BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. EAD-8/KS/AA/AO/234/2019-20]

UNDER SECTION 15-I OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES BY ADJUDICATING OFFICER) RULES, 1995 AND RULE 5 OF SECURITIES CONTRACTS (REGULATION) (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES BY ADJUDICATING OFFICER) RULES, 2005

In respect of

Geojit Financial Services Limited
(Formerly known as Geojit BNP Paribas Financial Services Ltd.)
SEBI Stock Broker Registration No. INZ000104737

In the matter of Geojit BNP Paribas Financial Services Limited

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FACTS OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') had conducted an inspection of the books of accounts and other records of Geojit BNP Paribas Financial Services Ltd. (now known as Geojit Financial Services Ltd. and hereinafter referred to as '**the Noticee'**), a SEBI registered stock broker, to examine its compliance with various regulatory norms prescribed by SEBI. The period of inspection was FY 2013-14 and FY 2014-15.

2. Based on the findings of the inspection, SEBI initiated Adjudication Proceedings against the Noticee under the provisions of Regulation 26(ii), (iii), (xv), (xvi) and (xx) of the SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 (hereinafter referred to as '**Broker Regulations**'), Sections 15C and 15HB of the SEBI Act, 1992 (hereinafter referred to as '**SEBI Act**') and

Sections 23C and 23H of the Securities Contracts (Regulation) Act, 1956 (hereinafter referred to as '**SCR Act**') for the alleged violation of the following provisions:

a) SEBI circular No. ISD/CIR/RR/AML/1/06 dated January 18, 2006;
b) SEBI master circular on AML/CFT obligations dated December 31, 2010;
c) SEBI circular No. CIR/MIRSD/2/2013 dated January 24, 2013;
d) Regulation 9(e) of the Broker Regulations;
e) SEBI circular No. MIRSD/SE/Cir-19/2009 dated December 3, 2009;
f) SEBI circular No. SEBI/MIRSD/SE/Cir/01/2011 dated May 13, 2011 with respect to quarterly/ monthly settlement of funds and securities of clients;
g) Exchange circular Nos. NSE/INSP/13606 dated December 03, 2009 read with circulars No. NSE/INSP/14048 dated February 03, 2010 and NSE/INSP/21651 dated September 09, 2012;
h) SEBI circular No. SMD/SED/CIR/93/23321 dated November 18, 1993;
i) Clause A(2), A(5) & C(6) of the Code of Conduct specified under Schedule II read with Regulation 9(f) of the Broker Regulations; and
j) Regulation 21(1) and 21(4) of the Broker Regulations.

APPOINTMENT OF ADJUDICATING OFFICER

3. Shri Suresh Gupta was appointed as the Adjudicating Officer vide communique dated April 24, 2017 to inquire into and adjudge, under the provisions of Regulation 26(ii), (iii), (xv), (xvi) and (xx) of the Broker Regulations, Sections 15C and 15HB of the SEBI Act and Sections 23C and 23H of the SCR Act, the aforesaid violations alleged to have been committed by the Noticee. Subsequently, the undersigned has been appointed as the Adjudicating Officer in the present matter vide appointment order dated May 18, 2017.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

4. A Show Cause Notice (hereinafter referred to as '**SCN**') dated February 14, 2018 was issued to the Noticee under Rule 4(1) of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995

(hereinafter referred to as '**SEBI Adjudication Rules**') and Rule 4(1) of Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 2005 (hereinafter referred to as '**SCRA Adjudication Rules**') communicating the alleged violations. The Noticee was also called upon to show cause as to why an inquiry should not be initiated against it in terms of Rule 4 of the Adjudication Rules and penalty be not imposed under the provisions of Regulation 26(ii), (iii), (xv), (xvi) and (xx) of the Broker Regulations, Sections 15C and 15HB of the SEBI Act and Sections 23C and 23H of the SCR Act for the aforesaid alleged violations.

5. The details in respect of alleged violations by the Noticee are as given below:

   (a) The Noticee during the course of inspection submitted that it formulated its first AML Policy on October 28, 2006. SEBI circular No. ISD/CIR/RR/AML/1/06 dated January 18, 2006 mandated that all intermediaries had to ensure that a proper policy framework as per the guidelines on anti-money laundering measures is put into place within one month from the date of the circular. Thus, it was observed that the Noticee made a delay of more than 7 months in formulating the AML Policy. In view of the same, it is alleged that the Noticee has violated the provisions of SEBI circular No. ISD/CIR/RR/AML/1/06 dated January 18, 2006.

   (b) It was observed during the course of inspection that the AML policy formulated by the Noticee refers to the requirement of identifying beneficial ownership, but the procedure to be followed for identifying beneficial ownership is not a part of the said policy. Further, it was also observed that in 4 instances of KYC verification (namely for AMW Auto Component Limited, Pattabhi Agro Foods Limited, Shakti International Private Limited and Witmans Industries Private Limited), the Noticee has not identified the beneficial ownership at the time of account opening. In view of the above observation, it was alleged that the Noticee had violated the provisions of SEBI circular No. CIR/MIRSD/2/2013 dated January 24, 2013 and SEBI master circular on AML/CFT obligations No. CIR/ISD/AML/3/2010 dated December 31, 2010.

(c) The Noticee during the course of inspection submitted that it first appointed a principal officer vide letter dated August 30, 2006 and that the approval for this appointment was obtained from its Board on October 28, 2006. It was observed that the appointment of Principal Officer has been made after a delay of more than 7 months, which is not in accordance with the provisions of SEBI circular No. ISD/CIR/RR/AML/1/06 dated January 18, 2006, In view of the same, it was alleged that the Noticee has violated the provisions of SEBI circular No. ISD/CIR/RR/AML/1/06 dated January 18, 2006.

(d) As per PML rules and SEBI directives, Suspicious Transactions Report ('STR') must be filed with FIU-IND not later than seven working days on being satisfied that the transaction is suspicious. It was observed during inspection that in the following seven instances the STRs have not been filed within prescribed time period to FIU-IND:

S. No.	***Name of the Client***	***Date of Filing STR***	***Date of deciding transaction as suspicious***	***Diff. between deciding transaction as suspicious and filing of STR***
1	*Neyas Mohammed*	*06/05/2014*	*28/03/2014*	*39*
2	*Utaam Chand Jain*	*03/02/2015*	*30/12/2014*	*35*
3	*Chandra Prakash Jain*	*03/02/2015*	*30/12/2014*	*35*
4	*Sheetal Sanjay Udeshi*	*28/05/2014*	*03/05/2014*	*25*
5	*Manwani N L*	*17/05/2014*	*03/05/2014*	*14*
6	*Chandrabai*	*17/05/2014*	*03/05/2014*	*14*
7	*Karishma Manwani S*	*17/05/2014*	*03/05/2014*	*14*

In view of the same, it was alleged that the Noticee has violated the provisions of SEBI master circular on AML/CFT obligations No. CIR/ISD/AML/3/2010 dated December 31, 2010.

(e) *The Broker Regulations require that a broker take adequate steps to redress investor grievances within 30 days of the date of receipt of the complaint. It was observed during inspection that in 23 instances the Noticee did not provide the details of interim communication. Further, the delay between reply to the complainant and the receipt of complaint ranged from 15 days to 41 days. In view of the same, it was alleged that the Noticee has violated the provisions of Regulation 9(e) of the Broker Regulations.*

(f) *The following were the observations in respect of running account settlement of client accounts:*

(i) *It was observed from the policy adopted by the Noticee in respect of running account settlement of its clients that the Noticee is retaining Rs. 10,000/- if the same has been consented by the client.*

(ii) *Further, the Noticee settles the account only if the amount to be settled is above Rs. 1,000/-.*

(iii) *It was also observed that any new fund received into client's account during the previous 7 days is not included in the fund to be settled.*

(iv) *During the inspection, the Noticee had submitted details regarding total number of credit balance clients during each quarter covered under the inspection period. It is observed from the analysis of such data that the Noticee is not settling running accounts for inactive clients. The data in this respect is as below:*

During Quarter Ending	***Inactive Not Settled***				
	Average Amount	***Min. Amount***	***Max. Amount***	***Total Amount***	***No. of clients***
Mar 15 to Dec 14	*11,130.44*	*1000.17*	*8,06,596.18*	*1,50,03,843.17*	*1348*
Dec 14 to Sep 14	*13,663.72*	*1000.17*	*8,06,596.18*	*1,74,62,238.58*	*1278*
Sep 14 to Jun 14	*9,606.61*	*1000.17*	*4,13,451.21*	*1,02,79,075.59*	*1070*
June 14 to Mar 14	*16,236.80*	*1,000.17*	*59,57,327.74*	*2,26,34,112.52*	*1394*
Mar 14 to Dec 13	*12,587.43*	*1,000.17*	*9,23,139.52*	*2,30,60,176.51*	*1832*
Dec 13 to Sep 13	*12,294.28*	*1,000.17*	*9,23,139.52*	*2,38,50,913.73*	*1940*
Sep 13 to Jun 13	*12,306.47*	*1,000.17*	*9,23,139.52*	*2,19,05,527.54*	*1780*

(v) *It was also observed that the Noticee has not settled client accounts for the sample examined for quarter ended June 2013, December 2013, September 2014 and March 2015. The information in this respect is as below:*

Quarter ending	***Observations***
June 2013	*a) For client AAMR003, the date of settlement was 27/06/2013, however, valuation has been done for securities available as on 28/06/2013. Further, the values of closing price and VaR margin do not match with the values as per NSE on 27/06/2013 or 28/06/2013.*
December 2013	*a) For Client AND013, the amount to be settled after valuation is Rs. 5,52,906.51. However, the Noticee has settled only Rs. 3,92,960.51. Therefore, the Noticee has retained Rs. 1.6 lakh in addition to the maximum permissible amount.*
September 2014	*a) For client AAMR003, the amount to be settled after valuation is Rs. 42,20,29,079.74. However, the Noticee has settled only 37,76,15,162.88. Thus, the Noticee has retained Rs. 4,44,13,916.86 in addition to the maximum permissible amount.* *b) For client QKS019, there is no retention and the amount to be settled after valuation is Rs. 9,405.24. However, the Noticee has not settled the account.*
March 2015	*a) For client AAMR003, there is no retention and the amount to be settled after valuation is Rs. 34,29,29,312.42. However, the Noticee has settled only Rs. 34,28,91,819.76. Thus, the Noticee has retained Rs. 37,492.66 in addition to the maximum permissible amount.*

(vi) *In respect of running account authorization forms, the following discrepancies were observed:*

Sr. No.	***Client Codes***	***Client Name***	***Discrepancy Observed***
1	*AAMR003*	*Rare Enterprises*	*No authorization for maintaining/ settlement of running account.*

2	*ZZP001*	*Pandian G N*	*Authorization only for maintaining running account and not for settlement of running account.*
	CWH008	*Hasmukh Parekh*	
	PLS034	*Sujith D Kamath*	
	QKS019	*Sekhar K A*	
	GQS463	*Sasidharan M P*	
3	*AAMQ001*	*Quest Partners*	*Running account settlement authorization is not dated.*

(vii) In terms of SEBI circular No. MIRSD/SE/Cir-19/2009 dated December 03, 2009 , a broker while settling the account shall send to the client a 'statement of accounts' containing an extract from the client ledger for funds and an extract from the register of securities displaying all receipts / deliveries of funds/ securities. The statement shall also explain the retention of funds/ securities and the details of the pledge, if any. The following were observed in respect of the statements sent by the Noticee:

a) The statement does not mention date of settlement.

b) The statement does not mention the amount of funds/ securities settled.

c) The statement does not mention amount of funds/ securities retained or the explanation regarding the retention of funds/ securities.

d) The statement does not mention amount not required to be returned.

e) The statement does not mention closing balance of securities.

f) The statement period does not start from the date of last settlement, but it starts from the first day of quarter. Hence, the statement does not contain transaction details for the period from the date of last settlement and end of that quarter.

g) The statement does not provide detail of securities retained as margin/ pledged for the period from the date of last settlement done till the current settlement date.

