

**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 May 23, 2023**

**In the matter of Trading Member/ Directors of Trading Member:  
M/s. LFS Broking Private Limited**

**CORAM:**

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

**PRESENT:**

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

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**BACKGROUND**

1. **M/s. LFS Broking Private Limited ("Noticee-1")** is a Trading Member registered with the National Stock Exchange of India Limited ("**Exchange**"/"**NSEIL**") and enabled for trading in the Capital Market ("**CM**") and Futures & Options ("**F&O**") segments since June 2014, and Currency Derivatives ("**CD**") segment since July 2014.
2. **Mr. Saiyad Jiyajur Rahaman ("Noticee-2")** is a dominant promoter and director of Noticee-1, directly and indirectly holding 87% shares in Noticee-1. Noticee-2 is also the proprietor of LFS Broking & PMS Services ("**LFS-PMS**") and a partner in MOL Commodities ("**MOLC**"). As per records of the Exchange, MOLC was an Authorized Person of the Trading Member, M/s. ITI Securities Broking Ltd., for the period between April 1, 2013, and June 28, 2016. **Mr. Saurav Adhikari ("Noticee-3")** is a director of Noticee-1 as per records of the Ministry of Corporate Affairs.

3. The Exchange received information through market intelligence that LFS-PMS is running a monthly assured return scheme offering 2% monthly returns for a minimum investment of Rs.25,000/-. Therefore, the Exchange investigated Noticee-1 to identify the role of the management and directors of Noticee-1 in the said activity. Further, the Exchange initiated a forensic audit of Noticee-1's books and records, covering the period from April 1, 2018, to July 7, 2021, to ascertain whether Noticee-1 is engaged in providing assured returns to its clients, quantum of funds and securities involved and identifying the role of management and directors of Noticee-1 in the said activity. Based on the findings of the investigation and forensic audit, the Exchange issued a show-cause notice dated September 23, 2022 ("**SCN-1**") seeking an explanation for the observed violation of regulatory provisions. Noticee-1 vide its email dated October 15, 2022, replied to the said SCN-1.
4. The Exchange conducted further enquiries into the matter. Upon enquiry, the Exchange discovered a video clip of the investor awareness camp organized by the MOL group comprising Noticee-1, M/s. Moldarin Investments, M/s. Leniq Advisors Pvt. Ltd. etc. The said video clip revealed that the mentioned campaign was attended by approximately 30,000 active/prospective investors who were induced to invest funds with Noticee-1 and its associates that offer 2% monthly assured returns. The Exchange discovered several Facebook posts highlighting assured monthly returns offered in the name of "LFS Broking & PMS Services". Based on the additional information gathered from various social media platforms, the Exchange issued a supplementary show-cause notice to Noticee-1 dated November 12, 2022 ("**SCN-2**") seeking an explanation for the observed violation of regulatory provisions. Noticee-1 vide its email dated November 26, 2022, replied to the said SCN-2.
5. Based on a further enquiry into the matter, the Exchange discovered the fact of the arrest of Noticee-1's directors and delay in intimation of change in its directors, to the Exchange. Pursuant thereto, the Exchange issued another supplementary show-cause notice dated May 10, 2023 ("**SCN-3**") to Noticee-1, Noticee-2, and Noticee-3 seeking an explanation for the observed violation of regulatory provisions. Noticees-1, 2, and 3 collectively submitted their reply to the said SCN-3 vide emails dated May 22, 2023, and May 30, 2023.

**INSPECTION OBSERVATIONS/VIOLATIONS**

6. The observations/violations alleged in SCN-1, 2, and 3, are summarized hereunder:
  - 6.1. Engagement as a principal in business other than securities involving personal financial liability
  - 6.2. Failure to make arrangements for internal review, at least annually, of the business to detect and prevent violations and achieve compliance of the Byelaws, Rules, and Regulations of the Exchange
  - 6.3. Non-fulfillment of fit and proper criteria by the Directors/Dominant Promoters
  - 6.4. Change in director without Exchange approval

**REGULATORY PROVISIONS**

7. At the outset it is appropriate to refer to the relevant regulatory provisions alleged to have been violated by Noticees-1, 2, and 3; extracts whereof are reproduced below: -
  - 7.1. **Engagement as a principal in business other than securities involving personal financial liability**
    - a. Rule 8(3)(f) of Securities Contracts (Regulation) Rules, 1957
      - (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.*
    - b. Clause A (5), Schedule II, SEBI (Stockbroker) Regulation, 1992
      - A. *General*
        - (5) *Compliance with statutory requirements: A stockbroker shall abide by all the provisions of the Act and the rules, regulations issued by the Government, the Board, and the Stock Exchange from time to time as may be applicable to him.*

- c. Regulation 4.5.1 of NSEIL Regulations (CM and F&O Segments)

*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 (Stockbrokers) Regulations, 1992.*

- d. Rule 3(d) of Chapter IV of NSEIL Rules

Misconduct

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

*(a) ....*

*(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.*

- e. SEBI Circular No. SMD/POLICY/CIR-6/97 dated May 7, 1997

*It has been opined that borrowing and lending of funds, by a trading member, in connection with or incidental to or consequential upon the securities business, would not be disqualified under Rule 8(1)(f) and 8(3)(f).*

