

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.
Religare Securities Limited (Now known as Religare Broking Limited)	INZ000174330

In the matter of EOW Investigations

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**Background:**

1. An investigation was conducted by the Securities and Exchange Board of India (hereinafter referred to as '**SEBI**'), pursuant to two news articles dated January 08, 2014, *inter alia*, alleging the dematerialization and selling of shares in dormant accounts using forged documents by certain entities during the period from September 14, 2009 till March 08, 2013 (hereinafter referred to as '**Investigation Period**'). SEBI's investigation revealed that shares of 14 listed companies were allegedly acquired in the name of 26 bogus and non-existing entities through transfer of allegedly stolen or counterfeit physical shares and the said shares were subsequently dematerialized in the accounts of these 26 bogus entities.
2. It was observed during the course of investigation that Religare Securities Limited (now known as Religare Broking Limited) (hereinafter referred to as the "**the noticee/ RBL**"), a registered stock broker and a member of BSE Limited (hereinafter referred to as '**BSE**') and National Stock Exchange of India Limited (hereinafter referred to as '**NSE**'), had allegedly failed to exercise due skill, care, diligence, professionalism and efficiency in the conduct of its business, in relation

to the dealings of one of its clients, viz. Mr. Manish Devendra Rath (hereinafter referred to as **“Mr. Rath/ Client”**). It was observed during the investigation that the noticee had:

- a) failed to exercise due skill, care, diligence, professionalism and efficiency by accepting an authority letter which was not duly stamped and did not have any date and by not verifying the email ID and mobile number of Mr. Rath;
- b) failed to exercise due skill, care, diligence, professionalism and efficiency by placing orders received from unregistered mobile number; and
- c) failed to report the dealings of Mr. Rath, which were not commensurate with his annual income, as declared in the Know Your Customer form (hereinafter referred to as **“KYC”**) to the Financial Intelligence Unit (hereinafter referred to as the **“FIU”**).

3. In view of the above, it was alleged that the noticee had violated the provisions of Clause A(2) of Code of Conduct as specified in Schedule II read with regulation 9(f) of the Securities and Exchange Board of India (Stock-Brokers) Regulations, 1992 (hereinafter referred to as the **“Broker Regulations”**).
4. Pursuant to conclusion of the investigation, SEBI appointed a Designated Authority (hereinafter referred to as **‘the DA’**) to inquire into and to submit a report pertaining to the probable violation of Clause A(2) of Code of Conduct as specified in Schedule II read with regulation 9(f) of the Broker Regulations.
5. The DA, after conducting the enquiry, as specified under regulation 25 of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008 (hereinafter referred to as the **‘Intermediaries Regulations’**), submitted the Enquiry Report dated July 29, 2022 (hereinafter referred to as the **“Report”**). In the said Report, the DA has observed that the allegations mentioned at para 2(a), that the noticee failed to exercise due skill, care, diligence, professionalism and efficiency on account of accepting an authority letter which was not duly stamped and did not have any date and not verifying the email ID and the phone number furnished by its client, i.e., Mr. Rath do not stand established.

6. As regards the allegation levelled at para 2(b), the DA has observed that there was lack of diligence on the part of the noticee as 22 calls involving orders/ confirmations/ queries from/ to an unregistered mobile number were made from/ to Religare, without any client verification even though the said number was not registered with Religare.
7. As regards the allegation at para 2(c), i.e, non-reporting of ‘*suspicious transactions*’ to FIU by the noticee, the DA has observed that the noticee, as per paras 8, 9 and 2.2 of the guidelines of the SEBI Circular ISD/CIR/RR/AML/1/06 dated January 18, 2006, read with para 4 sub-clause (c) of Suspicious Transactions Report Guidelines mentioned under para 6 of SEBI Circular ISD/CIR/RR/AML/2/06 dated March 20, 2006 and para 10 and para 13 of SEBI Master Circular CIR/ISD/AML/3/2010 dated December 31, 2010 (hereinafter referred to as “**SEBI PML Circulars**”), was under an obligation to report certain transactions of Mr. Rathi to FIU, which it failed to do. The DA has observed that by not adhering to the SEBI PML Circulars, the noticee failed to exercise due care and diligence, professionalism in the conduct of its business.
8. Accordingly, the DA recommended that the Certificate of Registration of the noticee (bearing no. INZ000174330), as a broker, may be suspended for a period of three months. The relevant excerpt of the Report is produced hereunder:

