

SECURITIES AND EXCHANGE BOARD OF INDIA
FINAL ORDER

UNDER SECTION 12(3) OF SEBI ACT, 1992 READ WITH REGULATION 27 OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (INTERMEDIARIES) REGULATIONS, 2008.

In respect of:

NOTICEE	SEBI REGISTRATION NO.
Indus Portfolio Private Limited	INR000003845

BACKGROUND

1. Indus Portfolio Private Limited (hereinafter referred to as “**Noticee**”) is an intermediary registered with Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) as a Category I - Registrar to an Issue & Share Transfer Agent (hereinafter referred to as “**RTA**”) under registration number INR000003845. The office of the Noticee is situated at G-65, Bali Nagar, New Delhi 110019. SEBI conducted inspection of the Noticee on December 23-27, 2019 for the period April 01, 2018 to September 30, 2019 (hereinafter referred to as “**Inspection Period**”) at its office.
2. Based on the findings of the inspection, SEBI noted there are grounds to conduct enquiry against the Noticee and appointed the Designated Authority (hereinafter referred to as “**DA**”) under regulation 24 of the SEBI (Intermediaries) Regulations, 2008 (hereinafter referred to as “**Intermediaries Regulations**”) to conduct enquiry against the Noticee.
3. The DA issued show cause notice dated September 14, 2021 (“**SCN-1**”) to the Noticee alleging that: -

- (i) It processed transfer requests and transmission requests without obtaining proper documents and on the basis of deficient/fake documents.
 - (ii) It failed to maintain proper documents, records, system log and system based alerts to exercise enhanced due diligence.
 - (iii) There was delay in processing of the request of Duplicate Share Certificate and in resolution of grievances of shareholders.
4. The Noticee vide letter dated October 08, 2021 filed its reply to the SCN-1. Pursuant thereto, the Noticee was granted opportunity of hearing on January 04, 2022 which was duly availed by the Noticee. Thereafter, vide e-mail dated January 27, 2022, the Noticee filed its additional written submissions dated January 25, 2022.
5. The DA submitted a report dated February 22, 2022 to the Competent Authority recommending suspension of the certificate of registration of the Noticee for one year. Pursuant thereto, the enquiry report dated February 22, 2022 was sent to the Noticee vide show cause notice dated March 04, 2022 (hereinafter referred to as “**SCN-2**”) and the Noticee was called upon to show cause as to why action as recommended by the DA, including passing of appropriate direction should not be taken against it in terms of regulation 27 of the Intermediaries Regulations.
6. In the meantime, the Noticee vide email dated April 07, 2022 filed settlement application under SEBI (Settlement Proceedings) Regulations, 2018. Thereafter, the concerned department of SEBI, vide email dated November 30, 2022, informed the Noticee about rejection of its settlement application.
7. The Noticee vide letter dated January 13, 2023 filed its response to the SCN. After perusing the submissions made by the Noticee, considering the facts and circumstances of the case and recommendation of the DA, an opportunity of personal hearing was granted to the Noticee on January 18, 2023. Hearing dated January 18, 2023 was adjourned to January 25, 2023.

8. On January 25, 2023, Mr. Rushin Kapadia, Advocate, appeared for the Noticee and made submissions on lines of reply dated January 13, 2023. Pursuant to the hearing, the Noticee filed written submissions dated January 31, 2023.

CONSIDERATION OF ISSUES AND FINDINGS

9. I have perused the material on record including the SCN-1, the Noticee's reply dated October 08, 2021, written submissions dated January 25, 2022, Enquiry Report dated February 22, 2022, SCN-2, the Noticee's reply dated January 13, 2023 and written submission dated January 31, 2023.
10. Before proceeding further, it will be relevant to reproduce the provisions of the Securities and Exchange Board of India Act, 1992 ("**SEBI Act**"), the SEBI (Registrars to an Issue & Share Transfer Agents) Regulations 1993 ("**RTA Regulations**"), SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ("**LODR Regulations**"), SEBI (Prohibition of Fraudulent and Unfair Trade Relating to Securities Market) Regulations, 2003 ("**PFUTP Regulations**") and SEBI Circulars alleged to have been violated by the Noticee. The relevant provisions are reproduced hereunder: -

SEBI Act, 1992

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

12(1) No stock broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market shall buy, sell or deal in securities except under, and in accordance with, the conditions of a certificate of registration obtained from the Board in accordance with the regulations made under this Act:

Provided that a person buying or selling securities or otherwise dealing with the securities market as a stock broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market immediately before the establishment of the Board for which no registration certificate was necessary prior to such establishment, may continue to do so for a period of

three months from such establishment or, if he has made an application for such registration within the said period of three months, till the disposal of such application:

Provided further that any certificate of registration, obtained immediately before the commencement of the Securities Laws (Amendment) Act, 1995, shall be deemed to have been obtained from the Board in accordance with the regulations providing for such registration.

RTA Regulations, 1993

Conditions of registration.

9A.(1). *registration granted under regulation 8 shall be subject to the following conditions, namely: -*

(e) it shall take adequate steps for redressal of grievances of the investors within one month of the date of the receipt of the complaint and keep the Board informed about the number, nature and other particulars of the complaints received and the manner in which such complaints have been redressed;

To abide by Code of Conduct.

13. *Every registrar to an issue and share transfer agent holding a certificate shall at all times abide by the Code of Conduct as specified in Schedule III.*

Obligations of registrar to an issue and share transfer agent on inspection by the Board.—

18(1). *It shall be the duty of every director, proprietor, partner, officer and employee of the registrar to an issue or share transfer agent, who is being inspected, to produce to the inspecting authority such books, accounts and other documents in his custody or control and furnish him with the statements and information relating to the transactions in securities market within such time as the said officer may require.*

(4). It shall be the duty of every director, proprietor, partner, officer or employee of the registrar to an issue and share transfer agent to give to the inspecting authority all assistance in connection with the inspection, which the registrar to an issue or share transfer agent may be reasonably be expected to give.

**SCHEDULE III
RTA Regulations, 1993
[Regulation 13]
CODE OF CONDUCT**

1. *A Registrar to an Issue and Share Transfer Agent shall maintain high standards of integrity in the conduct of its business.*

2. *A Registrar to an Issue and Share Transfer Agent shall fulfill its obligations in a prompt, ethical and professional manner.*
3. *A Registrar to an Issue and Share Transfer Agent shall at all times exercise due diligence, ensure proper care and exercise independent professional judgment.*
16. *A Registrar to an Issue and Share Transfer Agent shall maintain the required level of knowledge and competency and abide by the provisions of the Act, rules, regulations, circulars and directions issued by the Board. The Registrar to an Issue and Share Transfer Agent shall also comply with the award of the Ombudsman passed under Securities and Exchange Board of India (Ombudsman) Regulations, 2003.*

LODR Regulations, 2015

Issuance of Certificates or Receipts/Letters/Advices for securities and dealing with unclaimed securities.

39. (2) *The listed entity shall issue certificates or receipts or advices, as applicable, of subdivision, split, consolidation, renewal, exchanges, endorsements, issuance of duplicates thereof or issuance of new certificates or receipts or advices, as applicable, in cases of loss or old decrepit or worn out certificates or receipts or advices, as applicable within a period of thirty days from the date of such lodgement.*

Transfer or transmission or transposition of securities.

40. (3) *On receipt of proper documentation, the listed entity shall register transfers of its securities in the name of the transferee(s) and issue certificates or receipts or advices, as applicable, of transfers; or issue any valid objection or intimation to the transferee or transferor, as the case may be, within a period of fifteen days from the date of such receipt of request for transfer:*

Provided that the listed entity shall ensure that transmission requests are processed for securities held in dematerialized mode and physical mode within seven days and twenty-one days respectively, after receipt of the specified documents:

Provided further that proper verifiable dated records of all correspondence with the investor shall be maintained by the listed entity.

