

**Before the  
Member and Core Settlement Guarantee Fund Committee  
("MCSGFC"/"Committee")  
of  
National Stock Exchange of India Limited  
Exchange Plaza, Bandra Kurla Complex, Bandra East, Mumbai – 400051  
held on June 27, 2022  
In the matter of Trading Member  
M/s. Profitmart Securities Private Limited**

**CORAM:**

Ms. Mona Bhide	- Chairperson
Mr. K Narasimha Murthy	- Committee Member
Ms. Anuradha Rao	- Committee Member
Mr. Ranganayakulu Jagarlamudi	- Committee Member
Mr. Vikram Limaye	- Committee Member

**PRESENT:**

Ms. Priya Subbaraman	- Chief Regulatory Officer
Dr. Dinesh Kumar Soni	- Senior Vice President - Regulatory
Mr. Suresh Nair	- Vice President – Enforcement Regulatory

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**BACKGROUND**

1. **M/s.Profitmart Securities Private Limited ("Noticee")** is a Trading Member registered with the National Stock Exchange of India Limited ("**Exchange**"/"**NSEIL**") and enabled for trading in the Capital Market ("**CM**") and Futures & Options ("**F&O**") segments since June 2012, and Currency Derivatives ("**CD**") segment since February 2013.
2. The Exchange conducted a regular inspection of the Noticee's books of accounts and records covering the period September 1, 2020, to August 31, 2021, in September 2021, and December 2021. Post-inspection, the Exchange issued a show-cause notice dated May 9, 2022, for the observed non-compliance with the regulatory provisions ("**SCN-1**"). The Noticee, vide letter dated June 7, 2022, replied to the SCN.
3. Further, the Exchange scrutinized the Noticee's records pertaining to inspection/supervision undertaken by the Noticee of its associated Authorised Persons ("APs"). The Exchange observed that the Noticee has failed to report the inspection of APs and records of the operations carried out by APs to date. Also, one of the Noticee's APs viz. Incofina Consultants LLP ("Incofina") has engaged in the activity other than those permitted, i.e., collecting money from clients/investors for schemes and promising assured returns to the clients/investors. Accordingly, the Exchange issued a show-cause notice dated June 14, 2022, for the observed non-compliance with the regulatory provisions ("**SCN-2**"). The Noticee has not replied to the said SCN-2.

**INSPECTION OBSERVATIONS/ALLEGED VIOLATIONS**

4. The observations/alleged violations mentioned in the SCN-1 are summarized hereunder:

4.1 Engagement as a principal in business other than securities involving personal financial liability

The Exchange verified the combined ledgers of the Noticee's clients. Upon verification, the Exchange observed certain patterns in payments made to clients as under:

a. Regular payment of Rs.5,555/- to clients

- i. The Noticee regularly paid a fixed sum of Rs.5,555/- to 7 out of 25 clients selected for sample scrutiny in 24 instances involving a total payment of Rs.1,33,320/-.
- ii. The clients have fund balances ranging from Rs.14,628/- (debit) to Rs.4,85,48,313/- (credit) on the previous day of the payment.

b. Regular fixed payments to clients

- i. The Noticee regularly paid a fixed sum to 8 out of 25 clients selected for sample scrutiny in 68 instances involving a total payment of Rs.91,24,000/-.
- ii. The clients have fund balances ranging from Rs.97,752/- (debit) to Rs.5,27,54,820/- (credit) on the previous day of the payment.

The afore-stated payment patterns indicate that the Noticee indulged in providing regular fixed pay-outs to its clients. Thus, the Noticee engaged as a principal in business other than securities involving personal financial liability.

4.2 Margin trading facility provided in unapproved securities

The Exchange verified the disclosures on the margin trading facility submitted by the Noticee to the Exchange. Upon verification, the Exchange observed that the Noticee provided a margin trading facility in unapproved securities in the case of 19 out of 205 scrips selected for sample scrutiny (9.27%).

4.3 Shortfall of clients' securities

The Exchange verified the weekly holding statement submitted by the Noticee vis-à-vis the demat account holdings. Upon verification, the Exchange observed that the Noticee had a shortfall of the client's securities in 3 out of 1124 instances selected for sample scrutiny as of August 31, 2021, involving Rs.10,50,846/-.

#### 4.4 Incorrect reporting of margin collected from clients

The Exchange verified the end of the day ("EOD") and peak margin requirement of the client vis-à-vis the funds and securities balances. Upon verification, the Exchange observed that the Noticee had incorrectly reported the data to the Exchange as under:

- a. EOD margin collected from clients was incorrectly reported in 3 out of 225 instances amounting to Rs.4,80,568/- (1.33%).
- b. Peak margin collected from clients was incorrectly reported in 3 out of 225 instances amounting to Rs.25,29,267/- (1.33%).

