

**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 October 17, 2023**

In the matter of the Trading Member M/s. Balance Equity Broking (India) Pvt. Ltd.

CORAM:

Ms. Mona Bhide	- Chairperson
Mr. K Narasimha Murthy	- Committee Member
Mr. S Ravindran	- Committee Member
Mr. Ranganayakulu Jagarlamudi	- Committee Member
Mr. Ashishkumar Chauhan	- Committee Member

ALSO PRESENT:

Mr. Piyush Chaurasia	- Chief Regulatory Officer
Dr. Dinesh Kumar Soni	- Senior Vice President - Regulatory
Ms. Renu Bhandari	- Vice President – Inspection
Mr. Janardhan Gujran	- Vice President - Enforcement
Mr. Shailesh Adukia	- Vice President - Enforcement

BACKGROUND

1. **M/s. Balance Equity Broking (India) Pvt. Ltd. ("Noticee")** is a member registered with the National Stock Exchange of India Limited ("**Exchange**"/"**NSEIL**") in the Capital Market ("**CM**") segment since August 2000, Futures & Options ("**F&O**") segment since May 2001, and Currency Derivatives ("**CD**") segment since August 2008.
2. The Exchange conducted an inspection of the Noticee's books and records covering the period from August 1, 2018, to July 31, 2019. Further, the Exchange conducted limited purpose inspections as of March 27, 2020, April 17, 2020, and May 8, 2020.
3. Post-inspections, the Exchange issued a show-cause notice ("**SCN-1**") dated May 27, 2020, to the Noticee for the observed non-compliances with the regulatory provisions viz. unexplained use of funds raised by pledging of clients' securities, unavailability of clients' funds to meet clients' payables, non-settlement of clients' accounts, etc. The Noticee, vide its email dated June 26, 2020, replied to SCN-1.

4. The Exchange placed the matter pertaining to SCN-1 before the MCSGFC in its meeting dated July 8, 2020, and granted an opportunity of personal hearing to the Noticee wherein the Noticee submitted a plan to recoup the shortfall of clients' funds. Upon considering the written submissions and oral submissions of the Noticee during the personal hearing, the MCSGFC, vide its order dated August 25, 2020, levied a monetary penalty of Rs.18,76,000/- and issued the following directions to the Noticee: -
- To refrain from onboarding or registering new clients with immediate effect
 - To submit the details of the assets, including two properties mentioned in the plan to recoup the shortages within 15 days from the date of order; and
 - To recoup the shortages in entirety within 15 days from the date of order

The MCSGFC also directed that in the event of non-compliance of the directions (b) and (c) mentioned above, the trading terminals of the Noticee will be disabled by the Exchange. The Exchange, vide its email dated August 25, 2020, communicated the decision to the Noticee.

5. The Noticee failed to comply with the directions specified in the order dated August 25, 2020, within 15 days from the date of the order. Consequently, the Exchange disabled the trading terminals of the Noticee in all segments with effect from September 10, 2020.
6. Considering the shortfall of clients' funds, the Exchange invoked the SEBI Circular dated July 01, 2020, on '*Standard Operating Procedure in the cases of Trading Member/Clearing Member leading to default*' ("**SOP**"). The Exchange appointed a forensic auditor in September 2020, to carry out a forensic audit of the books and records of the Noticee, covering the period from April 01, 2017, to August 31, 2020. Further, the Exchange was in receipt of 2 investor complaints claiming non-settlement of funds.
7. Based on the findings of the forensic audit and considering the unresolved investor complaints, the Exchange issued a show-cause notice dated April 9, 2021 ("**SCN-2**") to the Noticee for the observed non-compliances with the regulatory provisions. The Noticee, vide its email dated April 23, 2021, replied to SCN-2.
8. The observations/violations mentioned in SCN-2 are summarized hereunder: -
- Shortfall of clients' funds amounting to Rs.9.57 crores as of September 30, 2020.
 - Unresolved investor complaints pertaining to 2 clients viz. Mr. Vijay Chandumal Devnani and Mr. Arun Prasad claiming non-settlement of client funds involving Rs.14.96 crores as of April 06, 2021.