*“In view of the facts and circumstances of the case and violations as established, I find that the instant enquiry proceedings initiated vide the SCN dated October 04, 2018 against the Noticee viz. Religare Broking Limited (earlier known as Religare Securities Limited) is a fit case for recommending punitive action in the form of suspension of the certificate of registration as specified under Regulations 26(1)(ii) of the Intermediaries Regulations read with Regulation 27 of the Broker Regulations and Section 12(3) of the SEBI Act, 1992. Therefore, in terms of Regulation 26(1)(ii) of the Intermediaries Regulations, I recommend that the registration of the Noticee, i.e., Religare Broking Limited [registration No. INZ000174330] as a broker be suspended for a period of three months.”*

9. Pursuant to submission of the Report, a Post Enquiry Show Cause notice dated October 6, 2022 (hereinafter referred to as the “**SCN**”) enclosing a copy of the Report therewith was issued to the noticee to show cause as to why the action, as recommended by the DA, including other appropriate directions, if any, in terms of regulation 27 of the Intermediaries Regulations should not be taken/ issued against the noticee.
10. The noticee, vide its letter dated October 28, 2022 submitted that it had applied for settlement under the SEBI (Settlement Proceedings) Regulations, 2018 (hereinafter referred to as the “**Settlement Regulations**”) and requested that the matter may be kept in abeyance for a period of eight weeks. In this regard, vide email dated December 6, 2022, the noticee was informed that regulation 8(1) stipulates that filing of a settlement application shall not affect the continuance of proceedings save that the passing of final order may be kept in accordance. Accordingly, the noticee was advised that it may file a reply to the SCN by December 9, 2022. Pursuant, to the same, as requested, the noticee was granted four weeks’ time to file a reply to the SCN.
11. The noticee, vide its letter dated February 06, 2023, filed the reply to the SCN and a hearing in the matter was scheduled on March 10, 2023. On request of the noticee, the hearing was rescheduled to March 21, 2023, which was further rescheduled and conducted on March 28, 2023.
12. On the scheduled date of hearing, Mr. Somasekhar Sundaresan, Advocate, along-with Mr. Gurpreet Sidana (Whole Time Director), Mr. Rajesh Sharma (President, Internal Audit), Mr. Vikas Sethi (Company Secretary and Compliance Officer) Authorized Representatives of the noticee, appeared through video conferencing and made oral submissions in the matter. As requested, the noticee was provided with 10 days’ time to file post hearing submissions in the matter, which it filed vide letter dated April 06, 2023.

13. The submissions made by the noticee in its reply / written submissions dated February 06, 2023, April 06, 2023 and the oral submissions made during the course of personal hearing are summarized hereunder:

- i. There is no allegation against the noticee that the noticee had connived with Mr. Arvind Babulal Goyal (hereinafter referred to as “**Mr. Arvind**”);
- ii. The allegations pertain to placing of orders and receiving instructions/ confirmations from unregistered mobile numbers and in this regard, it is submitted that Mr. Arvind was duly authorised to act on behalf of Mr. Rathi by way of an authority letter and the unregistered number through which the noticee received instructions belonged to Mr. Arvind. Therefore, the receipt and placing of orders received from Mr. Arvind was in line with the authority letter issued by Mr. Rathi. Further, no other instance/ allegation of receiving of orders and confirmations from unregistered numbers is brought out in the investigation;
- iii. The noticee has been a pioneer in maintaining call data records since 2006-07 and call recordings of the orders of Mr. Rathi, placed by his authorized representative, Mr. Arvind, were duly maintained and provided to SEBI, which shows that the noticee was most diligent in keeping evidence of orders placed on behalf of the clients;
- iv. There is no regulatory prohibition on receipt of orders from unregistered mobile numbers and the statutory requirement is only with respect to maintaining of records, which have been duly maintained in the form of ‘telephonic recordings’. Utmost care is taken to place client orders from registered mobile numbers but in absence of any regulatory provision and the prevalent market practice, client orders cannot be refused on the pretext of orders being placed by the client from a particular number and the broker also duly recognises the client before accepting the orders from an unregistered number. Further, in case of non-acceptance of orders, the client may file a complaint and initiate litigation;
- v. Mr. Rathi has never denied the orders placed in his account by Mr. Arvind and the call recordings provided by the noticee have been used by SEBI in the proceedings against Mr. Arvind which demonstrates the due skill, care and diligence in acceptance of order;
- vi. Mr. Rathi had made payments from his mapped bank account for transactions done by Mr. Arvind on a regular basis which demonstrates Mr. Rathi’s

