



**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 December 23, 2021**

In the matter of the Trading Member M/s. C.M. Goenka Stock Brokers Pvt. Ltd.

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

ALSO PRESENT:

Ms Priya Subbaraman	- Chief Regulatory Officer
Dr Dinesh Kumar Soni	- Senior Vice President – Regulatory

1 BACKGROUND

- 1.1 M/s. C.M. Goenka Stock Brokers Pvt. Ltd. ("C.M. Goenka") is a Trading Member registered with the National Stock Exchange of India Limited ("NSEIL"/"Exchange") and enabled for trading in the Capital Market ("CM") and Futures & Option ("F&O") segments since June 2006 and Currency Derivatives ("CD") segment since May 2014.
- 1.2 The Exchange conducted limited purpose inspections of the books of accounts and records of C.M. Goenka in July 2021. Post-inspections, the Exchange issued two letters of observation dated August 9, 2021 ("LO-1" and "LO-2") to C.M. Goenka for the observed non-compliance with the regulatory provisions. C.M. Goenka, vide emails dated August 20, 2021, replied to LO-1 and LO-2.
- 1.3 The observations/alleged violations mentioned in the letters of observation are summarized hereunder:

LO-1

Incorrect reporting of margin in 10 instances of 8 clients amounting to Rs.73.28 crores as of April 12, 2021, April 20, 2021, and April 28, 2021.

LO-2

Incorrect reporting of margin in the case of 4 instances of 3 clients amounting to Rs.37.12 crores as of May 7, 2021, and May 14, 2021.

- 1.4 As a part of offsite supervision of Trading Members, upon verification of the margin obligation of C.M. Goenka across exchanges against the cash and cash equivalent data submitted by C.M. Goenka and the valuation of pledged securities obtained from the depositories (NSDL/CDSL) for the respective clients of C.M. Goenka, the Exchange observed that C.M. Goenka was reporting incorrect margins to the Exchange. The Exchange shared the observation along with the data relied upon and sought clarification from C.M. Goenka. Further, the Exchange verified the data submitted by C.M. Goenka under the Enhanced Supervision of Stockbrokers and weekly cash and cash equivalent data and observed certain discrepancies.

Given the above, the official of the Exchange visited the registered office of C.M. Goenka located at 206, Jaipur Tower, II Floor, Opposite A.I.R., M.I. Road, Jaipur-302001, on August 9, 2021, and collected various back-office records including bank books, register of securities etc. for the limited purpose inspection.

- 1.5 Upon verification of the trial balance as of August 6, 2021, the Exchange observed that the available balances lying with the Bank/Clearing Member/Clearing Corporation were amounting to Rs.1.54 crores, whereas the clients' payables were amounting to Rs.23.15 crores, thereby resulting in a shortfall of clients' funds amounting to Rs.21.60 crores as of August 6, 2021.

2. REFERENCE TO SEBI CIRCULAR DATED JULY 1, 2020

- 2.1 SEBI, vide circular No. SEBI/HO/MIRSD/DPIEA/CIR/P2020/115 dated July 1, 2020, specified the standard operating procedure enumerating the actions to be taken by the stock exchanges/clearing corporations/depositories in such cases where the stock exchange/clearing corporation is of the view that the Trading Member/Clearing Member is likely to default in repayment of funds or securities to its clients ("SEBI SOP Circular").
- 2.2 As per Clause 4 of the SEBI SOP Circular, on analysis of early warning signals or any of the following triggers, if the Stock Exchange/Clearing Corporation is of the view that the Trading Member/Clearing Member is likely to default in the

repayment of funds/securities to its clients and/or fail to meet the settlement obligations to the Clearing Member/Clearing Corporation, where:

- a. There is a shortage of funds/securities payable to the clients by Rs.10 crores (stock exchange may have their own criteria) and/or
- b. Trading Member/Clearing Member has failed to meet the settlement obligations to Clearing Member/Clearing Corporation and/or
- c. There is a sudden increase in the number of investor's complaints against the Trading Member/Clearing Member for non-payment of funds and/or transfer of securities,

the Initiating Stock Exchange shall take the actions laid down in the said circular.

2.3 In view of the shortfall of clients' funds amounting to Rs.21.60 crores as of August 6, 2021, the Exchange initiated the steps prescribed under the SEBI SOP Circular against C.M. Goenka.

3. **PROCEEDINGS BEFORE MCSGFC ON AUGUST 23, 2021**

3.1 The matter was placed before the Committee in its meeting held on August 23, 2021. The Committee noted the following:

- a. The Exchange initiated the step prescribed under the SEBI SOP Circular in view of the shortfall of clients' funds amounting to Rs.21.60 crores as of August 6, 2021.
- b. C.M. Goenka, vide email dated August 13, 2021, acknowledged the shortfall of clients' funds and informed that it is taking steps to recoup the shortfall.
- c. The Exchange completed the preliminary assessment of the assets and liabilities of C.M. Goenka.

3.2 In view of the above, to protect the interests of the investors and the integrity of the securities market, the Committee issued the following directions:

- a. As an interim measure, in line with the SEBI Circular No. SEBI/HO/MIRSD/DPIEA/CIR/P2020/115 dated July 1, 2020, the trading terminals of M/s. C.M. Goenka shall be disabled in all segments of the Exchange with immediate effect.

- b. The Exchange shall continue to take the necessary steps laid down in the SEBI SOP Circular.
- 3.3 The Exchange, vide email dated August 27, 2021, forwarded the order of even date to C.M. Goenka.
- 3.4 In compliance with the decision of the Committee, the Exchange disabled the trading terminals of C.M. Goenka in all segments with effect from August 30, 2021.