- (7) *The listed entity shall comply with all procedural requirements as specified in Schedule VII with respect to transfer of securities.*

SCHEDULE VII
LODR Regulations, 2015
[Regulation 40(7)]
TRANSFER OF SECURITIES

A. REQUIREMENT OF PAN

(1) For registration of transfer of securities, the transferee(s) as well as transferor(s) shall furnish a copy of their PAN card to the listed entity for registration of transfer of securities.

(4) In case of mismatch in PAN card details as well as difference in maiden name and current name, in case of married women, of the holder(s) of securities, the listed entity may collect the PAN card as submitted by the transferee(s) or transferor(s) as the case maybe:

Provided that this shall be subject to the listed entity verifying the veracity of the claim of such transferee(s) or transferor(s) by collecting sufficient documentary evidence in support of the identity of the transferee(s) or transferor(s).

B. DIFFERENCES IN SIGNATURE

(2) In case of major differences in, or non-availability of, the signature of the transferor(s), the listed entity shall follow the following procedure for registering transfer of securities:

(a) The listed entity shall promptly send to the transferee(s), via Speed Post, an Objection Memo along with the documents in original marking the reason as "material signature difference/ non-availability of signature" and an advice to ensure submission of requested documents of the transferor(s);

(b) The listed entity shall also send a copy of the Objection memo as per clause (a) of sub-para (2) to the transferor(s), via Speed Post, simultaneously;

(c) The above Objection Memo in clause (a) and (b) of sub-para (2) shall also state the requirement of additional documents of transferor(s) as follows for effecting the transfer:

- (i) an Affidavit to update transferor(s) signature in its records;*
- (ii) an original unsigned cancelled cheque and banker's attestation of the transferor(s) signature and address;*
- (iii) contact details of the transferor(s) and;*

(d) If the intimation to both the transferor(s) and the transferee(s) are delivered, requested documents of the transferor(s) are submitted to the listed entity and the address attested by the bank tallies with the address available in the database of listed entity, the listed entity, shall transfer the securities provided the listed entity does not suspect fraud or forgery in the matter:

Provided that listed entity shall maintain proof of delivery in their record(s).

C. ADDITIONAL DOCUMENTATION REQUIREMENTS IN CASE OF TRANSMISSION OF SECURITIES

(2) *In case of transmission of securities held in physical mode:*

(a) *where the securities are held in single name with a nominee:*

- (i) *duly signed transmission request form by the nominee;*
- (ii) *original or copy of death certificate duly attested by a notary public or by a gazetted officer;*
- (iii) *self-attested copy of PAN card of the nominee.*

(b) *where the securities are held in single name without a nominee, an affidavit from all legal heir(s) made on appropriate non judicial stamp paper, to the effect of identification and claim of legal ownership to the securities shall be required;*

Provided that in case the legal heir(s)/claimant(s) is named in the succession certificate or probate of will or will or letter of administration, an affidavit from such legal heir(s) / claimant(s) alone would be sufficient.

Provided further that:

- (i) *for value of securities, threshold limit of up to rupees two lakh only, per listed entity, as on date of application, a succession certificate or probate of will or will or letter of administration or court decree, as may be applicable in terms of Indian Succession Act, 1925 may be submitted:*

Provided that in the absence of such documents, the following documents may be submitted:

- 1. *no objection certificate from all legal heir(s) who do not object to such transmission or copy of family settlement deed duly notarized and executed by all the legal heirs of the deceased holder;*
- 2. *an indemnity bond made on appropriate non judicial stamp paper, indemnifying the Share Transfer Agent/listed entity;*

- (ii) *for value of securities, more than rupees two lakh, per listed entity, as on date of application, a succession certificate or probate of will or will or letter of administration or court decree, as may be applicable in terms of Indian Succession Act, 1925 shall be submitted;*

- (iii) *the listed entity however, at its discretion, may enhance value of securities, threshold limit, of rupees two lakh.*

PFUTP Regulations, 2003

3. Prohibition of certain dealings in securities

No person shall directly or indirectly—

- (a) *buy, sell or otherwise deal in securities in a fraudulent manner;*
- (b) *use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made there under;*

Circular No. (94-95), dated 11-10-1994

INSTRUCTIONS TO REGISTRARS TO AN ISSUE / SHARE TRANSFER AGENTS

Records to be maintained by registrar to an issue / share transfer agent

2. In pursuance of the powers conferred upon SEBI by regulation 14(2)(h) and regulation 14(3)(C) of the Regulations, it is hereby stipulated that in addition to the books, records and documents stipulated in regulation 14(1), 14(2) and 14(3) the following records and documents shall also be maintained by the RTI/STA in hard copy / magnetic media.

Records and documents to be maintained by STA

(vii) Specimen signature cards and transfer deeds.

Circular No. MRD/DoP/Cir - 05/2007 dated April 27, 2007

Permanent Account Number (PAN) to be the sole identification number for all transactions in the securities market.

3. The intermediaries are advised in this regard as under: -

3.4. to cross-check the aforesaid details collected from their clients with the details on the website of the Income Tax Department i.e. <http://incometaxindiaefiling.gov.in/challan/enterpanforchallan.jsp>.

Circular No. SEBI/HO/MIRSD/DOS3/CIR/P/2018/139 dated November 06, 2018

Standardised norms for transfer of securities in physical mode

2. It has been brought to the notice of SEBI that RTAs are seeking various documents for effecting transfer of securities and the documents sought vary across RTAs. SEBI has also received representations, highlighting difficulties faced by transferees in providing these documents. In this regard, SEBI had meetings with Registrars Association of India (RAIN) and Depositories in this regard and pursuant to such meetings, RAIN has submitted a standardised procedure for transfer of securities in physical mode. The proposal of RAIN has been examined and accordingly, the documentation / procedure for transfer of physical securities is modified as under:

(b) Mismatch of name in PAN card vis-à-vis name on share certificate/ transfer deed: In such cases, transfer shall be registered on submission of any of the four following additional documents explaining the difference in names:

- i. Copy of Passport
- ii. Copy of legally recognized Marriage Certificate
- iii. Copy of gazette notification regarding change in name
- iv. Copy of Aadhar Card

Circular No. SEBI/HO/MIRSD/DOP1/CIR/P/2018/73 dated April 20, 2018
Strengthening the Guidelines and Raising Industry standards for RTA,
Issuer Companies and Banker to an Issue
Annexure to Circular

II. Provisions with regard to Transfer/Transmission/Correction of Errors etc.:

4. RTAs and Issuer Companies shall ensure that all updation in the folio records shall be enabled only through front end modules. No back-end entry/updation /correction should be permitted. RTAs and Issuer Companies shall ensure that “System Log” having complete details for any change (viz. nature of change, user access history, user identification, date/time of change etc.) must be maintained. This provision will come into effect after 90 days from the date of this circular.

13. The Issuer Company and RTAs shall exercise enhanced due diligence in following cases:

- i. Where dividend/interest/redemption remains unpaid for three years & above***
- ii. PAN / bank account details not available in the folio.***
- iii. Unclaimed suspense account constituted pursuant to SEBI (Listing Obligations and Disclosure Requirements) Regulations.***
- iv. IEPF suspense account set up pursuant to Companies Act 2013.***
- v. Any other stringent criteria as decided by the Issuer Company and the RTAs.***

RTAs shall maintain a list of such account folios and share with the Issuer Company at the end of every quarter of a financial year.

