



**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 October 13, 2021**

**In the matter of Trading Member M/s. Omkam Capital Markets Private Limited**

**CORAM:**

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

**ALSO PRESENT:**

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

1. **M/s Omkam Capital Markets Private Limited** ("Omkam") is a member registered with the National Stock Exchange of India Limited ("NSE") and enabled for trading in the Capital Market ("CM") segment since May 1996, Futures and Options ("F&O") segment since July 2004 and Currency Derivatives ("CD") segment since January 2015.
2. The Securities and Exchange Board of India ("SEBI") conducted a joint inspection of Omkam with NSE, BSE Limited ("BSE") and Central Depository Services (India) Limited ("CDSL") for the period April 01, 2017, to December 31, 2018. Post-inspection, SEBI issued a Letter of Findings bearing reference No. SEBI/NRO/MIRSD/OW/GRA/2019 dated April 22, 2019 ("LoF"). Subsequently, SEBI allocated the case to NSE for post-inspection enforcement action in terms of the Rules, Byelaws and Regulations of NSE. Accordingly, SEBI forwarded the LoF and the reply dated May 8, 2019, received from Omkam, to NSE on March 17, 2021.

**INSPECTION OBSERVATIONS**

3. The observations/alleged violations mentioned in the LoF are summarized hereunder:

3.1 Misuse of clients' securities worth Rs.3.23 crores as of October 24, 2017

- 3.2 Misuse of clients' funds in the range of Rs.85,488/- to Rs.72,78,018/- on 9 out of 22 dates verified
- 3.3 Engagement as a principal or employee in a business other than securities involving personal financial liability, i.e., loans amounting to Rs.1.01 crores given to 2 entities.
- 3.4 Non-settlement of funds and securities of inactive clients amounting to Rs.22.44 lakhs from April 01, 2017, to December 31, 2018
- 3.5 Funding of clients' transactions in the case of 3 clients amounting to Rs.84.92 lakhs
- 3.6 Common email id and mobile number uploaded in the UCI database of the Exchange in the case of 52 and 48 clients respectively.
- 3.7 Observations on client registration process (KYC and KRA)
  - a. Blank authorization to trade on behalf of the clients obtained from 6 clients
  - b. Income proof in the F&O segment not obtained from 4 clients
  - c. Failure to provide details of CKYC registration numbers for 174 clients
- 3.8 Dividend amounting to Rs.1,63,778/- received on clients' securities routed through own bank account
- 3.9 Pledging of clients' securities amounting to Rs.1.57 crores as of April 1, 2017, not reported under the Enhanced Supervision
- 3.10 Non-reporting of 5 demat accounts under Enhanced Supervision and incorrect nomenclature assigned to 1 bank account.
- 3.11 Non-implementation of systems to generate and scrutinize alerts.

### **PRESENT STATUS OF OMKAM**

4. Omkam is disabled in all segments with effect from April 10, 2019, pursuant to the decision of the erstwhile Disciplinary Action Committee ("DAC") in the meeting held on December 20, 2018.

### **PREVIOUS MCSGFC PROCEEDINGS**

5. MCSGFC meeting held on May 31, 2021

- 5.1 The Committee noted as under:

- a. The misuse of clients' securities was a continuing offense.
  - b. Omkam, vide emails dated April 23, 2021, and May 05, 2021, requested for additional time to submit the documents sought by the Exchange on the ground of the Covid-19 pandemic prevalent in the country.
  - c. The trading terminals of Omkam are disabled in all segments pursuant to the decision of the erstwhile Disciplinary Action Committee ("DAC") in the meeting held on December 20, 2018.
  - d. There were no investor complaints pending against Omkam.
- 5.2 Given the above, the Committee, while allowing the request of Omkam for additional time, directed that the trading terminals of Omkam shall continue to be disabled in all segments until further direction.
- 5.3 As an investor protection measure, in the interim, the Committee, inter alia, directed Omkam to return all the securities to the respective clients, recoup the shortfall in client funds, settle the clients' funds and securities within 30 days from the date of the said direction. If Omkam fails to comply with the directions mentioned above, the Committee shall pass an appropriate order based on the information/documents available on record.
- 5.4 The Exchange, vide email dated July 26, 2021, forwarded the order dated July 26, 2021, to Omkam.
6. MCSGFC meeting held on September 22, 2021
- 6.1 The Exchange vide email dated September 15, 2021, granted Omkam an opportunity of personal hearing before the Committee. Mr. Sachin Garg, Director, on behalf of Omkam, appeared for the personal hearing through video conferencing and made the following oral submissions before the Committee:
- a. There were 3 clients to whom the securities were to be returned; one client is the father of the Promoter, one client is from Dhar family, and one client is from Ravi Jain family, i.e., Pragati Automotive. Omkam had settled the securities of Dhar family, and therefore only the client, Pragati Automotive, is pending to be settled. The total amount of securities to be settled is Rs.2.60 crores.
  - b. The securities were obtained with clients' consent; hence, these clients did not lodge any complaint against Omkam.