REGULATORY PROVISIONS

9. At the outset, it is appropriate to refer to the relevant regulatory provision violated by the Noticee; extracts whereof are reproduced below:

9.1. Misuse of clients' funds

- a) Regulation 4.5.3 (e) of NSEIL Regulations (CM and F&O Segments)

No Trading Member or person associated with a Trading Member shall make improper use of the constituent's securities or funds.

- b) Exchange Circular No. NSE/INSP/33276 dated September 27, 2016

3.3.1. Funds of credit balance clients used for margin obligations of debit balance clients or own purpose:

Principle 1

The total available funds, i.e. cash and cash equivalents, with the stockbroker and with the Clearing Corporation/Clearing Member (A + B), should always be equal to or greater than clients' funds as per ledger balance (C).

$$G = (A+B)-C$$

9.2. Unresolved investor complaints

- a) Regulation 9 (e) of SEBI (Stock-brokers) Regulations, 1992

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

(e) The stockbroker 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.

- b) SEBI Circular No. CIR/MIRSD/18/2011 dated August 25, 2011

The stockbrokers and sub-brokers shall take adequate steps for redressal of grievances within one month from the date of receipt of the complaint and keep the investor/stock exchange(s) duly informed of the action taken thereon. Failure to comply with the said requirement will render the stock broker liable for penal action.

PREVIOUS PROCEEDINGS BEFORE MCSGFC

10. The matter pertaining to SCN-2 was placed before the MCSGFC on the following dates:

10.1. MCSGFC meeting dated June 24, 2021

- a. The Exchange, vide its email dated June 17, 2021, granted the Noticee an opportunity of personal hearing before the MCSGFC.
- b. The Noticee, vide its email dated June 21, 2021, requested the Exchange to grant two weeks to engage a counsel/authorized representative to represent its matter before the MCSGFC. The MCSGFC acceded to the request of the Noticee. The Exchange, vide its email dated June 24, 2021, informed the same to the Noticee.

10.2. MCSGFC meeting dated August 3, 2021

- a. The Exchange, vide its email dated July 27, 2021, granted the Noticee an opportunity of personal hearing before the MCSGFC.
- b. On behalf of the Noticee, Mr. Kamal Agrawal, Authorized Representative, Mr. Kaushal Shah, Director and Ms. Neela Wakchaure, Compliance Officer, attended the personal hearing and made the following submissions:

- Mr. Vijay Chandumal Devnani ("Mr. Vijay")

The outstanding amount payable to Mr. Vijay is Rs. 13.65 crores. Out of the total payable, Rs.6.92 crores was paid and the remaining amount will be paid once the dues from debtors are recovered along with funds infused by the promoters.

- Mr. Arun Prasad ("Mr. Arun")

Mr. Arun had filed a complaint after the suspension of the trading terminals. The complaint was filed in October, 2020, i.e., after 36 months from the last trade date in March 2017. Hence, the complaint is time-barred, false and malafide. Further, Mr. Arun has filed a civil writ petition before the Hon'ble High Court of Kerala in February 2021, wherein the client sought a proper investigation of the Noticee and requested to register a crime against the Noticee's directors and officers. The matter is under litigation.

- M/s. Anjaneya Securities Services Pvt. Ltd. ("M/s. Anjaneya")

M/s. Anjaneya had an outstanding balance amounting to Rs.1.47 crores. It issued a No Objection Certificate ("**NOC**") to the Noticee for Rs.1 crore. The balance amount of Rs.47.67 lakhs is lying with the Exchange.

c. Upon considering the oral and written submissions of the Noticee, the MCSGFC directed the Noticee as under:

i. To pay Rs.50 lakhs to Mr. Vijay Chandumal Devnani ("**Mr. Vijay**") within 15 days from the date of the interim direction, i.e., by August 18, 2021, and submit evidence to the satisfaction of the Exchange.

ii. To submit an action plan to settle the balance payable to the following clients within 15 days from the date of the interim direction, i.e., by August 18, 2021:

- (1) Mr. Vijay
- (2) M/s. Anjaneya

The Exchange communicated the above directions to the Noticee vide its email dated August 3, 2021.

d. In reply to the interim directions dated August 3, 2021, the Noticee, vide its email dated August 18, 2021, submitted as under:

i. The Noticee is in the process of arranging funds and shall pay Rs.50 lakhs to Mr. Vijay within a week.

ii. The Noticee submitted its action plan to settle the balance payable to the client as under:

- (1) Mr. Vijay
 - Rs.50 lakhs by next weekend
 - Rs.50 lakhs by October 2021
 - Rs.50 lakhs by December 2021
 - Rs.50 lakhs expected from the sale of property and/or borrowing from the consortium.

(2) M/s. Anjaneya

- M/s. Anjaneya had an outstanding balance amounting to Rs.1.47 crores.
- It issued a No Objection Certificate ("**NOC**") to the Noticee for Rs.1 crore.
- The balance amount of Rs.47.67 lakhs is lying with the Exchange as the said amount could not be transferred due to suspension of the client bank account.
- Therefore, there is no outstanding amount payable to M/s. Anjaneya.
- The Noticee requested the Exchange to give the funds to any of the directors of M/s. Anjaneya in lieu of an undertaking.

11. CONSIDERATION AND FINDINGS

The observations/violations pertaining to SCN-2, the replies of the Noticee, and the findings of the MCSGFC are mentioned hereunder: -

11.1 Misuse of clients' funds

11.1.1 Upon verification of the trial balance and details submitted by the Noticee as of September 30, 2020, it is observed that the clients' funds available with the Noticee, the Clearing Corporation and Clearing Member are not sufficient to meet the client payables thereby resulting in a shortfall of clients' funds amounting to Rs. 9.57 crores as of September 30, 2020. The details are as under:

Sr. No.	Particulars	Amount Rs. in crores
1	Total of day-end balance in all client bank accounts - A	0.72
2	Collateral deposited with Exchange/Clearing Corporation in the form of cash and cash equivalents - B	3.90
3	Collateral deposited with Clearing Member in the form of cash and cash equivalents - C	5.81
4	Total credit balance of all clients - D	20.00
	Misuse of client funds [D-(A+B+C)]	9.57

11.2 Unresolved investor complaints

11.2.1 The Exchange received 2 investor complaints, claiming an aggregate amount of Rs. 14.96 crores as of April 06, 2021. The details are as under:

Unique Reference No.	Investor Name	Registration Date	Region	Nature of Issue	Claim Amount (in Rs.)
NSEWRO/0021381/20-21/ISC	Vijay Chandumal Devnani	17-Sep-2020	Mumbai	Non-Receipt / Delay - Funds	13,64,83,128/-
NSEKOC/0023798/20-21/ISC	Arun Prasad	08-Oct-2020	Kochi	Others - Others	1,31,19,589/-

The Exchange vide its email dated September 17, 2020, and October 08, 2020, informed the receipt of such complaints and advised the Noticee to settle the said complaints. However, the Noticee failed to settle the complaints as of April 06, 2021.

11.3 In reply to SCN-2, the Noticee submitted as under: -

Misuse of clients' funds

- i. All the clients / creditors are settled, except two, i.e., Mr. Vijay and M/s. Anjaneya. Further, with respect to M/s. Anjaneya, it re-iterated its submission pertaining to the NOC of Rs. 1 crore submitted by M/s. Anjaneya.
- ii. As on the date of disablement i.e., September 10, 2020, funds amounting to Rs.10.05 crores were available with the Noticee.
- iii. There are 124 creditors claiming Rs.19.96 crores, out of which Rs.13.64 crores are claimed by Mr. Vijay. The total funds available were sufficient to meet 100% claim of all the creditors, except the claim of Mr. Vijay.
- iv. There are debtors amounting to Rs.7.91 crores who assured to pay the outstanding due amounts in a phased manner. However, the outstanding amount due to the clients is mainly because the debtors failed to pay their dues. Further, the funds are blocked by the Clearing Member, i.e., M/s. Edelweiss Custodial Services Ltd.
- v. The directors and promoters infused funds amounting to Rs.2.15 crores during the period from November 13, 2020, to March 24, 2021. Out of the total infused funds of Rs. 2.15 crores, funds amounting to Rs.1.17 crores were paid to Mr. Vijay.
- vi. There are deposits with BSE, NCDEX, MCX, and NSE amounting to Rs.3.60 crores.