4. **SHOW-CAUSE NOTICE**

- 4.1 As per Clause 4.2 of the SEBI SOP Circular, the Exchange conducted a limited purpose inspection of the books of accounts and records of C.M. Goenka on August 12, 2021. Post-inspection, the Exchange issued a show-cause notice dated August 30, 2021 ("SCN"), to C.M. Goenka for the observed non-compliances of the regulatory provisions. C.M. Goenka, vide email dated September 16, 2021, replied to the SCN.
- 4.2 The observations/alleged violations mentioned in the SCN are summarized hereunder:
 - a. Shortfall of clients' funds amounting to Rs.21.60 crores as of August 6, 2021
 - b. Shortfall in net worth, i.e., net worth of (-) Rs.23.09 crores as of August 6, 2021
 - c. False reporting of margin collected from the clients in F&O segment in 4 instances of 4 clients amounting to Rs.42.57 crores
 - d. Disproportionate exposure provided to the client as of May 4, 2021
 - e. Non-adherence to the risk management policy and limit setting
 - f. Non-maintenance of the bank books and clients' ledgers in the prescribed standard format
 - g. Incorrect reporting of data towards the weekly monitoring of clients' funds and weekly cash and cash equivalents

h. Non-resolution of 76 investor complaints involving Rs.12.72 crores as of August 30, 2021

5. REGULATORY PROVISIONS

At the outset, it is appropriate to refer to the relevant regulatory provisions alleged to have been violated by C.M. Goenka, extracts whereof are reproduced below:

5.1 Clause 9(1)(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) 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.

5.2 Regulation 3.10 of NSEIL Regulations (F&O Segment)

The Trading Members must demand from its constituents the margin deposit which the member has to provide under these Trading Regulations in respect of the business done by the Members for such constituents.

5.3 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.

5.4 Regulation 6.1.5 (e) of NSEIL Regulations (CM Segment)

The Trading Members shall keep a separate ledger account for each client in respect of the transactions on the Exchange and shall not mingle such account with the account of the client in respect of transactions of any other stock exchange or any other transaction which the trading member may enter into with such client.

5.5 Rule 33 of Chapter III of the Rules of the Exchange

(33) The relevant authority shall from time to time prescribe conditions and requirements for continued admittance to trading membership which may, inter alia, include maintenance of minimum net worth and capital adequacy,

renewal of 19 certification, if any, etc. The trading membership of any person who fail to meet these requirements shall be liable to be terminated.

5.6 Exchange Circular No. NSE/INSP/10367 dated February 28, 2008

All Clearing Members and Trading Members in the F&O segment are required to collect upfront initial margins from all the Trading Members/Constituents whose transactions are settled by them and also to report on a daily basis details in respect of such margin due and collected.

5.7 Exchange Circular No. NSE/INVG/16703 dated January 5, 2011

(f) Conduct ongoing due diligence and scrutiny, i.e. Perform ongoing scrutiny of the transactions and account throughout the course of the business relationship to ensure that the transactions being conducted are consistent with the registered intermediary's knowledge of the client, its business and risk profile, taking into account, where necessary, the client's source of funds; and

(g) Registered intermediaries shall periodically update all documents, data or information of all clients and beneficial owners collected under the CDD process.

5.8 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 stockbroker liable for penal action.

5.9 Exchange Circular No. NSE/COMP/21990 dated October 23, 2012

...the limits are setup after assessing the risk of corresponding user ID & branch ID

...all the limits are reviewed regularly and the limits in the system are up to date

...all the branch or user have got limits defined and that No user or branch in the system is having unlimited limits on the above stated parameters

...daily record of these limits is preserved and shall be produced before the Exchange as and when the information is called for.

5.10 Exchange Circular No. NSE/INSP/29096 dated March 11, 2015

Members are advised to ensure that the funds & securities available in the client bank/s and client beneficiary account/s together with balances available with Clearing Member and funds with Clearing Corporation are not less than the funds and securities payable to the client at all times.

5.11 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

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)

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

3.2. Stockbrokers shall submit the following data as on the last trading day of every week to the Stock Exchanges on or before the next trading day:

C - Aggregate value of credit balances of all clients as obtained from trial balance across stock exchanges (after adjusting for open bills of clients, uncleared cheques deposited by clients and uncleared cheques issued to clients and the margin obligations).

5.12 Exchange Circular No. NSE/INSP/38743 dated August 30, 2018

In order to standardize the maintenance of books of accounts/records and ensure uniformity across all Members, a standard format for register of securities, holding statement, bank book and client ledger is prescribed herewith.

The revised formats shall be applicable w.e.f. December 01, 2018. Members are advised to make necessary changes in their back office in order to comply with requirements.

Members may further note that non-maintenance of Register of Securities, Holding Statement, Bank Book and Client Ledger in the prescribed format is a violation of the provisions of the Securities Contracts (Regulation) Rules 1957 /

Regulations of the Exchange and will attract appropriate disciplinary action as per Rule 1 and 2 of Chapter IV of NSEIL Rules.

5.13 Exchange Circular No. NSE/INSP/43926 dated March 23, 2020

Member's attention is drawn to Exchange Circular NSE/INSP/43486 dated February 10, 2020, regarding proposed submission of the following data/details:

- 1. Day-wise upload of client level cash & cash equivalent balances on a weekly basis for all calendar days of that week except Sunday (i.e. Monday to Saturday);*
- 2. Day-wise upload of bank balances (as per the bank statement) of all bank accounts on a weekly basis for all the calendar days of that week except Sunday (i.e., Monday to Saturday).*

The aforesaid data / details shall be required to be submitted on or before the next four trading days of the subsequent week.