- c. Omkam will return the securities to the clients within six months, post which, Omkam wish to continue the membership with the Exchange.
- d. The Director Mr. Peeyush Aggarwal and his family were severely affected by Covid-19. Therefore, Omkam is seeking an extension of six months.

6.2 Upon considering Omkam's submissions and the facts of the case, the Committee noted that though sufficient time has been given to Omkam, Omkam failed to demonstrate any considerable efforts to comply with the directions. Omkam again sought an extension of six months because its director/family members were affected with Covid-19.

6.3 Given the above, the Committee while granting a final opportunity to Omkam, in the interim, restrained Omkam from registering fresh clients across segments and directed Omkam to settle the clients' securities or obtain a settlement letter from the clients whose securities are pending to be settled within 15 days from the date of the said direction and provide documentary evidence to the Exchange.

6.4 The Exchange, vide email dated September 26, 2021, communicated the said directions mentioned above to Omkam.

#### 7. MCSGFC meeting held on October 13, 2021

7.1 Omkam, vide email dated September 27, 2021, informed the Exchange that out of the total securities worth Rs.2.71 crores, securities worth Rs.2.11 crores of Dhar family and Pragati Automotive were pending to be returned. Omkam sought time till March 31, 2022, for returning these securities to the clients.

7.2 Upon considering the facts and circumstances of the case, the Committee finds as under:

- a. Omkam has sought an extension to return the clients' securities since April 2019. However, as of date, securities involving Rs.2.89 crores are still pending to be returned to the respective client by Omkam.
- b. In view of the above, the Committee finds it just to decide the issues set out in the LoF dated April 22, 2019, and conclude the proceedings before this Committee.

#### **REGULATORY PROVISIONS**

8. At the outset, it is appropriate to refer to the relevant regulatory provisions alleged to have been violated by Omkam, extracts whereof are reproduced hereunder:

8.1 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 constituent's securities or funds.*

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

*Members are advised to ensure that the funds and 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.*

8.3 Exchange Circular No. NSE/INSP/2016/33276 dated September 27, 2016

*The total available funds, i.e., cash and cash equivalents with the stock broker and with the Clearing Corporation/Clearing Member, should always be equal to or greater than client's funds as per ledger balance.*

8.4 Exchange Circular No. NSE/INSP/2016/33276 dated September 27, 2016

*Bank accounts and Demat accounts maintained by all stock brokers shall have appropriate nomenclature to reflect the purpose for which those bank/demat accounts are being maintained.*

8.5 Rule 8(3)(f) of the Securities Contracts (Regulation) Rules, 1957 ("SCR Rules")

*The rules relating to admission of members of a stock exchange seeking recognition shall inter alia provide that:*

- (3) no person who is a member at the time of application for recognition or subsequently admitted as a member shall continue as such if-*
- (f) he engages either as principal or employee in any business other than that of securities or commodity derivatives except as a broker or agent/ not involving any personal financial liability".*

*Rule 8(3)(f) of the SCR Rules, in fact, contains a direction to stock exchanges to incorporate the said stipulation in their Rules, based on which the stock exchange would be granted "recognition" under the SCR Act 1956.*

*Rule 8 (3)(f) of the SCR Rules, Rule (5)(b) of Chapter III of the Rules of NSEIL provides as under:*

*(5) No person shall be admitted as a trading member of the Exchange if such proposed Member:*

*(a).....*

*(b) is an individual who is engaged as a principal or employer in any business other than that of securities except as a broker or agent not involving any*

*personal financial liability unless he undertakes on admission to sever his connection with such business;*

**8.6 Regulation 6.1.5 of Regulations – Part A (CM Segment) and Regulation 6.1.6 of Regulations (F&O segment)**

*(a) Every Trading Member shall keep such books of accounts, as will be necessary, to show and distinguish, in connection with his business as a Trading Member:*

- (i) The moneys received from or on account of and moneys paid to or on account of each of his clients and,*
- (ii) The moneys received and the moneys paid on Trading Member's own account.*

*(b) The transfer from client's account to Trading Member's account shall be allowed under circumstances enumerated below :*

*(i) Obligation to pay money into "Clients account": Every Trading Member who holds or receives money on account of a client shall forthwith pay such money to current or deposit account at bank to be kept in the name of the Member in the title of which the word "Clients" shall appear (hereinafter referred to as "Clients Account"). Trading Member may keep one consolidated clients account for all the clients or accounts in the name of each client, as he thinks fit; provided that when a Trading Member receives a cheque or draft representing in part money belonging to the client and in part money due to the Trading Member, he shall pay the whole of such cheque or draft into the clients account and effect subsequent transfer as laid down below in para (iii.B).*