14. RTAs shall have system based alerts for processing of all transactions in such account folios referred above in para 13. In case any request for transactions is received from such folios, the Issuer Company and RTAs shall exercise enhanced due diligence. For the purpose of exercising enhanced due diligence, Issuer Companies and/or RTAs shall call for documents related to proof of identity/address, PAN and bank details, and such other additional procedures that would enable the Issuer Company/RTA to reasonably satisfy itself about the genuineness of the request.

11. I note that the Noticee’s reply dated January 13, 2023 is divided into following parts, each of which shall be dealt separately in subsequent parts of this order:

(i) Preliminary Objections

a) SCN-2 is infructuous as Noticee has already been penalized.

- b) Violation of principles of natural justice as the Noticee has not been provided with inspection of documents.
- c) SCN-2 is vague and incoherent.

(ii) Specific response on merits:

- a) Processing of transfer requests without obtaining PAN of the sellers along with processing of 601 cases of transfer requests without verification of PAN.
- b) Processing of transfer requests in 12 cases without signature of transferor as well as other prescribed documents.
- c) Transfer on the basis of fake signature cards.
- d) Failure to verify the authenticity of witness in the transfer deed and source of signature card.
- e) Processing of transmission requests without obtaining NoC or copy of family settlement deed.
- f) Delay while processing the requests of issuance of duplicate share certificate.
- g) Non-availability of signature cards in respect of 8 companies.
- h) System logs and system based alerts not maintained.
- i) Delay in resolving investor grievance.

(iii) Other common submissions

- a) Legal standard of diligence misapplied in the SCN
- b) SEBI must not proceed against Noticee with the benefit of hindsight.
- c) Facts of the case do not warrant a suspension of certificate of registration of Noticee.

A. Preliminary Objections

i. SCN-2 is infructuous as Noticee has already been penalized

12. I note that, pursuant to examination of response submitted by the Noticee in respect of the findings of inspection, SEBI, vide letter dated January 27, 2021, issued administrative warning to the Noticee in respect of certain discrepancies observed during the inspection period. The said letter also brought to the notice of the Noticee that Enquiry proceedings have been initiated by SEBI against the Noticee for certain observations as listed in the said letter. It was also brought to the notice of the Noticee that investigation has also been initiated by SEBI with respect to certain other observations. The Noticee was also advised to take corrective steps for the said observations to ensure that the same are not repeated in future. I note that the said letter also advised the Noticee *“not to take up any new business activity as a Registrar to an Issue & Share Transfer Agent as defined under Regulation 2(g) and 2(f) of the SEBI (Registrars to an Issue and Share Transfer Agents) Regulations, 1993, till final conclusion of Enquiry and Investigation against you by SEBI”*.

13. The Noticee has submitted that in compliance with SEBI letter dated January 27, 2021, it immediately stopped taking up new business activity as an RTA. Thus, the Noticee has already suffered suspension of about two years. If the Noticee's certificate of registration is further suspended for a period of one year, as recommended by the DA, the Noticee's clients will also suffer unnecessarily. The Noticee has 13 listed companies and 89 unlisted companies as clients, who have had no complaint against the Noticee till date. The Noticee has submitted that the National Securities Depository Limited (“NSDL”) and Central Depository Services (India) Limited (“CDSL”) have also conducted inspection of the Noticee pursuant to SEBI's inspection and no major discrepancies have been found by them during the said inspections. The allegation of non-verification of PAN has also not been observed by CDSL or NSDL in their inspections. The Noticee, relying on a few case laws

(Order of Hon'ble Securities Appellate Tribunal ("Hon'ble SAT") dated June 16, 2011 in the matter of Religare Securities Limited Vs. SEBI, (In Appeal No. 23 of 2011) and Order of Hon'ble SAT dated July 25, 2011 in the matter of UPSE Securities Limited Vs. SEBI (In Appeal No. 109 of 2011), has also submitted that the purpose of inspection is supervisory and advisory but not punitive, unless culpable. Further, it is submitted by the Noticee that it has taken necessary steps to obviate the issues identified.

14. In my view, the scope of the advice in SEBI's letter dated January 27, 2021 was to disallow the Noticee from taking up new clients before the conclusion of the enquiry proceedings. Therefore, the stand that these proceedings are infructuous is untenable. The instant proceeding, having been initiated in terms of Section 12(3) under Chapter V of the SEBI Act, 1992 read with Regulation 23 of the Intermediaries Regulations which empowers SEBI to suspend or cancel a certificate of registration granted to a registered intermediary or take other appropriate action, by an order, in such manner as may be determined by the Regulations, is different and distinguishable from the advisories / information provided to the Noticee vide SEBI letter dated January 27, 2021. However, the impact of SEBI's advisory on the Noticee's business as an RTA shall be taken into account as a mitigating factor while determining these proceedings.

15. I further take note of the submissions of the Noticee regarding inspections conducted by CDSL and NSDL. I find that the inspections by the Depositories were independent from SEBI inspection and not at the instance of SEBI. However, the corrective actions taken by the Noticee as a fall out of the inspections, if relevant, will be taken into consideration while determining the final direction. Likewise, the law laid down in the judgments of Hon'ble SAT cited by the Noticee will also be taken into account, to the extent of its applicability to the facts in the case.

ii. Violation of principles of natural justice:

16. The Noticee has submitted that upon receipt of SCN-2, the Noticee had sought inspection of documents in terms of its letter dated March 25, 2022 and December 2, 2022. However, inspection was not granted.

17. In this regard, I note that the findings of inspection were communicated to the Noticee vide letter dated June 01, 2020. In response thereto, the Noticee submitted its comments on findings of inspection vide letter dated August 05, 2020 and emails dated September 30, 2020 and December 01, 2020. Pursuant thereto, SCN-1 was issued by the DA to the Noticee, *inter alia*, enclosing the aforesaid communications with the Noticee and post inspection analysis. The Noticee was provided with adequate opportunity to present its case through written submissions as well as hearing before the DA. Vide SCN-2, the enquiry report containing recommendation of the DA was sent to the Noticee. The Noticee was again provided with the opportunity to make its submissions in writing as well as during the hearing before me. I, therefore, find that all the documents relied upon in the present matter have been duly provided to the Noticee along with SCN-1 and SCN-2. I find that sufficient opportunities in compliance with principles of natural justice have been provided to the Noticee at every stage to reply to the allegations made in SCN-1 and SCN-2. I find that the Noticee's letters dated March 25, 2022 and December 2, 2022, whereby, the Noticee claims to have sought inspection of documents do not form part of records made available to me. It was also cross-checked with the concerned department of SEBI and as per the communication received, the said letters are not in their records also. The Noticee had also not attached copy of the said letters along with the reply. Above all, no reference was made regarding the request for inspection during the hearing and instead, all the allegations were addressed on merits. The objection raised with respect to inspection and in turn with respect to conformity with the principles of natural justice does not seem to arise out of any specific request for identified documents and hence not sustainable.

iii. Vague and incoherent SCN

18. The Noticee has submitted that the SCN-2 has merely enclosed the DA's Report and does not state specific non-compliances with the PFUTP Regulations/ LODR Regulations/ RTA Regulations. The Noticee has contended that the allegation of fraud is without any evidence or justification. The Noticee has relied on the order of Hon'ble SAT dated March 08, 2010, in the matter of Vikas Bengani vs. SEBI in support of its contention that vague allegation, which does not specifically set out the reason for such allegation, cannot be sustained as the same does not provide an opportunity to a Noticee to counter the charges and the same is contrary to the rules of natural justice. Further, the Noticee has relied on the order of Hon'ble SAT dated April 20, 1999, in the matter of Dhanalakshmi Bank Ltd. V. SEBI, to contend that the SCN -2 is merely consisting of the DA Report and there is no mention as to what was examined by SEBI against the Noticee and how the statements made in the SCN-2 against the Noticee can be attributed to the Noticee for the same violations.

