

**Member and Core Settlement Guarantee Fund Committee
("MCSGFC"/"Committee")
of
National Stock Exchange of India Limited
Exchange Plaza, Bandra Kurla Complex, Bandra East, Mumbai - 400 051
held on July 29, 2024
In the matter of Trading Member - Astitva Capital Market Private Limited**

CORAM:

Mr. S Ravindran	-	Chairman
Justice (Retd) Smt. Abhilasha Kumari	-	Committee Member
Prof (Dr.) Mamata Biswal	-	Committee Member
Mr. Essaji Vahanvati	-	Committee Member

ALSO PRESENT:

Mr. Piyush Chourasia	-	Chief Regulatory Officer
Ms. Renu Bhandari	-	Senior Vice President - Inspection
Ms. Sonali Karnik	-	Vice President - Enforcement
Mr. Janardhan Gujran	-	Vice President - Enforcement

BACKGROUND

1. Astitva Capital Market Private Limited ("Noticee") is a Trading Member registered with the National Stock Exchange of India Limited ("Exchange"/"NSEIL") in the Capital Market ("CM") segment since March 1996, Futures & Options ("F&O") segments since June 2001, Currency Derivatives ("CDS") segment since October 2013, and Commodity Derivatives ("COM") segment since October 2018.
2. The Exchange issued a letter of intimation dated March 15, 2021, informing the Noticee about the inspection of its operations, books of accounts, and other records. The Noticee was requested to submit the following data/information for the inspection period from March 01, 2020, to February 28, 2021.
 - a. Inspection questionnaire and write-up on the systems and procedures, turnover details file, Annexure - A and duly filled declaration (hard/scan copy on letterhead).
 - b. Detailed trial balance and client trial balance across stock exchanges and segments combined as of March 31, 2020, September 30, 2020, December 31, 2020, and February 26, 2021.

- c. Transaction statements of all beneficiary accounts (pool, client beneficiary, collateral, client collateral, client margin-pledge/repledge and any other) for the inspection period from the Depository Participant.
- d. Register of securities (client-wise-scrip-wise and scrip-wise client-wise) for the inspection period.
- e. Holding statement of all beneficiary accounts from the Depository Participant and details of securities kept with NSE Clearing Ltd./Clearing Member as of February 26, 2021.
- f. All bank books viz. client bank, own bank, settlement and Exchange dues accounts and any other accounts from the back-office for the inspection period.
- g. Details of overdraft/loan and borrowings by the Noticee (if any):

Lender's Name	OD sanctioned in case of Bank OD	Amount borrowed during the Inspection Period	Maximum amount availed during the Inspection Period Amount/Date	Underlying collateral as on the date of maximum utilization	Underlying collateral belongs to

- h. Client-wise details in case of collaterals pledged as shares.
- i. List of active clients in all segments combined in the prescribed format.

Sr. No.	UCC	TM Code used for Client	Client	Address of the Client	Client PAN	Demat A/c. No.	DP	Mobile No.	Email ID	Bank Details Bank, Branch, A/c. No.

Specify the account numbers in case of multiple demat accounts and bank accounts.

- j. Actual settlement (set-off sheet generated from back-office) for all clients for the inspection period.

- k. Holding with valuation (client scrip-wise) from back-office for March 31, 2020, December 31, 2020, and February 26, 2021.
 - l. Combined clients' financial ledgers across stock exchanges and segments combined for the inspection period.
 - m. Bank statements of all bank account for the inspection period.
 - n. Net worth certificates for the period ending March 31, 2020, and September 30, 2020, along with supporting document (provisional/ audited financial statements).
 - o. Details of FDRs and funds available with the Clearing Member as of February 26, 2021, MG01, MG02, MG05 etc.
 - p. Supporting files for all data heads submitted to the Exchange towards the weekly monitoring of clients' funds under the Enhanced Supervision as of February 26, 2021.
3. The Noticee was made aware that non-submission of the data/information or failure to extend full assistance in connection with the inspection would be tantamount to non-cooperation and a contravention of Regulation 7.3 of NSEIL Regulations (CM and F&O Segments) read with Byelaw 2(h) Chapter V of NSEIL Byelaws, which may result in appropriate disciplinary action.
4. Since the Noticee failed to submit the data/information requested by the Exchange in its letter of intimation dated March 15, 2021, the Exchange issued several reminders to the Noticee via emails dated March 22, 2021, March 30, 2021, April 7, 2021, April 13, 2021, and April 27, 2021. However, the Noticee did not submit any reply, or submit the requisite data/information requested by the Exchange to conduct the inspection.
5. Due to the Noticee's continued failure to submit the requisite data/information to facilitate the inspection of the books of accounts, other records and documents of the Noticee, the Exchange issued a Show Cause Notice ("SCN-1") dated July 7, 2021, bearing reference No. NSE/INSP/REG/CMFOCDS/SCN/21-22/08819. The SCN-1 called upon the Noticee to show cause why appropriate disciplinary action under Rule 2 of Chapter IV of NSEIL Rules (which includes expulsion, suspension, or withdrawal of all or any of the membership rights) should not be initiated against the Noticee for the violations alleged in the SCN-1. The Noticee was informed to submit a reply by July 17, 2021. The SCN-1 was sent to the Noticee's via email, dispatched to the Noticee's correspondence address, and

pasted at the last known correspondence address of the Noticee. However, the Noticee failed to submit any reply.