5.14 Exchange Circular No. NSE/INSP/45191 dated July 31, 2020

Exchange issued clarification in the form of frequently asked questions on margin collection and reporting.

What does false reporting of margin/MTM (non-compliance) mean?

Where the margins, including upfront margins / MTM Losses has not been collected/short collected by the Member in any of the applicable modes prescribed above, however, the same has been reported by the Member as collected, it would be construed as false reporting to the clearing corporation.

5.15 Exchange Circular No. NSE/COMP/47873 dated April 2, 2021

Net worth Requirement & Method of Computation

Trading Members/Clearing Members of the Exchange/NCL are required to maintain net worth as prescribed by the Exchange at all points in time as per the continuing membership norms of the Exchange.

Method of computation applicable is Dr L. C. Gupta as prescribed by Schedule VI of Securities and Exchange Board of India (Stockbrokers and Sub-brokers) (Second Amendment) Regulations, 2013.

Schedule VI of Securities and Exchange Board of India (Stockbrokers and Sub-brokers) (Second Amendment) Regulations, 2013

The stockbroker shall have a net worth and shall deposit with the stock exchange a sum as may be specified by the Board/Stock Exchange for the relevant segment from time to time.

Explanation.- For the purposes of this Schedule, 'net worth' shall mean paid up capital, free reserves and other securities approved by the Board from time to time but shall not include fixed assets, pledged securities, value of member's card, non-allowable securities (unlisted securities), bad deliveries, doubtful debts and advances (debts or advances overdue for more than three months or debts or advances given to the associate persons of the member), prepaid expenses, losses, intangible assets and 30% value of marketable securities.

PROCEEDINGS BEFORE MCSGFC ON DECEMBER 23, 2021

6. The Exchange, vide email dated December 17, 2021, granted C.M. Goenka an opportunity for a personal hearing before the Committee. Mr. Kapil Goenka, Designated Director of C.M. Goenka, appeared for the personal hearing through video conferencing and made the following oral submissions:
 - a. Shortfall of clients' funds: C.M. Goenka initiated steps to recoup the shortfall of clients' funds by infusing the funds through sale of house and borrowing. However, it is now unable to raise any more funds.
 - b. Disproportionate exposure granted to Ms. Sarika Gupta (Client Code S761) There has been a lapse in monitoring the positions of Ms. Sarika Gupta. During this period, Mr. Kapil Goenka was indisposed. The staff of C.M. Goenka did not report the incident to the management and incorrectly reported the margin. C.M. Goenka has initiated legal proceedings against Ms. Sarika Gupta to recover the funds.

CONSIDERATION & FINDINGS

7. The observation/alleged violation mentioned in LO-1, reply of C.M. Goenka and findings of the Committee are as under:

7.1 Incorrect reporting of margin collected from clients

- a. Upon verification of register of securities, clients' ledger, demat transaction statement, and Exchange's records, the Exchange observed that C.M. Goenka did not have sufficient funds and collaterals to meet its margin

obligations and incorrectly reported the margin in 10 instances of 8 clients amounting to Rs.73.28 crores as of April 12, 2021, April 20, 2021, and April 28, 2021.

b. In reply to the LO-1, C.M. Goenka submitted as under:

- i. Regarding Client Code K203, it denied the incorrect reporting of margin of Rs.1,945/- on April 20, 2021. The client's margin was short in the CD segment by Rs. 4,780.03 on April 20, 2021, which was reported to the Exchange. It also paid the penalty of Rs.28.20 to the Exchange, which was debited from the client's ledger on April 29, 2021. It provided the client's ledger in support of its submission.
- ii. Regarding Client Code R111, it denied the incorrect reporting of margin of Rs.28,392.92 on April 20, 2021. It reported short margin of Rs.28,392.92 collected from the client. It also paid the penalty of Rs.289.33 to the Exchange and posted the same in its penalty ledger on April 30, 2021. It provided the penalty ledger of CM segment of April 2021 to the Exchange. Since as per Exchange Circular, it cannot debit the short margin penalty of CM segment from the client's ledger, it charged the penalty amount to its own account and not to the client's account, hence, the short margin penalty is reflected in its penalty ledger and not the client's ledger unlike F&O and CD segments.

c. The Committee finds as under

- i. C.M. Goenka did not provide a reply to the observation/alleged violation on the incorrect reporting of margin collected from 3 clients, i.e. Mr Sachin Sogani (Client Code S259), Mr Bhagchand Jain (Client Code Y497) and Ms Sarika Gupta (Client Code S761) amounting to Rs.26,07,88,819.70 on April 12, 2021.
- ii. C.M. Goenka provided a reply to the observation/alleged violation on the incorrect reporting of margin collected from 2 clients, i.e. Mr Kalyan Prasad Nyati (Client Code K203) and Mr Ramesh Kumar Tak (Client Code R111) amounting to Rs.30,877.92 on April 20, 2021. The contention of C.M. Goenka is acceptable. However, C.M. Goenka did not provide any reply to the observation/alleged violation on incorrect reporting of margin collected from 2 clients, i.e. Urmila Agrawal (Client

Code U44) and Sarika Gupta (Client Code S761) amounting to Rs.24,60,82,620.63 on April 20, 2021.

- iii. C.M. Goenka did not provide a reply to the observation/alleged violation on the incorrect reporting of margin collected from 3 clients, i.e. Ashish Mangal HUF (Client Code A454), Ms Sarika Gupta (Client Code S761) and Ms Sakshi Mehta (Client Code S654) amounting to Rs.22,59,23,302.06 on April 28, 2021.
- iv. It is incumbent on C.M. Goenka to reply to the observation/alleged violation and provide documentary evidence in support thereof. In the absence of a reply, the irregularity exists in 8 instances amounting to Rs.73.28 crores.
- v. Regulation 3.10 of NSEIL Regulations (F&O Segment) and Exchange Circular No. NSE/INSP/10367 dated February 28, 2008, mandates upfront collection of margins from the clients. C.M Goenka incorrectly reported the margin collected from the clients to the Exchange, and thus, violated the regulatory provisions mentioned above.