19. With respect to the aforesaid contentions, I find that due process of law laid down in the Intermediaries Regulations has been followed in these proceedings. Moreover, the categorical submissions made in the reply and during oral hearing show that there is no lack of clarity in communicating the violations or non-compliances alleged against the Noticee as well as the surrounding factual matrix.

20. In view of the above, I now proceed to deal with the merits of the case. I note that there are multiple allegations against the Noticee, and for the sake of convenience and clarity, I shall deal with each of the allegations independently in the following paragraphs.

B. Specific Issues on merits.

I- Transfer of Shares related Issues:

1. Non- Verification of PAN

21. In this regard, the allegations against the Noticee are as follows: -

- a. In 6 instances of transfer requests, requests were processed without obtaining PAN card of sellers, thereby, the Noticee violated provisions of Clauses A (1) and A (4) of Schedule VII read with Regulation 40 (7) of the LODR Regulations and Clause 3.4 of SEBI Circular dated April 27, 2007.
- b. In another set of 6 instances, transfer requests were processed, wherein, there was difference in the name of seller on share certificate/ transfer deed/ seller PAN card and in these cases no documents were sought or collected by the Noticee to satisfy itself regarding the aforementioned discrepancy, thereby, the Noticee violated Clause 2(b) of SEBI Circular No. SEB1/HO/MIRSD/DOS3/CIR/P/2018/139 dated November 06, 2018 read with regulation 40(7) of the LODR Regulations.
- c. In 611 instances of transfer requests, the Noticee had failed to verify the authenticity of PAN card provided by the sellers from Income tax website and processed these requests on the basis of fake PAN cards provided by the sellers, thereby, the Noticee violated Clause A (4) of Schedule VII read with Regulation 40(7) of the LODR Regulations and Clauses 1, 2, 3 and 16 of Schedule III read with Regulation 13 of the RTA Regulations.
- d. In 601 instances of transfer requests of Axis Capital Limited ("**ACL**") and Akashdeep Metal Industries Limited ("**AML**"), same PAN number has been used for 2 different sellers, thereby, the Noticee violated Clauses A(1) and A(4) of Schedule VII read with regulation 40(7) of the

LODR Regulations and Clause 3.4 of SEBI Circular dated April 27, 2007.

22. With regard to above allegations, the Noticee has, *inter alia*, submitted as follows: -

- (i) In three cases of transfer without obtaining the PAN of the sellers, the newly appointed staff of the Noticee mapped the signatures of the sellers appearing on transfer deeds with the Specimen Signatures available on record. Thus, while PAN was not obtained, the transfer requests were processed correctly and in the spirit of the extant law. The Noticee was not able to trace the fourth case of non-verification of PAN.
- (ii) With reference to 601 cases of transfer requests of ACL and AML being processed with the same PAN for 2 different sellers, the Noticee has submitted that there was no requirement under law for the verification of PAN as SEBI circulars dated November 6, 2018 and April 27, 2007 only deal with obtaining PAN and not verifying the same. SEBI/ NSDL/ CDSL never pointed out the mandatory requirement of verification of PAN' from Income Tax ("IT") Website, in all the past inspections.
- (iii) Under Regulation 40(7) of the RTA Regulations as well as under the LODR Regulations, it is only mandatory for the seller and buyer to furnish a copy of their PAN Cards for registration of transfer of securities in physical mode. There was no mandate for an RTA to verify the PAN from the IT website. The responsibility of verifying the veracity of the PAN is that of the listed entity. RTAs generally rely on the documents provided by the parties unless a contrary has been prima facie evident.
- (iv) The requirement of verification of PAN of the shareholders from Income Tax website has been mandated vide SEBI circular dated November 3, 2021. Prior to that, the requirement was applicable to only depositories/Stock Exchanges. SEBI circular dated April 27, 2007,

where SEBI has issued instructions on PAN verification etc., was generally addressed to intermediaries and the specific target clients of the instructions were the Stock Exchanges and Depositories as stated in para 4.1 of the said circular.

- (v) The requirement of obtaining copy of PAN and verification of the same from the IT website was first communicated by the NSDL to Depository Participants vide NSDL Circular (No. NSDL/POLICY/2006/0007) dated March 3, 2006. This circular has reference of a meeting with the SEBI on January 18, 2006. This circular was not applicable to the RTA.

23. With respect to the allegation of processing 6 transfer requests without obtaining PAN of the sellers, I note that the Noticee has explained that two transfer requests were processed by obtaining requisite documents i.e. by obtaining Form 60 of seller in one case and PAN card of authorized representative in another case. For three instances, the Noticee has admitted lapses on its part and in one instance, the Noticee has submitted that the said instance is not available in its records. Thus, the violation alleged stands broadly established for 4 instances of transfer requests.

24. With respect to the 6 instances of transfer requests, wherein, there was difference in the name of seller on share certificate/ transfer deed/ seller PAN card, I am inclined to accept the submission of the Noticee as it has provided adequate documents (Aadhar Card etc.) to illustrate that they were the same person and the Noticee has also produced notarized declaration for the same.

25. With respect to the allegation that same PAN has been used for two different sellers in 601 cases of transfer requests, the Noticee has contended that there was no requirement of PAN verification. As per the Noticee, SEBI Circular dated April 27, 2007 was applicable only to Stock Exchanges and Depositories and that RTAs were not bound by the same. I find this contention of the Noticee as totally unacceptable. I note that SEBI Circular dated April

27, 2007 having subject “Permanent Account Number (PAN) to be the sole identification number for all transactions in the securities market” was, *inter alia*, addressed to “All SEBI Registered Intermediaries”. Clause 3 of the said circular provided advise to “the intermediaries” as stated below:

“3. The intermediaries are advised in this regard as under:-

3.1. to put in the necessary systems in place so that all the individual databases of their clients and clients’ transactions are linked to the PAN details of the client with which detailed analysis can be made.

3.2. to build the necessary infrastructure for enabling accessibility and query based on PAN thereby enabling retrieval of all the details of the clients that is available including the transactions done by them.

3.3. to collect copies of PAN cards issued to their existing as well as new clients by the Income Tax Department and maintain the same in their record after verifying with the original.

3.4. to cross-check the aforesaid details collected from their clients with the details on the website of the Income Tax Department i.e. <http://incometaxindiaefiling.gov.in/challan/enterpanforchallan.jsp>”

26. At the outset, I find it untenable for the Noticee to contend with respect to transactions of 2018 and 2019 that the PAN verification was meant only for Exchanges and Depositories and not the RTAs. The process of PAN verification and the importance of the same in securities market transactions cannot be over-emphasized and such contentions from an RTA indicates a callous attitude and total disregard to the legal mandates. Moreover, the provisions in LODR Regulations also underline this aspect in Regulation 40(7) of the LODR Regulations. The Noticee’s contention that the requirement of PAN verification has come upon the RTAs only vide SEBI Circular dated November 03, 2021 is misplaced as the said circular itself refers to SEBI circular dated April 27, 2007 to state that PAN is mandatory for all transactions in securities market and merely reiterates that it is mandatory for RTAs to verify PAN details. Thus, there is no doubt that the circular was

applicable to all SEBI Registered Intermediaries which include SEBI Registered RTAs too. Irrespective of the instructions in the said circular the RTA was supposed to verify the PAN details, if not from the IT website, at least from some alternate sources. The very fact that the Noticee has not disputed the processing of 601 cases of transfer requests of ACL and AML, using same PAN number for two different sellers, indicates that there was no attention paid to the identity of the transferors and transferees. Thus, the violation alleged in this regard stands established.