(viii) It was also observed that NSE had issued a warning to the Noticee pursuant to inspection in FY 2013-14 for delay in sending statement of accounts for funds and securities to its clients at the time of settlement. This observation was also pointed out in the previous NSE inspection. Further, MCX-SX had

advised the Noticee to ensure settlement of client accounts pursuant to inspection in FY 2014-15. In view of the same, it was observed that the observations are repetitive in nature.

(g) *The aforesaid observations regarding running account settlement policy, settlement of inactive clients & active clients, running account authorization forms, statements sent pursuant to settlement and repetitive observations in NSE and MCX-SX inspections are not in accordance with the provisions of SEBI circular No. MIRSD/SE/Cir-19/2009 dated December 3, 2009; SEBI circular No. SEBI/MIRSD/SE/Cir/01/2011 dated May 13, 2011; Exchange circular NSE/INSP/13606 dated December 03, 2009; clarification circulars NSE/INSP/14048 dated Feb 03, 2010 and NSE/INSP/21651 dated September 07, 2012 and it was alleged that the Noticee has violated the said referred circulars.*

(h) *It was also alleged that the Noticee kept changing the data w.r.t. settlement of sample clients done during inspection period. The matter was brought on record and the Noticee had signed off on the same in respect of the following observations:*

   (i) *The Noticee was advised during inspection to explain the details of settlement working provided to the inspection team. During verification as and when the Noticee was advised to explain data, the Noticee kept revising details with respect to cash market turnover, margin obligation, retention amount, date of settlement and funds/ securities settled.*

   (ii) *The Noticee was advised to explain how securities were valued. To this the Noticee submitted that the securities considered for settlement included securities lying in the client BO account maintained with the Noticee in capacity of DP and securities given to Noticee as collateral. Subsequently, the Noticee was informed that since the securities lying in the client BO account are not part of running account and hence do not require settlement, the Noticee revised the working and excluded the securities lying in the BO account.*

Further, the Noticee had not retained past records of the calculations carried out for arriving at the settlement of funds/ securities of clients. In view of the above, it was alleged that the Noticee has violated the provisions of Regulation 21(1) & (4) of the Broker Regulations and Clause A(2), A(5) & C(6) of the code of conduct specified under Schedule II read with Regulation 9(f) of the Broker Regulations.

(i) *It was observed during the verification of list of bank accounts and first page of bank statement of all bank statements that the word "Client Accounts" was not used in the name of certain bank accounts (viz. Axis Bank A/c 081010200011060, Axis Bank A/c 0810102000012157, Axis Bank A/c 081010200004930, Citi Bank Client A/c 0312059045, Citi Bank A/c 0858480116, Citi Bank A/c 0312059002, HDFC Bank A/c 00200340000123 and IDBI Bank A/c137103000000505) as required under SEBI circular No. SMD/SED/CIR/93/23321 dated November 18, 1993. In view of the same, it is alleged that the Noticee has violated the provisions of the SEBI circular No. SMD/SED/CIR/93/23321 dated November 18, 1993.*

(j) *On account of the above mentioned alleged violations in the preceding paragraphs, it was also alleged that the Noticee has failed to exercise due care, skill and diligence as required in the conduct of its business as a Stock Broker and has therefore not complied with the provisions of Clause A(2) and A(5) of the Code of Conduct prescribed for stock brokers contained in Schedule II read with Regulation 9(f) of the Broker Regulations.*

6. The SCN issued to the Noticee was sent via Registered Post Acknowledgement Due and digitally signed email. The Noticee vide letter dated February 28, 2018 stated that it had filed a settlement application before SEBI in the matter and made a request to keep the matter in abeyance till the decision on its settlement application is made by SEBI. Thereafter, the Noticee vide its letter dated September 28, 2018 submitted that it had withdrawn the settlement application filed before SEBI and the Noticee requested for an additional time of three weeks for submitting its reply to the SCN. In view of the same, the Noticee was granted a final opportunity for submitting its reply latest

by October 19, 2018 vide letter dated October 15, 2018. The Noticee was also granted an opportunity of hearing in the matter on October 25, 2018 vide the said letter dated October 15, 2018. Subsequently, the Noticee vide letter dated October 17, 2018 submitted its reply to the SCN and *inter alia* made the following submissions:

A. *At the outset, we humbly submit that the material allegations made in the SCN are not correct and we deny the said allegations. We submit that Geojit is compliant with the Broker Regulations, SEBI guidelines and stock exchange circulars. We further submit that:*

   (i) *The delay of 6 months in framing the AML policy in accordance with SEBI circular No. ISD/CIR/RR/AML/1/06 dated January 18, 2006 was only on account of taking time to understand the contours of AML policy to be framed as it was the first time. We humbly submit that subsequently SEBI has issued circulars with regard to AML measures to be complied by the intermediary. We submit that there was no adverse observation in the inspection report about any delay in updation of the AML policy in accordance with the later circulars. It would substantiate our stand that the delay was not deliberate but only resulted consequent to the time taken in our efforts to understand and frame a compliant AML policy.*

   (ii) *Geojit had framed a broad AML policy including the requirement for identifying beneficial ownership. The methodology for identification of beneficiaries was circulated by way of separate circular to all offices to facilitate the operational staff to implement the same effectively. However, in view of the observations made in the inspection report, the AML policy was revised to include the methodology of identification of beneficiaries which was approved by the board on July 24, 2015. The four cases of KYC verification identified by the inspection team were prior to SEBI circular no. CIR/MIRSD/2/2013 dated January 24, 2013. We had put in place a process for the identification of beneficial ownership at the time of account opening immediately after the above referred SEBI circular.*

   (iii) *As mentioned above, it took time in understanding the concepts and incorporating them into the AML policy in the first occasion. Therefore, the principal officer was appointed on August 30, 2006.*

(iv) *The delay in filing of STRs in seven cases were on account of non availability of FIU site, technical issues, misunderstanding of comments of the principal officer and there was no negligence on our part in filing STRs as explained in the reply to the inspection report and in the paragraphs below.*

(v) *The investor grievances have been taken up immediately on receipt of the same in all cases within a period of 15 days. In many cases, we have to carry out detailed investigation and obtain clarifications from our staff. In some cases, in respect of transactions that took place 3 to 4 years back and therefore some time was taken to get all the facts. The observations of the inspection team refer to delay in final reply to the investors.*

(vi) *The retention upto Rs. 10,000/- was made with the consent of the clients as per NSE circular. However, by oversight retention was made for active clients who had given consent irrespective of whether they had traded or not. We have rectified the procedure.*

(vii) *The average balance of all clients having balance below Rs. 1,000/- was less than Rs. 170/-. The settlement of such small amounts was not convenient for even clients based upon their inputs as in some cases the bank clearing charges were higher than the payout amounts which led to investors becoming upset with whole process. Pursuant to the observations in the inspection report, we are settling all amounts greater than Re. 1/-.*

(viii) *When Geojit started implementing quarterly settlement of even new fund received into client's account during the previous 7 days of the date of settlement, the investors have complained when the funds were transferred back to their accounts immediately as they were unable to make use of some opportunity in the market. Therefore, Geojit decided internally not to settle the funds received into client's account during the previous 7 days of the date of settlement. However, pursuant to the observations in the inspection report, we have now stopped the above practice and settling the account accordingly.*

(ix) *We have settled the accounts of all inactive clients as far as possible. Wherever we are not able to settle the dues for reasons beyond our control, as advised by NSE, we have segregated the funds and created client FDs. Proportionate interest will be credited to client while settling funds of such clients. There were some discrepancies with regard to amounts in the*

inspection report. Further, Geojit has never utilized the amounts of the clients for its own purpose.

(x) *Geojit has completely revamped the statements in line with the format prescribed by NSE.*

(xi) *On a quarterly basis, the settlement is done for around 84,000 clients. And, we are sending physical statements to around 30,000 clients. Such large numbers have resulted in some technical issues while generating the statements resulting in a delay of 7 days. Post SEBI inspection, we have put more robust system in place to address the above situation and now we are able to send the statements in time.*

(xii) *With regard to changing of data, we submit that the data was not changed and only the reporting formats were changed as per the requirements of inspection team. The reasons for the same were provided in reply to the inspection report as well as in the paragraphs below.*

(xiii) *With regard to the nomenclature of the bank accounts, we submit that the addition of the words 'Client's Account' same was not added in certain bank accounts due to the field length limitations from banks side. However, pursuant to the observations of the inspection team, we have approached the banks and impressed upon them to include word 'Client' in the name of the account. Duly attested copies are attached as annexures.*

B. *We submit that as laid out by Securities Appellate Tribunal, the purpose of carrying out the inspection is not punitive but to ensure compliance. Reliance is placed on Securities Appellate Tribunal's ("SAT") Order dated 16.6.2011 in the matter of Religare Securities Ltd vs. SEBI, SAT Order dated July 25, 2011 in the matter of UPSE Securities Ltd. vs. SEBI, and Order dated 16.06.2017 in the matter of Indiabulls Mutual Fund passed by the Adjudicating Officer, SEBI.*

C. *We submit that as observed in paragraph 3 of the SCN, SEBI conducted an inspection of the books of accounts and other records of Geojit to examine its compliance with various regulatory norms prescribed by SEBI. As observed in the said paragraph, Geojit has replied to the said Inspection report on October 30, 2015. The para-wise responses to the averments set out in the SCN are set out in the paragraphs below.*

D. With regard to paragraph 4 of the SCN, we submit that:

(i) The concept regarding AML was introduced for the first time vide the SEBI circular of January 2006. Geojit had taken note of the said circular and was in the process of preparing the comprehensive AML policy in compliance with the said SEBI circular. The officials of Geojit ran detailed reviews of the draft policy to ensure that the same was fully compliant with the requirements of the SEBI circular.