8. The observation/alleged violation mentioned in LO-2, reply of C.M. Goenka and findings of the Committee are as under:

8.1 Incorrect reporting of margin collected from clients

- a. Upon verification of register of securities, clients' ledger, demat transaction statement, and Exchange's records, the Exchange observed that C.M. Goenka did not have sufficient funds and collaterals to meet its margin obligations and incorrectly reported the margin in 4 instances of 3 clients amounting to Rs.37.12 crores as of May 7, 2021, and May 14, 2021.
- b. In reply to the LO-2, C.M. Goenka submitted as under:
 - i. Regarding Client Code R505, it denied the incorrect reporting of margin of Rs.21,549.66 on May 7, 2021. It reported short margin of Rs.9,089/- collected the client. It also paid the penalty of Rs.90.89 to the Exchange and posted the same in its penalty ledger on May 21, 2021.

- ii. Regarding Client Code V14, it denied the incorrect reporting of margin of Rs.3,018.40 on May 7, 2021. It reported short margin of Rs.4,890.20 collected from the client. It also paid the penalty of Rs.57.70 to the Exchange and posted the same in its penalty ledger on May 15, 2021.
 - iii. It provided the penalty ledger of CM segment to the Exchange. Since as per Exchange Circular, it cannot debit the short margin penalty of CM segment from the client's ledger, it charged the penalty amount to its own account and not to the client's account, hence, the short margin penalty is reflected in its penalty ledger and not the client's ledger unlike F&O and CD segments.
 - c. The Committee finds as under:
 - i. C.M. Goenka provided a reply to the observation/alleged violation on the incorrect reporting of margin collected from 2 clients, i.e. Ms Radha Rawal (Client Code R505) and Mr Vinod Kumar Sharma (Client Code V14) amounting to Rs.24,568.06 on April 20, 2021. The contention of C.M. Goenka is acceptable.
 - ii. C.M. Goenka did not provide a reply to the observation/alleged violation on incorrect reporting of margin collected from 1 client, i.e. Ms Sarika Gupta (Client Code S761) amounting to Rs.37.12 crores on May 7, 2021, and May 14, 2021. It is incumbent on C.M. Goenka to reply to the observation/alleged violation and provide documentary evidence in support thereof. In the absence of a reply, the irregularity exists in 2 instances of 1 client involving Rs.37.12 crores.
 - iii. Regulation 3.10 of NSEIL Regulations (F&O Segment) and Exchange Circular No. NSE/INSP/10367 dated February 28, 2008, mandates upfront collection of margins from the clients. C.M Goenka incorrectly reported the margin collected from the clients to the Exchange, and thus, violated the regulatory provisions mentioned above.
9. The observations/alleged violations mentioned in SCN, reply of C.M. Goenka and findings of the Committee are as under:

9.1 **Shortfall of clients' fund**

- a. Upon verification of the trial balance as of August 6, 2021, the Exchange observed that the total available balances lying with the Bank/Clearing Member/Clearing Corporation were amounting to Rs.1.54 crores whereas the total clients' payables were amounting to Rs.23.15 crores, thereby resulting in a shortfall of clients' funds amounting to Rs.21.60 crores. The details are as per Table 1 below:

Table 1 – Shortfall of clients' funds as of August 6, 2021

(Rs in crore)

Sr.	Particulars	Amount	Amount
A	Total credit balance of all clients as per trial balance		23.15
B	Total funds available		1.54
	a. Total end of the day balance in all client bank accounts	0.35	
	b. Deposits with Clearing Corporation in the form of cash and cash equivalents	0.67	
	c. Deposits with Clearing Member in the form of cash and cash equivalents	0.52	
C	Shortfall of clients' funds (C)=(B-A)		(21.60)
D	Total debit balance of all trade receivables		31.90
	a. Debit balance of all client trade receivables	26.47	
	b. Debit balance of proprietary ledger receivable	5.43	

- b. In reply to the SCN, C.M. Goenka submitted that there was a loss of more than Rs.26.50 crores in the account of Ms. Sarika Gupta (Client Code S761) resulting in a debit balance of Rs.26.43 crores. Due to this loss, all the proprietary and clientele balances with the Clearing Member got exhausted, and there was a shortage of funds. It had sent payment reminders to Ms. Sarika Gupta on July 26, 2021, August 16, 2021, and September 11, 2021. It is in the process of sending a legal notice to Ms. Sarika Gupta for payment of outstanding debit balance in her ledger, failing which it shall initiate legal action against her.
- c. The Committee finds as under:
- i. C.M. Goenka attributed the observation/alleged violation to the loss in the account of Ms. Sarika Gupta (Client Code S761).
 - ii. As per Exchange Circular No. NSE/INSP/33276 dated September 27, 2016, the total available funds, i.e., cash and cash equivalents with the

stockbroker and with the Clearing Corporation/Clearing Member should always be equal to or greater than clients' funds as per ledger balance. The shortfall of available balance indicates a misuse of credit balance clients' funds by the Trading Member for meeting the settlement obligations of debit balance clients.