#### 4.5 Observations pertaining to the settlement of clients' funds and securities

The Exchange verified the settlement declaration, register of securities, clients' ledgers, trial balance, and Exchange records pertaining to margin requirement. Upon verification, the Exchange observed as under:

- a. The Noticee failed to settle clients' funds and securities in 5 out of 200 instances selected for sample scrutiny (2.5% of the total instances verified) involving Rs.3.46 crores.
- b. The Noticee delayed the settlement of clients' funds and securities by 9 to 27 days in 5 out of 200 instances selected for sample scrutiny (2.5% of the total instances verified).

#### 4.6 Non-closure/ winding up of client collateral account by August 31, 2020

The Exchange verified the demat accounts of the Noticee. Upon verification, the Exchange observed that the Noticee had not closed/wound up 1 client collateral account by August 31, 2020.

#### 4.7 Incorrect data reported in the weekly holding statement

The Exchange verified the weekly holding statement submitted by the Noticee as of August 31, 2021, vis-à-vis the demat account holding statement. Upon verification, the Exchange observed that the Noticee submitted incorrect data to the Exchange as under:

- a. Securities available in the demat account but not reported in the weekly holding statement in case of 6 scrips involving Rs. 2,97,694.
- b. Securities reported in the weekly holding statement but not available in the demat account in case of 3 scrips involving Rs.10,50,846.

#### 4.8 Incorrect data reported towards client-level cash and cash equivalents balances

The Exchange verified the details submitted by Noticee towards client-level cash and cash equivalent balances vis-à-vis the trial balance as on August 31,

2021. Upon verification, the Exchange observed that the Noticee submitted incorrect data to the Exchange, in 3 instances involving a difference of Rs.4,00,999/-.

#### 4.9 Mismatch in mobile numbers and email ids of clients

The Exchange verified the UCC database and the back-office data of the Noticee. Upon verification, the Exchange observed that the Noticee submitted incorrect data to the Exchange as under:

- a. Mismatch in the mobile numbers of clients as per Noticee's back-office vis-à-vis Exchange's UCC database in 142 instances.
- b. Mismatch in the email ids of clients as per Noticee's back-office vis-à-vis Exchange's UCC database in 140 instances

#### 4.10 Funding of client transactions

The Exchange verified the client ledgers and trade data of the Noticee. Upon verification, the Exchange observed that the Noticee granted exposure to clients beyond the fifth trading day, as reckoned from date of pay-in despite debit balance in the client ledgers in 8 out of 35 instances selected for sample scrutiny, involving Rs.1,75,39,844/-

5. The observations/alleged violations mentioned in the SCN-2 are summarized hereunder:

5.1 Failed to report the inspection of the APs and records of operations carried out by APs and take appropriate necessary action. In case of one of the Noticee's Authorised Person viz. Incofina Consultants LLP ("Incofina") is engaged in activities other than those permitted, i.e., collecting money from clients/investors for the schemes launched and promising assured returns to clients/investors.

- a. The Noticee has 3604 active APs as of March 31, 2022. As per Exchange Circular No. NSE/INSP/42448 dated October 18, 2019, the Noticee is required to inspect at least 30% of its active APs every year, i.e., 1081 APs. Furthermore, as per Exchange Circular No. NSE/COMP/50030 dated October 21, 2021, the Noticee is required to report the details of the inspections conducted for the FY 2021-22 till April 30, 2022. Upon scrutiny of the inspection reporting by the Noticee for the period April 1, 2021, to March 31, 2022, the Exchange observed that the Noticee has failed to report the inspection of the APs and records of the operations carried out by the APs.
- b. Incofina is running a scheme called "Inco Plus" wherein a minimum investment of Rs.1 lakh is solicited, and a return of 6.25% every quarter is offered. The scheme document mentions that the funds will be managed from the client's demat account, indicating the Noticee's involvement.

- c. Exchange had received 8 investor complaints against the Noticee wherein investors have alleged irregularities by the APs of the Noticee such as providing assured returns, collection of funds etc.