(ii) However, as this was the first such AML policy to be prepared by Geojit the finalization process took up sometime in understanding the concepts and incorporating into it all the requirements of the said SEBI circular.

(iii) There was no wilful intent to delay the process of adoption of the AML Policy.

E. With regard to paragraph 5 of the SCN, we submit as follows:

(i) Geojit had framed a broad AML policy for various AML functions which was in line with SEBI circular CIR/MIRSD/2/2013 dated January 24, 2013. The requirement for identifying beneficial ownership was specifically included in the policy. Geojit also invites attention to the averments of the said SEBI circular which states that proper policy shall be adopted. It was further informed vide that circular the detailed procedure and formats for reporting by the intermediaries are being finalized and would be issued subsequently. Accordingly, it was only the methodology that was not spelt out in the policy but the methodology was circulated by way of separate circular to all the offices.

(ii) Subsequent to the observation made by SEBI, Geojit revised the AML policy to include the methodology of identifying beneficial owners of different non-individuals as per SEBI circular. This has been approved by the Board at its meeting dated 24.07.2015. Geojit had a process in place for the identification of beneficial ownership of corporate clients at the time of account opening, immediately after SEBI circular dated January 24, 2013.

(iii) The 4 cases identified by the inspection team pertain to the accounts opened prior to the SEBI circular dated January 24, 2013. Out of the said cases, accounts of 2 clients viz; AMW AUTO COMPONENT LIMITED and WITMANs INDUSTRIES PVT LTD have been suspended for non-submission of the required documents, and for other clients viz; PATTABHI AGRO FOODS

PRIVATE LIMITED and SHAKTI INTERNATIONAL PVT LTD, Geojit received the updated SHP enabling it to identify the UBOs.

(iv) *Therefore, we humbly submit that the allegation that Geojit has violated SEBI circular dated January 24, 2013 is not correct.*

(v) *Geojit has taken serious note of the observation made by SEBI and have identified all those pre existing cases (accounts opened prior to SEBI circular dated January 24, 2013) where it has not identified the UBO. As per instructions received from the Board of Directors such accounts have been suspended and are activated only on receipt of the relevant documents for identifying the UBO.*

(vi) *Geojit is also identifying changes to the UBO as part of the annual KYC updation of Non individual accounts.*

(vii) *SEBI would appreciate that Geojit has taken effective corrective steps to comply with the SEBI circulars in letter and spirit wherever it was pointed out in the Inspection that there is some deficiency. We submit that the lapses, if any, were not willful and intentional and have not resulted in any wrongful gain to Geojit or any loss to the Investors.*

F. *With regard to paragraph 6 of the SCN, it is submitted that the concept regarding AML was introduced for the first time vide the SEBI circular of January 2006. As such, it took some amount of time for Geojit to prepare the policy for Geojit and to appoint the Principal Officer etc., after understanding the concepts and incorporating in the policy all the requirements of the said SEBI circular. Since the said circular required Geojit, as an intermediary, to appoint a Principal Officer, the Principal Officer was appointed on August 30, 2006. However, as a corporate practice, the item relating to the appointment was placed before the next regular Board meeting held on October 28, 2006 for ratification.*

G. *With regard to paragraph 7 of the SCN, we submit as follows:*

(i) *As mentioned in its reply to the Inspection Notice that out of the 90 cases sampled by the inspection team, it is pertinent to note that delay was observed only in 7cases, and the remaining 83 cases were filed on time. We submit that even in these cases the delay had taken place due to circumstances beyond our control.*

(ii) *All efforts have been taken to ensure that the STRs are filed on time and there was no negligence on its part in filing the STRs. A total of 90 cases of STR filings were submitted to the Inspection Team.*

(iii) *The 7 instances of deviations were as a result of the non-availability of the FIU site, technical issues, misunderstanding of the comments of the Principal Officer, etc. case by case explanations for these instances were already provided in reply to the inspection report.*

(iv) *Geojit, during May 2015 (i.e. even prior to the inspection), augmented its controls relating to the filing of STRs and has revised the procedures to ensure that the filing is done within the time stipulated by the Regulator. A control check is performed independently on the status of STR filing on a monthly basis and the results of this are reported to management through the Compliance MIS report.*

(v) *Geojit has also enhanced the staff strength of the AML function to 6 staff as delay may also occur due to the fact that there was only one person carrying out the reporting function.*

H. *With regard to paragraph 8 of the SCN, we submit as follows:*

(i) *There was no delay in redressing the grievances within 30 days as specified in the Broker Regulations. In many cases, Geojit was required to carry out detailed investigations by checking Voice logger calls, arranging meeting with the clients, taking clarifications from the staff etc. Also, some complaints received were pertaining to transactions that took place 3-4 years back and in such cases it sometimes took more time to get all the facts together, especially in cases where the concerned staff has resigned and was no longer with Geojit.*

(ii) *The observations made by the Inspection team referred to these delays in giving the final reply to the clients. However we would like to reiterate that the complaints were taken up immediately on receipt of the same and the officials of Geojit were in touch with the clients during the period of enquiry directly or through branches/Regional office.*

(iii) *There were no instances when Geojit had not made initial contact with the client within the specified 15 day period. We would also like to emphasize on the fact that till date there has been no observation regarding delay in*

grievance redressal with by SEBI, the Stock Exchanges or Auditors during any inspection/ audits carried on the Grievance redressal mechanism.

I. With regard to paragraph 9 of the SCN, we submit as follows:

(i) With regard to paragraph 9(a), we submit that Geojit had modified the settlement process to retain an amount upto Rs. 10,000/- if the same has been consented by the client. This was carried out as per NSE Circular mentioned in the report. It is submitted that but by oversight the retention was made for all active clients who had given consent irrespective of whether they had traded or not during concerned the month or quarter. Geojit had now rectified this practice.

(ii) With regard to paragraph 9(b), we submit that:

(a) In order to comply fully, Geojit will have to settle huge no. of clients having balance ranging from 1 Paise to Rs. 1,000/-. During the inspection period, the average balance of all clients having balances below Rs 1,001/- was less than Rs. 170/-.

(b) Geojit understands that the settlement of such small amounts is not convenient for even the clients, based on the inputs received from many of the clients. It is submitted that even the bank clearing charges were higher than the payout amount in many cases which led to investors becoming upset about the whole process.

(c) Considering the administrative inconvenience to Geojit as well as the investors, Geojit decided internally not to settle funds up to Rs.1,000/-. However, Geojit has settled the securities in full wherever applicable. Geojit reiterates that the intention behind retention of amounts less than Rs 1000 was only in the interest of investors.

(d) Geojit has now changed this practice and consequent to the observations in the Inspection Notice, Geojit is settling all amounts greater than Re.1.

(iii) With regard to paragraph 9(c), we submit that:

(a) When Geojit initially started implementing quarterly settlement, Geojit was settling all funds that had come into the account and had not been utilised by the client. However, Geojit received complaints from some investors who, had given funds with the purpose of making investments and were waiting for the right opportunity, and who were upset when it transferred

the funds back to their account immediately and thus they were unable to make use of some opportunity in the market. Therefore, Geojit decided internally not to settle funds transferred by the clients into his account up to 7 days prior to the settlement date of the client, in the interest of the investors.

(b) *Geojit believes that this was in the true spirit of the SEBI circular as there was no intention to withhold funds of the client unnecessarily but to enable investors to take advantage of opportunities to invest as per their requirement.*

(c) *However, Geojit has now stopped this practise and are settling funds received from clients in the days immediately preceding the settlement also in the light of the observations in the inspections even though the same was against the wishes of the investors.*

(iv) *With regard to paragraph 9(d), we submit that:*

(a) *In the case of the inactive clients, in some cases, the amounts were not settled as the legal heirs of the deceased client have not furnished the required documents to settle the amounts. Some clients have not complied with KYC updation, while some have legal or disciplinary actions pending against them. Geojit has settled the accounts of all inactive clients as far as possible.*

(b) *Where Geojit is not able to settle due to reasons beyond our control, as advised by NSE, Geojit has segregated the funds, freezed them and created client FDs.*

(c) *It is submitted that proportionate accrued Interest will be credited to the client while settling the fund of such clients. It is further submitted that as mentioned earlier in our reply, Geojit observed discrepancies in the figures shown in the Inspection report in some cases, where large figures were shown as unsettled. For e.g.; during the Quarter June 14 to March 14 the maximum unsettled amount of inactive client is shown in the inspection report as Rs. 59,57,327.74, whereas in reality, this was only Rs.4,06,544/-. The reworked table which was sent to SEBI is given below:*

During Quarter Ending	*Average Amount*	*Minimum Amount*	*Maximum Amount*	*Total Amount*	*No of client*
Mar 15 to Dec 14	*11,130*	*1,000*	*8,06,596*	*1,50,03,843*	*1,348*
Dec 14 to Sep 14	*13,664*	*1,000*	*8,06,596*	*1,74,62,239*	*1,278*
Sep 14 to Jun 14	*13,188*	*1,000*	*12,31,909*	*2,58,74,550*	*1,962*
Jun 14 to Mar 14	*10,873*	*1,000*	*4,06,544*	*1,52,43,261*	*1,402*
Mar 14 to Dec 13	*12,587*	*1,000*	*9,23,140*	*2,30,60,177*	*1,832*
Dec 13 to Sep 13	*12,294*	*1,000*	*9,23,140*	*2,38,50,914*	*1,940*
Sep 13 to Jun 13	*12,306*	*1,000*	*9,23,140*	*2,19,05,528*	*1,780*

(v) With regard to paragraph 9(e), we submit as follows:

(a) Quarter ending June 2013: In this case the actual settlement date was 27.6.2013, due to a typo it was given to SEBI as 28.6.2013. As on 27.6.2013 the value of securities to be released was 19,42,05,617.60 Since the Settlement day was 27.6.2013, the Margin requirement for the day 26.6.2013 was considered to value the securities to be released, for which the closing price and VAR referred were of 25.6.2013. Geojit had provided the details of the calculation in our reply to the SEBI inspection report. Please find attached Annexure-1. Therefore, it is submitted that there has been no violation of SEBI Rules. The calculation provided to the Inspection team was correct.