- iii. The total available funds were amounting to Rs.1.54 crores whereas the total clients' payables were amounting to Rs.23.15 crores, thereby resulting in a shortfall of clients' funds of Rs.21.60 crores as of August 6, 2021. C.M. Goenka misused the clients' funds, and thus, failed to comply with the requirements stipulated in Regulation 4.5.3 (e) of NSEIL Regulations (CM and F&O Segments), Exchange Circular No. NSE/INSP/29096 dated March 11, 2015, and Exchange Circular No. NSE/INSP/33276 dated September 27, 2016.

9.2 Shortfall in net worth

- a. Upon verification of the trial balance as of August 6, 2021, the Exchange observed that C.M. Goenka had a shortfall in net worth, i.e., net worth of C.M. Goenka was (-ve) Rs.23.09 crores as of August 6, 2021. The details are as per Table 2 below:

Table 2 – Shortfall in net worth as of August 6, 2021

Particulars	Amount (Rs in crore)
* Capital & Free Reserves	3.66
Total (A)	3.66
Fixed Assets	0.25
Non-Allowable Securities	-
** Doubtful Debts & Advances	26.43
Prepaid Expenses Losses	0.01
Intangible Assets	0.05
Value of 30% of Marketable Securities	-
Total (B)	26.74
Net worth (A-B)	(23.09)

- * Proprietary ledger debit balance of Rs.5.43 crores reduced from the Capital & Free Reserve

** Doubtful debt & advances includes ledger debit balance of client Sarika Gupta

- b. In reply to the SCN, C.M. Goenka submitted that there was a huge loss in the account of Ms. Sarika Gupta (Client Code S761) resulting in a negative net worth. It has not done any major proprietary trading. Out of the total debit balance in the proprietary ledger of Rs.5.43 crores, debit balances to the tune of Rs.5.27 crores had arisen due to the transfer of clientele losses to the proprietary account.
- c. The Committee finds as under:
- i. C.M. Goenka attributed the observation/alleged violation to the loss in the account of Ms. Sarika Gupta (Client Code S761).
 - ii. As per Rule 33 of Chapter III of the Rules of the Exchange, one of the conditions and requirements for continued admittance to trading membership is maintaining a minimum net worth. The trading membership of any person who fails to meet this condition and requirement shall be liable to be terminated.
 - iii. Upon considering the doubtful debts and advances overdue for more than 3 months, the net worth of C.M. Goenka was (-ve) Rs.23.09 crores as of August 6, 2021. C.M. Goenka failed to maintain the minimum net worth of Rs.1 crore prescribed for Trading Members by the Exchange and thus violated Rule 33 of Chapter III of the Rules of the Exchange.

9.3 **False reporting of margins collected from clients in the F&O segment**

- a. Upon verification of the margin collected from the clients as on the highest margin requirement dates of each sample clients, the Exchange observed that C.M. Goenka had incorrectly reported the end of the day total margin in 4 sample instances of 4 clients to the Exchange as there was shortfall of funds amounting to Rs.42,57,05,283. C.M. Goenka reported the margin as collected from the clients. Prima facie, the funds of other clients were used for the margin obligation of these clients. The effect of transfer entries between the clients and proprietary ledger accounts was reversed while verifying margin for the sample clients (P261, J64, S200). The details as per Table 3 below:

Table 3 – Incorrect reporting of margins collected from clients

Trade Date	Client Code	Total Initial Margin (Rs.)	Total Margin (Rs.)	Total MTM (Rs.)	Margin MTM Settlement (Rs.)	Collected Margin (Rs.)	Financial Balance (Rs.)	Incorrect Margin (Rs.)
08.01.21	P261	0	31,79,685.00	0	31,79,685.00	31,79,685.00	(49,89,274.00)	31,79,685.00
14.01.21	J64	0	1,30,86,366.25	0	1,30,86,366.25	1,30,86,366.25	377.00	1,30,85,989.25
14.01.21	S200	0	70,35,640.00	0	70,35,640.00	70,35,640.00	(22,63,361.60)	70,35,640.00
04.05.21	S761	36,59,06,203.75	40,24,03,969.60	3,64,97,765.85	-	40,24,03,969.60	(61,31,171.14)	40,24,03,969.60
Total								42,57,05,283

- b. In reply to the SCN, C.M. Goenka submitted that there were punching errors in the case of Client Codes P261, J64 and S200. As the said clients did not pay, the losses were transferred to the proprietary account. Thus, there was correct reporting of margin as the margin was taken from the proprietary account. In the case of Client Code S761, the margin was incorrectly reported due to a clerical error.
- c. The Committee finds as under:
- i. C.M. Goenka attributed the observation/alleged violation to punching and clerical errors.
 - ii. Regulation 6.1.5 (e) of the Exchange Regulations (CM Segment) explicitly states that Trading Members shall keep a separate ledger account for each client in respect of the transactions on the Exchange and shall not mingle such account with the account of the client in respect of transactions of any other stock exchange or any other transaction which the Trading Member may enter with such client. In the case of Client Codes P261, J64, and S200, C.M. Goenka transferred the client's losses to the proprietary account and did not collect the margin from the respective clients, thus violating the regulatory provision mentioned above.
 - iii. Regulation 3.10 of NSEIL Regulations (F&O Segment) and Exchange Circular No. NSE/INSP/10367 dated February 28, 2008, mandates upfront collection of margins from the clients. C.M. Goenka incorrectly reported the margin collected from 4 clients involving Rs.42.57 crores in the F&O segment to the Exchange. It attributed the observation/alleged violation to punching and clerical errors. The reasons cited by C.M. Goenka are not valid reasons for non-

compliance with the regulatory requirements. Thus, by incorrectly reporting the margin collected from the clients, C.M. Goenka violated the regulatory provision mentioned above.