### **PRESENT MCSGFC PROCEEDINGS**

6. The Exchange granted the Noticee an opportunity for a personal hearing before the Committee in its meeting on June 27, 2022. Mr. Nayan Bhandari, Director, Mr. Gaurav Kothari, Compliance Officer, and Mr. Nitin Vora, Asst. Compliance Manager, appeared on behalf of the Noticee for the personal hearing and made the following oral submissions before the Committee:

a. Engagement as a principal in business other than securities involving personal financial liability:

The fund payouts were based on request of the clients and therefore well within the framework of exchange guidelines and regulations.

b. Margin trading facility provided in unapproved securities

The Exchange observations are incorrect, and all the securities are from the approved list.

c. Failed to report the inspection of the APs and records of the operations carried out by the APs:

The Noticee has currently reported the inspection of APs to the Exchange.

d. Failure to monitor the activities of AP

The website does not belong to its AP and the same was created by some unknown person having no connection with its AP. The Noticee expressed its inability to file a police complaint in the said matter due to insufficient documents.

### **CONSIDERATION AND FINDINGS**

7. The consideration and findings of the Committee are as under:

7.1 The Noticee *interalia* is charged with violations of engagement as a principal in business other than that of securities involving personal financial liability, providing margin trading facility in unapproved securities, non-settlement of clients' funds and securities, funding of client transactions, failure to report the inspection of APs and records of the operations carried out by the APs and failure to monitor the activities of the APs.

7.2 The Noticee made fixed payments to 8 clients in 68 instances involving an aggregate payment of Rs.91.24 lakhs during the period September 2020 to September 2021. In this regard, the Noticee replied that the fund payouts were released at the clients' request. In support, the Noticee has provided

“Instruction No.”, “Instruction Date Time”, and “Source User ID” for the payout request received online from the clients. The said details in isolation are insufficient to conclude that the payouts were made at the client’s request. The Noticee has provided the clients’ replies to the Noticee’s email dated June 1, 2022, wherein the clients have stated that, they have withdrawn the funds at their own will. However, the said emails are of June 2022, which are post issuance of SCN-1 and from the flow of communication, it is abundantly clear that it is an afterthought. The contention of the Noticee, in the absence of any other documentary evidence to prove that the fund payouts were released at the clients’ request is not tenable.

- 7.3 The Noticee did not reply to the observations pertaining to 8 investor complaints involving irregularities by the Noticee’s APs, such as providing assured returns, collection of funds, etc.
- 7.4 Further, the Noticee has failed to reply to the observations pertaining to monitoring its AP’s activities viz. Incofina. The Exchange has provided the Noticee the scheme documents displayed on the Incofina website viz. [www.apnainvestor.com](http://www.apnainvestor.com). The said scheme was called "Inco Plus" wherein a minimum investment of Rs.1 lakh is solicited, and a return of 6.25% every quarter was agreed to be paid. The scheme document mentions the investment duration for 1 year and the funds will be managed from the client's demat account. The Committee observed that the scheme document mentioning Incofina’s name, and the office address displayed on the website matches Incofina’s record with the Exchange.
- 7.5 During the personal hearing, the live website of the Noticee’s AP – Incofina was displayed. However, the Noticee denied knowing about any such website belonging to its AP.
- 7.6 The Committee noted that the Noticee has failed to upload the details of inspection of its APs by April 30, 2022. It is only after the receipt of the SCN-2 dated June 14, 2022, by the Exchange, the Noticee uploaded some inspection reports on June 18, 2022. There is substantial evidence on the record of the Exchange to show that the governance and supervision of the Noticee over its APs has failed.
- 7.7 The Noticee was advised to reply to the show-cause notice dated June 14, 2022, by June 24, 2022. However, no reply is filed by the Noticee. Since the Noticee is charged with a grave violation concerning assured returns to its clients, the Exchange granted the Noticee an opportunity of a personal hearing before the Committee to represent its case. Except for denial of the charge, the Noticee failed to provide any satisfactory explanation or documentary evidence to negate the charge.
- 7.8 SEBI has put in place a framework for Market Access through APs pursuant to the recommendations made by the Secondary Market Advisory Committee of SEBI. The said framework is notified by SEBI vide its circular No. MIRSD/DR-1/ Cir- 16 /09 dated November 06, 2009. The framework governing the

market access through APs is enclosed in Annexure-1 to the said circular. Amongst others, para 7 which sets out the various obligation of the stock brokers, the sub-clauses (a) (e) and (g) of para 7 are important as the same casts a regulatory obligation on the Trading Member. The same is reproduced below:

*“7. Obligations of Stock Broker*

- a) The stock broker shall be responsible for all acts of omission and commission of his authorised person(s) and/or their employees, including liabilities arising there from.*
- e) Stock broker shall conduct periodic inspection of branches assigned to authorised persons and records of the operations carried out by them.*
- g) On noticing irregularities, if any, in the operations of authorised person, stock broker shall seek withdrawal of approval, withhold all moneys due to authorised person till resolution of investor problems, alert investors in the location where authorised person operates, file a complaint with the police, and take all measures required to protect the interest of investors and market.”*

7.9 Exchange Circular No. NSE/INSP/42448 dated October 18, 2019, requires all the Trading Members to undertake inspections every year at least 30% of their active APs/branches, and ensure that each active AP/Branches are inspected at least once in every three years.