27. I note that the Noticee has adopted the same line of rebuttal as stated above with respect to the allegation regarding 611 instances of transfer requests wherein it allegedly failed to verify the authenticity of PAN card provided by the sellers from website of the Income Tax Department and processed these requests on the basis of fake PAN cards provided by the sellers. As noted above, since the requirement of verification of PAN was applicable to the RTAs, the Noticee was obligated to comply with the same. Thus, I find that the Noticee admittedly failed to exercise due diligence expected from an RTA and failed to fulfill its obligations in a prompt, ethical and professional manner.

28. In view of the above, I find that the Noticee has violated Clauses A(1) and A(4) of Schedule VII read with Regulation 40(7) of the LODR Regulations, Clause 3.4 of SEBI Circular dated April 27, 2007 and Clauses 1, 2, 3 and 16 of Schedule III read with Regulation 13 of the RTA Regulations.

2. Processing of transfer requests without signature of transferor and other prescribed documents

29. It has been alleged that the Noticee, in one instance, processed transfer request without payment of stamp duty by the respective parties and thereby, the Noticee violated Clauses 1, 2, 3 and 16 of Schedule III read with Regulation 13 of RTA Regulations. Further, the Noticee, in 8 instances, processed transfer requests on the basis of 'gift deeds' which were post-dated

from the date of transfer requests. Further, in 2 instances, transfer requests were processed on basis of name change Affidavit of seller, which was post-dated from the date of transfer requests, thereby, the Noticee violated provisions of Clauses 1, 2 and 3 of Schedule III read with regulation 13 of the RTA Regulations and regulation 40(3) of the LODR Regulations. Further, it has been alleged against the Noticee that, in 16 instances, transfer requests were processed, wherein, seller signature cards were not available and as a result, the Noticee violated Clause B (2) of Schedule VII read with regulation 40(7) of the LODR Regulations.

30. I note that with respect to allegation of processing of transfer request without the payment of stamp duty by the respective parties, the Noticee has admitted the lapse at its end. In view of the factual observations recorded herein above and admission of the lapse on part of the Noticee, I find that the Noticee has violated Clauses 1, 2, 3 and 16 of Schedule III read with Regulation 13 of RTA Regulations by processing transfer request without the payment of stamp duty by the respective parties, which deals with the requirement of integrity, professionalism and due diligence by an RTA.

31. With respect to the allegation of 8 instances of transfer on the basis of gift deeds, the Noticee has submitted that it could locate 7 gift deeds out of the 8 instances alleged against it. It is observed that in all the 7 cases, the gift deed was executed on March 20, 2019 and transfer was affected on March 29, 2019. Subsequently, a letter dated April 05, 2019 was issued by the Noticee to the transferor(s) forwarding the share certificates. Further, it has been submitted by the Noticee that the duly notarized gift deed was obtained on April 17, 2019 from the respective shareholders. The Noticee has further justified that the parties were not aware of the requirement of the execution of the gift deed on a non-judicial stamp paper of INR 10/-. The gift deeds on non-judicial stamp paper duly notarized were obtained even before the inspection as a result of a routine check by the Noticee.

32. I note that Regulation 40(3) of the LODR Regulations provides that on receipt of proper documentation, transfers of securities in the name of the transferee(s) should be registered and certificates or receipts or advices, as applicable, relating to the transfers should be issued. In case, documents are not proper, then, within a period of fifteen days from the date of receipt of request for transfer, any valid objection or intimation to the transferee or transferor, as applicable, may be issued. Thus, the regulations mandate that the transfers should be affected only after receipt of proper documentation. However, in the present case, it is apparent that on the date of processing of transfer request, the Noticee was not in possession of the gift deed on a non-judicial stamp paper. The transfer was affected by the Noticee on March 29, 2019 and proper documents in support of the same were collected post-transfer. Even though the Noticee is shifting the blame to the transferors/transferees for acting on the basis of gift deeds which were apparently not stamped, I find that the Noticee failed to exercise proper due diligence and processed transfer requests on the basis of improper documentation. Further, for the two instances where transfer requests were processed on the basis of post-dated affidavit for name change, the Noticee has not provided any justification and has chosen to remain silent. Therefore, I find that the Noticee has violated Clauses 1, 2, 3 of Schedule III read with Regulation 13 of RTA Regulations and Regulation 40(3) of the LODR Regulations, as alleged in the SCN.

33. With respect to the allegation of 16 instances of transfers without seller signature cards, the Noticee has submitted that it could find only 14 cases under this category. The Noticee also submitted that most of the observations pertained to two of its clients viz. Rama Paper Mills Limited and Sindhu Trade Links Limited. In this regard, I find that the Noticee has provided documents with respect to 2 instances (i.e. Folio No. 23433 and 32433) which prove that the said transfers were on the basis of genuine documents. However, for the remaining 12 instances, the Noticee has admitted to the lapse of not obtaining the prescribed documents. Thus, I find that the Noticee has violated Clause B(2) of Schedule VII read with regulation 40(7) of the LODR Regulations.

3. Transfer on the basis of fake signature cards.

34. It has been alleged that signature cards provided by the issuer company namely, Latent Light Finance Limited (“LLFL”) were fake and the Noticee had processed 494 transfer requests based on those fake signature cards, thereby, the Noticee has violated Clause 3 of Schedule III read with regulation 13 of the RTA Regulations and regulations 3 (a) and (b) of PFUTP Regulations.

35. The Noticee has submitted that in order to uphold any allegation as ‘fraud’ under the SEBI Act or the PFUTP Regulations, the acts undertaken must be proved to fulfill the ingredients of ‘fraud’. No evidence has been adduced to suggest that the Noticee was party to the alleged fraud. It is well settled that where fraud and collusion are alleged, it would be incumbent on the authority to set out the nature of the fraud along with full particulars. In this regard, the Noticee has placed reliance on the Judgment of the Hon’ble Supreme Court in the matter of Chief Engineer, MSEB and Anr. Vs. Suresh Raghunath Bhokare, (2005) 10 SCC 465. Further, the Noticee has placed reliance on several judgments to submit that the judicial precedents indisputably hold that fraud is a serious offence and, therefore, the standard of proof must be of a higher degree and mere conjectures and surmises will not be sufficient to hold a person liable for fraud. It has been submitted that no direct or circumstantial evidence has been presented in the allegations made against the Noticee. The Noticee has also submitted that SEBI must produce compelling evidence to demonstrate that the Noticee had fraudulently obtained signatures in relation to the transfer request pertaining to LLFL. Further, it has been submitted that requirement of ‘intention’ is a prerequisite to prove ‘fraud’ for violation of PFUTP Regulations. It is a settled principle recognized by SEBI that “the necessity of ‘intent’ and the element of fraud” are a pre-requisite in all parts of Regulation 3 and 4 of the PFUTP Regulations. Further, it has been submitted that there is not a single complaint from any of its client that there was some mischief played by the Noticee.

36. The Noticee has submitted that transfer requests were processed on the basis of verification of complete transfer documents after matching the signatures appearing on Transfer Deeds with specimen signatures available in record. Original Specimen Signatures of 545 (494 transfer cases) shareholders of LLFL had been provided in physical form. A file containing signature records was received with a covering letter signed by the "Director of Latent Light Finance Limited". Thus, the Noticee had no reason to doubt the signatures. Subsequently, to alleviate the concerns of SEBI, a random verification of signatures of 20 shareholders by the related Banks confirmed that the signatures were in fact of those of the respective shareholders. As such, SEBI cannot operate on circumstantial evidence when there is direct evidence available.

