

**SECURITIES AND EXCHANGE BOARD OF INDIA**  
**SETTLEMENT ORDER**

**Under Section 15JB of Securities and Exchange Board of India Act, 1992 and Section 23JA of Securities Contracts (Regulation) Act, 1956 read with Regulation 23(1) of the Securities and Exchange Board of India (Settlement Proceedings) Regulations, 2018**

**In respect of:**

<b>Applicant Number</b>	<b>Settlement Number</b>	<b>Application</b>	<b>Name of Applicant</b>
1.	6580/2021		National Stock Exchange of India Limited
2.	6578/2021		NSE Clearing Limited
3.	6579/2021		Shri Vikram Limaye
4.	6576/2021		Shri Vikram Kothari
5.	6577/2021		Shri Shiv Kumar Bhasin

**In the matter of failure of systems of NSE and NCL upon occurrence of glitch on February 24, 2021**

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- On February 24, 2021, National Stock Exchange of India Limited (hereinafter referred to as "**NSE**") took a decision to halt trading in all its segments from 11:40 am NSE informed that it has multiple telecom links with two service providers and that it received communication from both the telecom service providers that there are issues with their links due to which there is an adverse impact on NSE system (hereinafter also referred to as the "**glitch**"). The trading at NSE resumed from 03:45

p.m. after the pre-open session of 15 minutes from 03:30 p.m. and trading hours were extended from 03:45 p.m. to 05:00 p.m. at NSE, the BSE Limited and the Metropolitan Stock Exchange of India Limited.

2. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") conducted an investigation in the matter of failure of systems of NSE and NCL upon occurrence of the glitch on February 24, 2021 (hereinafter also referred to as the "**Period of Investigation / IP**") to ascertain whether the failure of systems of NSE and NCL upon occurrence of the glitch on February 24, 2021 was in violation of provisions of the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2018 (hereinafter referred to as "**SECC Regulations, 2018**"), Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act, 1992**") and Securities Contracts (Regulation) Act, 1956 (hereinafter referred to as "**SCRA, 1956**") or any other Rules/ Regulations made or directions or circulars issued by SEBI thereunder.
3. After conclusion of investigation, a show cause notice dated August 11, 2021 (hereinafter referred to as "**SCN**") was issued to the Applicants under Sections 11B(1) and 11B(2) of SEBI Act, 1992 read with Rule 4 of SEBI (Procedure for holding Inquiry and Imposing Penalties) Rules, 1995 and Section 12A(1) and 12A(2) of SCRA, 1956 read with Rule 4 of Securities Contracts (Regulation) (Procedure for holding Inquiry and Imposing Penalties) Rules, 2005 in the matter of failure of systems of National Stock Exchange of India Limited and NSE Clearing Limited (hereinafter referred to as "**NCL**") upon occurrence of glitch on February 24, 2021 wherein, *inter alia*, following failures on the part of Applicants were observed:
  - (i) Failure of NSE and NCL to monitor services of vendor in respect of Core and Critical activities of NSE and NCL.

- (ii) Failure of NSE and NCL to ensure systems preparedness and readiness to move operations to DRS.
  - (iii) Failure of NSE/ NCL to ensure orderly execution of trades, on-line/real time risk management of trades and market integrity.
  - (iv) Failure of NSE and NCL IT infrastructure capacity planning and management.
  - (v) Failure of NSE and NCL to replicate data between PDC and Near DR site in synchronous fashion to ensure zero data loss.
  - (vi) Failure of NSE and NCL to ensure “no single point of failure”.
  - (vii) Failure of NSE and NCL to recover operations within RTO of 4 hours.
4. SCN also alleged failure on the part of Crisis Management Team (CMT) of NSE. CMT of NSE, *inter alia*, included Applicant no. 3 i.e. Mr. Vikram Limaye, the MD & CEO of NSE, Applicant no. 4 i.e. Mr. Vikram Kothari MD of NCL and Applicant no. 5 i.e. Mr. Shiv Kumar Bhasin, Chief Technology & Operations Officer (CTOO) of NSE, at the time of glitch. Further, SCN also alleged failures on the part of Applicant no. 3, 4 and 5, as MDs of NSE and NCL and CTOO of NSE, respectively.
5. SCN alleged violation of following provisions of securities laws against the Applicants:

Noticee No	Name of Noticee	Alleged violations
1.	The National Stock Exchange Of India Limited	<p>a) Para 3.5, para 5.2, and para 8.1 of SEBI circular dated September 13, 2017 (SEBI/ HO/ MRD/ DP/ CIR /P/ 2017/101)</p> <p>b) Para 5.c r/w 5.d, and 5.e, 5.g, 5.h of SEBI Circular dated March 26, 2019 (SEBI/HO/MRD/DMS1/CIR/P/2019/43)</p>

		<p>c) Para 3 and Para 4 of SEBI Circular dated October 08, 2015 (CIR/MRD/DP/17/2015)</p> <p>d) Regulation 12(6) read with Regulation 7(3)(a) and 7(3) (c) of SECC Regulations, 2018</p>
2.	NSE Clearing Limited	<p>a) Para 3.5, para 5.2, and para 8.1 of SEBI circular dated September 13, 2017(SEBI/ HO/ MRD/ DP/ CIR /P/ 2017/101)</p> <p>b) Para 5.c r/w 5.d, and 5.e, 5.g, 5.h of SEBI Circular dated March 26, 2019 (SEBI/HO/MRD/DMS1/CIR/P/2019/43)</p> <p>c) Para 3 and Para 4 of SEBI Circular dated October 08, 2015 (CIR/MRD/DP/17/2015)</p> <p>d) Regulation 12(6) read with Regulation 7(4)(g) of SECC Regulations, 2018</p>
3.	Shri Vikram Limaye	<p>a) Para 5.3 of SEBI circular dated September 13, 2017 (SEBI/ HO/ MRD/ DP/ CIR /P/ 2017/101)</p> <p>b) Cl. 4(a) and 4(b) and 4 (c) of Part A of Schedule II of Regulation 26(1) of SECC Regulations, 2018</p>
4.	Shri Vikram Kothari	<p>c) Cl. 1(b) of Part B of Schedule II of Regulation 26(2) of SECC Regulations, 2018</p> <p>d) Cl. 3(e) of Part B of Schedule II of Regulation 26(2) of SECC Regulations, 2018</p>

5.	Shri Shiv Kumar Bhasin	<p>a) Para 5.3 of SEBI circular dated September 13, 2017 (SEBI/ HO/ MRD/ DP/ CIR /P/ 2017/101)</p> <p>b) Cl. 1(b) of Part B of Schedule II of Regulation 26(2) of SECC Regulations, 2018</p> <p>c) Cl. 3(e) of Part B of Schedule II of Regulation 26(2) of SECC Regulations, 2018</p>
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6. In view of the above, SCN called upon the Applicants to show cause as follows:

- i. Applicant no. 1 and 2 were called upon to show cause as to why appropriate direction(s) under Sections 11B (1) and 12A(1) of the SCRA, 1956 should not be issued against them.
- ii. Applicant no. 1 and 2 were also called upon to show cause as to why appropriate direction(s) should not be issued against them for imposing penalty under;
  - a) Section 15HB of the SEBI Act, 1992 read with Section 11B(2) of the SEBI Act, 1992 and Rule 5 of SEBI (Procedure for holding Inquiry and Imposing Penalties) Rules, 1995, and
  - b) Section 23GA of the SCRA, 1956 read with Section 12A(2) of the SCRA, 1956 and Rule 5 of Securities Contracts (Regulation) (Procedure for holding Inquiry and Imposing Penalties) Rules, 2005.
- iii. Applicant no. 3 and 4 were called upon to show cause as to why appropriate direction(s) under Sections 11B (1) of SEBI Act, 1992 and 12A(1) of the SCRA, 1956 read with Regulation 26(4) of SECC Regulations, 2018 should not be issued against them.