- f. Exchange Circular No. NSE/COMP/50957 dated January 7, 2022

*Members are not permitted to engage in any business or activities or transactions, directly or indirectly, other than that of securities or commodity derivative except as a broker or agent not involving any personal financial liability. In consultation with SEBI and other Stock Exchanges, the illustrative list of activities that are construed as non-compliance to Rule 8(1)(f) and 8(3)(f) of SCRR, if undertaken by a member, are provided as below:*

*5. Engaging into activities/schemes of unauthorised collective investments/portfolio management, promising, or indicating fixed/guaranteed/regular returns/capital protection*

7.2. **Failure to make arrangements for internal review, at least annually, of the business to detect and prevent violations and achieve compliance of the Byelaws, Rules and Regulations of the Exchange**

Regulation 4.2.2 of NSEIL Regulations (CM Segment)

*INTERNAL INSPECTIONS*

*Each Trading Member shall conduct a review, at least annually, of the business in which it engages, which shall be reasonably designed to assist in detecting and preventing violations of and achieving compliance with Bye Laws, Rules, and Regulations.*

7.3. **Non-fulfillment of the fit and proper criteria by the Director/Dominant Promoter**

a. Schedule II of the SEBI (Intermediaries) Regulations, 2008

*For the purpose of determining as to any person is a 'fit and proper person' the Board may take into account any criteria as it deems fit, including but not limited to the following:*

*(a) integrity, honesty, ethical behaviour, reputation, fairness, and character of the person;*

*(b) the person not incurring any of the following disqualifications:*

*(i) criminal complaint or information under section 154 of the Code of Criminal Procedure, 1973 (2 of 1974) has been filed against such person by the Board and which is pending;*

b. Rule 3 of Chapter IV of the Exchange Rules

*Misconduct*

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

- (a) *Fraud: If it is convicted of a criminal offence or commits fraud or a fraudulent act which in the opinion of the relevant authority renders it unfit to be a trading member;*

#### **7.4. Change in director without Exchange approval**

- a. Exchange Circular No. NSE/MEM/18010 dated June 8, 2011

*In this regard all members are hereby informed that SEBI vide circular no. CIRIMIRSD/2/2011 dated June 03, 2011, has informed that the requirement of members of the Stock Exchanges and sub brokers to obtain prior approval from SEBI for change in status or constitution has been done away with. However, the members of the Stock Exchanges would be required to take prior approval from SEBI for change in control. In view of the above SEBI circular, the Exchange would grant prior approval to members and sub brokers for change in status or constitution which would include the following:*

*(a) in case of a body corporate –*

- (i) amalgamation, demerger, consolidation, or any other kind of corporate restructuring falling within the scope of section 391 of the Companies Act, 1956 (1 of 1956) or the corresponding provision of any other law for the time being in force;*
- (ii) change in its managing director, whole-time director or director appointed in compliance with clause (v) of sub-rule (4A) of rule 8 of the Securities Contracts (Regulation) Rules, 1957; and*
- (iii) any change in control over the body corporate;*

#### **PAST MCSGFC REFERENCES**

8. The Exchange placed the matter before the Committee on the following days: -

8.1. MCSGFC meeting dated October 31, 2022 (SCN-1)

- a. The Exchange vide its email dated October 20, 2022, granted Noticee-1 with an opportunity for a personal hearing before the Committee. On behalf of Noticee-1, Mr. Soumitra Sinha (Director), Mr. Shambhu Mishra (Compliance Officer), Mr. Chandan Manna (Regional Manager), and Mr. Ashok Kumar Singh (Authorized Representative) appeared before the Committee and made the oral submissions.

- b. Considering the oral and written submissions of Noticee-1, and evidence available on the records of the Exchange, the Committee observed that there is sufficient *prima facie* evidence to confirm Noticee-1's involvement in offering assured returns. The video clip and the pamphlets distributed were shown to the representatives of Noticee-1 who were present at the hearing and the contents thereof were not disputed by the representatives of Noticee-1.
- c. Considering that the issues involved have a direct bearing on the assets of the innocent investors who are clients of Noticee-1, the Committee vide its order dated November 5, 2022, decided to suspend the trading membership of Noticee-1 in all segments with immediate effect. The Exchange disabled the trading terminals of Noticee-1 in all segments before the market hours of November 7, 2022.
- d. Noticee-1 appealed against the Committee's order dated November 5, 2022, before the Hon'ble Securities Appellate Tribunal ("**SAT**"). Hon'ble SAT vide its order dated November 17, 2022, set aside the Committee's order dated November 5, 2022. Therefore, the Exchange enabled the trading terminals of Noticee-1 in all segments and reinstated its trading membership with effect from November 18, 2022.
- e. Furthermore, Hon'ble SAT directed Noticee-1 to reply to SCN-2 and directed the Committee to decide the matter as per the law after providing Noticee-1 with an opportunity for a personal hearing.