(b) Quarter ending December 2013: we submit that as clarified in earlier reply, when Geojit initially started implementing quarterly settlement, Geojit was settling all funds that had come into the account and had not been utilised by the client. However some clients who had transferred funds with the purpose of making immediate investments and were waiting for the right opportunity were upset when Geojit transferred the funds back to their account and they were unable to make use of some opportunity in the market. Because of such investor complaints, Geojit subsequently decided internally to not settle funds transferred by the client into his account up to 7 days prior to the settlement date of the client. Geojit believes that this was in the true spirit of protecting investor interest as laid down in the SEBI circular .The intention was not to withhold funds of the client unnecessarily but to enable investors to take advantage of opportunities to invest. It is pertinent to note in all the cases Geojit has only considered 7 days for this

purpose. Further, in the case of cheque deposits, it sometimes takes 2 to 3 days for the cheques to be cleared while the client's ledger will show the date of entry as the date of receipt of funds. In such cases the funds are retained with us for a much lesser time. We submit that Geojit has never used the idle client funds for the purposes of own business. It is submitted that in this case, the actual settlement date was 19.12.2013 and Rs. 1.6 lakh which was received from the client on 13.12.2013 (within 7 days) was not considered for settlement.

Geojit had provided the details of the calculation in its reply to the SEBI inspection report. Please see attached Annexure-2.

(c) *<u>Quarter ending September 2014</u>: We submit with regard to the two accounts set out as follows:*

(1) *As clarified in earlier reply, when Geojit initially started implementing quarterly settlement Geojit was settling all funds that had come into the account and had not been utilised by the client. However some clients who had transferred funds with the purpose of making immediate investments and were waiting for the right opportunity were upset when Geojit transferred the funds back to their account and they were unable to make use of some opportunity in the market. Because of such investor complaints Geojit subsequently decided internally to not settle funds transferred by the client into his account up to 7 days prior to the settlement date of the client. Geojit believes that this was in the true spirit of protecting investor interest as laid down in the SEBI circular. The intention was not to withhold funds of the client unnecessarily but to enable investors to take advantage of opportunities to invest. For client AAMR003, the actual settlement date was on 19.09.2014 but Rs. 3 crore and Rs. 65 lakh were received from the client on 17.09.2014 and 12.09.2014 respectively (within 7 days). Pay out for Rs. 1.6 crore was given as normal payout on 19.09.2014 as per client request. Hence, that amount was not considered for settlement.*

Geojit had provided the details of the calculation in our reply to the SEBI inspection report. Please see attached Annexure-3.

(d) *As clarified in earlier reply, when Geojit initially started implementing quarterly settlement, Geojit was settling all funds that had come into the account and had not been utilised by the client. However some clients who had transferred funds with the purpose of making immediate investments and were waiting for the right opportunity were upset when Geojit transferred the funds back to their account and they were unable to make use of some opportunity in the market. Because of such investor complaints we subsequently decided internally to not settle funds transferred by the client into his account up to 7 days prior to the settlement date of the client. Geojit believes that this was in the true spirit of protecting investor interest as laid down in the SEBI circular. The intention was not to withhold funds of the client unnecessarily but to enable investors to take advantage of opportunities to invest. For client QKS019, the actual settlement date was on 17.09.2014 but Rs.13 lakh was received from the client on 16.09.2014 (within 7 days). Hence, that amount was not considered for settlement.*

(e) *<u>Quarter ending March 2015</u>: We submit that all shares were settled on the settlement day itself. But Shares sold on 24.3.2015 worth Rs.38002 was due only on 26.3.2015, on the same date funds payout was issued (i.e. one day after the Settlement). Geojit had provided the details of the calculation in our reply to the SEBI inspection report. Please see attached Annexure 4.*

(vi) *With regard to paragraph 9(f) we submit that it had obtained running account authorisation forms for all clients who wished to have this facility.*

In the case of the 7 clients mentioned below by the inspection team, we submit that we have subsequently collected authorisation indicating the client's settlement preference for all the clients except client codes AAMQ001 & PLS034. The client code AAMQ001 was closed thereafter and the client code PLS034 is in inactive status.

#	Client Codes	Client Name	Discrepancy Observed
1	*AAMR003*	*RARE ENTERPRISES*	*No authorisation for maintaining /settlement of running account*

2	*ZZP001*	*PANDIAN G N*	*Authorisation only for maintaining running account and not for settlement of running account.*
	CWH008	*HASMUKH PAREKH*	
	PLS034	*SUJITH D KAMATH*	
	QKS019	*SEKHAR K A*	
	GQS463	*SASIDHARAN M P*	
3	*AAMQ001*	*QUEST PARTNERS*	*Running account settlement authorisation*

(vii) With regard to paragraph 9(g), we submit that Geojit completely revamped the statement and confirm that it is in line with the format prescribed by NSE:

(a) Date of settlement has been included in the Statement

(b) The amount of funds /securities settled has been included in the Statement

(c) Statement includes amount of funds/securities retained and the explanation regarding the retention of fund /securities

(d) Statement mentions the amount not required to be returned

(e) Statement includes the closing balance of securities

(f) Statement period starts from the date of last settlement

(g) Statement provides the detail of securities retained as margin/pledged for the period from the date of last settlement done till the current settlement date.

(viii) With regard to paragraph 9(h), we submit that:

(a) It was sending the statement of accounts for funds and settlements to our clients immediately after quarterly/ monthly settlement of accounts. However in some cases there was delay of more than 7 days in sending these statements due to technical issues in generating the statement. On a quarterly basis the settlement is done for around 84,000 clients. Of these Geojit was sending physical statements to around 30,000 clients.

(b) The large number of client's statements has resulted in some technical issues while generating the statements. Further, in some cases due to the large volumes, there were some delays in sending physical statements.

(c) Geojit confirms that the statements were sent to all clients even if delayed. Post SEBI inspection, Geojit has put in place more robust systems to

monitor the timely sending of the Statement of Accounts. This can be evidenced by the fact that for all the Quarters since the inspection, Geojit was able to send the statements to clients on time, with the exception of one instance which Geojit itself has identified and rectified immediately upon detection. This was reported by Geojit to the Stock Exchanges also.

(d) *Further, MCX –SX made the observation regarding one client in whose case Geojit had received a written request from the client asking us to 'not settle' the account for a particular quarter as he intended to make some investments in the market. The client however did not make the investment and this was noted as a violation on our part.*

(e) *Geojit was not entertaining such requests from clients anymore, since the observation that was made in FY 2014-15 (prior to SEBI inspection).*

J. *With regard to paragraph 10 of the SCN, we submit that exercised due care and skill to ensure that settlement of accounts, statements etc have been sent to the clients in accordance with the guidelines of SEBI and the Exchanges.*

K. *With regard to paragraph 11 of the SCN, we submit that:*

(a) *The said observation in the Inspection Report is out of misunderstanding. We further submit that there was absolutely no intention to provide wrong data/false information or to misguide the inspection team.*

(b) *The data that was sent to SEBI inspection team earlier in a particular format was changed later only due to the understanding provided to Geojit during the inspection each time. Geojit also submits that here that the inspection report consisting of 19 pages was handed over to Geojit with an urgent requirement of immediate sign off and hence we were forced to sign off even before properly verifying the contents.*

(c) *To explain the change in data, illustratively, Geojit changed the figures from 'net obligations' to 'gross turnover'. The obligations of the client on T-day were misunderstood as the date of settlement payout and therefore Geojit changed the figures into margin requirements on the date of settlement calculations on realisation. Geojit has clarified the reasons as to why Geojit had to give/change details during the inspection itself.*

(d) *These changes were made due to incorrect understanding, errors etc and without any intention of giving wrong information on purpose. SEBI gave a pre inspection request for data pertaining to settlement of the client funds and securities in a specific format. Based on our understanding of the request, while calculating collaterals of clients Geojit considered the total of the shares available in the Clients DP account with Geojit as well as shares pledged by the client and kept as collateral with Geojit, on the basis of which Geojit sent the data to the Inspection team.*

(e) *Subsequently when Geojit started the discussions during the inspection, Geojit got some clarifications that Geojit only had to provide details of shares pledged as collateral with Geojit, and hence only such securities have to be settled by Geojit was required. Hence, the underlying data was never changed, only the reporting was changed.*

(f) *There were no client complaints regarding settlements. Further the client wise settlement amounts can be worked out based on the records maintained, though they have not been maintained in a client wise format.*

(g) *Geojit has now put in place a process for maintaining the records particularly dealing with quarterly calculations client-wise.*

(h) *Geojit has provided all the information required by the Inspection Team in the form required by them. As mentioned above, the changes in the form of information are only on account of misunderstanding and the data was not changed and only the reporting format was changed as required by the Inspection team.*

L. *With regard to paragraph 12 of the SCN, we submit that separate bank accounts were maintained for dealing own funds and client funds. Separate Company Board Resolution was also made available to show permissions for opening client / general bank accounts. As explained to the inspection team, it is only due to 'field length limitations / mistakes from the banks' side, in some cases, the bank account titles did not contain the word "Client". Geojit confirms that Geojit never dealt with such accounts as its 'own' accounts for dealing with own funds and those accounts were always been dealt with as client accounts. In view of the observations Geojit has taken necessary steps to request our banks once again to include the word "Client". Accordingly, the following Banks have included the word*

"Client Account" viz. Axis Bank A/c - 081010200011060, 081010200004930, Citi Bank Client A/c - 0312059045, HDFC a/c- 00200340000123, and IDBI A/c-137103000000505. The Citi Bank had informed that they could not include the word "Client Account" for A/c 0312059002 & 0858480116 due to which we closed the accounts in November 2015 & in May 2016. Axis bank A/c 0810102000012157 is a bank account maintained to hold own funds exclusively for Margin Trading Funding. This was wrongly indicated to SEBI as client bank account. We have not used this account for receiving funds from clients. The corrected client bank account statements duly attested by the bank are attached as Annexure -5.

M. *We submit that Geojit has acted diligently in compliances and there were no adverse proceedings against Geojit consequent to earlier inspections of SEBI, and Stock Exchanges. The delays in adopting the AML Policy are due to the effort and time taken in understanding the contours of the same. The delays in filing the STRs are consequent to the circumstances beyond control as explained above. The alleged violations in respect of retention of the funds of the clients were only in the interest of the said clients and at their request. Geojit has not gained any unfair advantage by retaining such funds as no such funds were utilized for the purposes if its own business as its own funds. Similar is the case with the observation on the nomenclature of the bank accounts. Geojit further submits that that the alleged violations are not repetitive in nature, no gain was made by Geojit nor there was a loss suffered by the Investors. As explained above, Geojit has implemented the observation of the SEBI Inspection team wherever it was pointed out. The objective of the SEBI Inspection was to ensure compliance of the regulatory requirements and not for penalizing the members.*

7. On the scheduled date of hearing, i.e., on October 25, 2018, Ms. Vimala Jose, Head- Compliance; Shri Zacharia K G, Compliance Officer; and Shri Satish Kumar Dinavahi, Advocate appeared as the Authorized Representatives ("ARs") of the Noticee. During the hearing, the ARs reiterated the contents of the reply dated October 17, 2018 submitted by the Noticee. The ARs undertook to submit information about the total amount not settled by the Noticee for all client accounts in respect of inspection observations and the

details of untraceable clients including PAN & the amount in respect of such clients lying with the Noticee. The ARs undertook to make post hearing submissions in the matter latest by November 05, 2018.