7.10 The Exchange also provided the indicative scope of inspection by its aforementioned circular No. NSE/INSP/42448 dated October 18, 2019, clarifying the scope of the audit. From amongst the various parameters to be inspected, the following are very important and critical.

- “11. The Authorised Person/Branch is not involved in any fund based activities / collecting deposits from investors / dabba trading / chit funds or any other such schemes.*
- 14. The AP/Branch is not involved in accepting deposits from the public and giving assured returns.*
- 15. Advertisements soliciting business are not issued by the Authorised Person/Branch in newspapers / pamphlets / journals / magazines etc. without appropriate approvals”.*

7.11 The Exchange circular No. NSE/INSP/42448, dated October 18, 2019, casts an obligation on the Trading Member to carry out an immediate inspection, irrespective of when the last inspection was carried out, in case of any inputs/alerts about any suspicious transactions/dealing/assured returns, etc. by an AP or a Branch. It is observed that despite complaints of assured returns in the knowledge of the Noticee, no actions were initiated by the Noticee in accordance with SEBI Circular No. MIRSD/ DR-1/ Cir- 16 /09 dated November 06, 2009.

- 7.12 During the personal hearing, Committee was also informed about one of Noticee's earlier Authorised Person- Planify Consultancy India Private Limited, against whom investor complaints were received by the Exchange alleging assured return schemes operated by the said AP. Based on the directions of the Exchange, the registration of the said AP was cancelled.
- 7.13 From the documents presented before the Committee, the Noticee's AP - Incofina is *prima facie*, engaged in assured return schemes, and has failed to take actions as required under the regulatory provisions. By not taking any actions, the Noticee infact, has aided its AP to carry on such schemes which are not permitted by Exchange Rules and Regulations and do have the potential to evolve into massive disputes/losses for the investors who have invested in the said schemes. Investment in the securities market has inherent market risk. Any assurance of a return to gullible investors is a false promise and can cause massive losses. In some cases, the capital itself could be eroded. Therefore, urgent steps must be taken to prevent the Noticee from soliciting and collecting funds from the clients/investors and carrying on such assured return schemes.
- 7.14 Committee noted that despite various investor complaints against its Authorised Persons involving the operation of assured returns schemes and failure to report inspections undertaken to the Exchange, Noticee was not able to demonstrate its capability to have effective oversight and supervision over its APs.
- 7.15 In view of the violation regarding assured returns, the Committee decided to pass an interim order, and has decided to deal with the other observations/alleged violations mentioned in the Show Cause Notices, by a separate order.

### **DECISION**

8. In view of the foregoing, the Committee opines that urgent steps need to be taken to protect the interest of the Noticee's clients/investors and the securities market. Accordingly, the Committee issues the following interim directions:
- a. The Noticee shall reply to the show-cause notice dated June 14, 2022, within 7 days from the date of this order.
  - b. The Noticee shall submit documentary evidence to the satisfaction of the Exchange in support of the claims that the Noticee is not providing assured returns to its clients within 15 days from the date of the order.
  - c. The Noticee is prohibited from registering new clients in all segments with immediate effect until further direction.
  - d. The Noticee is further prohibited from registering new APs with immediate effect until further direction.
  - e. The Exchange is advised to conduct a forensic audit by appointing an External Auditor with respect to assured returns provided by the Noticee / it's AP.

9. The matter was discussed in the Committee meeting held on June 27, 2022. At this stage, it is not possible to sign a copy of this order, nor a certified copy of the order can be issued by Exchange. Therefore, an electronic copy of this order sent from the Exchange's mail id shall be treated as a signed copy for all purposes.

Sd/-  
Mona Bhide  
(Chairperson)

Sd/-  
Anuradha Rao  
(Committee Member)

Sd/-  
K Narasimha Murthy  
(Committee Member)

Sd/-  
Ranganayakulu Jagarlamudi  
(Committee Member)

Sd/-  
Vikram Limaye  
(Committee Member)

Date: July 12, 2022.