- knowledge about the transactions cannot be questioned. Order confirmation text messages were sent to client's registered mobile numbers;
- vii. The noticee has maintained a robust alert generating system from the commencement of its operations and since several transactions were being executed on a daily basis, the reporting was based/ guided by a set of parameters. During the investigation period, the noticee had reported 512 transactions to the FIU, which were suspicious in nature;
  - viii. In case of Mr. Rathi, the transactions/ trading patterns were scrutinised by the alert generating system but since the number of transactions were low, as compared to the threshold and very limited (around 19 settlement/ trading days in a year) and involved transferring of shares from an external demat account, selling the shares in the account as well as making payments from own bank accounts, Mr. Rathi's name did not appear in the alert generation system;
  - ix. The noticee had put requisite systems in place for reporting suspicious transactions and levying harsh and excessive action of suspension for three months for an alleged breach after ten years would be excessive, harsh and unjust;
  - x. The delay in initiation of proceedings has severely prejudiced the present proceedings. The alleged lack of due diligence pertains to the trades carried out in 2012 and the present SCN has been issued after ten years. Thus, there has been a gross delay in issuance of the SCN and the same ought to be made ineffective on the ground of laches. In this regard, reference is placed on the decision of Hon'ble Securities Appellate Tribunal in the matters of *Ashok Shivilal Rupani and another Vs. SEBI*<sup>1</sup> and *Rakesh Kathotia and others Vs. SEBI* and decision of the Hon'ble Supreme Court in the matters of *Adjudicating Officer, SEBI Vs. Bhavesh Pabari*<sup>2</sup> and *SEBI Vs. Sunil Khaitan*<sup>3</sup>;
  - xi. The reliance by DA on the decision of the Hon'ble Securities Appellate Tribunal (hereinafter referred to as "**SAT**") in the matter of **Marwadi Shares and Finance Limited Vs. SEBI**<sup>4</sup> (hereinafter referred to as "**Marwadi case**") is misplaced as only monetary penalty was levied in the said case;

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<sup>1</sup> Appeal No. 417 of 2018, dated May 27, 2019

<sup>2</sup> (2019) 5 SCC 90

<sup>3</sup> 2022 SCC Online SC 862

<sup>4</sup> Appeal No. 85 of 2011, Decided on July 26, 2012

- xii. The impugned transactions cannot be considered as suspicious in nature and the DA has failed to establish the elements of a suspicious transaction in terms of Prevention of Money-laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) Rules, 2005 (hereinafter referred to as “**PML Rules**”);

### **Consideration of Issues and Findings:**

14. I have carefully examined the material available on record viz. the Enquiry Report, the SCN, the reply and the written and the oral submissions put forth during the course of personal hearing. The *first* allegation is that the noticee failed to exercise due skill, care, diligence, professionalism and efficiency by accepting an authority letter which was not duly stamped and did not have any date and by not verifying the email ID and the mobile number of Mr. Rath. The *second* allegation is that the noticee failed to exercise due skill, care, diligence, professionalism and efficiency by placing orders received from an unregistered mobile number. The *third* allegation is that the noticee failed to exercise due diligence in reporting certain transactions of Mr. Rath which were not commensurate with his declared annual income, to FIU.
15. As regards the *first* allegation, the DA in the report has observed that the aforesaid allegation does not stand established against the noticee. The noticee had submitted before the DA that there were no specific guidelines with regard to the format of the authorization letter. The noticee provided the format for authorization letter along with the KYC form and clients filled in the authorization letter at the time of account opening. Thus, the date of account opening would be considered as the date of authorization. Further, the authorization letter is not a ‘Power of Attorney’ and therefore stamp paper is not required. As regard the allegation of not verifying the email ID and the mobile numbers of Mr. Rath, the noticee had submitted before the DA that SEBI/ Exchanges had neither mandated nor prescribed the requirement/ method of verifying the email ID or the mobile number. Mr. Rath was also being sent the client notes on the registered email ID, as provided during account opening.