37. In this regard, from the submissions made by the Noticee with respect to the signature cards provided by LLFL, I find that the 'signature card' was basically a white sheet of page with columns *for Serial No., Name of Shareholder, Folio Number, Number of Shares and Specimen Signature*. The Noticee, in its reply dated December 01, 2020 stated that "*signature record of the shareholders of M/s Latent Light Finance Limited (formerly Galaxy Commercial Limited) was received by RTA by hand delivery mode with the acknowledgement covering letter*". The Noticee also shared a scan copy of letter provided by the issuer company acknowledging delivery of the signature cards. The Noticee has provided "*signature verification of 20 shareholders on sample basis from their respective banks*" and as per the Noticee, the same was comparable with the specimen signatures available in its record. I find that, in the instant case, the signature card was a white sheet of paper with original signatures of hundreds of shareholders spread across the country. I find that there is no satisfactory explanation from the Noticee or the issuer company on record, as to how it got so many shareholders from different parts of the country to sign on a single document. I am, therefore, of the view that the entire list of signatures on a plain paper, based on which 494 transfers were processed during the period of inspection alone, was not a genuine document to be considered as signature card of the respective shareholders. I also find that the exercise of

verifying signatures of 20 shareholders is merely a post-facto action by the Noticee after the inspection. From the facts, it transpires that the Noticee, as an RTA, did not have signature cards of the members of the company and has acted on the basis of a sheet that contained signatures of the shareholders which has been provided by the company. If this is accepted as true, then the role played by the Noticee is limited to the extent of having placed reliance on an apparently non-genuine or a fake document for execution of transfers. The allegation is also not that the Noticee has forged the signatures. Thus, as the facts are not supporting an act of PFUTP on the side of the RTA, I am inclined to give benefit of doubt to the Noticee. However, the same amounts to a failure to exercise due diligence, as contemplated in the Code of Conduct, which the Noticee ought to have exercised while undertaking the assignment of the issuer company. Thus, I find that the Noticee has violated the provisions of Clause 3 of Schedule III read with Regulation 13 of the RTA Regulations.

4. Failure to verify the authenticity of witness in the transfer deed and source of signature card

38. It is alleged that in 698 transfer deeds processed by the Noticee, the person signing as witness in transfer deed is the same person, whose name appears on the seller PAN card along with seller's name (i.e. either father of male seller or father/ husband of female seller). In all of these cases, PAN cards used were fake and the Noticee had failed to do its due diligence while processing these transfer requests, thereby, violating Clause 3 of Schedule III read with Regulation 13 of the RTA Regulations.

39. Further, it has been alleged that the Noticee failed to explain to the inspection team regarding procurement of signature cards for processing of the transfer requests with respect to companies namely, ACL and AML. In most of the cases signatures were very similar to each other and when explanation was sought from the Noticee, it failed to provide any explanation for not raising objection before processing of transfer requests based on aforementioned

signature cards. Further, the Noticee failed to explain source from where it had procured the said signature cards and reasons for which it accepted fake PAN cards from the seller. The said acts of the Noticee were alleged to be in violation of Clause 1, 2, 3 of Schedule III read with Regulation 13 of the RTA Regulations and regulation 18(1) and 18(4) of the RTA Regulation.

40. In this regard, the Noticee has submitted that it is required to process transfer requests based on documents provided to it. This has been done by the staff of the Noticee. As an RTA, the Noticee has no ability to question who the parties choose as their witness. In any event, there is no complaint of any investor on the processing of transfer deeds insofar as the authenticity of the witness is concerned. Further, it has been submitted that the transfers in case of ACL and AML were processed based on the prescribed documentation. Specimen signatures of both buyers and sellers of ACL and AML were also provided by the said companies by way of pen drive at the time of execution of a tripartite agreement dated November 17, 2018. Since copy of PAN card was not provided, there was no need for verification of the PAN. As such, the source of signature was made available by AML/ACL, therefore, there was no requirement for verification.

41. I note that it is admitted by the Noticee that in case of transfer of shares of ACL and AML, the PAN details were not collected and therefore, the same could not be verified from the website of the Income Tax Department. As noted above, SEBI Circular dated April 27, 2007 contained instructions to the intermediaries that all transactions in the securities market should be linked to PAN details of the clients, to collect and maintain copies of PAN cards and verify the PAN details with Income Tax Department. Further, the Noticee has failed to produce any evidence or supporting document to refute the allegation regarding verification of PAN cards or signature cards.

42. With respect to the allegation of violation of Regulation 18(1) and 18(4) of the RTA Regulations, I note that it has been alleged that the Noticee has not provided any explanation or justification for its failure to explain to the inspection team regarding procurement of signature cards for processing of the transfer requests with respect to ACL and AML. I note that the said provisions require an RTA and its key managerial persons to cooperate during inspection and produce documents and information as sought by the inspecting authority. The material on record does not indicate any acts by the Noticee to hamper the inspection nor is there any allegation regarding non-cooperation during the inspection proceedings. I find that the Noticee has cooperated during the inspection and duly responded to the queries raised by the inspecting authority. The allegation of not providing justification to the inspection team has ultimately culminated in the instant proceedings and this cannot be in itself a case of non-cooperation or non-production of documents for inspection.

43. From the above, I find that the Noticee conducted its business without verifying PAN cards and signature cards prior to transfers and allowed the transfers to happen. I, therefore, find that the Noticee failed to maintain high standards of integrity in the conduct of its business and to fulfill its obligations in a prompt, ethical and professional manner and thereby has violated Clauses 1, 2, 3 of Schedule III read with regulation 13 of the RTA Regulations.

II - Processing of transmission requests without proper documentation

44. It is alleged that the Noticee, while processing the transmission requests, had not obtained 'No objection certificate' ("**NOC**") from all legal heir(s), who did not object to such transmission or copy of 'family settlement deed' duly notarized and executed by all the legal heirs of the deceased holder. Further, the Noticee had also not obtained the PAN number/card and Address proof of the incoming shareholder while processing the transmission requests.

Further, the Noticee had accepted Death Certificates which were not notarized, while processing the transmission requests and the said Death Certificates were not verifiable from available online government records. These acts of the Noticee were alleged to be in violation of Clause C (2) of Schedule VII read with regulation 40(7) of the LODR Regulations and Clause 3 of Schedule III read with regulation 13 of the RTA Regulations.

45. In this regard, the Noticee has submitted that the transmission requests were processed upon receiving correct documentation as mandated by SEBI. In the case of Hisar Spinning Mills Limited (Folio 8928), Mr. Arun Kumar Gupta is the only legal heir (son) in the family of deceased, question of obtaining NOC from other legal heirs does not arise. This fact is evident from the affidavit and indemnity submitted by the legal heir. The number of the shares inherited has not exceeded the threshold limit and Mr. Arun Kumar Gupta is the only Class-I legal heir as evident from the aforementioned indemnity. In the case of Hisar Spinning Mills Limited (Folio 4920), the transmission had been processed on the basis of an indemnity bond and affidavit duly signed, executed and submitted jointly by all the legal heirs of the deceased. Shares under the folio have been transmitted in favor of one of the legal heir 'Aarti Sanjay Vora' as other two legal heirs of the deceased namely Ronak Vora and Sunad Vora had no objection in the transmission and the NOC in this regard had been submitted in Para 7 of the affidavit which clearly stated *"That we therefore request the company HISAR SPINNING MILLS LTD to transmit the aforesaid equity shares standing in the register in the name of AARTI SANJAY VORA for which dependents at SL NO 1. (Ronak Vora) and 2. (Sunad Vora) mentioned at paragraph 3 have no objection and without production of succession certificate or letters of administration or probate."* Further, the Noticee has submitted that in the case of Rama Paper Mills Limited (Folio 705), the heir submitted a notarized death certificate. The transmission was based on the said notarized death certificate, thus, there was no requirement to verify the death certificate.