- iv. Applicant no. 5 was called upon to show cause as to why appropriate direction(s) under Section 11B (1) of SEBI Act, 1992 and Section 12A (1) of the SCRA, 1956 should not be issued against him.
  - v. Applicant no. 3 to 5 were called upon to show cause as to why appropriate direction(s) for imposing penalty under Section 15HB of the SEBI Act, 1992 read with Section 11B(2) of SEBI Act, 1992 and Rule 5 of SEBI (Procedure for holding Inquiry and Imposing Penalties) Rules, 1995 should not be issued against them.
7. Pending the proceedings initiated vide the SCN, the Noticees to the SCN i.e. the Applicants, proposed to settle the instant proceedings initiated against them, without admitting or denying the findings of facts and conclusions of law, through a settlement order and filed captioned settlement applications, in terms of SEBI (Settlement Proceedings) Regulations, 2018 (hereinafter referred to as “**Settlement Regulations**”) details of which are as follows:

<b>Noticee No.</b>	<b>Applicant No.</b>	<b>Name of Noticee/Applicant</b>	<b>Date of Settlement Application</b>
1.	1.	National Stock Exchange of India Limited	August 31,2021
2.	2.	NSE Clearing Limited	August 31,2021
3.	3.	Shri Vikram Limaye	August 31,2021
4.	4.	Shri Vikram Kothari	September 14, 2021
5.	5.	Shri Shiv Kumar Bhasin	September 01, 2021

8. Thereafter, the Applicants filed their common replies dated November 29, 2021, June 06, 2022 and August 22, 2022 to the SCN. Since, in terms of Regulations 8 of Settlement Regulations, only passing of final order is kept in abeyance in the

enforcement proceedings in which settlement application has been filed, therefore, the enforcement proceedings initiated vide the SCN were continued by granting a hearing to the Applicants on May 09, 2022, June 06, 2022 and August 22, 2022.

9. In their replies and during the personal hearing, the Applicants, *inter alia*, submitted as under:

- (i) The Outsourcing Circular is not applicable in the present case;
- (ii) In the alternative, assuming whilst denying that the Outsourcing Circular applies:
  - (a) NSE has exercised due care, appropriate level of monitoring and control at the time of installation, and during operation of the Hitachi SAN system and failover logic;
  - (b) The technical glitch occurred on account of reasons beyond NSE's control and NSE could not have reasonably anticipated this problem;
  - (c) The Outsourcing Circular, if read to impose a standard of strict liability, would make the Outsourcing Circular vulnerable and invalid constitutionally, as it would be harsh, unreasonable and arbitrary which would fail the tests of Articles 14 and 19 (1) (g) of the Constitution; and
- (iii) The SCN is bad in law as it fails to identify the exact measure proposed to be taken / penalty proposed to be levied.
- (iv) NSE is in fact equipped and has ensured systems preparedness and readiness to move operations to DRS in compliance with the BCP Circular; and
- (v) NSE and its management consciously chose not to move operations to DRS at Chennai on February 24, 2021 in a prudent exercise of the discretion vested in them under the BCP Circular.

- (vi) Market integrity was not compromised in the period from 10:06 a.m. to 11:43 a.m. on February 24, 2021, and therefore it cannot be said that NSE has violated Regulation 12(6) read with Regulation 7(3) (c) of the SECC Regulations, 2018.
  - (vii) NSE submits that it has not compromised market integrity despite unavailability of computation of NIFTY in the period between 10:06 a.m. to 11:43 a.m. on February 24, 2021.
  - (viii) NSE has not compromised the integrity of the market by continuing trading despite non-availability of real time risk management of trades.
  - (ix) Execution of trades in the period of 10:06 am to 11:43 am was not a problem at all. On the contrary, all trades were properly executed on a continuous basis, therefore, NSE is not in violation of Regulation 7(3)(a) read with 12(6) of the SECC Regulation, 2018.
  - (x) On February 24, 2021 NSE had installed adequate bandwidth capacity; and had taken proactive steps to augment the available installed capacity before the incident occurred on February 24, 2021. As such, NSE has not violated paragraph 3 of the Capacity Planning Circular;
  - (xi) NSE has implemented suitable mechanisms to monitor real-time utilization of bandwidth. As such, NSE has not violated paragraph 4 of the Capacity Planning Circular.
  - (xii) NSE is therefore in compliance with SEBI's direction to ensure zero data loss whilst ensuring business continuity in event of internet link failures.
  - (xiii) NSE and member of CMT have taken steps that they believe to be the best course of action and acted in a bonafide manner.
10. The hearing in the matter was concluded, however, in terms of Regulation 8 of Settlement Regulations, passing of final order was kept in abeyance in view of the pending settlement applications.