8. Thereafter, the Noticee vide its letter dated November 05, 2018 made post hearing submissions in the matter and *inter alia* made the following submissions:

A. Details of number of clients and the amounts not settled in respect of amounts of Rs. 1000/- or less not settled as observed in the inspection observation.

In relation to the above the details of the amounts and number of the clients are provided in Annexure 1. We submit that as set out in the above Annexure the average amount retained is only Rs. 141.34/- which indicates that in case of large number of clients the amount was very less. Further, several clients featured repeatedly in many quarters. As submitted, we are now settling the amounts irrespective of the amounts being less than Rs.1000/-. And, we further submit that Geojit has not utilised any of the amounts for its own business.

B. Quantum of amounts not settled in respect of client accounts as provided in the inspection observation.

We submit that the retention of amount upto Rs. 10,000/- was made with the consent of the clients as per NSE circular bearing no.169/2013 dated October 29, 2013. However, we started withholding the amounts only for quarter ending September, 2014. As submitted during the course of hearing, by oversight the amounts upto Rs.10,000/- were retained in respect of clients who have not traded during the quarter though with consent of such clients. And, as submitted during the course of the hearing, Geojit has not utilised any of the amounts for its own business. The details of the number of clients and quantum of the amounts are provided in Annexure 2.

C. Details of the total amount not settled and number of clients in respect of whom the amounts received within 7 days from the date of quarterly settlement.

The details of the total amount, average amount and the number of clients relating to the instances where the amounts were received within 7 days from the date of quarterly settlement are provided in Annexure 3. We have also provided the

amount of such funds that had come into clients' accounts one day and two days before the quarterly settlement. A substantial amount of funds were received one day /two days prior to settlement.

As submitted during the course of the hearing, the investors have complained when the funds were transferred back to their accounts immediately as they were unable to make use of some opportunity in the market. Therefore, Geojit decided internally not to settle the funds received into client's account during the previous 7 days of the date of settlement.

We had several instances where clients used the funds paid in just prior to settlement to invest in the market. For example our client (client code TYP170 brought in Rs 4,00,000 on 17.03.2015. His settlement date for quarter ended March 2015 was 18.03. 2015. As this amount had come in on the previous day of settlement date we did not pay out this amount during the quarterly settlement and the client invested the amount on 20.03.2015 In another case ,the client (KGK111) paid in Rs 9,50,000 on 16.03 2015 . His quarterly settlement date was 18.03.2015. As the amount came in 2 days prior to settlement we did not pay out this amount during the settlement. The client invested the whole amount on 19.03.2015. Further please note that any amount that was not utilised for investment by the client was paid out to the client during the subsequent quarterly settlement.

Further, pursuant to the observations in the inspection report, we have now stopped the above practice and settling the account accordingly.

D. *Details of FD created for amounts not settled in respect of inactive clients.*

The details of the clients and the amounts withheld are provided in Annexure 4. As submitted during the hearing, Geojit has settled the accounts of all inactive clients as far as possible. However, in respect of certain clients, the amounts could not be settled. It could be observed from Annexure 4 that out of the total 7034 clients around 3600 clients were enrolled with us prior to 2006. The total of amount due to these clients is Rs 50.48 lakhs out of the total of Rs 88.88 lakhs. The above clients have been inactive for several years and have not updated KYCs and we are unable to contact many of them due to change in contact details.

We further submit that the reason for non-settlement was beyond our control and such reasons could be classified as follows:

(i) Payments have been transferred to clients' bank accounts but rejected by the banks due to reasons like invalid core banking details/ closed bank account etc. In such instances we have sent the payment by cheque to the clients address but cheques have not been encashed. In these cases we have also intimated the client about updating correct bank details with us and only in cases where we have not received details from clients, we have transferred these amounts to the FD account.

(ii) Clients expired and legal heirs have not furnished required documents to settle the amount.

(iii) NRI (PIS) clients' accounts where the banks have not accepted payment from us due to non-declaration of purchase details/corporate action of shares sold by the clients

(iv) We also submit that from the time we started creating FD, we have been able to settle payments to around 226 clients amounting to Rs.21.98 lakhs from the FD amount.

9. Thereafter**,** the Noticee vide email dated April 18, 2019 submitted a scanned copy of the AML policy approved by the Noticee's Board at its meeting dated July 24, 2015.

CONSIDERATION OF ISSUES AND FINDINGS

10. I have carefully perused the written submissions of the Noticee and the documents available on record. The issues that arise for consideration in the present case are :

(i) Whether the Noticee has violated the provisions of

a) SEBI circular No. ISD/CIR/RR/AML/1/06 dated January 18, 2006;

b) SEBI master circular on AML/CFT obligations dated December 31, 2010;

c) SEBI circular No. CIR/MIRSD/2/2013 dated January 24, 2013;

d) Regulation 9(e) of the Broker Regulations;

e) SEBI circular No. MIRSD/SE/Cir-19/2009 dated December 3, 2009;

f) SEBI circular No. SEBI/MIRSD/SE/Cir/01/2011 dated May 13, 2011 with respect to quarterly/ monthly settlement of funds and securities of clients;

g) Exchange circular Nos. NSE/INSP/13606 dated December 03, 2009 read with circulars No. NSE/INSP/14048 dated February 03, 2010 and NSE/INSP/21651 dated September 09, 2012;

h) SEBI circular No. SMD/SED/CIR/93/23321 dated November 18, 1993;

i) Clause A(2), A(5) & C(6) of the Code of Conduct specified under Schedule II read with Regulation 9(f) of the Broker Regulations; and

j) Regulation 21(1) and 21(4) of the Broker Regulations.

(ii) Whether further the Noticee has violated the provisions of Clause A(2) and A(5) of the Code of Conduct specified under Schedule II read with Regulation 9(f) of the Broker Regulations?

(iii) Does the violations, if any, the provisions of Regulation 26(ii), (iii), (xv), (xvi) and (xx) of the Broker Regulations, Sections 15C and 15HB of the SEBI Act and Sections 23C and 23H of the SCR Act?

(iv) If yes, what should be the quantum of penalty?

11. Before proceeding further, I would like to refer to the relevant provisions of SEBI Act and the Broker Regulations.

Broker Regulations

Conditions of registration.

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

….

(e) he shall take adequate steps for redressal of grievances, of the investors within one month of the date of receipt of the complaint and inform the Board as and when required by the Board;

….

Broker Regulations

Obligations of stock-broker on inspection by the Board.

21. (1) It shall be the duty of every director, proprietor, partner, officer and employee of the stock-broker, 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 and employee of the stock broker to give to the inspecting authority all assistance in connection with the inspection, which the stock broker may reasonably be expected to give.

Broker Regulations

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

….

Code of conduct for Stock-brokers

A. General.

….

(2) Exercise of due skill and care: A stock-broker shall act with due skill, care and diligence in the conduct of all his business.

…

(5) Compliance with statutory requirements: A stock-broker shall abide by all the provisions of the Act and the rules, regulations issued by the Government, the Board and the Stock Exchange from time to time as may be applicable to him.

C. Stock-Brokers vis-a-vis Other Stock-Brokers.

…

(6) False or Misleading Returns: A stock-broker shall not neglect or fail or refuse to submit the required returns and not make any false or misleading statement on any returns required to be submitted to the Board and the stock exchange.

Broker Regulations

Liability for monetary penalty.

26. *A stock broker or a sub-broker shall be liable for monetary penalty in respect of the following violations, namely—*

…

(ii) Failure to furnish any information, books or other documents within 15 days of issue of notice by the Board.

(iii) Failure to maintain books of accounts or records as per the Act, rules or regulations framed thereunder.

…

(xv) Failure to comply with directions issued by the Board under the Act or the regulations framed thereunder.

(xvi) Failure to exercise due skill, care and diligence.

…

(xx) Violations for which no separate penalty has been provided under these regulations.

12. I find from the SCN that the Noticee is a stock broker registered with SEBI. SEBI conducted an inspection of the books of accounts and other records of the Noticee for FY 2013-14 and FY 2014-15 to examine its compliance with various regulatory norms prescribed by SEBI. During the inspection, SEBI observed certain non-compliance by the Noticee with SEBI circulars and Regulations. In view of the same, SEBI initiated the instant adjudication proceedings against the Noticee.

13. The first allegation against the Noticee in the SCN was that it had violated the provisions of SEBI circular No. ISD/CIR/RR/AML/1/06 dated January 18, 2006. The said SEBI circular *inter alia* mandates that - *"…All intermediaries are advised to ensure that a proper policy framework as per the Guidelines on anti-money laundering measures is put into place within one month from the date of the circular. The intermediaries are also advised to designate an officer as 'Principal Officer' who would be responsible for ensuring compliance of the provisions of the PMLA. Names, designation and addresses (including e-mail addresses) of 'Principal Officer' shall also be intimated to the Office of the Director-FIU, 6th Floor, Hotel Samrat, Chanakyapuri, New Delhi - 110021, India on an immediate basis.*" The

Noticee during the course of inspection submitted that it formulated its first AML Policy on October 28, 2006. However, in terms of SEBI circular No. ISD/CIR/RR/AML/1/06 dated January 18, 2006, the said AML policy had to be put into place by the Noticee within one month from the date of the circular. Thus, it was observed that the Noticee made a delay of more than 7 months in formulating the AML Policy. SEBI also observed that the Principal Officer was appointed by the Noticee vide letter dated August 30, 2006 and that the approval for this appointment was obtained from its Board on October 28, 2006. I note that the Noticee in its letter dated October 17, 2018 has *inter alia* stated that the delay in framing the AML policy was only on account of taking time to understand the contours of AML policy to be framed as it was the first time. The Noticee has stated that SEBI subsequently has issued circulars with regard to AML measures to be complied by the intermediary and that there was no adverse observation in the inspection report about any delay in updation of the AML policy in accordance with the later circulars. With respect to the delay in appointment of the Principal Officer, the Noticee has again stated it took time in understanding the concepts and incorporating them into the AML policy on the first occasion. Therefore, the principal officer was appointed only on August 30, 2006.

14. In this respect, I note that SEBI vide the aforementioned circular No. ISD/CIR/RR/AML/1/06 dated January 18, 2006 issued guidelines on AML standards and advised all intermediaries to ensure that a proper policy framework as per the guidelines on anti-money laundering measure is put into place within one month from the date of the circular and to immediately inform the details of the principal officer to FIU. In the instant case, the Noticee has admittedly failed to implement the said policy in time and also failed to appoint the principal officer in time. The claim of the Noticee that it took time to understand the contours of AML policy to be framed as it was the first time does not absolve it from the mandatory obligation of compliance of the provisions of SEBI circular within the given timelines and therefore, is not acceptable. The Noticee has not justified as to why it took so much time to

understand the contours of the AML policy. In view of the same, I find that the Noticee has violated the provisions of SEBI circular No. ISD/CIR/RR/AML/1/06 dated January 18, 2006.