46. I note that prior to amendment on April 25, 2022, Clause C(2) of Schedule VII of the LODR Regulations provided for additional documentation requirement in case of transmission of securities held in physical mode, as noted below:-

- a) *Where the securities are held in single name with a nominee, following documents will be required: -*
- i. *Duly signed transmission request form by the nominee;*
 - ii. *Original or copy of death certificate duly attested by a notary public or by a gazette officer;*
 - iii. *Self attested copy of PAN card of the nominee.*
- b) *Where the securities are held in single name without a nominee, an affidavit from all legal heir(s) made on appropriate non judicial stamp paper, to the effect of identification and claim of legal ownership to the securities shall be required.*

Provided that in case the legal heir(s)/claimant(s) is named in the succession certificate or probate of will or will or letter of administration, an affidavit from such legal heir(s) / claimant(s) alone would be sufficient.

Provided further that:

- (i) *for value of securities, threshold limit of up to rupees two lakh only, per listed entity, as on date of application, a succession certificate or probate of will or will or letter of administration or court decree, as may be applicable in terms of Indian Succession Act, 1925 may be submitted:*

Provided that in the absence of such documents, the following documents may be submitted:

1. *no objection certificate from all legal heir(s) who do not object to such transmission or copy of family settlement deed duly notarized and executed by all the legal heirs of the deceased holder;*
2. *an indemnity bond made on appropriate non judicial stamp paper, indemnifying the Share Transfer Agent / listed entity;*

- (ii) *for value of securities, more than rupees two lakh, per listed entity, as on date of application, a succession certificate or probate of will or will or letter of administration or court decree, as may be applicable in terms of Indian Succession Act, 1925 shall be submitted;*

47. I note that allegations in this respect pertain to five instances of transmission of shares where the mandated documents were not collected by the Noticee. From the information available on record, I find that the value of securities transacted in each of these 5 instances is too negligible (less than Rs. 4,000) and that there are no specific complaints in this regard. I find that these transactions fall under clause (i) of Second Proviso to Sub Clause (b) of Clause C(2) of Schedule VII of the LODR Regulations. The said clause states that in the absence of documents such as succession certificate etc., certain other documents like no-objection certificate or indemnity bond may be submitted. I find that the Noticee has collected certain documents in each of these instances, albeit with minor technical lacunae. Considering that the number of such instances is very less and the amount involved is meagre, I am inclined to take a lenient view in this regard.

III- Delay in processing the request for issuance of duplicate share certificate

48. It has been alleged that in 3 instances, there was delay in processing of the request of duplicate share certificate by the Noticee, thereby, the Noticee violated regulation 39(2) of the LODR Regulations and Clause 3 of Schedule III read with regulation 13 of the RTA Regulations.

49. The Noticee has submitted that delay was caused due to a technical glitch appearing in the back office software, which has now been rectified. As such no grievance has been raised by the parties.

50. I note that regulation 39(2) of the LODR Regulations, inter-alia, provide that issuance of duplicate shares shall be effected within a period of thirty days from the date of such lodgement. I find that there were, admittedly, 3 instances of delay by the Noticee in the range of 10-54 days while processing requests of issuance of Duplicate Share Certificate. Therefore, I find that the Noticee falls short of compliance, in this regard, as alleged.

IV- Non availability of Signature Cards

51. It is alleged that the Noticee was not having signature cards available with it in respect of two companies, namely, Sindhu Trade Links Limited and Supreme Commercial Enterprises Limited. It is also alleged that the Noticee did not have the signature cards for all the investors who have physical folios with respect to six companies, namely, AML, Capfin India Limited, United Textiles Limited, Shiyam Telecom Limited, PMS Fincorp Limited and Rama Paper Mills Limited. The said acts or omissions of the Noticee are alleged to be in violation of Clause 2(vii) (Records to be maintained by STA) of SEBI Circular dated October 11, 1994 and Clause 3 of Schedule III read Regulation 13 of the RTA Regulations.

52. In this regard, the Noticee has *inter alia* submitted that :-

- (i) Out of total 13 listed companies serviced by it, nearly 100% of specimen signature records are now available in respect of 11 companies and more than 65% of specimen signature of Sindhu Trade Links Limited and 16 % of specimen signatures of Rama Paper Mills Limited are now available. Overall 83% of specimen signature of the shareholders are available on record. In order to get 100% signatures records, a request letter with ISR forms have been dispatched to all the physical shareholders.
- (ii) The failure of Rama Paper Mills Limited have been reported to SEBI/NSDL/CDSL. Rama Paper Mills Limited has reported loss of courier packet containing Specimen Signature Cards.
- (iii) The status of signature record availability with the Noticee as on 21.12.2022 is as follows:-

Total no. of physical folios maintained by the RTA	No of physical folios in which signature is available	No. of physical folios in which signature is not available
35065	29304	5761

- (iv) Prior to the SEBI Circular dated October 11, 1994, there was no statutory requirement for maintaining specimen signatures for every shareholder,

thus, existing listed entities did not have complete and exhaustive records of specimen signatures for each and every shareholder. Non availability of signatures is an industry wide problem occasioned on account of the client company's inability to provide specimen signatures for their shareholders.

- (v) It is the responsibility of client company to provide complete record of signature to RTAs. The non-availability of specimen signatures is on account of reasons beyond control of the Noticee, since the client companies themselves do not have complete records pertaining to specimen signatures. RTAs can request their client companies as has been done by the Noticee by its letters dated December 22, 2011 to take steps in order to bridge the gap in specimen signatures. They cannot suo motu address correspondence to shareholders without the consent and approval of their client companies.
- (vi) SEBI has also taken several steps to rectify the problem of non-availability of specimen signatures. SEBI has issued Circular No. SEBI/HO/MIRSD/DOP1/CIR/2018/73 dated April 20, 2018 directing the issuers/RTA to send a communication to all physical shareholders calling for their PAN/ Bank details and the same was followed by the Company/RTA except one case. Further, in compliance with SEBI Circular No. SEBI/HO/MIRSD/MIRSD RTAMB/P/CIR/2021/655 dated November 03, 2021, ISR Forms (Form ISR-I for KYC-PAN, Aadhar, email and mobile update, Form ISR-2 for specimen signature and bank update. Form ISR-13 for registration of nominee) have been dispatched to all the physical shareholders of listed entities and request for updation of non-complied folios are received from the investors in response thereof.

53. I note that Clause 2(vii) of SEBI circular dated October 11, 1994 requires share transfer agents to maintain *inter alia* specimen signature cards and transfer deeds. I find that the Noticee has admitted to not having signature cards in respect to two companies, namely, Sindhu Trade Links Limited and Supreme Commercial Enterprises Limited. With respect to six other

companies, the Noticee did not have the signature cards for all the investors who have physical folios. The Noticee has submitted that it has been making continuous efforts in this regard and is currently having nearly 100% of specimen signature records in respect of 11 companies out of 13 companies. With respect to Sindhu Trade Links Limited, it is having more than 65% of specimen signature and with respect to Rama Paper Mills Limited, it is having 16% of specimen signatures. It is also submitted by the Noticee that it has dispatched request letters with ISR forms to all the physical shareholders in order to get the 100% signatures on record. I also note that the issue of non-availability of signatures with respect to Sindhu Trade Links Limited and Rama Paper Mills Limited have been highlighted by NSDL and the Noticee to SEBI through certain communications made during the years 2015-2020. The Noticee has also submitted that execution of transactions/transfers in such companies are being processed after exercising enhanced due diligence. In view of the same, I find that adequate actions have been taken by the Noticee to comply with the norms and the same will be taken into consideration while determining the final direction.