*(ii) Moneys to be paid into "clients account": No money shall be paid into clients account other than*

- A. money held or received on account of clients;*
- B. such moneys belonging to the Trading Member as may be necessary for the purpose of opening or maintaining the account;*
- C. money for replacement of any sum which may by mistake or accident have been drawn from the account;*
- D. a cheque or draft received by the Trading Member representing in part money belonging to the client and in part money due to the Trading Member.*

*(iii) Moneys to be withdrawn from "clients account": No money shall be drawn from clients account other than –*

*A. money properly required for payment to or on behalf of clients for or towards payment of a debt due to the Member from clients or money drawn on client's authority, or money in respect of which there is a liability of clients to the Trading Member, provided that money so drawn shall not in any case exceed the total of the money so held for the time being for such each client;*

*B. such money belonging to the Trading Member as may have been paid into the client account under para (ii.B) and (ii.D) above. money which may by mistake or accident have been paid into such account.*

**8.7 Exchange Circular No. NSE/INSP/2016/33276 dated September 27, 2016  
*Uploading clients' fund balance and securities balance by the Stock Brokers on Stock Exchange system***

*The Stock Exchanges shall put in place a mechanism and ensure that stock brokers upload the following data on a monthly basis for every client onto each Stock Exchange system where the broker is a member*

*7.1.1....*

*7.1.2....*

*7.1.3 For every client, number of securities pledged, if any, and the funds raised from the pledging of such securities*

**8.8 Exchange Circular No. NSE/INSP/2016/33276 dated September 27, 2016**

*2. Reporting of Bank and Demat accounts maintained by Stock Broker:*

*2.1 The stock brokers shall inform the Stock Exchanges of existing and new demat account(s) in the following format:*

<i>Name of DP</i>	<i>Account Number/ Client ID</i>	<i>DP ID</i>	<i>Name of Account Holder</i>	<i>PAN</i>	<i>Sub-type/ tag of Demat Account (Proprietary/ Client/ Pool/ Collateral)</i>

**8.9 Exchange Circular No. NSE/INSP/13606 dated December 3, 2009**

*The actual settlement of funds and securities shall be done by the broker, at least once in a calendar quarter or month, depending on the preference of the client.*

8.10 Exchange Circular No. NSE/INSP/33276 dated September 27, 2016

*The stock broker shall ensure that there must be a gap of maximum 90/30 days (as per the choice of client viz. Quarterly/Monthly) between two running account settlements.*

8.11 Exchange Circular No. NSE/INVG/21841 dated October 04, 2012

*All Trading members are requested to review the details of the clients uploaded on UCI Online pertaining to their mobile number and / or email address and update the same wherever necessary.*

*Trading Members are hereby requested to take utmost care while uploading client details including mobile number and email address on UCI – ONLINE.*

8.12 Exchange Circular No. NSE/INSP/32471 dated May 31, 2016

*In cases where investors do not have mobile number/email id, member shall obtain a declaration from the client to this effect and report the same in UCI online by entering 'notprovided@notprovided.com' in the email field and '6666666666' in the mobile number field.*

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

*Intermediaries shall ensure that appropriate steps are taken to enable suspicious transactions to be recognized and have appropriate procedures for reporting suspicious transactions.*

8.14 Exchange Circular No. NSE/INSP/35184 dated June 23, 2017

*d. Clause 2.6 stands modified as, "Stock brokers shall not grant further exposure to the clients when debit balances arise out of client's failure to pay the required amount and such debit balances continues beyond the fifth trading day, as reckoned from date of pay-in, except, in accordance with the margin trading facility provided vide SEBI circular CIR/MRD/DP/54/2017 dated June 13, 2017 or as may be issued from time to time." This clause would be effective from August 1, 2017.*

**9. CONSIDERATION OF OBSERVATIONS/ALLEGED VIOLATIONS, REPLY OF OMKAM AND FINDINGS OF THE COMMITTEE**

**9.1 Observations pertaining to misuse of client assets**

**9.1.1 Shortfall of client funds-**

- a. The value of "G" was negative on 9 dates during the inspection period. Thus, Omkam used the funds of credit balance clients for the settlement obligations of debit balance clients and/or own purpose, thereby indicating

that Omkam violated Principle 1 of the Enhanced Supervision of Stockbrokers prescribed under Exchange Circular No. NSE/INSP/33276 dated September 27, 2016. The details are as per Table 1 below:

**Table 1: Details of misuse of client funds**

Sr. No.	Date	Total client and settlement bank balances	Collaterals with Exchange/ Clearing Member	Aggregate value of Credit balance of all clients	{G = A+B-C} Negative value of G: Extent of misuse of client funds by broker for debit balance clients
		A	B	C	G
1	27/09/2017	13,162,468	11,364,426	26,010,216	(1,483,322)
2	28/11/2017	5,247,398	11,715,173	18,969,190	(2,006,620)
3	29/12/2017	11,323,876	12,707,482	29,685,365	(5,654,007)
4	13/07/2018	11,290,749	12,982,991	31,551,758	(7,278,018)
5	03/08/2018	12,736,598	15,355,877	31,991,471	(3,898,997)
6	28/09/2018	25,721,643	13,253,528	42,390,419	(3,415,248)
7	19/10/2018	9,469,074	14,475,099	27,280,972	(3,336,800)
8	09/11/2018	11,109,012	17,775,849	28,970,349	(85,488)
9	28/12/2018	7,251,659	17,430,810	25,321,892	(639,423)

b. In reply to LoF, Omkam submitted that the negative value of "G" was due to temporary funding to some of the clients. Since then, the value of "G" is improving due to recovery from the clients or contribution by the promoters or promoters' group.

c. The Committee finds as under:

- i. Omkam has accepted the observation/alleged violation of misuse of clients' funds on 9 dates.
- ii. The Exchange, vide email dated April 23, 2021, sought documentary evidence from Omkam in support of its claim that the value of "G" is improving. However, Omkam did not provide any documentary proof to the Exchange to substantiate its claim to date.

- iii. Regulation 4.5.3 (e) of the NSEIL Regulations (CM and F&O Segments) prohibits the Trading Members from making improper use of client funds and securities.
- iv. Exchange Circular No. NSE/INSP/29096 dated March 11, 2015, advise the Trading Members to ensure that the funds 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.
- v. Exchange Circular No. NSE/INSP/2016/33276 dated September 27, 2016, requires the Trading Members to ensure that 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 client's funds as per ledger balance.
- vi. In the instant case, the shortfall of clients' funds observed on 9 dates indicates that there is a misuse of clients' funds, i.e., funds of credit balance clients are used for settlement obligations of either debit balance clients or own purposes. However, Omkam did not execute any trades on the proprietary account during the inspection period. This implies that Omkam had used the funds of credit balance clients to meet the settlement obligations of debit balance clients since there was no proprietary trading.
- vii. A shortfall of funds indicates a liquidity crunch and poses a serious risk to the clients' assets. Thus, Omkam has violated the provisions of 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.

#### 9.1.2 Misuse of clients' securities

- a. Omkam had received securities from 1 client involving Rs.0.92 crores (50 instances). Omkam transferred the said securities to 4 different clients from its own beneficiary account without any corresponding margin/pay-in obligations. As of date, Omkam had returned securities worth Rs.0.63 crores to the respective clients but securities worth Rs.2.71 crores are pending to be returned.

- b. In reply to LoF, Omkam submitted as under:
- i. The securities transferred by the entities were not in the capacity of clients. These entities were family and friends of the promoters. All the securities transferred by these entities were with consent and in a personal capacity.
  - ii. Omkam is returning the said securities and requires time till March 2022 for completing the same.
- c. The Committee finds as under:
- i. The Exchange had conducted an inspection of Omkam from April 01, 2016, to March 31, 2017, during which the Exchange observed that Omkam had received securities worth Rs.3.34 crores as on October 30, 2017, from 6 clients in its own beneficiary account. Out of securities, securities worth Rs.3.23 crores were subsequently transferred to one of its clients, M/s. Harsimrat Investments Private Limited and the balance securities worth Rs.0.11 crores were utilized by Omkam itself.
  - ii. The said misuse was examined and adjudicated upon by the erstwhile DAC, wherein DAC vide order dated January 17, 2019, directed Omkam to return all clients' securities within 3 weeks from the date of the order, failing which, trading rights will be withdrawn in all segments.
  - iii. In an appeal filed by Omkam, the Hon'ble SAT disposed of the appeal by its order dated February 11, 2019, after giving time to return the client securities. Upon the failure of Omkam to comply with the directions, the trading terminals were disabled with effect from April 10, 2019.
  - iv. The present SEBI Joint inspection is from April 01, 2017, to December 31, 2018, wherein the said misuse of clients' securities was observed as a continuing violation. Upon verification, it was observed that though Omkam had recalled the securities worth Rs.0.94 crores as on December 31, 2018, from the client to whom it was transferred and re- transferred back to the respective clients, Omkam did not completely return the securities from whom it was transferred.
  - v. Further, though Omkam returned securities worth Rs.0.21 lakhs during the year 2020 to those clients whose securities were misused, the value of securities that remain to be transferred/settled as on date amounts to Rs.2.89 crores of 1 client viz; Pragati Automotive.
  - vi. The Committee, therefore, vide its interim direction dated July 26, 2021, afforded another opportunity to Omkam to return all securities to clients as a last opportunity, failing which the

Committee indicated that the action in terms of Rule 1 and 2 of Chapter of IV of NSEIL Rules shall be taken. The said decision was communicated to Omkam vide Exchange email dated July 26, 2021.