15. The next allegation against the Noticee in the SCN was that the AML policy formulated by the Noticee refers to the requirement of identifying beneficial ownership, but the procedure to be followed for identifying beneficial ownership is not a part of the said policy. Further, it was also observed that in 4 instances of KYC verification (namely for AMW Auto Component Limited, Pattabhi Agro Foods Limited, Shakti International Private Limited and Witmans Industries Private Limited), the Noticee has not identified the beneficial ownership at the time of account opening. In view of the above observation, it was alleged that the Noticee had violated the provisions of SEBI circular No. CIR/MIRSD/2/2013 dated January 24, 2013 and SEBI master circular on AML/CFT obligations No. CIR/ISD/AML/3/2010 dated December 31, 2010. In this respect, the Noticee in its letter dated October 17, 2018 has *inter alia* stated that it had framed a broad AML policy including the requirement for identifying beneficial ownership. The Noticee has further stated that the methodology for identification of beneficiaries was circulated by way of separate circular to all offices to facilitate the operational staff to implement the same effectively. However, in view of the observations made in the inspection report, the AML policy was revised to include the methodology of identification of beneficiaries, which was approved by its board on July 24, 2015. The Noticee has also stated that the four cases of KYC verification identified by SEBI were prior to SEBI circular no. CIR/MIRSD/2/2013 dated January 24, 2013 and it had put in place a process for the identification of beneficial ownership at the time of account opening immediately after the above referred SEBI circular.

16. In this respect, I note that SEBI master circular No. CIR/ISD/AML/3/2010 dated December 31, 2010 has mandated all registered intermediaries to obtain, as part of their Client Due Diligence policy, sufficient information from

their clients in order to identify and verify the identity of persons who beneficially own or control the securities account. Thereafter, in order to specify a uniform approach to be followed towards determination of beneficial ownership, SEBI issued a circular CIR/MIRSD/2/2013 dated January 24, 2013, wherein, it laid down guidelines for identification of beneficial ownership. The said circular, *inter alia*, mandated all intermediaries to review their Know Your Client (KYC) and Anti Money Laundering (AML) policies with immediate effect. SEBI observed during inspection that the latest AML policy of the Noticee was revised and approved by its Board on July 15, 2014 and that the said policy referred to the requirement of identifying beneficial ownership, but the procedure for identification of the same was not part of the said AML policy. I note that the Noticee in its reply has admitted that it did not include the procedure to be followed for identifying beneficial ownership in its AML policy immediately after the issuance of SEBI circular CIR/MIRSD/2/2013 dated January 24, 2013 and has stated that it included the same in its AML policy only on July 24, 2015. The Noticee has claimed that it had circulated the methodology for identification of beneficiaries by way of separate circular to all its offices. However, I note from documents available on record that the said internal circular by the compliance department of the Noticee is dated March 20, 2013, which signifies a delay of 2 months from the date of SEBI circular CIR/MIRSD/2/2013 dated January 24, 2013. Further, I note that provisions of the said internal circular have been made applicable to client accounts opened after April 01, 2013, which is not acceptable as these provisions were to be made applicable immediately. Thus, the claim of the Noticee that it had immediately implemented the directions in SEBI circular CIR/MIRSD/2/2013 dated January 24, 2013 is not correct. I further note that the Noticee has not identified beneficial ownership in respect of 4 client accounts. The Noticee has claimed that these instances were prior to SEBI circular no. CIR/MIRSD/2/2013 dated January 24, 2013. However, I note that SEBI master circular No. CIR/ISD/AML/3/2010 dated December 31, 2010 had *inter alia* mandated the intermediaries to determine beneficial ownership of its client accounts. In view of the above, I find that the

Noticee has admittedly violated the provisions of SEBI circular No. CIR/MIRSD/2/2013 dated January 24, 2013 and SEBI master circular on AML/CFT obligations No. CIR/ISD/AML/3/2010 dated December 31, 2010.

17. The next allegation in the SCN was that the Noticee did not file the Suspicious Transactions Report ('STR') with FIU-IND within prescribed time period of seven days in 7 instances. In view of the same, it was alleged that the Noticee had violated the provisions of SEBI master circular on AML/CFT obligations No. CIR/ISD/AML/3/2010 dated December 31, 2010. The Noticee in its letter dated October 17, 2018 has *inter alia* stated that the deviations were as a result of the non-availability of the FIU site, technical issues, misunderstanding of the comments of the Principal Officer, etc and that it has augmented its controls relating to the filing of STRs & enhanced the staff strength of AML function to 6 staff. I note from documents available on record that the Noticee has stated the reason for delay in 4 instances was that it had only one officer who carried out reporting function and that the decision of the principal officer was misunderstood in 2 instances. I note that these are not acceptable reasons for delay in filing of STRs. In view of the same, I find that the Noticee through its own submissions has admitted the violation of the provisions of SEBI master circular on AML/CFT obligations bearing No. CIR/ISD/AML/3/2010 dated December 31, 2010

18. The next allegation in the SCN was in respect of non-redressal of complaints. The Broker Regulations require that a broker take adequate steps to redress investor grievances within 30 days of the date of receipt of the complaint. It was observed during inspection that in 23 instances the Noticee did not provide the details of interim communication. Further, the delay between reply to the complainant and the receipt of complaint ranged from 15 days to 41 days. In view of the same, it was alleged that the Noticee has violated the provisions of Regulation 9(e) of the Broker Regulations. In this respect, the Noticee in its letter dated October 17, 2018 has *inter alia* stated that the investor grievances have been taken up immediately on receipt of the same in

all cases within a period of 15 days. The Noticee has further stated that, in many cases, it had to carry out detailed investigation and obtain clarifications from its staff. In some cases, in respect of transactions that took place 3 to 4 years back and therefore some time was taken to get all the facts. The Noticee has stated that the observations of the inspection team refer to delay in final reply to the investors and that the complaints were taken up immediately on receipt of the same and its officials were in touch with the clients during the period of enquiry directly or through branches/Regional office.

19. I note that, as per Regulation 9(e) of the Broker Regulations, one of the conditions of registration is that the broker shall take adequate steps for redressal of grievances of the investors within one month of the date of receipt of the complaint and inform SEBI as and when required by SEBI. The Noticee has *inter alia* stated in its reply that in many cases it had to carry out detailed investigations and that its officials were in touch with the clients during the period of enquiry directly or through branches/ Regional office. However, I note from the submissions made by the Noticee and the documents available on record that it has not submitted any documentary evidence in respect of the steps supposedly taken by it. I further note from documents available on record that the Noticee has stated that it will ensure that the minutes of all meetings with clients will be maintained going forward. Hence, the Noticee has admittedly not provided the above details to SEBI. I also note that the Noticee did not submit any details of the interim communication sent by it in 23 instances to SEBI during inspection in respect of complaints made by its clients. I further note from available records that the Noticee had replied to the complainants within 30 days from the date of receipt in 18 out of the said 23 instances. However, in 5 instances, the Noticee had replied to the clients in time ranging from 32 to 41 days after receipt of the complaints. Therefore, I observe that the Noticee has failed to take adequate steps for redressal of investor grievance within one month of receipt of the complaint. In this context, I would like to refer to the ratio in the

judgment of Hon'ble Securities Appellate Tribunal in the matter of S. S. Forgings & Engineering Limited & Others v SEBI, (Appeal No. 176 of 2014 decided on August 28, 2014) wherein it, *inter alia*, observed that *".....This Tribunal has consistently held that redressal of investors' grievances is extremely important for the Regulator to regulate the capital market. If the grievances are not redressed within a time bound framework, it leads to frustration among the investors' who may not be motivated to further invest in the capital market. Hence the importance of complaints redressal system initiated by SEBI in June, 2011 cannot be undermined and its sanctity has to be maintained by all the listed companies....."* In view of the above, I find that the allegation of violation of Regulation 9(e) of the Broker Regulations is established against the Noticee.

20. The next allegation against the Noticee in the SCN was with respect to running account settlement of client accounts:

(i) SEBI observed from the policy adopted by the Noticee in respect of running account settlement of its clients that the Noticee is retaining Rs. 10,000/- if the same has been consented by the client. The Noticee has stated that this was carried out as per NSE circular mentioned in the inspection report. However, by oversight the retention was made for all active clients who had given consent irrespective of whether they had traded or not during concerned the month or quarter. The Noticee has stated that it has now rectified this practice. The Notice has stated that it had retained the said amount after taking consent from the clients. However, I note that the Noticee has not submitted documentary evidence regarding obtaining of consent in respect of all such clients. I further note that NSE circular dated October 29, 2013 allowed a broker to retain an amount of up to Rs 10,000/- (net amount across segment and across stock exchanges) for regular trading clients (active clients), only after taking written consent of the client. However, I observe that the Noticee has retained the said amount even for those clients who were inactive. The Noticee in its post hearing reply dated November 05, 2018

has submitted the following data for the cases where the client had not traded during the quarter but retention was done up to Rs. 10,000/-

During Quarter Ending	Avarage Amount	Min Amount	Max Amount	Total Amount	No of clients
Mar-15	7042.26	1000	10000	2978877.17	423
Dec 14	7490.82	1000	10000	344577.85	46
Sep-14	6625.68	1528.38	10000	33128.28	5

I note from the above table that the amount retained by the Noticee and the number of corresponding clients are increasing quarter–on–quarter. Therefore, I note from above that the Noticee has admittedly retained up to Rs. 10,000/- per client even for those clients who had not traded during the concerned month or quarter.

