesaid discussion shows how '*paired contracts'* were not in the nature of spot trading, which was permitted to trade on NSEL's platform. Further, as stated above, NSEL itself was advertising such contracts as an alternative to fixed deposits and the annualized return offered was about 16% p.a. across all commodities irrespective of the nature of the contract or the duration. Also, these contracts were structured in a manner which ensured that the buyer always made pre-determined profits.

28. When MCA vide its letter dated July 12, 2013, on the recommendation of FMC, asked NSEL to settle contracts on the due dates and to give an undertaking that no fresh contract shall be launched, NSEL failed to do so and defaulted. Investors lost money as all the underlying warehouse receipts were bogus and there were

no underlying securities. As noted in the judgment of the Hon'ble Supreme Court in the MPID matter, the exchange publicized that it provided counter party guarantee risk but, in reality, failed to do so. In view of the above discussion, I note that the submission of the noticee that the aforesaid decisions of the Hon'ble Supreme Court and the observations of FMC order, etc., cannot be relied upon as the noticee was not a party to the same, is without any merit as the said decisions have been appropriately relied upon only to highlight the problematic nature of the '*paired contracts*' as observed by the Hon'ble Supreme Court and the FMC order and not to establish any allegation, *per se*, against the noticee.

29. On perusal of the replies submitted by the noticee, I note that it is an admitted fact that the noticee had participated in the *'paired contracts'*. In this regard, I deem it fit to refer to the submission made by the authorized representatives, on behalf of the noticee, in reply dated February 03, 2021 wherein it is, *inter alia*, submitted that, *"…all trades executed by my client were proprietary trades and not even a single trade was executed by my client on behalf of third party…"* and "*…MMTC purchased and sold on the same day leaving no scope for any speculation and thus, the possibility of any type of risk in the said trade was eliminated. My client traded under T+2 and T+25 contracts etc. which were available on NSEL websites…*". Thus, it is an admitted position that the noticee has dealt in the '*paired contracts*'.

30. It is also observed from the Enquiry Report that as per the interim report of EOW, the obligation outstanding against the noticee was ₹2,20,08,17,845 and the said fact has also been admitted by the noticee in its submissions. Further, the noticee has also submitted that NSEL has paid a total of ₹13.43 crores out of the total amount outstanding on account of noticee trading in the '*paired contracts*'. Here, I deem it fit to deal with the submission of the noticee that the noticee has not been provided with a copy of the EOW Report. The EOW Report in the present matter has been referred to note the outstanding obligation of the noticee, which was approximately ₹225 crore and since the same has, in any case, been admitted by the noticee in its submissions, I am of the view that non-supply of the EOW Report has not caused any prejudice to the noticee.

31. At this juncture, I deem it fit to deal with the contention of the noticee that it had inspected the NSEL warehouses in 2012 and 2013 and since the stock was available, the noticee had no reason to suspect foul play. The noticee has submitted that the stock available at the NSEL warehouses was not tagged and the goods/ stock of the noticee were not separately identifiable. The noticee had

also raised the said issue of tagging with NSEL. I have perused the submissions of the noticee and I note that nothing has been brought on record by the noticee to establish that such goods/ stock were actually available in the warehouses of the NSEL. Even if the submission of the noticee that such goods were available in the NSEL warehouses, is taken at its face value, as discussed above at para 19, the contracts traded on the NSEL, which provided settlement schedule for a period exceeding 11 days were not allowed and were in violation of 2007 Exemption Notification. It is not in dispute that the noticee had dealt in such contracts, including contracts which had a settlement period of T+25 (more than the T+11 settlement period as required under the 2007 Exemption Notification), and the same was in violation of the 2007 Exemption Notification and thus, the argument as to commodities being available in the warehouses, even if accepted, cannot exonerate the noticee of its liability.

32. In the background of the discussion on '*paired contract*' in the preceding paragraphs, I now proceed to examine whether the noticee satisfies the '*fit and proper*' person criteria as laid down under Schedule II of the Intermediaries Regulations.