The DA observed that the SCN had failed to point out to any specific regulatory provision which prescribes a specific format for execution of authorization letters. The DA has also noted that the authorization letter was a part of the KYC forms of the noticee and it was not SEBI's case that the KYC of the client was incomplete.

16. I agree with the DA and I am of the view that the authorization letter executed/ signed by Mr. Rathi in favor of Mr. Arvind cannot be disputed as being not enforceable. Similarly, as regard the allegation pertaining to verification of email ID of Mr. Rathi, the DA noted that there is no regulatory requirement which prescribes for verification of email IDs/ mobile numbers of the clients in any specific manner. In view of the submissions of the noticee and the absence of any specific regulatory requirement, the DA accepted the noticee's contention and found that the allegation in this regard, did not stand established. I agree with the DA's observations that the noticee could not be reasonably expected to verify the authenticity of the contact details willingly provided by its clients in the absence of any regulatory specification. Hence, I agree with the observation of the DA that the allegation about lack of due diligence on the part of the noticee while accepting authorization letter and not having a system to verify mobile numbers and email IDs is not established.

17. With respect to the *second* and *third* allegations regarding placing of orders received from unregistered mobile number and non-reporting of '*suspicious transactions*' to FIU, after taking into consideration the contents of the SCN and the written and oral submissions made by the noticee, the issues that arise for my consideration are as under:

- a) Whether the noticee was under a legal obligation to receive/ place orders only from the registered mobile numbers and if so, whether the noticee has shown lack of diligence by accepting orders/ communicating with unregistered mobile numbers;
- b) Whether the transactions of Mr. Rathi fall within the purview of the term '*suspicious transactions*' as defined under rule 2(1)(g) of the PML Rules?
- c) Whether the noticee has violated the SEBI PML Circulars by not reporting the suspicious transactions to FIU?



- d) Whether the noticee has violated Clause A(2) of the Code of Conduct as specified in Schedule II read with regulation 9(f) of the Broker Regulations?

18. Before dealing with the issues at hand, I deem apposite to refer to the relevant provisions of law alleged to have been violated in the matter, extracts whereof are reproduced below:

**“SEBI (Stock Brokers) Regulations, 1992:**

***Conditions of registration.***

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

*...*

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

**SCHEDULE II**

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

**CODE OF CONDUCT FOR STOCK BROKERS**

**[Regulation 9]**

**A. General.**

**(1) ...**

**(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.

**Rule 2(1)(g) of the PML Rules**

*(g) "Suspicious transaction" means a transaction referred to in clause (h), including an attempted transaction, whether or not made in cash, which to a person acting in good faith-*

*(a) gives rise to a reasonable ground of suspicion that it may involve proceeds of an offence specified in the Schedule to the Act, regardless of the value involved; or*

*(b) appears to be made in circumstances of unusual or unjustified complexity; or*

*(c) appears to have no economic rationale or bona fide purpose; or*

*(d) gives rise to a reasonable ground of suspicion that it may involve financing of the activities relating to terrorism;*

*Explanation. - Transaction involving financing of the activities relating to terrorism includes transaction involving funds suspected to be linked or related to, or to be used for terrorism, terrorist acts or by a terrorist, terrorist organisation or those who finance or are attempting to finance terrorism*

## **SEBI PML Circulars**

### **A. SEBI Master Circular dated December 31, 2010**

#### **10. Suspicious Transaction Monitoring & Reporting**

*10.1 Intermediaries shall ensure that appropriate steps are taken to enable suspicious transactions to be recognized and have appropriate procedures for reporting suspicious transactions. While determining suspicious transactions, intermediaries shall be guided by the definition of a suspicious transaction contained in PML Rules as amended from time to time.*

*10.2 A list of circumstances which may be in the nature of suspicious transactions is given below. This list is only illustrative and whether a particular transaction is suspicious or not will depend upon the background, details of the transactions and other facts and circumstances:*

- a) Clients whose identity verification seems difficult or clients that appear not to cooperate*
- b) Asset management services for clients where the source of the funds is not clear or not in keeping with clients apparent standing /business activity;*
- c) Clients based in high risk jurisdictions;*
- d) Substantial increases in business without apparent cause;*
- e) Clients transferring large sums of money to or from overseas locations with instructions for payment in cash;*
- f) Attempted transfer of investment proceeds to apparently unrelated third parties;*
- g) Unusual transactions by CSCs and businesses undertaken by offshore banks/financial services, businesses reported to be in the nature of export- import of small items.*