- vii. Omkam, however, did not comply with the directions, instead vide email dated September 27, 2021, sought further time till March 31, 2022, to return all securities to the client.
- viii. The Committee observed that the original misuse of client securities in terms of its value as of October 30, 2017, was Rs.3.34 crores. Despite giving numerous opportunities since 2019, Omkam has failed to return all securities to the client and comply with the direction of MCSGFC. The Committee, therefore, finds that any further grant of time is not in the interests of the client. Therefore, it is necessary to proceed further in the matter as per the provisions of Rules and Byelaws.

#### 9.2 Observations relating to the settlement of clients' accounts

- a. Omkam did not settle clients' funds and securities of inactive clients involving Rs.2,24,44,210/- during the inspection period. In the running account authorizations for two clients, the settlement option (quarterly/monthly) was not opted by the clients, and the authorizations were not dated. The details are as per Table 2 below:

**Table 2: Quarter-wise details of inactive clients not settled by Omkam**

Quarter	No. of clients	Fund Value (Rs.)	Securities Value (Rs.)	Total amount not settled by Omkam (Rs.)
		<b>A</b>	<b>B</b>	<b>C=A+B</b>
Apr-Jun 2017	30	35,377	-	35,377
Jul-Sep 2017	184	1,14,22,277	1,40,344	1,15,62,622
Oct-Dec 2017	93	37,43,979	-	37,43,979
Jan-Mar 2018	130	42,39,447	25,18,257	67,57,704
Apr-Jun 2018	157	1,01,236	-	1,01,236
Jul-Sep 2018	169	1,20,501	-	1,20,501
Oct-Dec 2018	226	1,22,788	-	1,22,788
<b>Total</b>		<b>1,97,85,608</b>	<b>26,58,602</b>	<b>2,24,44,210</b>

- b. In reply to LoF, Omkam has submitted as under:

- i. Running account authorization was duly opted by the client. It was not filled properly due to human error.
  - ii. Omkam has settled all accounts within time.
  - iii. Some of the observed accounts were not settled as the balances in these accounts were below Rs.10,000/-. Some accounts were opened in the same quarter and settled in the next quarter before the expiry of 90 days.
- c. The Committee finds as under:
- i. Omkam accepted the observation/alleged violation regarding running account authorizations and attributed the observed discrepancies to human error.
  - ii. Omkam contended the observation/alleged violation regarding non-settlement of funds and securities of inactive clients. Regarding Omkam's contention of not settling the account balances below Rs.10,000/-, it is observed that as per Exchange Circular No. NSE/INSP/24849 dated October 29, 2013, the retention of an amount equivalent to Rs.10,000/- is applicable only in case of regularly traded clients, i.e., active clients and with the clients' consent. In the instant case, the observed clients are inactive clients. Therefore, Omkam's contention is not acceptable. Regarding Omkam's contention that the accounts were not settled as the accounts were opened in the same quarter as that of settlement, could not be verified as Omkam did not provide any documentary evidence despite request made by the Exchange vide its email dated April 23, 2021, May 5, 2021, and July 26, 2021.
  - iii. Though Omkam claimed to have settled all the accounts, it has failed to provide documentary evidence, viz. demat account transaction statement, bank statement, and retention statement sent to all clients, despite Exchange emails dated April 23, 2021, and May 5, 2021, and July 26, 2021. Therefore, the irregularity continues in the observed instances involving Rs.2,24,44,210/- as mentioned in Table 2 above.
  - iv. The concept of monthly or quarterly running settlement of clients' accounts by the Trading Member is incorporated in Exchange Circular No. NSE/INSP/13606 dated December 3, 2009, to instill greater transparency and discipline in the dealings between the clients and the stockbrokers. Non-settlement of clients' accounts is prejudicial to the investors' interests. By not settling the clients' accounts, Omkam has violated the provisions

of Exchange Circular No. NSE/INSP/13606 dated December 03, 2009,  
and Exchange Circular No. NSE/INSP/33276 dated September 27, 2016.