V- Maintenance of System Log

54. In terms of SEBI Circular SEBI/HO/MIRSD/DOP1/CIR/P/2018/73 dated April 20, 2018, the Noticee and Issuer Companies were required to ensure that a 'System Log' was maintained, having the complete details for any folio level changes viz. nature of change, user access history, user identification, date/time of change etc. Further, in terms of aforesaid SEBI Circular, the Noticee was required to have system based alerts for processing of all transactions in folios, where dividend remained unpaid for three years and above or PAN / bank account details were not available in the folio. It has been alleged that the Noticee failed to maintain the System Log and System based alerts as prescribed by the aforementioned circular, thereby, the Noticee violated Clauses II (4) and (14) of Annexure to SEBI Circular No. SEBI/HO/MIRSD/DOP1/CIR/P/2018/73 dated April 20, 2018 and Clause 3 of Schedule III read with Regulation 13 of the RTA Regulations.

55. The Noticee has submitted that the software has now been upgraded with desired feature of generating system logs so that transactions processed by the users could be tracked in a timely and compliant manner. The back-office system has also been suitably upgraded to generate alerts for processing of transactions in folios where dividend remains unpaid for last three years and above or PAN/Bank detail are not available in the folio.

56. Thus, it is admitted by the Noticee that at the time of inspection, the systems of the Noticee were not installed/updated as required and corrective steps have been taken only subsequently. Thus, I find that the Noticee had violated Clauses II (4) and (14) of Annexure to SEBI Circular No. SEBI/HO/MIRSD/DOP1/CIR/P/2018/73 dated April 20, 2018 and Clause 3 of Schedule III read with Regulation 13 of the RTA Regulations. However, the Noticee's submission with respect to corrective measures taken in this regard, is noted for considering the directions.

VI- Delay in resolving investor grievance

57. It is alleged that in 4 instances, there was substantial delay in resolving the complaints of the shareholders by the Noticee, thereby, the Noticee violated regulation 9A(1)(e) of the RTA Regulations and Clause 3 of Schedule III read with regulation 13 of the RTA Regulations.

58. The Noticee has submitted that in order to ensure timely redressal of investor grievance, an automated system of monitoring and disposal of complaints linked through back office software has been introduced.

59. I note that regulation 9A(1)(e) of the RTA Regulations require that a RTA shall take adequate steps for redressal of grievances of the investors within one month of the date of the receipt of the complaint and keep the Board informed about the number, nature and other particulars of the complaints received and the manner in which such complaints have been redressed. I note that the

range of delay was 53 - 417 days in the said complaints. In view of the above, I find that the Noticee violated regulation 9A(1)(e) of the RTA Regulations and Clause 3 of Schedule III read with regulation 13 of the RTA Regulations.

CONCLUSION:

60. With respect to the recommendation of the DA to suspend certificate of registration, the Noticee has, *inter alia*, submitted the following:

- (i) The Noticee has not defrauded any investor or client company and has always adhered to the business ethics of the industry. The suspension would irreparably prejudice the Noticee's reputation in the industry.
- (ii) The violations alleged in the SCN are neither repetitive nor has the Noticee made any gain or avoided any loss in course of the same. As such, also there is no complaint from any investor with regard to the transactions/ transfers under inspection. In all the previous inspections, the non-verification of PAN related discrepancies have not been raised. Thus, the Noticee was under legitimate belief that the Noticee was not required to undertake verification of PAN.
- (iii) Reference is drawn to various orders passed by SEBI and Hon'ble SAT adopting a lenient view while deciding upon the penalty to be imposed upon RTAs for alleged violations of regulations.
- (iv) The Noticee has not on-boarded any client from January 27, 2021 i.e. after the date of issuance of Administrative Warning by the SEBI. In this regard, communication from NSDL and CDSL confirming the same has been provided.
- (v) It has already suffered substantial losses i.e. reputational loss as well as monetary loss, as a result of the advisories issued vide SEBI letter dated January 27, 2021. The Noticee provided a list of potential clients whom the Noticee had to decline on-boarding during the ensuing period. The Noticee also received dozens of calls and queries for

availing RTA services which could not be responded positively due to the embargo imposed by SEBI during the period since January 27, 2021 till date. As such, the Noticee also had a plan to reach out to 72 unlisted companies for business development. In fact, in the two years prior to the Administrative Warning, the Noticee had on boarded 31 clients, where annual maintenance fees of about INR 2.5 lakh has been earned. Since the Noticee has missed on getting about 80 odd clients, there is an approximate revenue loss of INR 50 lakh.

61. As noted above, I find that the Noticee had a lackadaisical approach towards compliance of legal requirements while conducting business as a RTA. The Noticee processed transfer requests on the basis of incomplete or improper documents. The Noticee is also found to have failed to verify PAN details of the clients from the website of the Income Tax Department in various instances. These are serious lapses on the part of the Noticee. The Noticee, while conducting its operations, has not exercised competence and basic due diligence which is expected of an RTA. The non-examination of basic documents such as signature specimen and PAN details undermines the credibility of the mechanism laid down in the securities market for the protection of the investors. I also find that there was no system for maintenance of logs and for generation of alerts. Other violations found against the Noticee such as delay in issuance of duplicate share certificates, delay in resolving investor grievances and transmission related deficiencies, being few instances or of low value, are considered as minor in nature.

62. As detailed in the earlier parts of this order, there are mitigating factors which have to be taken into consideration while deciding on the directions. I note that the Noticee has not been able to take new business/clients since January 27, 2021 i.e. for a period of more than two years, till date, in furtherance to SEBI advisory dated January 27, 2021. The said advisory certainly is deterrent in nature which serves the purpose of compelling the Noticee to comply with the Regulations and Circulars. Further, the Noticee has made efforts to correct irregularities or deficiencies observed during the inspection.

It has submitted that considerable efforts have been made to collect specimen signature records from the companies. The Noticee has claimed to have updated its systems in respect of logs, alerts and investor grievance. I also note that there is no investor complaint in relation to the alleged deficiencies.

63. Having considered the recommendations of the DA; the violations committed by the Noticee; the restraint imposed vide SEBI letter dated January 27, 2021; the submissions of the Noticee and the mitigating factors as noted above, I find that ends of justice will be met, if the Noticee is prohibited from taking new clients as a Registrar to an Issue & Share Transfer Agent upto June 30, 2023.

ORDER–

64. In view of the above, I, in exercise of powers conferred on me under Section 12(3) read with Section 19 of the SEBI Act and Regulation 27(5) of the Intermediaries Regulations, do hereby prohibit the Noticee from taking new clients as a Registrar to an Issue & Share Transfer Agent upto June 30, 2023. The Noticee is further warned to exercise due care and caution henceforth while conducting its business as a Registrar to an Issue & Share Transfer Agent.

65. This order shall come into force with immediate effect.

66. A copy of the order shall be forwarded to the Noticee.

Date: March 13, 2023

Place: Mumbai

Sd/-

GEETHA G

CHIEF GENERAL MANAGER

SECURITIES AND EXCHANGE BOARD OF INDIA