10.3 Any suspicious transaction shall be immediately notified to the Money Laundering Control Officer or any other designated officer within the intermediary. The notification may be done in the form of a detailed report with specific reference to the clients, transactions and the nature /reason of suspicion. However, it shall be ensured that there is continuity in dealing with the client as normal until told otherwise and the client shall not be told of the report/suspicion. In exceptional circumstances, consent may not be given to continue to operate the account, and transactions may be suspended, in one or more jurisdictions concerned in the transaction, or other action taken. The Principal Officer/Money Laundering Control Officer and other appropriate compliance, risk management and related staff members shall have timely access to client identification data and CDD information, transaction records and other relevant information.

### **13. Reporting to Financial Intelligence Unit-India**

13.1 In terms of the PML Rules, intermediaries are required to report information relating to cash and suspicious transactions to the Director, Financial Intelligence Unit-India (FIU-IND) at the following address:

**Director, FIU-IND,  
Financial Intelligence Unit-India,  
6th Floor, Hotel Samrat, Chanakyapuri,  
New Delhi-110021.  
Website: <http://fiuindia.gov.in>**

13.2 Intermediaries shall carefully go through all the reporting requirements and formats enclosed with this circular. These requirements and formats are divided into two parts- Manual Formats and Electronic Formats. Details of these formats are given in the documents (Cash Transaction Report- version 1.0 and Suspicious Transactions Report version 1.0) which are also enclosed with this circular. These documents contain detailed directives on the compilation and manner/procedure of submission of the manual/electronic reports to FIU-IND. The related hardware and technical requirement for preparing reports in manual/electronic format, the related data files and data structures thereof are also detailed in these documents. Intermediaries, which are not in a position to immediately file electronic reports, may file manual reports with FIU-IND as per the formats prescribed. While detailed instructions for filing all types of reports are given in the instructions part of the related formats, intermediaries shall adhere to the following:

*(a) The Cash Transaction Report (CTR) (wherever applicable) for each month shall be submitted to FIU-IND by 15th of the succeeding month.*

*(b) The Suspicious Transaction Report (STR) shall be submitted within 7 days of arriving at a conclusion that any transaction, whether cash or non-cash, or a series of transactions integrally connected are of suspicious nature. The Principal Officer shall record his reasons for treating any transaction or a series of transactions as suspicious. It shall be ensured that there is no undue delay in arriving at such a conclusion.*

*(c) The Principal Officer will be responsible for timely submission of CTR and STR to FIU-IND;*

*(d) Utmost confidentiality shall filing of CTR and STR to FIU-IND. The reports may be transmitted by speed/registered post/fax at the notified address.*

*(e) No nil reporting needs to be made to FIU-IND in case there are no cash/suspicious transactions to be reported.”*

19. The provisions of SEBI Circulars dated January 18, 2006 and March 20, 2006 have not been reproduced above as the provisions relevant to the present proceedings have been appropriately covered in the SEBI Master Circular dated December 31, 2010 which consolidates and supersedes the earlier circulars, including the circulars dated March 20, 2006 and January 18, 2006.

20. I now proceed to examine the issues framed at para 17 above on merits in light of the material available on record and the submissions made by the noticee.

21. The first issue for my consideration in the present proceedings is whether the noticee was under a legal obligation to receive orders from registered mobile numbers only. In this regard, the DA has observed that in 22 calls made from an unregistered mobile numbers, no client verification was done by the noticee before proceeding to discuss order details. This, as observed by the DA, amounted to a lack of diligence on the part of the noticee. It is noted from the records that the orders, on behalf of Mr. Rathi, were placed by Mr. Arvind, the authorized person, from a number, which was not registered with the noticee and not on records. In this

regard, I observe that the contact details/ numbers registered with the noticee, during the KYC, belong to the person who opens the trading account and not of the authorized person. I have also examined the letter of authorization issued by Mr. Rath, in favor of Mr. Arvind and it is observed from the said letter that Mr. Arvind was authorized to place verbal orders over phone on behalf of Mr. Rath. Further, the records also show that Mr. Rath has not disputed the orders placed from the mobile number of Mr. Arvind, who was authorized in this regard by Mr. Rath himself. As observed earlier, there is no material available on record or reason to dispute the authorization letter issued by Mr. Rath in favor of Mr. Arvind. Accordingly, I am of the view that the allegations against noticee in this regard are not sustainable and thus, I answer the issue framed at para 17(a) above in the negative.