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

- a. Omkam had granted loans to 2 clients amounting to Rs.1.01 crores, and the said clients were not involved directly in any business incidental to or consequential upon securities business. The details are as per Table 3 below:

**Table 3: Details of loans granted by Omkam**

Sr. No.	Client Name	Amount (Rs.)
1	Harsimrat Investments Private Limited	99,39,595
2	Pragati Automotive Eng.P.Ltd.	2,52,082
	<b>Total</b>	<b>1,01,91,677</b>

- b. In reply to LoF, Omkam has submitted that Omkam has granted the loans from its own funds for acquiring unquoted investments.
- c. The Committee finds as under:
- The Exchange, vide email dated April 23, 2021, sought details from Omkam on the present status of the loans and the documents in support thereof. However, Omkam failed to submit any details to the Exchange.
  - Rule 8 (3) (f) of Securities Contract (Regulation) Rules, 1957, stipulates that no entity who is a member at the time of application for recognition or subsequently admitted as a member shall continue as such if he engages either as principal or employee in any business other than that of securities or commodity derivatives except as a broker or agent not involving any personal financial liability. Thus, the act of granting loans by Omkam is in itself a contravention of Rule 8 (3) (f) of SCRR. The said non-compliance coupled with shortfall/misuse of clients' funds reflects financial indiscipline and lack of professionalism.

9.4 Non-reporting of demat accounts

- a. Omkam did not report 5 demat accounts to the Exchange as required under Enhanced Supervision of Stockbrokers. The details are as per Table 4 below:

**Table 4 - Details of demat accounts not reported by the Exchange**

Sr. No.	DP ID & Client ID	Demat A/c Purpose
1	1207540000000058	CM/TM Proprietary A/c OWN

2	1207540000000062	BSE CM Pool Clearing Member
3	1207540000000077	BSE CM Principal Clearing Member
4	IN30096610119574	BSE CM Pool Clearing Member
5	12075400000008612	CM/TM Collateral A/c

- b. In reply to LoF, Omkam submitted that there was no such case of non-reporting of the observed demat accounts mentioned in the report provided to Omkam.
- c. The Committee finds that the Exchange verified Omkam's submission from the Exchange records and observed that Omkam had reported all the demat accounts to the Exchange. Therefore, no irregularity exists for the said observation.

#### 9.5 Incorrect nomenclature of the bank account

- a. The nomenclature of the Bank Account No. 503011037666 maintained by Omkam with Kotak Mahindra Bank, holding own funds, was not named as "Omkam-Own/business account".
- b. In reply to LoF, Omkam submitted that the observed account was a current account maintained with Kotak Mahindra Bank. The said account was not used for business purpose, and no transaction was done since inception. Hence, the said account cannot be considered as a business account. Further, there is no balance in the said account, and Omkam has submitted a copy of the bank account statement as documentary evidence.
- c. The Committee finds Exchange Circular No. NSE/INSP/33276 dated September 27, 2016, requires the Trading Members to ensure that the bank and demat accounts should have the appropriate nomenclature to reflect the purpose for which the bank/demat accounts are being maintained. The said Circular does exempt the Trading Member from not tagging the bank accounts with NIL balance or no transactions. Thus, Omkam has violated the provisions of Exchange Circular NSE/INSP/33276 dated September 27, 2016.

#### 9.6 Pledging of clients' securities not reported

- a. Omkam had pledged securities worth Rs.1.57 lakhs with M/s. Aditya Birla Finance Ltd. from its own beneficiary account on April 1, 2017. Omkam, however, had not reported the pledging to the Exchange under the provisions of Enhanced Supervision of Stockbrokers.
- b. In reply to LoF, Omkam submitted that these securities were pledged on behalf of the respective clients. Subsequently, the securities have been unpledged and duly returned to the respective clients.

- c. The Committee finds as under:
- i. Omkam had released the securities from M/s. Aditya Birla Finance Ltd. and transferred to the respective entities/clients. There is no outstanding loan/interest, and Omkam closed the loan account on March 31, 2018.
  - ii. Exchange Circular No. NSE/INSP/33276 dated September 27, 2016, on Enhanced Supervision of Stockbrokers, advised the stock exchanges to put in place a mechanism to ensure that stockbrokers to upload the data including, securities pledged if any and funds raised from pledging such securities on a monthly basis for every client onto each stock exchange system where the stockbroker is a member. Each stock exchange shall in turn, forward this information to the clients via email and/or SMS on email id and mobile number uploaded by the stockbrokers to the Exchange for their clients. Thus, by not reporting the pledge details to the Exchange, Omkam has violated the provisions of Exchange Circular No. NSE/INSP/33276 dated September 27, 2016.