- ix. The Noticee would need to initiate arbitration proceedings against claim of Mr. Arun Prasad, and for that the Noticee needs to be a member of the Exchange. However, pursuant to the SEBI Circular dated July 01, 2020, neither IGRP proceedings can be held, nor any arbitration proceedings for the Trading Members against whom the SOP is in force.
- vii. The Noticee requested the Exchange not to initiate proceedings for expelling or declaring the Noticee as defaulter but continue the suspension until the Noticee pays the outstanding amount to Mr. Vijay. The Noticee does not intend to resume its operations and will apply for surrender of membership after settling the outstanding amount to Mr. Vijay.

Unresolved investor complaints

- viii. Out of 12 investors who had lodged complaints with the Exchange for non-payment of funds, complete payment is made to 11 investors and part-payment of Rs.6.92 crores is made to Mr. Vijay.
- ix. Mr. Arun had filed a complaint after the suspension of the trading terminals. The complaint was filed on October 08, 2020, i.e., after 36 months from the last trade date in March 2017. Hence, the complaint is time-barred, false and malafide.
- x. In case of Mr. Vijay, the outstanding balance is amounting to Rs.6.94 crores. The said amount due will be paid as and when recovered from the debtors and further by selling the assets of directors and promoters.

11.4 The MCSGFC finds as under: -

- i. The Noticee has not submitted any specific reply to the violations, however accepted that it had settled all creditors, except two creditors, i.e., Mr. Vijay and M/s. Anjaneya.
- ii. The Noticee contended that out of Rs. 1.47 crores due to client M/s.Anjaneya, the client had submitted a NOC for Rs.1 crore. However, it is observed that the NOC for Rs. 1 crore was not supported with a board resolution, NOC submitted by the Noticee was denied. Subsequently, the Noticee submitted a revised NOC dated October 18, 2021, from M/s. Anjaneya, for an amount of Rs.0.76 crores, along with the board resolution.
- iii. The Committee took note that after adjusting the NOC amount of Rs. 0.76 crore, the outstanding balance payable to M/s.Anjaneya was Rs.0.71 crore.
- iv. The Committee observed that the outstanding amount of Rs.0.71 crore was paid to M/s. Anjaneya out of the Noticee's funds and balances / deposits lying

with the Exchanges and no amount is due and payable by the Noticee to M/s. Anjaneya, as of October 17, 2023.

- v. The Noticee claimed that it had deposits amounting to Rs.3.60 crores lying with the Exchanges. However, the said deposits were entirely utilized to settle the clients' accounts of the Noticee.
- vi. The Noticee's contention to continue being a member of the Exchange to initiate arbitration proceedings against some debtors, is not tenable as SEBI 'SOP Circular dated July 01, 2020, prohibits further Investor Grievance Redressal Committee/Arbitration meetings once a Trading Member is disabled or a show-cause notice is issued for declaration of default, whichever is earlier. The relevant extract of the SOP Circular is mentioned hereunder:

7. Once the Member is disabled or SCN is issued for declaration of defaulter to TM / CM (whichever is earlier), no further Investor Grievance Redressal Committee (IGRC) / Arbitration meetings shall be conducted.

In the instance case, the Noticee was disabled on September 10, 2020.