6. Considering the Noticee was not contactable, the Exchange official visited the registered as well as the correspondence office address of the Noticee on October 10, 2021, situated at 307, New Delhi House, 3rd Floor, Barakhamba Road, Connaught Place, New Delhi - 110 001 to serve SCN-1. Upon visit, the Exchange observed that the office was closed. Consequently, SCN-1 was affixed outside the registered and correspondence office of the Noticee. However, the Noticee has failed to submit any reply till date.

PREVIOUS PROCEEDINGS BEFORE THE COMMITTEE

7. November 3, 2021

7.1. The Exchange, vide email dated October 27, 2021, provided the Noticee an opportunity for a personal hearing before the Committee. The intimation of personal hearing was also affixed at the registered and correspondence address of the Noticee.

7.2. The matter was placed before the Committee in its meeting held on November 3, 2021. The Noticee neither appeared before the Committee nor submitted its reply to the SCN-1. The Committee observed that the Noticee was disabled in all segments of the Exchange effective from February 05, 2021, due to non-submission of risk-based supervision data for the half year ended September 30, 2020. Additionally, the Noticee failed to submit its annual returns to the Exchange for the financial year 2019-2020.

7.3. Considering the above and in the interest of investors, the Committee issued the following interim directions to the Noticee:

- a) Submit reply to the SCN along with the documentary evidence in support thereof within 15 days from the date of the directions.
- b) The trading terminals shall continue to be disabled in all segments until further directions.

7.4. The Exchange vide its email dated November 3, 2021, communicated the above interim directions of the Committee to the Noticee.

PROCEEDINGS BEFORE NATIONAL COMPANY LAW TRIBUNAL ("NCLT") AND NATIONAL COMPANY LAW APPELLATE TRIBUNAL ("NCLAT")

8. The Noticee vide its email dated December 14, 2021, informed the Exchange about the **NCLT** order dated November 25, 2021. As per the NCLT order, the application under Section 7 filed by Mr. Hemant Kumar Gupta, erstwhile Director of the Noticee, has been admitted initiating Corporate Insolvency Resolution Process ("**CIRP**") against the Noticee,
9. The Exchange filed an appeal before **NCLAT**. The NCLAT vide its order dated September 11, 2023, held as under:

"Applicant was none-less than the Ex-Director of the Corporate Debtor, who filed the Application claiming to have advanced the loan to the Corporate Debtor. The learned Counsel for the NSE has brought on record the Show Cause Notice dated 07.07.2021, which was issued to Corporate Debtor through Hemant Kumar Gupta, the Applicant (Respondent No.1 herein). The proceedings initiated by Respondent No.1 were clearly intended to stall the proceedings initiated by NSE by taking the benefit of moratorium and was not initiated with any object of insolvency resolution of Corporate Debtor. The Adjudicating Authority in the impugned order dated 25.11.2021 has not noticed the relevant provisions pertaining to Financial Service Provider. The Corporate Debtor, who was Stock Broker was not keen to raise any objection that Application under Section 7 is not maintainable against the Financial Service Provider. The intent of the proceeding was to save the Applicant from proceedings initiated by NSE. Hence, the Corporate Debtor neither shown to have genuinely contested the proceedings, nor Adjudicating Authority has adverted to the relevant provisions and facts of the case. The order dated 25.11.2021, admitting Section 7 Application is, thus, clearly untenable. The submission of Respondent that NSE has no locus to file Appeal against the order dated 25.11.2021, suffice it to say that NSE being Market Regulator with whom Corporate Debtor was registered, has sufficient locus to challenge the order.

.... Ltd. and M/s. Astitva Capital Market Private Limited being registered Broker with SEBI and Trading Member of the NSE are providing services, which are 'financial services' within the meaning of definition of Section 3(16) of the Code and by virtue of Section 3(7) read with Section 3(8) and Section 227 of the Code, Section 7 Application filed by Corporate Debtors were not maintainable. The orders passed by Adjudicating Authority in both the Appeal(s) deserve to be set-aside."