#### 9.7 Observations on Client Registration Process

- a. Omkam had obtained blank authorization to trade from 6 clients and did not obtain income proof from 4 active clients in the F&O segment. Further, Omkam did not provide details of CKYC registration numbers of 174 clients.
- b. In reply to LoF, Omkam submitted as under:
  - i. Blank authorizations from 6 observed clients were obtained due to oversight as the clients had signed the authorization form in continuation of client registration documents. Omkam never used these authorizations.
  - ii. Omkam had obtained the income proof from the observed 4 clients; however, it could not be attached to the client registration documents. Omkam has submitted the income proofs as documentary evidence.
  - iii. Out of 174 clients mentioned in the observation, 34 clients are HUF, 40 clients are corporate clients, 88 clients are already registered with the CKYC list. The remaining 12 clients could not be registered with CKYC as they were inactive clients, and information/documents could not be received despite rigorous follow-up.
- c. The Committee finds as under:
  - i. Omkam has attributed the blank authorizations to oversight.
  - ii. Regarding the observations on not obtaining the proof of income, Omkam has provided the income proof obtained from 4 clients post-inspection. However, post-inspection compliance does not absolve Omkam from the violations observed during the inspection period.

- iii. Regarding the CKYC registration numbers, the provisions of the Exchange Circular No. NSE/INSP/32860 dated July 22, 2016, and NSE/INSP/33610 dated November 11, 2016, on the subject “Operationalisation of Central KYC Records Registry (CKYCR)” were made applicable only to the individual accounts. Therefore, Omkam’s contention that no CKYC registration was required for 34 HUF clients and 40 corporate clients is acceptable. For 12 clients, Omkam did not register these clients as these clients were inactive. However, Omkam was required to register these clients with CKYC at the time of onboarding these clients. Hence the said contention of Omkam is not acceptable. For the remaining 88 clients, Omkam has provided the CKYC registration numbers post-inspection. However, post-inspection compliance does not absolve Omkam from the violations committed.

#### 9.8 Dividend received on clients’ securities routed through own bank account.

- a. Omkam had received dividends of Rs.1,63,778/- on clients’ securities during the inspection period in own bank account instead of client bank accounts.
- b. In reply to LoF, Omkam submitted that the dividends received in own bank account were on the clients’ securities available in margin/pool account and duly transferred to the respective clients.

The Committee finds that though Omkam claimed to have transferred the dividend to the respective clients, it failed to submit any documentary evidence viz. statement for the dividend transfer to respective clients despite being sought by the Exchange vide email dated April 23, 2021. In the absence of the documentary evidence, the Exchange could not verify the said submission.

- c. The Committee finds that Regulation 6.1.5 of Regulations – Part A (CM Segment) and Regulation 6.1.6 of Regulations (F&O Segment) require the Trading Members to ensure that monies held or received on account of the clients have to be paid into client accounts. In the instant case, Omkam has routed the dividend received on clients’ securities to own account instead of client bank accounts. Thus, Omkam has violated Regulation 6.1.5 of Regulations – Part A (CM Segment) and Regulation 6.1.6 of Regulations (F&O Segment).

#### 9.9 Common email id and/or mobile number of the clients uploaded in the UCI database of the Exchange

- a. Omkam had mapped common email id and/or mobile number to multiple clients (13 email ids mapped to 52 clients and 11 mobile numbers mapped to 48 clients).
- b. In reply to LoF, Omkam submitted that common email id and/or mobile number were mapped for clients belonging to the same family in all the observed instances.
- c. The Committee finds as under:
  - i. Trading Members are required to take utmost care while uploading the client details, including mobile number and email address on UCI-Online as important Exchange communication is sent directly to clients' mobile number and email address and information from members, including trade details are communicated to the clients.
  - ii. Exchange Circular No. NSE/INVG/21841 dated October 4, 2012, requires all Trading Members to upload separate email ids/mobile numbers for each client. Thus, the Noticee has violated the provisions of the Exchange Circular No. NSE/INVG/21841 dated October 4, 2012.

#### 9.10 Non-implementation of systems to generate and scrutinize alerts

- a. Omkam does not have an adequate system in place to generate and scrutinize alerts.
- b. In reply to LoF, Omkam submitted that it had taken adequate steps to improve its alert system.
- c. The Committee finds as under:
  - i. Omkam claimed to have taken adequate steps to improve the alert system. However, Omkam did not provide any documentary evidence despite the request made by the Exchange vide its email dated April 23, 2021, advising to provide the same. Therefore, in the absence of documentary evidence, the Exchange could not verify Omkam's submission.
  - ii. Exchange Circular No. NSE/INVG/16703 dated January 5, 2011, requires the intermediaries to ensure that appropriate steps are taken to enable suspicious transactions to be recognized and have appropriate procedures for reporting suspicious transactions. Thus, Omkam has violated the provisions of Exchange Circular No. NSE/INVG/16703 dated January 5, 2011.

#### 9.11 Funding of clients' transactions

- a. Omkam funded its clients to the tune of Rs.84.92 lakhs by providing further exposure to 3 clients selected for sample scrutiny despite non-recovery of debit balances within 5 days from the date of pay-in.