22. The next issue for my consideration in the present proceedings is whether the transactions executed by client of the noticee, i.e., Mr. Rath would fall within the purview of the term '*suspicious transactions*', and if the same is answered in affirmative, whether the noticee defaulted by not reporting the said transactions to FIU. In order to examine the impugned transactions on the criteria, as given in rule 2(1)(g) of the PML Rules, for judging whether a transaction is a suspicious transaction, it is necessary to reproduce the impugned transactions along with relevant observations of the DA as under:

*“23. I note that the client (Mr. Rath) of Noticee had received in shares of Global Securities Ltd in his demat account (DP – Religare Securities Ltd, Bo Id : 17494533) in off market from the following non-existing bogus entities, as identified in the Investigation Report:*

<b>Date</b>	<b>Transferor Name</b>	<b>Transferor Demat A/c</b>	<b>Quantity of shares</b>
19/04/2012	Rupprakash Agarwal	1203320007329200	39,800
28/04/2012	Mukesh Kumar Mittal	1203320005372085	5,300

28/04/2012	Suresh Arvind Shah	1203320002416292	2,900
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24. The said shares of Global Securities Ltd were immediately sold by Mr. Rath in BSE through the Noticee as detailed hereunder –

<b>Trade Date / Date of Transfer towards Settlement</b>	<b>Quantity of shares</b>	<b>Value of shares (₹)</b>
28/04/2012	39,800	9,51,220
28/04/2012	5,300	1,26,670
28/04/2012	2,900	69,310
<b>Total</b>	<b>48,000</b>	<b>11,47,200</b>

*From the above, I note that Rath's trading turnover on April 28, 2012 was Rs. 11,47,200 which is not commensurate with his declared gross annual income which was between Rs. 1 to Rs. 5 Lakhs. The same has been captured in the account opening form submitted by Rath to Religare."*

The DA has further observed in para 27 of the Enquiry Report that "...Rath's trading turnover was far greater than his declared gross annual income of Rs. 1 to 5 Lakhs. Thus, I find that the Client's daily trading turnover was not commensurate with the declared Annual Income. I note that given the fact that these transactions were not commensurate with the income of the client, the said transactions give rise to a reasonable suspicion that the Client may not be trading with a bona fide purpose and he may be acting as a front/conduit for somebody else, and therefore amounted to suspicious transactions in terms of the SEBI PML Circulars and PML Rules..."

23. Relying on the aforesaid discussion, the DA in para 27 of the Enquiry Report has observed that "...I note that, as per the SEBI PML Circulars, the reporting obligation

*is triggered at the very threshold of suspicion and does not require any conclusive proof of an illegal transaction. In view of the foregoing, I find that the Noticee should have reported the trading activity of the Client, which was not commensurate with his income to FIU-IND, as required under the SEBI PML Circulars. However, as admitted by the Noticee, it failed to do so.”*

24. The DA has noted that the noticee has not reported three transactions (hereinafter referred to as the **“sell transactions”**) entered into by Mr. Rath on April 28, 2012, to FIU as suspicious transactions. It is observed from the Enquiry Report that in respect of these three transactions on April 28, 2012, the trading turnover of Mr. Rath is alleged to be not commensurate with his annual income, as declared in the KYC records and this alone, as observed by the DA, should have alerted the noticee that the transactions entered into by Mr. Rath may not have a bonafide purpose and, therefore, amounted to *suspicious transactions*. The impugned transactions are as under:

Trade Date	Quantity of shares	Value of shares (₹)
28/04/2012	39, 800	9, 51, 220
28/04/2012	5, 300	1, 26, 670
28/04/2012	2900	69, 310
<b>Total</b>	<b>48000</b>	<b>11,47,200</b>

25. According to the DA, the noticee should have reported the said transactions to FIU, as mandated by the SEBI PML Circulars.

26. It is evident that Mr. Rath received 48,000 shares of Global Securities Limited (hereinafter referred to as **“Global”**) through off-market transactions on April 19, 2012 and April 28, 2012 and the said shares were later sold by Mr. Rath on April 28, 2012, when shares were worth around ₹11.47 lakhs. Since the trading turnover generated by the said sale was around ₹11.47 lakhs, the DA has observed that the same was not commensurate with the annual income of Mr. Rath, which was in the range of ₹1-5 lakhs as per the KYC of Mr. Rath.