11. After attending meetings with the Internal Committee of SEBI on May 04, 2022, August 24, 2022 and February 24, 2023 in terms of Settlement Regulations, the Applicants vide letter dated March 19, 2023 proposed revised settlement terms. The settlement applications filed by the Applicants along with revised settlement terms proposed by them, were placed before the High Powered Advisory Committee (hereinafter referred to as "**HPAC**") headed by a retired judge of the High Court, during its meeting held on April 13, 2023. The HPAC suggested that the Internal Committee of SEBI to give its observation on the revised settlement terms proposed by the Applicants on March 19, 2023. Thereafter, the Applicants attended the meeting with Internal Committee of SEBI on May 09, 2023 and May 10, 2023 and thereafter, observations of Internal Committee of SEBI on revised settlement terms were placed before HPAC in its meeting held on May 24, 2023. The HPAC recommended that in addition to the combined settlement amount of Rs. 72,64,80,000/- (Rupees Seventy Two Crore Sixty Four Lakh Eighty Thousand Only) (including the amount for settlement of adjudication proceedings initiated in the matter against three other employees of NSE), in respect of the individuals applicants who were part of the Crisis Management Team of NSE, the Board may consider other non-monetary settlement terms, as deemed fit.
12. The aforesaid recommendations made by the HPAC, in respect of the settlement applications filed by the Applicants were placed before the Panel of Whole Time Members, in terms of Regulation 14(3) of Settlement Regulations. The Panel of WTMs accepted the recommendation of the HPAC to settle the matter on composite payment by NSE and NCL (for themselves and their employees) of an amount of Rs. 49,76,80,000/- and Rs. 22,88,00,000/-, respectively. As recommended by HPAC, the Panel of WTMs was of the view that the settlement applications may be accepted if the following non-monetary settlement terms, in addition to the afore-mentioned settlement amount, are undertaken by the individual applicants.

- (a) Individual applicants including the Applicant no. 3 to 5 herein commit to and be required to take up and pass specific and appropriate training courses (specified by SEBI), at their own cost, within the next six months and,
- (b) Individual applicants including the Applicant no. 3 to 5 herein after passing such exams/courses, will commit to pro bono community service of at least 14 days over the next year, furthering the cause of investor education and awareness, by actively contributing to specified programs that are conducted by and monitored under the aegis of SEBI's Office of Investor Assistance and Education ("OIAE").
13. The Applicants were intimated of the afore-mentioned recommendations of the Panel of WTMs on June 09, 2023. Subsequently, the applicants vide email dated June 12, 2023, filed individual undertakings on behalf of individual applicants including the Applicant no. 3 to 5 herein. Thereafter, a notice of demand was issued on June 13, 2023. Vide email dated June 16, 2023, the Applicants informed about the remittance of the settlement amount and the receipt of which has been confirmed.
14. Therefore, in view of the acceptance of the settlement terms by Panel of Whole Time Members and receipt of settlement amount and undertakings, as above by SEBI, the instant proceedings initiated against the Applicants vide Show Cause Notice dated August 11, 2021 are disposed of, as per approved settlement terms mentioned in para 12 above, in terms of Section 15JB of SEBI Act, 1992 and Section 23JA of SCRA, 1956 read with Section 19 and Section 11(2)(j) of the SEBI Act, 1992 read with Regulation 23(1) of the Settlement Regulations.
15. This order comes into force with immediate effect. Further, in terms of Regulation 28 of the Settlement Regulations, 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. the Applicants have not made full and true disclosure;
- b. the Applicants have breached any of the clauses/conditions of undertakings/waivers filed during the present settlement proceedings; and
- c. there was a discrepancy while arriving at the settlement terms.

16. In terms of Regulation 25 of the Settlement Regulations, a copy of this order shall be sent to the Applicants and this order shall also be published on the website of SEBI.

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**Place: Mumbai**

**Date: June 20, 2023**

**ANANTA BARUA**

**WHOLE TIME MEMBER**

**SECURITIES AND EXCHANGE BOARD OF INDIA**