9.4 **Disproportionate exposure provided to clients**

- a. Upon verification of the books and records pertaining to income vs. exposure provided by C.M. Goenka to its clients, the Exchange observed that C.M. Goenka had provided disproportionate exposure to Ms. Sarika Gupta (Client Code S761). The details are as per Table 4 below:

Table 4 - Disproportionate exposure provided to clients

Client Code	Client Name	Segment	Income	Highest F&O Margin Obligation (Rs)	Date of Exposure
S761	Sarika Gupta	F&O	1-5 lakhs	40,24,03,969.00	04-May-21

- b. In reply to the SCN, C.M. Goenka submitted that as the losses in the account of Ms. Sarika Gupta (Client Code S761) went unnoticed due to credits from the sale of options contracts, the high exposure was inadvertently allowed to her.
- c. The Committee finds as under:
- i. C.M. Goenka admitted the observation/alleged violation.
- ii. Exchange Circular No. NSE/INVG/16703 dated January 5, 2011, explicitly states that the Trading Members shall periodically update all documents, data, or information of all clients and beneficial owners collected under the client due diligence process. Further, certain clients may be of a higher or lower risk category depending on the circumstances such as client's background, type of business relationship, transaction etc. The Trading Member shall apply each of the client due diligence measures on a risk-sensitive basis. The Trading Member shall adopt an enhanced client due diligence process for higher risk categories of clients. Conversely, a simplified client due diligence process may be adopted for lower risk categories of clients. In line with the risk-based approach, the type and amount of identification information and documents that the Trading Member shall obtain necessarily depend on the risk category of a particular client. C.M. Goenka granted disproportionate exposure to the client vis-à-

vis the income declared by the client in the client registration documents and thus, violated the provisions of Exchange Circular No. NSE/INVG/16703 dated January 5, 2011.

9.5 **Non-adherence to the risk management policy and limit setting**

- a. Upon verification of the trade logs, the Exchange observed that C.M. Goenka had given significant exposure to Ms. Sarika Gupta (Client Code S761) in the F&O segment without sufficient collaterals for margin and dealer was not monitored for limit setting while granting such exposure since the logs for limit setting were not maintained.
- b. In reply to the SCN, C.M. Goenka submitted that as the losses in the account of Ms. Sarika Gupta (Client Code S761) went unnoticed due to credits from the sale of options contracts, the high exposure was inadvertently allowed to her.
- c. The Committee finds as under:
 - i. C.M. Goenka admitted the observation/alleged violation.
 - ii. As per Exchange Circular Nos. NSE/COMP/21990 dated October 23, 2012, the Trading Member is required to set up the limits after assessing the risks of the corresponding user ID and branch ID. The limits are set up after considering the capital adequacy requirements of the Trading Member. The Trading Member has to review all the limits regularly and ensure that the limits in the system are up to date. C.M. Goenka provided significant exposure to the clients without sufficient collaterals and without setting up the limits, and thus, violated the regulatory provisions mentioned above.

9.6 **Non-maintenance of bank books and client ledgers in the prescribed standard format**

- a. Upon verification of the records submitted by C.M. Goenka, the Exchange observed that C.M. Goenka did not maintain its bank books and client ledgers in the prescribed standard format. C.M. Goenka passed journal voucher entries between proprietary and client ledgers citing the amount transferred due to punching error by the dealer in the narration. The effect of such

journal voucher entries for transfer of trades resulted in significant debits (loss) in proprietary accounts. The details are as per Table 5 given below:

Table 5 – Journal voucher entries passed between proprietary and client ledgers

Date	Narration	Bill No./ Chq. No.	Debit (Rs.)
1-Sep-20	TRFD FROM B171 DUE TO PUNCHING ERROR BY DEALER	JV32-0109	1,48,65,203
1-Sep-20	AMT TRFD FROM P261 DUE TO PUNCHING ERROR BY DEALER	JV35-0109	82,44,233
2-Sep-20	TRFD FROM B171 DUE TO PUNCHIN ERROR BY DEALER	JV9-0209	26,45,629
13-Jan-21	TRFD FROM S200 DUE TO PUNCHING ERROR BY DEALER	JV13-1301	24,25,380
13-Jan-21	TRFD FROM J64 DUE TO PUNCHING ERROR BY DEALER	JV15-1301	42,96,785
14-Jan-21	TRFD FROM S200 DUE TO PUNCHUNG ERROR BY DEALER	JV12-1401	71,05,334
14-Jan-21	TRFD FROM J64 DUE TO PUNCHING ERROR BY DEALER	JV13-1401	1,31,78,159
TOTAL			5,27,60,723

Further, in the case of Ms. Sarika Gupta (Client Code: S761), C.M. Goenka passed the following journal voucher entry to reduce the debit balance in the client ledger by opening a new account as account code “SARIKA” under non-current assets group head.

Date	Narration	Bill No. / Cheque No.	Debit (Rs.)
20-May-21	TRFD	JV11-2005	26,42,94,230.67

- b. In reply to the SCN, C.M. Goenka submitted as under:
- i. The losses due to punching errors were transferred to the proprietary account.
 - ii. The client had a debit balance due to the losses. The losses in the client’s ledger went unnoticed due to credits from the sale of option contracts. This was identified on May 12, 2021. Thereafter, the positions were squared off resulting in huge debit balance. C.M. Goenka created a separate ledger

under the head “Debtors” by Code “Sarika” and transferred the debit balance to this account.

c. The Committee finds as under:

- i. Regulation 6.1.5 (e) of the Exchange Regulations (CM Segment) explicitly states that Trading Members shall keep a separate ledger account for each client in respect of the transactions on the Exchange and shall not mingle such account with the account of the client in respect of transactions of any other stock exchange or any other transaction which the Trading Member may enter with such client. C.M. Goenka transferred the client’s losses to the proprietary account, and thus, violated the regulatory provisions mentioned above.
- ii. To standardize the maintenance of books of accounts/records and to ensure uniformity across all Trading Members, a standard format for register of securities, holding statement, bank book and client ledger is prescribed herewith. Non-maintenance of the bank books, client ledgers, etc. in the prescribed format is a violation of the Securities Contracts (Regulation) Rules 1957 / Regulations of the Exchange and attracts appropriate disciplinary action as per Rule 1 and 2 of Chapter IV of NSEIL Rules.
- iii. C.M. Goenka did not maintain its bank books and client ledgers in the prescribed standard format and thus, violated the provisions of Exchange Circular No. NSE/INSP/39393 dated November 13, 2018.