(ii) It was also alleged in the SCN that the Noticee settles the account only if the amount to be settled is above Rs. 1,000/-. In this respect, the Noticee has *inter alia* stated that it would have to settle huge number of clients having balance ranging from 1 paise to Rs. 1,000/-. It has further submitted that the bank clearing charges were higher than the payout amount in many cases which led to investors becoming upset about the whole process. Considering the administrative inconvenience to it as well as the investors and the inputs received from investors, the Noticee decided internally not to settle funds up to Rs. 1,000/-. The Noticee has also stated that it has now changed the practice and is settling all amounts greater than Re. 1. In this respect, I note that the Noticee has not submitted any documents which show that the input of clients was obtained by it for starting this practice of not settling funds up to Rs. 1,000/-. In any case, I note that, in terms of the provisions of SEBI and exchange circulars, the member is only allowed to retain an amount of up to Rs.10,000/- (net amount across segment and across stock exchanges) for active clients, only after taking written consent of the client to address the administrative / operational difficulties in settling the accounts of the said regular trading clients. However, in the instant case, the Noticee had

across the board excluded all the clients who had balances less than Rs.1000, which does not conform to the regulatory provisions. The Noticee in its reply has submitted the following information in respect of the accounts where balances less than Rs. 1,000/- were not settled:

During Quarter	Avarage Amount	Min Amount	Max Amount	Total Amount	No of clients
Mar 15 to Dec 14	159.29	0.01	1000	8306418.23	52146
Dec 14 to Sep 14	150.2	0.01	1000	7496483.27	49909
Sep 14 to Jun 14	122.36	0.01	996.76	4654512.27	38039
June 14 to Mar 14	112.41	0.01	1000	4386865.04	39027
Mar 14 to Dec 13	158.2	0.01	1000	7234807.54	45732
Dec 13 to Sep 13	148.51	0.01	999.83	5933723.55	39955
Sep 13 to Jun 13	138.44	0.01	1000	5830891.31	42118

I note from above table that the Noticee has admittedly not settled amounts ranging from approximately Rs. 43.87 lakh to approximately Rs. 83.06 lakh during the quarters mentioned in the above table in respect of clients who had balances less than Rs. 1,000/- and the number of such clients ranged from 38,039 to 52,146. I am of the view that SEBI circulars and exchange circulars have to be followed fully and the broker cannot take any contradictory view for its convenience. In view of the same, I find that the said submissions of the Noticee are not acceptable.

(iii) It was also observed that any new fund received into client's account during the previous 7 days is not included in the fund to be settled by the Noticee. In this respect, the Noticee has stated that it had received complaints from some investors who, had given funds with the purpose of making investments and were waiting for the right opportunity, and who were upset when it transferred the funds back to their account immediately and thus they were unable to make use of some opportunity in the market. Therefore, the Noticee decided internally not to settle funds transferred by the clients into his account up to 7 days prior to the settlement date of the client. The Noticee has also stated that it has now stopped this practice and is now settling funds received from clients in the

days immediately preceding the settlement. In this respect, I note that the Noticee has not submitted any copies of the complaints received by it from its clients regarding settlement of last 7 days pay-ins received. Further, I am of the view that settlement of client accounts does not prevent clients from utilizing the opportunities in the market. I observe that the Noticee in its post hearing reply dated November 05, 2018 has provided the following data in respect of last 7 day pay-in received not settled by it:

During Quarter ending	Avarage Amount	Min Amount	Max Amount	Total Amount	No of clients	Pay-in Received with in 2 days	Pay-in Received with in 1 days
Mar-15	9756.61	1	950000	33777385.37	3462	11706234.60	5112651.05
Dec 14	12322.88	1	1520817.78	55921267.21	4538	21133115.46	13485629.76
Sep-14	23088.04	1.02	28413916.86	77598933.63	3361	49883875.98	16592861.69
Jun-14	24549.21	1.01	9954221	38738666.12	1578	17065696.10	14059940.47
Mar-14	12271.02	1.1	1500000	19879060.28	1620	5262393.76	3814936.78
Dec 13	12154.77	1	1312490.11	28162593.56	2317	7689980.77	4111947.75
Sep 13	13496.25	1.03	1086000	25696868.08	1904	7560137.28	4475774.06
Jun-13	11436.72	1.01	3000000	31782641.31	2779	6884282.47	4108884.93

I note from the above table that the Noticee has admittedly not settled amounts ranging from approximately Rs. 1.98 crore to approximately Rs. 7.76 crore during the quarters mentioned in the above table in respect of pay-in received during the previous 7 days from the date of settlement from its clients and the number of such clients ranged from 1,578 to 4,538. I note that the Noticee has stated that it has now stopped this practise and is now settling funds received from clients in the days immediately preceding the settlement. In view of the above, I find that the Noticee was admittedly not settling the amount of pay-ins received during last 7 days before the settlement.

(iv) It was also alleged in the SCN that the Noticee is not settling running accounts for inactive clients. The Noticee has stated that in some cases, the amounts were not settled as the legal heirs of the deceased client have not furnished the required documents to the settle the amounts.

Some clients have not complied with KYC updation, while some have legal or disciplinary actions pending against them. The Noticee has further stated that wherever it is not able to settle due to reasons beyond its control, it has segregated the funds, freezed them and created client FDs as advised by NSE. A table containing the quarter wise details of the number of clients whose accounts were not settled and the amount not settled was also provided in the SCN. In this respect, the Noticee had submitted a reworked table containing the quarter wise details of the number of clients whose accounts were not settled and the amount not settled to SEBI after the inspection and the same table has been submitted by the Noticee before me. I note from available documents that the relevant department of SEBI had accepted the information submitted by the Noticee through the said reworked table. The said table is reproduced below:

During Quarter Ending	Average Amount	Minimum Amount	Maximum Amount	Total Amount	No of client
Mar 15 to Dec 14	11,130	1,000	8,06,596	1,50,03,843	1,348
Dec 14 to Sep 14	13,664	1,000	8,06,596	1,74,62,239	1,278
Sep 14 to Jun 14	13,188	1,000	12,31,909	2,58,74,550	1,962
Jun 14 to Mar 14	10,873	1,000	4,06,544	1,52,43,261	1,402
Mar 14 to Dec 13	12,587	1,000	9,23,140	2,30,60,177	1,832
Dec 13 to Sep 13	12,294	1,000	9,23,140	2,38,50,914	1,940
Sep 13 to Jun 13	12,306	1,000	9,23,140	2,19,05,528	1,780

I note from the above table submitted by the Noticee that the number of clients whose accounts were not settled ranged from 1,278 to 1,962 in the 7 quarters for which data has been submitted by the Noticee. Further, the total amount not settled during the said 7 quarters ranged from Rs. approximately Rs. 1.50 crore to approximately Rs. 2.59 crore. I observe from the above data that the number of clients whose accounts were not settled and the amount not settled is significant. I also note from the data submitted by the Noticee that the number of clients whose accounts had

not been settled and the total amount has not progressively reduced over the 7 quarters and has fluctuated over the said period. For example, the number of clients not settled increased from 1402 to 1962 from the quarter March – June 14 to the quarter June – September 14. I observe that the Noticee has not provided supporting documents in respect of various reasons such as payment transfer rejected by banks, etc. cited by it for not settling the account. The Noticee has also stated that it had made fixed deposits as advised by NSE for client accounts not settled by it. I observe that the Noticee has not produced any communication from NSE wherein such advise was given to the Noticee. As noted earlier, the Noticee was admittedly not settling accounts of inactive clients up to Rs. 10,000/- and of those clients who had balances up to Rs. 1000/-. I am of the view that the obligation is on the Noticee to settle the accounts periodically as per the provisions of SEBI and exchange circulars. I find that the reply of the Noticee has no merit and it only shows that the Noticee was not showing any seriousness in complying with provisions of SEBI and exchange circulars for running account settlement. In view of the same, I am not inclined to accept the argument of the Noticee.

(i) 5 sample instances where the Noticee had not settled accounts of active clients were also provided in the SCN. The Noticee has stated in its reply that in one instance the settlement date in the data provided to the SEBI was wrong while in 3 instances the Noticee had not settled the account as per its policy to not settle funds transferred by the clients into his account up to 7 days prior to the settlement date of the client. As noted earlier, this practice is not in line with the provisions of SEBI and exchange circulars and therefore, cannot be accepted.

(ii) It was also alleged in the SCN that the Noticee had not obtained running account authorization forms from 7 clients. In this respect, the Noticee has stated that it has subsequently obtained authorisation from 5 clients. Further, the Noticee has stated that the one client account out of the two

remaining two client accounts has been closed and the other remaining client account is in inactive status. Thus, I note that the Noticee has tacitly agreed with the allegation in the SCN and therefore, the said allegation stands established.

(iii) It was also alleged in the SCN that the statements sent by the Noticee in terms of SEBI circular No. MIRSD/SE/Cir-19/2009 dated December 03, 2009 did not mention / provide:

(a) date of settlement;
(b) the amount of funds/ securities settled;
(c) amount of funds/ securities retained or the explanation regarding the retention of funds/ securities;
(d) amount not required to be returned;
(e) closing balance of securities;
(f) transaction details for the period from the date of last settlement and end of that quarter; and
(g) detail of securities retained as margin/ pledged for the period from the date of last settlement done till the current settlement date.

The Noticee in its letter dated October 17, 2018 has stated that it has completely revamped the statement and confirmed that it is in line with the format prescribed by NSE *& inter alia* includes the above details. Therefore, I find that the Noticee has admitted the allegation in the SCN regarding the details not provided in the statement by it. Thus, the violation stands established.

(iv) It was also alleged in the SCN that there were repetitive observations in NSE and MCX-SX inspections. NSE had issued a warning to the Noticee pursuant to inspection in FY 2013-14 for delay in sending statement of accounts for funds and securities to its clients at the time of settlement. This observation was also pointed out in the previous NSE inspection. Further, MCX-SX had advised the Noticee to ensure settlement of client

accounts pursuant to inspection in FY 2014-15. The Noticee in its reply has *inter alia* admitted that there was a delay of more than 7 days in sending statements due to technical issues in generating the statement. The Noticee has also stated *inter alia* that post SEBI inspection it has put in place more robust systems to monitor the timely sending of the statements.

21. In view of the above observations in respect of running account settlements, I find that the allegation against the Noticee for violation of SEBI circular No. MIRSD/SE/Cir-19/2009 dated December 3, 2009; SEBI circular No. SEBI/MIRSD/SE/Cir/01/2011 dated May 13, 2011; Exchange circular NSE/INSP/13606 dated December 03, 2009; clarification circulars NSE/INSP/14048 dated Feb 03, 2010 and NSE/INSP/21651 dated September 07, 2012 admittedly stands established.

22. It was also alleged in the SCN that the Noticee kept changing the data provided to SEBI during inspection w.r.t. settlement of sample clients done during inspection period. I note from the inspection report that the Noticee was advised during inspection to explain the details of settlement working provided to the SEBI inspection team. During verification as and when the Noticee was advised to explain data by SEBI, the Noticee kept revising details with respect to cash market turnover, margin obligation, retention amount, date of settlement and funds/ securities settled. The Noticee was also advised by SEBI to explain how securities were valued. To this the Noticee submitted that the securities considered for settlement included securities lying in the client BO account maintained with the Noticee in capacity of DP and securities given to Noticee as collateral. Subsequently, the Noticee was informed by SEBI that the securities lying in the client BO account are not part of running account and hence do not require settlement, the Noticee revised the working and excluded the securities lying in the BO account. SEBI also observed during inspection that the Noticee had not retained past records of the calculations carried out for arriving at the settlement of funds/ securities of

clients. In view of the same it was alleged in the SCN that the Noticee had violated the provisions of Regulation 21(1) & (4) of the Broker Regulations and Clause A(2), A(5) & C(6) of the code of conduct specified under Schedule II read with Regulation 9(f) of the Broker Regulations. In this respect, the Noticee has stated that the data was not changed and only reporting formats were changed as per the requirements of the inspection team. The Noticee has also stated that there was no intention to provide wrong data / false information or to misguide the inspection team. In this respect, I note that it is of utmost importance that an intermediary should provide correct data to the inspection team. I also note from the documents available on record that the Noticee had signed on the said observations pointed by SEBI. Further, the Noticee has not retained the past records of calculations carried out for arriving at settlement of funds/ securities of clients. In view of the same, I am inclined to consider this a violation of Regulation 21(1) & (4) of the Broker Regulations and Clause A(2), A(5) & C(6) of the code of conduct specified under Schedule II read with Regulation 9(f) of the Broker Regulations.