33. Having found that the noticee has traded in *'paired contracts'*, I note that the main allegation against the noticee*,* as levelled in the SCN, is that by trading in *'paired contracts'* on the NSEL platform, the noticee has, *prima facie*, violated the conditions stipulated in the 2007 Exemption Notification and consequently the provisions of the FCRA also. Therefore, in the SCN, the noticee was asked to state as to why its certificate of registration as a commodity derivatives broker, may not be cancelled as the noticee is not a '*fit and proper*' person for holding the certificate of registration. Subsequently, SEBI, on the basis of certain documents/material such as SEBI's Complaint dated September 24, 2018 and FIR dated September 28, 2018 as provided to the noticee vide SSCN dated October 11, 2022, further alleged that in light of the aforesaid documents as well as observations against the noticee in the enquiry report dated July 29, 2020, the noticee is not a '*fit and proper*' person for holding the certificate of registration.

34. The noticee's main contentions are that once the exemption was granted by a statutory body, the noticee had no reason to doubt the legality of trading at NSEL platform and had reason to believe that such contracts were within the permissibility of exemption granted to NSEL, the order dated June 09, 2022 passed by the Hon'ble SAT did not envisage inclusion of amended

Schedule II of the Intermediaries Regulations to adjudge the '*fit and proper*' status and the said amendment cannot be applied retrospectively.

35. In this regard, as discussed above, the noticee has admittedly traded in '*paired contracts*'. The execution of the trades in '*paired contracts*' by the noticee shows the participation of the noticee in the said scheme perpetrated by NSEL for trading in '*paired contracts*' that were not permitted under the 2007 Exemption Notification and were purely financial contracts promising assured returns and were advertised as such by NSEL, as observed by the Hon'ble Apex Court, under the garb of spot trading in commodities. Therefore, the noticee by its conduct and as a member of NSEL had dealt in '*paired contracts*' which were in the nature of financing transaction as held by the Hon'ble Supreme Court of India as noted *supra*. The fact that noticee traded in a product that did not have the regulatory approval, raises doubts on the competence of the noticee to act as a registered securities market intermediary. As already recorded in SSCN, as discussed above, SEBI's complaint dated September 24, 2018 and the FIR registered with the MIDC Police Station, Mumbai on September 28, 2018 is subsisting and has not been challenged, quashed or stayed by any competent court *qua* the noticee as on date. Therefore, the noticee attracts the disqualification provided in clause 3(b)(i) of Schedule II of the Intermediaries Regulations.

36. The noticee has also contended that using the complaint/ FIR against an entity would result in gross violation of principle of natural justice, i.e., '*innocent until proven guilty*'. As regard usage of FIR as evidence in the present matter, I note that being a '*fit and proper*' person is a continuing '*eligibility criteria*'/ statutory requirement, which must be satisfied by the noticee including the amended criteria, at all times. I am of the considered view that the due presumption on the constitutional and legal validity of the said amended Schedule II of the Intermediaries Regulations holds the field which is binding upon SEBI, and arguments to the contrary are not maintainable. Besides, no material has been brought on record by the noticee to dispute the fact that the said FIR subsists as on date. It is not the case of the noticee that the said FIR has been quashed *qua* the noticee. In the absence of the above discussed factors, I am not inclined to accept the submissions put forth by the noticee in this context.

37. The noticee has contended that it dealt in '*paired contracts*' only in its proprietary account, it was not a defaulting broker and since there were no investors involved, there was no loss caused to any third party. Be that as it may, it is noted that the scope of the instant proceeding is not to analyze the actual impact and

consequences of the conduct of the noticee but to examine as to whether or not, the noticee has acted in a manner expected of a market intermediary and the answer to the same is clearly against the noticee. For the same reason, the facts such as whether the name of the noticee was not mentioned in the FMC order or in the letter dated December 30, 2014 of the Government of India or whether the noticee is not a defaulting broker or whether any loss was caused to the investors, are also not relevant. As regards its submission that the '*paired contracts*' were introduced by NSEL, it cannot be denied that the involvement of the noticee in trading in '*paired contracts*' is certainly a conduct which was neither permitted by the 2007 Exemption Notification nor by any of the applicable provisions of the FCRA and therefore, a conduct similar to that displayed by the noticee in its trading on the NSEL platform would be detrimental to the interest of the Securities Market.