- vii. The Noticee requested the Exchange to continue with the suspension of the Noticee's terminals till it pays the outstanding amount to Mr. Vijay instead of expelling and declaring the Noticee as a defaulter.
- viii. The MCSGFC noted that the Noticee was taking efforts to settle the clients' accounts and reduce the outstanding balance.
- ix. Further, the MCSGFC noted that aggrieved by the non-settlement of accounts, one of the clients viz. Mr. Vijay filed an appeal vide Appeal No. 157 of 2022, before the Hon'ble SAT against SEBI, NSEIL, BSE Ltd. and the Noticee.

12. **PROCEEDING BEFORE HON'BLE SECURITIES APPELLATE TRIBUNAL ("SAT")**

- a. The Hon'ble SAT passed its order in the appeal filed by Mr. Vijay on July 17, 2023.
- b. The Hon'ble SAT, vide its order dated July 17, 2023, directed as under:

The stock exchange is required to take appropriate measures, namely, requiring the broker to infuse further sums of money so that the remaining clients could be paid off, upon failure to meet pay-in obligation, NSE is required to declare the

broker as a defaulter under Chapter XII so that the clients of the broker could file a claim under Chapter XII or XIII of the Bye-laws of the stock exchange. We, therefore, direct the stock exchange / stock exchanges to take appropriate measures and pass appropriate orders against the broker within three months from today.

- c. Pursuant to the order of the Hon'ble SAT, the Exchange, vide its email dated July 24, 2023, requested the Noticee to settle the clients' accounts immediately and submit the documentary evidence to the Exchange including client confirmation within 7 days from the date of communication.
- d. The Exchange issued a reminder vide its email dated July 31, 2023, stating that the Noticee failed to provide submissions pertaining to settlement of clients' account within 7 days.
- e. In the absence of any confirmation of settlement of clients' accounts and failure to submit its response, the Exchange placed the matter before the MCSGFC in its meeting held on August 17, 2023.

13. **PROCEEDINGS BEFORE MCSGFC PURSUANT TO HON'BLE SAT ORDER**

13.1 **MCSGFC meeting dated August 17, 2023**

- a. The Exchange, vide its email dated August 11, 2023, granted the Noticee an opportunity of personal hearing in the MCSGFC meeting held on August 17, 2023.
- b. On behalf of the Noticee, Mr. Kaushal Shah, Director and Ms. Neela Wakchaure, Compliance Officer, attended the personal hearing.
- c. Upon considering the oral submissions, the MCSGFC issued the following directions to the Noticee:
 - i. To settle the clients' accounts and submit documentary evidence in support of the same within one week, i.e., by August 24, 2023.
 - ii. To provide details of payments made to client Mr. Vijay along with bank statements.
 - iii. To make submissions in relation to the settlement of clients' claims other than amount payable to Mr. Vijay.

d. The Exchange, vide its email dated August 17, 2023, communicated the above interim directions to be complied with within one week, i.e., by August 24, 2023.

e. In reply to the interim directions dated August 17, 2023, the Noticee, vide its email dated August 21, 2023, submitted as under:

1) Client name: Mr. Vijay: - claim amounting to Rs. 13.65 crores

Noticee's submissions

i. The details of payment made to Mr. Vijay are as under:

Sr. No.	Date	Amount (Rs. in lakhs)
1.	10-Sep-2020	50.00
2.	10-Sep-2020	50.00
3.	24-Nov-2020	20.00
4.	24-Nov-2020	2.77
5.	27-Nov-2020	239.57
6.	03-Dec-2020	100.00
7.	14-Dec-2020	108.00
8.	02-Jan-2021	50.00
9.	06-Jan-2021	50.00
10.	13-Jan-2021	50.00
11.	13-Jan-2021	14.00
12.	05-Feb-2021	17.50
13.	09-Mar-2021	7.80
14.	24-Mar-2021	33.00
15.	02-Jul-2021	14.12
16.	26-Oct-2021	114.79
17.	19-Jan-2022	200.00
18.	10-Jul-2023	13.62
TOTAL		1135.18

ii. Out of the total outstanding balances of Rs. 13.65 crores, amount of Rs.11.35 crores were paid to Mr. Vijay. Further, the Noticee sought 30 to 45 days' time to procure NOC from Mr. Vijay for the balance amount.