23. The next allegation in the SCN against the Noticee was that during the verification of list of bank accounts and first page of bank statement of all bank statements that the word “Client Accounts” was not used in the name of certain bank accounts (viz. Axis Bank A/c 081010200011060, Axis Bank A/c 0810102000012157, Axis Bank A/c 081010200004930, Citi Bank Client A/c 0312059045, Citi Bank A/c 0858480116, Citi Bank A/c 0312059002, HDFC Bank A/c 00200340000123 and IDBI Bank A/c137103000000505) as required under SEBI circular No. SMD/SED/CIR/93/23321 dated November 18, 1993. In this respect, the Noticee has submitted that separate bank accounts were maintained for dealing own funds and client funds. Separate Company Board Resolution was also made available to show permissions for opening client / general bank accounts. As explained to the inspection team, it is only due to ‘field length limitations / mistakes from the banks’ side, in some cases, the bank account titles did not contain the word “Client”. The Noticee has confirmed that it never dealt with such accounts as its ‘own’ accounts for

dealing with own funds and those accounts were always been dealt with as client accounts. The Noticee has further stated that it has taken necessary steps to request its banks to include the word “Client”. Accordingly, the following Banks have included the word “Client Account” viz. Axis Bank A/c - 081010200011060, 081010200004930, Citi Bank Client A/c - 0312059045, HDFC a/c- 00200340000123, and IDBI A/c- 137103000000505. The Citi Bank had informed that they could not include the word “Client Account” for A/c 0312059002 & 0858480116 due to which the Noticee closed the accounts in November 2015 & in May 2016. The Noticee has further stated that Axis bank A/c 0810102000012157 is a bank account maintained to hold own funds exclusively for Margin Trading Funding and that this was wrongly indicated to SEBI as client bank account. The Noticee has stated that it did not use this account for receiving funds from clients. I note from the submissions of the Noticee that it has taken corrective steps to include the word “Client” in the names of bank accounts. I also note that there is no allegation against the Noticee for misuse of clients’ funds in the SCN. Therefore, I am inclined to take a lenient view in respect of the above observation.

24. In view of the foregoing, I find that the Noticee has violated/not complied the provisions of :

(i) SEBI circular No. ISD/CIR/RR/AML/1/06 dated January 18, 2006;

(ii) SEBI master circular on AML/CFT obligations dated December 31, 2010;

(iii) SEBI circular No. CIR/MIRSD/2/2013 dated January 24, 2013;

(iv) Regulation 9(e) of the Broker Regulations;

(v) SEBI circular No. MIRSD/SE/Cir-19/2009 dated December 3, 2009;

(vi) SEBI circular No. SEBI/MIRSD/SE/Cir/01/2011 dated May 13, 2011 with respect to quarterly/ monthly settlement of funds and securities of clients;

(vii) Exchange circulars Nos. NSE/INSP/13606 dated December 03, 2009 read with circulars No. NSE/INSP/14048 dated February 03, 2010 and NSE/INSP/21651 dated September 09, 2012;

(viii) Regulation 21(1) and 21(4) of the Broker Regulations; and

(ix) Clause A(2), A(5) & C(6) of the Code of Conduct specified under Schedule II read with Regulation 9(f) of the Broker Regulations.

25. Further, in view of such non-compliance, I note that the Noticee has failed to adhere to the prescribed code of conduct in respect of due care, skill and diligence, and thereby did not abide by Clause A(2) and A(5) of the Code of Conduct prescribed for stock brokers contained in Schedule II read with Regulation 9(f) of the Broker Regulations. The Hon'ble Supreme Court of India in the matter of *SEBI v/s Shri Ram Mutual Fund [2006] 68 SCL 216(SC)* held that *"In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established and hence the intention of the parties committing such violation becomes wholly irrelevant…".*

26. I note from the foregoing that the aforesaid violations under Regulation 26(xv), (xvi) and (xx) of the Broker Regulations read with Sections 15C & 15H of the SEBI Act and Sections 23C and 23H of the SCR Act stand established. In view of the same, I am convinced that it is a fit case to impose monetary penalty under read with Regulation 26(xv), (xvi) and (xx) of the Broker Regulations. The above sections of the SEBI Act and the SCR Act read as under:

SEBI Act

Penalty for failure to redress investors' grievances.

15C. *If any listed company or any person who is registered as an intermediary, after having been called upon by the Board in writing, to redress the grievances of investors, fails to redress such grievances within the time specified by the Board, such company or intermediary shall be liable to a penalty [1](which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees).*

[1] *Substituted for the words — "of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less" by the Securities Laws (Amendment) Act, 2014, w.e.f. 08-09-2014.*

Penalty for contravention where no separate penalty has been provided.

15HB. *Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be [2](liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.)*

SCR Act

Penalty for failure to redress investors' grievances.

23C. *If any stock broker or sub-broker or a company whose securities are listed or proposed to be listed in a recognised stock exchange, after having been called upon by the Securities and Exchange Board of India or a recognised stock exchange in writing, to redress the grievances of the investors, fails to redress such grievances within the time stipulated by the Securities and Exchange Board of India or a recognised stock exchange, he or it shall be liable to a penalty [3](which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees).*

Penalty for contravention where no separate penalty has been provided.

23H. *Whoever fails to comply with any provision of this Act, the rules or articles or bye- laws or the regulations of the recognised stock exchange or directions issued by the Securities and Exchange Board of India for which no separate penalty has been provided, shall be [4](liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees).*

27. While determining the quantum of penalty under Section 15C of the SEBI Act, Section 15HB of the SEBI Act, Section 23C of the SCR Act and Section 23H of the SCR Act, it is important to consider the factors relevantly as stipulated in Section 15J of the SEBI Act and Section 23J of SCR Act, which read as under:

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[2] Substituted for the words — "liable to a penalty which may extend to one crore rupees" by the Securities Laws (Amendment) Act, 2014, w.e.f. 08-09-2014.

[3] Substituted for the words - "of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less" by the Securities Laws (Amendment) Act, 2014, w.e.f 08-09-2014.

[4] Substituted for the words - "liable to a penalty which may extend to one crore rupees" by the Securities Laws (Amendment) Act, 2014, w.e.f 08-09-2014.

SEBI Act

Factors to be taken into account by the adjudicating officer.

15J. While adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely:-

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.

Explanation.—For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section."

SCR Act

Factors to be taken into account by adjudicating officer.

23J. While adjudging the quantum of penalty under section 23-I, the adjudicating officer shall have due regard to the following factors, namely:—(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default;

c) the repetitive nature of the default.

Explanation.—For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under sections 23A to 23C shall be and shall always be deemed to have exercised under the provisions of this section.

28. No quantifiable figures are available to assess the disproportionate gain or unfair advantage made as a result of such default by the Noticee. Further, from the material available on record, it may not be possible to ascertain the exact monetary loss, if any, on account of default by the Noticee. I note that the Noticee has not settled accounts of its inactive clients in 7 quarters during the inspection period, where the total amount not settled during the quarter ranged from approximately Rs. 1.50 crore to approximately Rs. 2.59 crore

and the number of such clients ranged from 1,278 to 1,962. The Noticee was also not settling client accounts with balances less than Rs. 1,000/- clients in 7 quarters during the inspection period, where the total amount not settled during the quarter ranged from approximately Rs. 43.87 lakh to approximately Rs. 83.06 lakh and the number of such clients ranged from 38,039 to 52,146. Further, the Noticee was not settling the pay-in amounts received during the 7 day period before the settlement date and such not settled amount ranged from approximately Rs. 1.98 crore to approximately Rs. 7.76 crore during the quarter ending June 2013 to quarter ending March 2015 and the number of such clients ranged from 1,578 to 4,538. To this extent, I find that the violation committed by the Noticee is repetitive.

ORDER

29. Having considered all the facts and circumstances of the case, the material available on record, the submissions made by the Noticee and also the factors mentioned in Section 15J of the SEBI Act and Section 23J of SCR Act and in exercise of the powers conferred upon me under Section 15-I of the SEBI Act and Section 23-I of the SCR Act read with Rule 5 of SEBI Adjudication Rules and Rule 5 of SCRA Adjudication Rules, I hereby impose the following penalty on the Noticee viz. Geojit Financial Services Limited under the provisions of SEBI Act and the SCR Act:

Name of the Noticee	Penalty	Under the provisions of
Geojit Financial Services Limited	Rs. 5,00,000/- (Rupees Five Lakh only)	Section 15C of the SEBI Act and Section 23C of the SCR Act
	Rs. 25,00,000/- (Rupees Twenty Five Lakh only)	Section 15HB of the SEBI Act and Section 23H of the SCR Act

30. I am of the view that the above penalty is commensurate with the lapse/omission on the part of the Noticee. The amount of penalty shall be paid

either by way of demand draft in favour of “SEBI - Penalties Remittable to Government of India”, payable at Mumbai, or by e-payment in the account of “SEBI - Penalties Remittable to Government of India”, A/c No. 31465271959, State Bank of India, Bandra Kurla Complex Branch, RTGS Code SBIN0004380 within 45 days of receipt of this order.

31. The said demand draft or forwarding details and confirmations of e-payments made (in the format as given in table below) should be forwarded to “The Division Chief, Enforcement Department (EFD1-DRA II), Securities and Exchange Board of India, SEBI Bhavan, Plot No. C –4 A, “G” Block, Bandra Kurla Complex, Bandra (E), Mumbai –400 051”:

1. Case Name:	
2. Name of payee:	
3. Date of payment:	
4. Amount paid:	
5. Transaction no.:	
6. Bank details in which payment is made:	
7. Payment is made for : (like penalties/ disgorgement/ recovery/ settlement amount and legal charges along with order details)	

32. In terms of the provisions of Rule 6 of SEBI Adjudication Rules and Rule 6 of SCRA Adjudication Rules, a copy of this order is being sent to the Noticee viz. Geojit Financial Services Limited and also to the Securities and Exchange Board of India.

Date: April 23, 2019
Place: Mumbai

K SARAVANAN
CHIEF GENERAL MANAGER &
ADJUDICATING OFFICER