38. It is pertinent to state that regulation 5(e) of the Stock Brokers Regulations provides that, for the purpose of grant of Certificate of Registration, the applicant has to be a '*fit and proper person*' in terms of Schedule II of the Intermediaries Regulations. It is further stated that the '*fit and proper person*' criteria specified in Schedule II of the SEBI (Intermediaries) Regulations, 2008, were amended vide SEBI (Intermediaries) (Third Amendment) Regulations, 2021 with effect from November 17, 2021. The condition of a fit and proper is not a one-time condition applicable only at the time of seeking registration. Rather, as per clause 7 of Schedule II of the Intermediaries Regulations, it is a condition which each and every registered intermediary is required to fulfil on a continuous basis, right from the time of filing such application to the time the entity wishes to remain associated with the Securities Market, as a registered intermediary, after obtaining such registration.

39. It has been argued by the noticee that the amended '*fit and proper*' criteria were amended with effect from November 17, 2021, i.e., after initiation of the proceedings against the noticee and thus cannot be applied retrospectively. In this regard, as noted above, the '*fit and proper*' person criteria are a continuing requirement under the Intermediaries Regulations which the noticee ought to comply with at all times as long as it desires to remain associated with the securities market as a registered intermediary. The present proceedings intend to examine the '*fit and proper person*' status of the noticee as per the Intermediaries Regulations, as on date. Therefore, I do not find any merit in the arguments of the noticee.

40. At this juncture, I note that the noticee has also contended that dealings/ transactions done prior to September 2015 are beyond the regulatory ambit of SEBI and SEBI is not empowered to investigate into the alleged violations of FCRA and thus present proceedings under Intermediaries Regulations are ill-placed. With respect to the same, I note that, SEBI had filed a complaint dated September 24, 2018 with the concerned police authorities for initiating appropriate action for the violations of the FCRA, *inter alia*, alleged to have been committed by the noticee within the stipulated time as specified under section 29A(2)(e). I also note from the records that on the basis of the said complaint of SEBI, a FIR dated September 28, 2018 was registered with MIDC Police Station, Mumbai and the same, as noted above, is subsisting.

41. As noted above, the present proceedings under the Intermediaries Regulations have been initiated to adjudge whether the noticee satisfies the criteria for '*fit and proper*' person as specified in the Stock Broker Regulations and the Intermediaries Regulations and the said proceedings are independent of the provisions of FCRA. The noticee is obliged to maintain the '*fit and proper person*' criteria on a continuous basis and it is well within SEBI's jurisdiction and powers to adjudge the said fit and proper status of the market intermediaries in the interest of securities market. I therefore find no merit in the said submission of the noticee.

42. The admission of the noticee having traded in the *'paired contracts'* on the NSEL, which was in violation of the conditions of the 2007 Exemption Notification and also the provisions of the FCRA, seriously calls into question the integrity, honesty and lack of ethical behaviour on its part. As observed by the Hon'ble Supreme Court (referred *supra*), these contracts were financing transactions which were portrayed as spot contracts in commodities. The arguments that once a statutory body has granted the exemption, the noticee need not doubt the legality of the products, or that there was ambiguity in the minds of the authorities etc., cannot be put forth by the noticee to absolve the noticee of its responsibility to conduct the diligence required to be performed by any reasonable/ prudent person.

43. The noticee has also argued that the decision of the Hon'ble SAT in the order dated June 09, 2022 did not envisage application of the amended '*fit and proper*' criteria and the same was only limited to "…*other material such as the complaint, letters of NSEL, EOW report, EOW charge sheet, etc…"*. However, I find that the said objection is totally misplaced as the essence of the said SAT Order is that it advises SEBI to provide the documents which it intends to use/rely in the present proceedings so that the entity would have an opportunity to prepare its defence

pertaining to these documents and which is also in adherence to the principles of natural justice. In accordance to the same, the '*fit and proper*' person criteria, as applicable on date, which the noticee is bound to fulfil, was also provided to the noticee.