9.7 Incorrect data submitted towards weekly monitoring of clients’ funds and weekly client level cash & cash equivalent balances

- a. Upon verification of the data submitted towards weekly monitoring of clients’ funds under the Enhanced Supervision of Stockbrokers as of June 18, 2021, the Exchange observed that C.M. Goenka reported incorrect total credit balance of clients to the Exchange. C.M. Goenka had reported an amount of Rs.24.18 crores, whereas the actual amount was Rs.43.36 crores.

Upon further verification of the data submitted towards weekly client level cash and cash equivalent balances as of June 18, 2021, the Exchange observed that C.M. Goenka created fixed deposit receipt from the client's funds by debiting the amount from the clients' ledgers. However, while reporting to the Exchange, C.M. Goenka did not consider such fixed deposit receipts in the total credit balance of multiple clients in the weekly cash and cash equivalent balance as of June 18, 2021.

- b. In reply to the SCN, C.M. Goenka submitted that some of its clients preferred to give deposits for their transactions with a direction to create fixed deposits from their balances and use the said fixed deposits towards margins. The fixed deposit amount was debited from the client's ledgers and posted in a separate ledger account of each client with suffix "F". C.M. Goenka uses the Shilpi back-office software for generating weekly reports and submission to the Exchange. While generating weekly reports, the software did not consider the balance in the fixed deposit ledger. Therefore, C.M. Goenka reported an amount of Rs.24.18 crores instead of Rs.43.36 crores towards the total credit balance to the Exchange.
- c. The Committee finds as under:
 - i. Exchange Circular No. NSE/INSP/33276 dated September 27, 2016, advised the stock exchanges to put in place a mechanism for monitoring clients' funds lying with the stockbrokers to generate alerts on any misuse of clients' funds by stockbrokers.
 - ii. Further, Exchange Circular No. NSE/INSP/43926 dated March 23, 2020, enhanced the level of monitoring by introducing weekly submission of day-wise client level cash/cash equivalent balances and day wise reporting of bank balances. Accordingly, the Trading Members are required to report *inter alia* the total credit balances of all its clients. The circulars regarding weekly client level cash and cash equivalent balances do not grant exemption to the Trading Members for not considering the fixed deposits created out of the clients' funds while reporting the credit balances to the Exchange.

- iii. C.M. Goenka reported an amount of Rs.24.18 crores instead of Rs.43.36 crores towards total credit balances to the Exchange and thus, failed to comply with the requirements stipulated in Exchange Circular No. NSE/INSP/33276 dated September 27, 2016, and Exchange Circular No. NSE/INSP/43926 dated March 23, 2020.

9.8 **Non-resolution of investor complaints**

- a. The Exchange received 76 investor complaints involving Rs.12.72 crores as of August 30, 2021.
- b. In reply to the SCN, C.M. Goenka submitted that it made payments to multiple clients, and the value of outstanding has reduced. It also infused approximately Rs.5 crores through borrowings to repay the creditors. C.M. Goenka requested the Exchange to re-activate the trading terminals to repay its clients.
- c. The Committee finds as under:
 - i. There is a significant increase in investor complaints against C.M. Goenka. There were 76 investor complaints involving Rs.12.72 crores as of August 30, 2021. However, over nearly four months, there were 168 investor complaints involving Rs.19.99 crores as of December 16, 2021.
 - ii. In terms of clause 9(e) of SEBI (Stock Brokers) Regulations 1992, any registration granted by the SEBI shall be subject to a condition that the Trading Member take adequate steps for the redressal of investor grievances within one month from the date of receipt of the complaint. Further, in terms of SEBI Circular No. CIR/MIRSD/18/2011 dated August 25, 2011, the Trading Members are liable for penal action for non-redressal of investor grievances. C.M. Goenka failed to redress the investor complaints and thus, violated the regulatory provisions mentioned above.

FORENSIC AUDIT

10. In accordance with Clause 4.14 of the SEBI SOP Circular, the Exchange appointed a forensic auditor to conduct a forensic audit of the books of accounts of C.M

Goenka. The forensic auditor undertook an assessment of assets and liabilities of C.M. Goenka. The following are the observations of the forensic audit:

10.1 Funds of one client used for meeting the obligations of other clients

- a. Ms Sarika Gupta (Client Code S761) opened demat account with C.M. Goenka on March 10, 2021. Major trades were noted in F&O segment, wherein the first transaction was executed on March 15, 2021. The client suffered losses in F&O trades in May 2021, after which the client had a running debit balance of Rs.26.43 crores. Further, there were losses in March 2021 and April 2021; however, the client had a credit balance till May 12, 2021.
- b. From the books of C.M. Goenka, it is observed that no funds were received from Ms. Sarika Gupta since the client account was opened. Ms. Sarika Gupta had not brought in funds to cover the losses. C.M. Goenka transferred the funds of other clients lying in client bank accounts to the Clearing Member to settle the losses incurred by Ms. Sarika Gupta.
- c. The debit balance of Ms. Sarika Gupta amounting to Rs.26.43 crores was transferred to another account in the name of Ms. Sarika Gupta (A/c Code: SARIKA) through journal voucher entry, which was classified as other non-current assets.