MCSGFC findings:

- i. Upon considering the forensic audit report, the MCSGFC notes that the total credit balance of Mr. Vijay was Rs. 13.65 crores as on the date of disablement i.e., September 10, 2020. The Noticee claimed that it paid Rs.11.35 crores as of July 2023.
- ii. However, upon verification of the submissions, it is observed that an amount of Rs.1 crore alleged to be paid by Noticee on September 10, 2020, are made prior to the Noticee's disablement i.e., September 10, 2020.
- iii. Further, the amount of Rs.0.20 crores was wrongly received in the account which was returned back to Mr. Vijay, and Rs. 0.02 crore was dividend received in the account which was paid.
- iv. Therefore, the amount of Rs.1.22 crores cannot be included as payment made towards the outstanding balance of Mr. Vijay.
- v. The MCSGFC further notes that after excluding the payment of Rs. 1.23 crores, the outstanding amount to be paid to Mr. Vijay by the Noticee as of October 17, 2023, is Rs. 3.52 crores.

2) Client name: Mr. Arun Prasad - claim amounting to Rs. 0.48 croresNoticee's submissions

- i. The Noticee re-iterated its submission and informed that a civil writ petition was filed by Mr. Arun, before Hon'ble High Court of Kerala, wherein the client sought a proper investigation of the Noticee and requested to register a crime against the Noticee's directors and officers.
- ii. The Hon'ble Court vide its order dated August 30, 2022, closed the writ petition, and directed Mr. Arun to approach relevant authority since Mr. Arun submitted the writ petition without resorting to alternate remedy.

MCSGFC findings:

- i. Upon verification of the forensic audit report, it is observed that the total credit balance of Mr. Arun was Rs.0.48 crore.

- ii. An amount of Rs. 0.35 crore is kept aside by the Exchange towards the credit balance and was not paid since the matter was under litigation. After considering the order of Hon'ble High Court of Kerala, the said amount has been paid to Mr. Arun.
- iii. The Committee observed that the amount of Rs.0.35 crore was paid to Mr. Arun out of the Noticee's funds and balances / deposits lying with the Exchanges and Rs. 0.12 crores is due and payable by the Noticee to Mr.Arun.

13.2 **MCSGFC meeting dated September 21, 2023**

The MCSGFC took note that despite MCSGFC's direction to settle the clients' accounts by August 24, 2023, the accounts are unsettled. The Committee, after deliberations, decided that the matter be placed before the MCSGFC to take final decision by October 17, 2023, as directed by Hon'ble SAT.

14. **MCSGFC MEETING DATED OCTOBER 17, 2023**

14.1 The MCSGFC took note of the following sequence of events:

Sr. No.	Date	Particulars
2020		
1	27-May-2020	SCN-1 issued to the Noticee covering period 01-Aug-2018, to 31-Jul-2019, and 27-Mar-2020, 17-Apr-2020, and 08-May-2020
2	26-Jun-2020	Noticee replied to SCN-1
3	25-Aug-2020	MCSGFC decided the matter pertaining to SCN-1 wherein MCSGFC levied penalty and issued directions to settle the clients' accounts within 15 days failing which the terminals will be disabled.
4	10-Sep-2020	Since the Noticee failed to settle the clients' accounts, the terminals were disabled.
2021		
5	09-Apr-2021	SCN-2 issued to the Noticee covering period 01-Apr-2017, to 31-Aug-2020.
6	23-Apr-2021	Noticee replied to SCN-2.
7	24-Jun-2021	The matter was placed before MCSGFC, and adjournment was granted to the Noticee.