27. The noticee in its defence, has argued, that the noticee had put in place a robust alert generating system from the commencement of its operations and the same was based on certain preset parameters, which were developed based on the guidance received from the FIU and the noticee had reported around 500 suspicious transactions during the investigation period. Further, the noticee has also submitted that in case of share credit in the account of a client, the noticee cannot seek the details of the counter party to ascertain the bonafide of the other entities and thus the bogus entities through which Mr. Rathie received the shares in off market transactions could not have been monitored by the noticee. Further, as Mr. Rathie sold the shares from his account and the payments, as and when required, were made from his own bank accounts, Mr. Rathie's name did not appear in the alerts generated by the system of the noticee. The noticee has also submitted that the DA failed to establish the elements of a '*suspicious transaction*', i.e., transactions involved proceeds of crime, were made in circumstances of unusual or unjustified complexity, involved financing of the activities relating to terrorism or had no economic rationale or bonafide purpose.

28. As regards the submission of the noticee that the impugned shares were received by Mr. Rathie through off-market transactions. I am of the view that as the said shares were received through off-market transactions, the noticee, as a broker, could not have been involved in the credit of such shares to the account of Mr. Rathie. Further, since the shares received through the aforesaid off-market transactions were sold by Mr. Rathie, the impugned sell transactions cannot be termed as 'suspicious' merely in light of declared annual income, in absence of other surrounding/ supporting factors. Since the receipt of the shares did not involve the noticee, the noticee could not have formed any opinion with respect to the legality/ genuineness of receipt of the said shares and, for the sell transactions, the noticee could not have had any reason to suspect the source of such shares because the client already had the shares in his demat account. The fact that the shares sold by Mr. Rathie were received by him through off-market transactions, without any involvement of the noticee, has not been taken into account by the DA and I consider the same as a relevant fact in the present proceedings. Since the impugned transactions involved



sale of shares received through off-market transactions, it cannot be held that the same fell within the purview of the term '*suspicious transactions*' and that the noticee was under an obligation to report the said transactions to FIU only on the basis of annual income range declared by Mr. Rathi.

29. I consider it necessary to compare the facts of the present matter with the facts of the Marwadi case (relied upon by the DA) to put things in a better perspective. The Marwadi case, *inter alia*, was in respect of execution of 200 trades, out of which 197 were self-trades. The Hon'ble SAT had therein held that 197 trades is not a small number and self-trades, by their very nature, are fictitious and had accordingly held the noticee therein, liable for non-reporting of suspicious transactions. The number of trades involved in the present matter is comparatively very low (i.e., 3 sell transactions executed in the year 2012). Thus, the facts of the present case are distinguishable from the Marwadi case.

30. In light of the aforesaid discussion, I hold that it would not have been possible to suspect that the sell transactions had been done in circumstances of unusual or unjustified complexity or involved the proceeds of an offence specified in the schedule of Prevention of Money-laundering Act, 2002 or involved financing of the activities relating to terrorism or had no economic rationale or bona fide purpose.

31. Having found that the impugned transactions cannot be labelled as '*suspicious transactions*', I answer the questions framed at Para 17(b) and 17(c), i.e., whether the transactions of Mr. Rathi fall within the purview of the term '*suspicious transactions*' as defined under rule 2(1)(g) of the PML Rules and the noticee violated the SEBI PML Circulars, above in the negative.

32. In view of the same, I disagree with the findings of the DA and hold that the noticee has not violated Clause A(2) of the Code of Conduct as specified in Schedule II read with regulation 9(f) of the Broker Regulations. Thus, the question framed at Para 17(d) is also answered in the negative. Accordingly, SCN is liable to be disposed of against the noticee without issuance of any directions.

## **Order**

33.I, in exercise of the powers conferred upon me under Section 12(3) and Section 19 of the SEBI Act read with Regulation 27(5) of the Intermediaries regulations, hereby dispose of the instant proceedings against the noticee, namely, Religare Securities Limited (Now known as Religare Broking Limited) [Registration No. INZ000174330] without issuance of any directions.

**Sd/-**

**DATE: AUGUST 23, 2023**  
**PLACE: MUMBAI**

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