10.2 Client losses transferred to proprietary account through journal voucher entries

On verification of the ledger accounts maintained by C.M. Goenka, it is observed that C.M. Goenka passed journal voucher entries in the proprietary account whereby the proprietary account was debited with journal voucher entries having description "transfer due to punching error by dealer". A total of 8 such journal voucher entries amounting to Rs.5,90,38,866/- across 5 different clients were noted.

10.3 Shortfall of clients' funds

On verification of the trial balance as of September 2, 2021, bank statements, deposits with the Clearing Member/Exchange/Clearing Corporation, it is observed that C.M. Goenka had a shortfall of clients' funds amounting to Rs.19.44 crores as of September 2, 2021.

10.4 Shortfall in net worth

On verification of the trial balance as of September 2, 2021, it is observed that C.M. Goenka had a net worth of (-ve) Rs.26.15 crores as of September 2, 2021.

In view of the above, it is observed that the findings of the forensic auditor are similar in nature to the observations/alleged violations mentioned in the SCN.

CONCLUSION

11. C. M. Goenka incorrectly reported the margin collected from the clients to the Exchange. Short collection of margins from clients before the execution of trades resulted in a violation of the provisions of the regulation and circular and exposed C.M. Goenka to the risk of default, thereby endangering the smooth functioning of the securities market.
12. In the personal hearing, C.M. Goenka acknowledged the shortfall of clients' funds amounting to Rs.21.60 crores as of August 6, 2021. However, it expressed its inability to recoup the shortfall and informed the Exchange that it has initiated legal proceedings against Ms. Sarika Gupta to recover the funds.
13. C.M. Goenka had a net worth of (-ve) Rs.26.15 crores as of September 2, 2021. The net worth of C.M. Goenka eroded because of the debit balance of Ms. Sarika Gupta (Client Code S761). C.M. Goenka has not demonstrated any inclination to recoup the net worth. Continuity of a Trading Member, given its precarious financial condition is a grave risk to the securities markets in general and investors in particular. As per Rule 33 of Chapter III of the Rules of the Exchange, one of the conditions and requirements for continued admittance to trading membership is maintaining a minimum net worth. The trading membership of any person who fails to meet this condition and requirement shall be liable to be terminated.
14. There are 168 investor complaints involving Rs.19.99 crores pending against C.M. Goenka as of December 16, 2021. C.M. Goenka failed to redress said investor complaints.

In terms of clause 9(e) of SEBI (Stock Brokers) Regulations 1992, any registration granted by the SEBI shall be subject to a condition that the Trading Member take adequate steps for the redressal of investor grievances. The relevant extracts are reproduced below:

Regd. Office : National Stock Exchange of India Limited | Exchange Plaza, C-1, Block G, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051,
India +91 22 26598100 | www.nseindia.com | CIN U67120MH1992PLC069769

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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 the 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.

In terms of SEBI Circular No. CIR/MIRSD/18/2011 dated August 25, 2011, the Trading Members are liable for penal action for non-redressal of investor grievances. The relevant extracts are reproduced below:

3. *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 stockbroker liable for penal action.*

15. C.M. Goenka failed to abide by the Code of Conduct specified under Regulations 4.5.1 and 4.5.2 of NSEIL Regulations (CM and F&O Segments). Some of the provisions are given below:

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 General Principles

(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.*

16. The Exchange, vide email dated August 11, 2021, advised C.M. Goenka to provide an action plan to recoup the shortfall of clients' funds and explain the shortfall of clients' funds amounting to Rs.21.60 crores as of August 6, 2021. However, C.M. Goenka disregarded the advice of the Exchange. Such non-compliance constitutes misconduct within the meaning of Rules 3(e) of Chapter IV of Exchange Rules and, therefore, liable for disciplinary action under Rules 1 and 2 of Chapter IV of Exchange Rules. The relevant extracts are reproduced below:

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 of 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 authorized 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:*
- (b) *Violation: If it has violated provisions of any statute governing the activities, business and operations of the Exchange, trading members and securities business in general.*

17. In terms of Byelaw 1(a) of Chapter XII of Exchange Byelaws, a Trading Member may be declared a defaulter if it fails to fulfil its obligations. The relevant extracts are reproduced below:

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 fulfil his obligations

18. In view of the foregoing, considering the admission of the Noticee's representative during the personal hearing that C.M. Goenka has failed to recoup the shortfall of clients' funds, settle the investor complaints, maintain the minimum prescribed net worth, and falsely reported the margins collected from the clients, the Committee is of the view that continuance of membership of C.M. Goenka on the Exchange is detrimental to the interest of investors in the securities market and, therefore, the Committee decided to conclude the proceedings by passing the following decision:

DECISION

19. Considering the facts and circumstances of the case, M/s. C.M. Goenka Stock Brokers Pvt. Ltd. be expelled from the membership of the Exchange under Rules 1 and 2 of Chapter IV of NSEIL Rules and declared defaulter under Byelaw 1(a) of Chapter XII of the NSEIL Byelaws with immediate effect.

Sd/-
Mona Bhide
(Chairperson)

Sd/-
K Narasimha Murthy
(Committee Member)

Sd/-
Anuradha Rao
(Committee Member)

Sd/-
Ranganayakulu Jagarlamudi
(Committee Member)

Sd/-
Vikram Limaye
(Committee Member)

Date: February 15, 2022