44. The role of a registered intermediary including a broker demands from it honesty, transparency, fairness and integrity as has been laid down in Clause 3(a) of Schedule II of the Intermediaries Regulations. SEBI under its mandate to protect interest of investors apart from regulations and development of the securities market is empowered to grant registration to various classes of entities including brokers, who have a very important role in ensuring a fair, transparent and efficient market to the investors. Thus, a broker is bound to act in an honest and ethical manner and comply with all applicable regulatory requirements which would be in the best interests of investors. Here, I also deem it appropriate to note that the noticee cannot take the defence of having a legitimate expectation that the NSEL as an exchange was, *per se*, in compliance with the 2007 Exemption Notification. In view of the decisions of the Hon'ble Supreme Court, wherein the Hon'ble Court has observed that NSEL was advertising fixed returns of 16% and offering '*paired contracts*' as an alternate for fixed deposits, I am of the view that the noticee was under statutory obligation to act with due skill, care and diligence in conduct of all its business and thus, it cannot be absolved of its duty to act with such care and skill in the garb of legitimate expectation.

45. In view of the above, I hold that the noticee does not satisfy the '*fit and proper person'* criteria specified in Schedule II of the Intermediaries Regulations and therefore, the continuance of the noticee as a broker will be detrimental to the interest of the securities market. Hence, action as proposed in the SCNs needs to be taken in the interest of the securities market.

46. At this juncture, I also note that necessity of specifying a period of time as stipulated by the SAT Order, after which the applicant may become eligible to seek registration does not arise in this order (unlike in the case of entities desiring to be registered as market intermediaries) while dealing with an entity holding a certificate of registration which is recommended to be cancelled, as this forum cannot presume whether such entity would wish to reapply to be a market intermediary or not. If it chooses to do so, it will have to be assessed at such point of time, if it is fit and proper as per the extant and applicable provisions.

47. The noticee has contended that no application is pending with SEBI for registration and the noticee is not registered with SEBI either, and thus, the present

proceedings are not tenable. In this regard, I have perused the material on record and I note that the surrender application of the noticee is pending with MCX and has not yet been processed on account of the present proceedings. Thus, the noticee is still an intermediary registered with SEBI holding a certificate of registration. In my opinion, such pendency of application for surrender of membership has no material relevance for the purposes of the present proceedings as the DA has already recommended that the Certificate of Registration of the noticee be cancelled. Accordingly, I do not consider it relevant to take into account the factor of the pendency of the aforesaid application with MCX. Thus, the submission of the noticee that no application for registration is pending with SEBI or that the noticee is not registered with SEBI is not tenable.

48. Having examined and dealt with all the contentions raised by the noticee in the preceding paragraphs, I concur with the recommendation made by the DA.

ORDER

49. In view of the foregoing discussions and deliberations, I, in exercise of powers conferred upon me under Section 12 (3) and Section 19 of the SEBI Act, 1992 read with regulation 27 of the SEBI (Intermediaries) Regulations, 2008, cancel the Certificate of Registration (bearing No. INZ000028733) of the noticee i.e. MMTC Limited.

50. The noticee shall, after receipt of this order, immediately inform its existing clients, if any, about the aforesaid direction in paragraph 49 above.

51. Notwithstanding the direction in paragraph 49 above, the noticee shall allow its existing clients, if any to withdraw or transfer their securities or funds held in its custody, within 15 days from the date of this order. In case of failure of any clients to withdraw or transfer their securities or funds within the said 15 days, the noticee shall transfer the funds and securities of such clients to another broker registered with SEBI within a period of next 15 days thereon, under advice to the said clients.

52. This Order shall come into force with immediate effect.

53. The above Order is without prejudice to the criminal complaint filed by SEBI in the NSEL matter and/or any proceedings pending before any authority in respect of similar matter involving the noticee.

54. It is clarified that in view of the amendment made w.e.f. January 21, 2021 in the Intermediaries Regulations, 2008, the procedure for action on receipt of recommendation of a DA specified under regulation 28 of the Intermediaries Regulations, 2008 has now been incorporated in the amended regulation 27 of the Intermediaries Regulations, 2008. Accordingly, this order is passed under the amended regulation 27 of the Intermediaries Regulations, 2008.

55. A copy of this order shall be served upon the noticee and the recognized Market Infrastructure Institutions for necessary compliance.

Sd/-

DATE: AUGUST 02, 2023
PLACE: MUMBAI

ANAND R. BAIWAR
EXECUTIVE DIRECTOR
SECURITIES AND EXCHANGE BOARD OF INDIA