8	03-Aug-2021	The matter was placed before MCSGFC, and the MCSGFC issued directions to pay amount of Rs.50 lakhs to Mr. Vijay within 15 days and submit an action plan to settle the clients by 18-Aug-2021.
9	18-Aug-2021	The Noticee failed to pay Rs.50 lakhs by 18-Aug-2021, however, it and submitted its action plan.
2022		
10	19-Jan-2022	The Noticee paid Rs.3.14 crores to Mr. Vijay during Aug-2021 to Jan-2022.
11	March 2022	Mr. Vijay filed appeal before Hon'ble SAT and the matter was first listed on 18-Apr-2022.
2023		
12	17-Jul-2023	Hon'ble SAT directed Exchange to pass appropriate orders against the Noticee within three months from date of the order i.e., declare Balance Equity as defaulter upon failure to meet the obligations.
13	24-Jul-2023	Pursuant to Hon'ble SAT order the Noticee was directed to settle all the accounts within 7 days i.e., by 31-Jul-2023.
14	31-Jul-2023	Since the Noticee failed to settle the clients' accounts, Exchange issued a reminder to the Noticee.
15	17-Aug-2023	The matter was placed before MCSGFC, and the MCSGFC issued directions to settle the clients within one week i.e., by 24-Aug-2023.
16	21-Aug-2023	The Noticee replied to the MCSGFC direction dated 17-Aug-2023 and assured to submit the NOC from Mr. Vijay within 30 to 45 days.
17	21-Sep-2023	The matter was placed before MCSGFC and it decided that the matter be placed before the MCSGFC to take final decision by 17-Oct-2023, as directed by Hon'ble SAT.
18	17-Oct-2023	The matter was placed before MCSGFC for final decision.

14.2 In view of the above, the Committee notes that, for the first time, issued an order dated August 25, 2020, directing the Noticee to settle all the clients within 15 days. Subsequently, on August 03, 2021, the Committee again directed the Noticee to pay an amount of Rs. 50 lakhs to Mr. Vijay within 15 days and also instructed them to submit an action plan to settle the clients. The Noticee has paid an amount of Rs. 10.13 crores to Mr. Vijay until July 2023, but has failed to pay Rs. 3.52 crores to Mr. Vijay and Rs. 0.12 crores to Mr. Arun.

14.3 The MCSGFC notes that the Hon'ble SAT vide its order dated July 17, 2023, directed the Exchange as under:

“We are of the opinion that the stock exchange is required to take appropriate measures, namely, requiring the broker to infuse further sums of money so that the remaining clients could be paid off, failing which upon failure to meet pay-in obligation, NSE is required to declare the broker as a defaulter under Chapter XII so that the clients of the broker could file a claim under Chapter XII or XIII of the Bye-laws of the stock exchange. We, therefore, direct the stock exchange / stock exchanges to take appropriate measures and pass appropriate orders against the broker within three months from today. In this regard, SEBI will follow up the matter.”

14.4 The Committee noted that the Hon’ble SAT allowed a time of 3 months from the date of its order, i.e., from July 17, 2023, to settle the clients’ account. Accordingly, the Exchange vide its emails dated July 24, 2023, July 31, 2023, and August 17, 2023, directed the Noticee to comply with the Hon’ble SAT order. Further, Noticee was given an opportunity of personal hearing in the MCSGFC meeting dated August 17, 2023. However, the Noticee failed to settle the clients’ accounts even after multiple opportunities were granted to the Noticee. It is observed that, the Noticee in its subsequent letter dated August 21, 2023, assured to submit the NOC from Mr. Vijay within 30 to 45 days, however the Noticee have failed to act upon its own commitments.

14.5 The status of unsettled accounts as of October 17, 2023, is as under:

Sr. No.	Client Name	Amount (Rs. in crores)
1.	Mr. Vijay Devnani	3.52
2.	Mr. Arun Prasad	0.12
Total		3.64

14.6 As of October 17, 2023, the Noticee has NIL funds and securities against the total claim amounting to Rs. 3.64 crores. Hence, it is evident that the Noticee does not have sufficient funds to settle the clients’ claim.