10. The NCLAT vide its order dated September 11, 2023, held that the Noticee does not fall under the purview of Insolvency and Bankruptcy Code, 2016. Considering the order of the NCLAT, the Committee decided to proceed with the matter.

PREVIOUS PROCEEDINGS BEFORE THE COMMITTEE

11. MCSGFC meeting dated April 16, 2024

- 11.1. The Exchange, vide email dated March 28, 2024, provided the Noticee an opportunity for a personal hearing before the Committee in the meeting dated April 16, 2024.
- 11.2. Since the Noticee failed to submit any response to the personal hearing, the Exchange affixed the personal hearing letter, at the registered and correspondence office of the Noticee.
- 11.3. The Committee deliberated the matter, however considering that the observations involve stricter action including expulsion, the Committee decided to give further opportunity to the Noticee.

12. MCSGFC meeting dated May 23, 2024

- 12.1. The Exchange, vide email dated May 15, 2024, provided the Noticee an opportunity for a personal hearing before the Committee in the meeting dated May 23, 2024.
- 12.2. The Exchange also affixed the personal hearing letter at the registered and correspondence office address of the Noticee. Furthermore, the Exchange published a paper publication informing the Noticee about the opportunity of personal hearing before the Committee. However, the Noticee failed to respond and did not appear before the Committee.
- 12.3. In the interest of natural justice and to provide a final opportunity, the Committee decided to issue an additional show-cause notice to the Noticee, seeking an explanation as to why the Noticee should not be expelled.
- 12.4. The Exchange issued a Show-Cause Notice ("**SCN-2**") dated June 27, 2024 to the Noticee via email at unityfincap@gmail.com and it@astitvacapital.in. The SCN-2 was also dispatched to the Noticee's last known address at 307, 3rd Floor, New Delhi House, Barakhamba Road,

Central Delhi, Connaught Place, New Delhi - 110 001. However, the said communication was returned undelivered.

- 12.5. The Exchange also issued a paper publication in July, informing the Noticee that Show Cause Notice was issued to determine the appropriate disciplinary action against the Noticee, which may include expulsion, suspension or withdrawal of all or any membership rights. Further, the SCN-2 was also made available to the Noticee on the member's portal. Despite these efforts, the Noticee failed to submit any reply to SCN-2.

THE OBSERVATIONS/ALLEGED VIOLATIONS

13. The observations/violations mentioned in the SCN-1 and SCN-2 are summarized hereunder:

SCN-1

- a. The Noticee failed to submit the requisite data/information to the Exchange to facilitate the conduct of inspection of the operations, books and records of the Noticee.
- b. The Noticee failed to comply with the directions of the Exchange and provide the information sought by the Exchange.

SCN-2

- c. The Noticee failed to extend full co-operation and failed to furnish information for the purpose of inspection by the Exchange.

REGULATORY PROVISIONS

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

14.1. Failure to submit the requisite data/information to the Exchange to facilitate the conduct of inspection

- a. Regulation 7.3 of NSEIL Regulations (CM and F&O Segments)

OBLIGATIONS OF A TRADING MEMBER ON INSPECTION

- 7.3.1. *It shall be the duty of every director, officer and employee of the Trading Member, who is being inspected, to produce to the inspecting authority such books, accounts and other documents in his custody or control or arrange to produce where such books, accounts and other documents when they are in any other person's custody or control and furnish him such statements and information within such time as the said inspection authority may require.*
- 7.3.2. *The Trading Member shall allow the inspecting authority to have reasonable access to the premises occupied by him or by any other person on his behalf and also extend reasonable facilities for examining any books, records, documents and computerised data in his possession or any other person and also provide copies of documents or other materials which in the opinion of the inspecting authority are relevant.*
- 7.3.3. *The inspecting authority, in the course of inspection shall be entitled to examine or record statements of any member, director, officer and employee of the Trading Member or of any associate of such Trading Member.*
- 7.3.4. *It shall be the duty of every director, officer and employee of the Trading Member or where an associate is examined, such associate to give to the inspecting authority all assistance in connection with the inspection which the Trading Member may be reasonably expected to give.*
- 7.3.5. *The inspecting authority shall be entitled to examine the records relating to the Trading Member's financial affairs held with its bankers or any other agency which the inspecting authority may find it relevant.*
- 7.3.6. *The inspecting authority shall have access to accounts and other records relating to the Trading Member or such access as authorised by the Exchange to accounts and other records relating to any associate of the Trading Member as are within the power of the Trading Member to provide.*

b. Byelaw 2(h) of Chapter V of NSEIL Byelaws

Trading members shall extend full co-operation and furnish such information and explanation as may be required for the purpose of any

inspection or audit authorised by the relevant authority or other authorised official of the Exchange into or in regard to any trades, dealings, their settlement, accounting and/or other related matters.