- b. In reply to LoF, Omkam submitted that the mistake happened due to one of the employees, who was subsequently removed from the company. Omkam has recovered considerable amounts from the observed clients.
- c. The Committee finds as under:
- i. Omkam accepted the observation and attributed the observation/alleged violation to a mistake committed by one of its employees.
  - ii. Exchange Circular No. NSE/INSP/33276 dated September 27, 2016, and Exchange Circular No. NSE/INSP/35184 dated June 23, 2017, prohibits the Trading Members from granting further exposure to the clients when debit balances arise out of client's failure to pay the required amount and such debit balances continues beyond the fifth trading day, as reckoned from date of pay-in. By granting further exposure of Rs.84.92 lakhs to 3 clients, Omkam has violated the provisions of Exchange Circular No. NSE/INSP/33276 dated September 27, 2016, and Exchange Circular No. NSE/INSP/35184 dated June 23, 2017.

### **MCSGFC GENERAL OBSERVATIONS**

10. The Committee vide its interim direction dated July 26, 2021, afforded another opportunity to Omkam to return all securities to clients as a last opportunity, failing which the disciplinary action in terms of Rule 1 and 2 of Chapter of IV of NSEIL Rules shall be taken. Omkam however did not comply with the directions to date.
11. Omkam, vide email dated September 27, 2021, though has sought time till March 2022 to return the remaining securities to the client, did not provide any satisfactory explanation/documentary evidence to demonstrate any ability to return the securities of the client. Under such circumstances and given the fact that sufficient time has been given to Omkam, it is not in the interest of the client to grant further extension of time. It is also evident that the Omkam failed to return the securities to the respective clients.
12. Omkam was given a fair and reasonable opportunity over a period of more than 2 years to return the securities to the respective clients; however, Omkam has not complied with the directions of the erstwhile DAC and the present Committee.
13. In terms of Regulation 4.5.1 and 4.5.2 of Exchange Regulations (CM and F&O Segments), Trading Members are required to adhere to the SEBI Code of Conduct and General Principles. The relevant extracts are reproduced 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 and Sub-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.*

Omkam has failed to adhere to the code of conduct prescribed for Trading Members under Regulation 4.5.1 and 4.5.2 of Exchange Regulations (CM and F&O Segments).

14. In terms of Regulation 4.5.3 of Exchange Regulations (CM and F&O Segments), no Trading Member or person associated with Trading Member shall make improper use of constituent's securities or funds. Omkam has misused the clients' securities and funds.
15. Omkam has repeatedly failed to comply with the directions issued by the Committee, and 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 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 Bye Laws, Rules and Regulations of the Exchange.*

16. Omkam has failed to return the securities worth Rs.2.89 crores to its client, despite granting multiple opportunities and more than 2 years have elapsed since Omkam was first directed to return the securities. Further, Omkam has failed to recoup the client fund shortfall amounting to Rs.6.39 lacs. As on October 13, 2021, there are no deposits of Omkam with Exchange / NCL; whereas Omkam has to return client securities worth Rs.2.89 crores and recoup fund shortfall of Rs. 6.39 lacs.
17. Byelaw 1(a) of Chapter XII of NSEIL Byelaws states that a trading member may be declared a defaulter by direction/circular/notification of the relevant authority of the trading segment if he is unable to fulfil his obligations. SEBI, vide its letter dated August 01, 2016, has advised the Exchange to specifically declare a trading member defaulter along with expulsion in case the liabilities of the trading member stand out to be higher than its assets at the time of expulsion.
18. Omkam has failed to satisfactorily address the Exchange's concerns in relation to its financial condition and it is reasonably apprehended by the Exchange that continuance of the business by the Noticee poses a financial risk to its clients.
19. In view of the foregoing, to protect the interests of the investors and the integrity of the securities market, the Committee passed the following decision:

**DECISION**

20. M/s. Omkam Capital Markets Private Limited be expelled from the membership of the Exchange under Rules 1 and 2 of Chapter IV of NSEIL Rules after giving three weeks' notice from the date of this order and declared a defaulter under Byelaw 1(a) of Chapter XII of the NSEIL Byelaws and SEBI letter dated August 01, 2016.
21. The decision of the Committee shall be implemented after giving a prior written notice of three weeks to M/s. Omkam Capital Markets Private Limited.
22. The proceedings of the MCSGFC meeting were held on October 13, 2021, through video conferencing. At this stage, it is not possible to sign a copy of this order, nor the Exchange can issue a certified copy of the order. Therefore, an electronic copy of this order sent from the Exchange's email id shall be treated as a signed copy for all purposes.

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: January 6, 2022