CONCLUSION

15. Despite several opportunities, the Noticee has failed to settle the clients' account and has also failed to comply with the directions issued by the Hon’ble SAT through its order dated July 17, 2023. Since the Noticee is unable to fulfill its settlement obligations, the Noticee is required to be declared as a defaulter.
16. The MCSGFC’s primary focus during this period has been to safeguard the interest of the investors. By failing to settle clients’ account and resolve investors complaints for a

prolonged period of time, the Noticee failed to abide by the Code of Conduct specified under Regulations 4.5.1 and 4.5.2 of Exchange Regulations (CM and F&O Segments), and Rules 3(e) of Chapter IV of Exchange Rules which has inevitably culminated in the decision to declare the Noticee as defaulter. The extracts of the relevant Rules, Regulations, Bye-laws and Circulars violation by the Noticee are as under:

a) Chapter IV of Exchange Rules

Disciplinary Jurisdiction

- (1) *The relevant authority may expel or suspend and/or fine under censure and/or warn and/or withdraw any of the membership rights of a trading member if it be guilty of contravention, non-compliance, disobedience, disregard or evasion of any of the Byelaws, Rules and Regulations of the Exchange or any resolutions, orders, notices, directions or decisions or rulings of the Exchange or the relevant authority or any other Committee or officer of the Exchange authorised in that behalf or of any conduct, proceeding or method of business which the relevant authority in its absolute discretion deems dishonorable, disgraceful or unbecoming a trading member of the Exchange or inconsistent with just and equitable principles of trade or detrimental to the interests, good name or welfare of the Exchange or prejudicial or subversive to its objects and purposes.*

Penalty for Misconduct, Unbusinesslike Conduct and Unprofessional Conduct

- (2) *In particular and without in any way limiting or prejudicing the generality of the provisions in Rule (1) above, a trading member shall be liable to expulsion or suspension or withdrawal of all or any of its membership rights and/or to payment of a fine and/or to be censured, reprimanded or warned for any misconduct, unbusinesslike conduct or unprofessional conduct in the sense of the provision in that behalf contained herein.*

Misconduct

- (3) *A trading member shall be deemed guilty of misconduct for any of the following or similar acts or omissions, namely:*
- (e) *Failure to comply with Resolutions: If it contravenes or refuses or fails to comply with or abide by any resolution, order, notice, direction, decision or ruling of the relevant authority or of any Committee or officer of the Exchange or other person authorized in that behalf under the Byelaws, Rules and Regulations of the Exchange.*

b) Byelaw 1(a) of Chapter XII of Exchange Byelaws

Declaration of Default

(1) *A trading member may be declared a defaulter by direction/circular/notification of the relevant authority of the trading segment if -*

- (a) he is unable to fulfill his obligations*
- (b) he admits or discloses his inability to fulfill or discharge his duties, obligations and liabilities; or*

c) Regulations 4.5.1 and 4.5.2 of Exchange Regulations (CM and F&O Segments)

4.5 CODE OF CONDUCT FOR TRADING MEMBERS

4.5.1 ADHERENCE TO SEBI CODE OF CONDUCT

The Trading Member shall at all times subscribe to the Code of Conduct as prescribed by the Securities and Exchange Board of India (Stock Brokers) Regulations, 1992.

4.5.2 GENERALPRINCIPLES^c

(a) Professionalism : A Trading Member in the conduct of his business, shall observe high standards of commercial honour of just and equitable principles of trade.

(b) Adherence to Trading Practices : Trading Members shall adhere to the Rules, Regulations and Byelaws of the Exchange and shall comply with such operational parameters, rulings, notices, guidelines and instructions of the relevant authority as may be applicable from time to time.

(c) Honesty and Fairness: In conducting his business activities, a Trading Member shall act honestly and fairly, in the best interests of his constituents

DECISION

17. Accordingly, M/s. Balance Equity Broking (India) Pvt. Ltd. is declared as a defaulter under Byelaw 1(a) of Chapter XII of the NSEIL Byelaws, with immediate effect from the date of this order.

Sd/-
Mona Bhide
(Chairperson)

Sd/-
K Narasimha Murthy
(Committee Member)

Sd/-
S Ravindran
(Committee Member)

Sd/-
Ranganayakulu Jagarlamudi
(Committee Member)

Sd/-
Ashishkumar Chauhan
(Committee Member)

Date: October 30, 2023