14.2. Failure to comply with the directions of the Exchange and provide the information sought by the Exchange

Rule 3 (c), (e) and (g) of Chapter IV of the NSEIL Rules

Misconduct

(3) A trading member shall be deemed guilty of misconduct for any of the following or similar acts or omissions namely:

(c) Improper Conduct: If in the opinion of the relevant authority it is guilty of dishonourable or disgraceful or disorderly or improper conduct on the Exchange or of willfully obstructing the business of the Exchange;

(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 authorised in that behalf under the Bye Laws, Rules and Regulations of the Exchange;

(g) Failure to testify or give information : If it neglects or fails or refuses to submit to the relevant authority or to a Committee or an officer of the Exchange authorised in that behalf, such books, correspondence, documents and papers or any part thereof as may be required to be produced or to appeal and testify before or cause any of its partners, attorneys, agents, authorised representatives or employees to appear and testify before the relevant authority or such Committee or officer of the Exchange or other person authorised in that behalf;

Rule 11 of Chapter IV of the NSEIL Rules

Trading members and others to testify and give information

(11) A trading member shall appear and testify before and cause its partners, attorneys, agents, authorised representatives and employees to appear and testify before the relevant authority or before other Committee(s) or an officer of the Exchange authorised in that behalf and shall produce before the relevant authority or before other Committee(s) or an officer of the Exchange authorised in that behalf,

such books, correspondence, documents, papers and records or any part thereof which may be in its possession and which may be deemed relevant or material to any matter under inquiry or investigation.

CONSIDERATION AND FINDINGS

15. The observations/violations and the findings of the Committee are as under:

15.1. The Committee noted that despite several reminders, the Noticee failed to submit any reply or appear for personal hearing before the Committee. The Noticee repeatedly failed in its duty to provide the Exchange with necessary assistance in connection with the inspection and did not extend full co-operation or furnish the information and explanation sought by the Exchange for the purpose of inspection or audit in regard to trades, dealing, and settlement of client funds. Furthermore, the Noticee neglected or failed to submit the relevant books, documents and records as requested by the Exchange in its letter of intimation dated March 15, 2021, and subsequent reminders dated March 22, 2021, March 30, 2021, April 07, 2021, April 13, 2021, April 27, 2021, including 2 SCNs dated July 07, 2021, and June 27, 2024, issued by the Exchange. Such acts and omissions on the part of the Noticee has amounted to misconduct.

15.2. The Committee further observed that the Noticee was disabled in all segments of the Exchange effective from February 05, 2021, due to non-submission of risk-based supervision data for the half year ended September 30, 2020. Additionally, the Noticee failed to submit its annual returns to the Exchange for the financial year 2019-2020 and did not submit the half yearly networth as of March 31, 2022. The Committee notes that the Noticee is defunct for more than three years.

15.3. The Committee also noted that, the Noticee vide its email dated December 14, 2021, informed the Exchange of the NCLT order dated November 25, 2021, initiating Corporate Insolvency Resolution Process (CIRP) against the Noticee.

15.4. The Committee observes from the NCLAT order dated September 11, 2023, that the insolvency proceedings initiated by the Noticee were intended to protect the Director of the Noticee from the proceedings initiated by the Exchange. The relevant extracts of the NCLAT order are reproduced hereunder:

The intent of the proceeding was to save the Applicant from proceedings initiated by NSE. Hence, the Corporate Debtor neither shown to have

genuinely contested the proceedings, nor Adjudicating Authority has adverted to the relevant provisions and facts of the case.

15.5. The Committee further observed that the NCLAT, vide its order dated September 11, 2023, held that the Noticee does not fall under the purview of Insolvency and Bankruptcy Code, 2016.

15.6. The Noticee, by failing to submit the requisite data and information to the Exchange, which was necessary to facilitate the inspection of its operations, books, and records, has violated the provisions of Rule 3 (c), (e) and (g) and of Chapter IV of NSEIL Rules, Regulation 7.3 of NSEIL Regulations (CM and F&O Segments), Rule 11 of Chapter IV of the NSEIL Rules and Byelaw 2(h) of chapter V of the Exchange.

DECISION

16. Given the findings mentioned above and to protect the interests of the investors and the integrity of the securities market, the Committee passed the following decision:

Astitva Capital Market Private Limited is hereby expelled from the membership of the Exchange under Rules 1 and 2 of Chapter IV of NSEIL Rules with immediate effect from the date of this order.

Sd/-
S Ravindran
Chairman

Sd/-
Abhilasha Kumari
Committee Member

Sd/-
Mamata Biswal
Committee Member

Sd/-
Essaji Vahanvati
Committee Member

Date: May 23, 2025.