## 8.2. MCSGFC meeting dated November 28, 2022 (SCN-1 and SCN-2)

- a. Pursuant to Hon'ble SAT's order dated November 5, 2022, the Exchange placed the matter pertaining to SCN-1 and SCN-2 before the Committee in its meeting held on November 28, 2022.
- b. The Exchange vide its email dated November 23, 2022, granted Noticee-1 with an opportunity for a personal hearing before the Committee. On behalf of Noticee-1, Mr. Soumitra Sinha (Director), Mr. Shambhu Mishra (Compliance Officer), and Mr. Ashok Kumar Singh (Authorized Representative) appeared before the Committee and made the oral submissions.

- c. Considering the oral and written submissions of Noticee-1 in light of the evidence discovered by the Exchange and identifying the role of the management and directors of Noticee-1 in running the said activity, the Committee vide its order dated January 31, 2023, decided to suspend the trading membership of Noticee-1 in all segments with immediate effect.
- d. Noticee-1 appealed against the Committee's order dated January 31, 2023, before Hon'ble SAT. Hon'ble SAT vide its order dated February 23, 2023, set aside the Committee's order dated January 31, 2023. Therefore, the Exchange enabled the trading terminals of Noticee-1 in all segments and reinstated its trading membership with effect from February 24, 2023.

### **PRESENT PROCEEDINGS**

9. The Exchange vide its email dated May 18, 2023, granted Noticees-1, 2, and 3 with an opportunity of personal hearing before the Committee in its present meeting. On behalf of Noticees-1, 2, and 3, Mr. Shambhu Mishra (Compliance Officer) and Mr. Ashok Kumar Singh (Authorized Representative) appeared before the Committee and reiterated the submissions made in the replies to the show-cause notices.

### **CONSIDERATION AND FINDINGS**

10. The observations/violations, the reply of Noticees-1, 2, and 3 along with the findings of the Committee are as under:

- 10.1. **Engagement as a principal in business other than securities involving personal financial liability**

- A. The observations are as under: -

#### **SCN-1**

#### **Exchange Investigation**

- i. The Exchange observed that cheque no. 000001 dated April 15, 2021, for Rs.10 lakhs, issued by one, Mr. Srikant Das in favor of LFS-PMS, was deposited in A/c. No. 1138102000008907 maintained with IDBI Bank Ltd. Upon verification of the bank statements of A/c. No. 1138102000008907 for the period April 2, 2021, to June 28, 2022, the Exchange observed as under: -



- i. The account is a proprietary account opened on June 13, 2017, in the name of LFS-PMS.
  - ii. The account belongs to and is operated by Noticee-2. (PAN BCNPR5031A).
  - iii. Noticee-2 is the proprietor of LFS-PMS and also a director and dominant promoter of Noticee-1.
  - iv. The nature of business mentioned in the account opening form and trade license is "real estate" and "building construction" respectively.
  - v. Funds amounting to Rs.626.39 crores and Rs.626 crores were credited and debited, respectively.
- ii. Upon verification of the bank statements of the partnership firm of Noticee-2, namely MOLC bearing A/c. No. 1138102000001649 maintained with IDBI Bank Ltd. for the period April 3, 2021, to June 28, 2022, the Exchange observed as under: -
- i. The account was opened on November 18, 2013, in the name of MOLC.
  - ii. The account is operated by Noticee-2 (PAN BCNPR5031A).
  - iii. Noticee-2 is a partner in MOLC and a director and dominant promoter of Noticee-1.
  - iv. Funds amounting to Rs.190.89 crores and Rs.189.72 crores are credited and debited, respectively.
- iii. Upon comparative analysis of the bank statements of A/c. No. 1138102000008907 of LFS-PMS and A/c. No. 1138102000001649 of MOLC maintained with IDBI Bank vis-à-vis the UCC database of Noticee-1, it is observed that 333 registered clients of Noticee-1 made UPI transfer of funds involving Rs.2.01 crores to the aforesaid LFS-PMS and MOLC accounts.

- iv. Based on analysis of beneficiary details of transactions in the bank account of LFS-PMS A/c. No. 1138102000008907 and MOLC A/c. No. 1138102000001649 vis-à-vis bank account details captured in Unique Client Code records of all clients of Noticee-1, it is observed that 6219 registered clients of Noticee-1 have received funds amounting to Rs.266 crores from the said LFS-PMS and MOLC accounts from the period April 2, 2021, to June 28, 2022.
- v. Upon verification of bank statements of Noticee-2 (HDFC Bank A/c No. 59208348789850) for the period April 1, 2021, to June 30, 2022, it is observed as under: -
- i. Funds transferred from MOLC to Noticee-2
- In 8 instances, funds amounting to Rs.9.30 crores were transferred from the account of MOLC maintained with Punjab National Bank to Noticee-2 (HDFC Bank A/c No. 59208348789850)
- ii. Funds transferred from Noticee-2 to Noticee-1
- In 10 instances, funds amounting to Rs.1.83 crores were transferred from Noticee-2 (HDFC Bank A/c No. 59208348789850) to Noticee-1 Proprietary Account (HDFC Bank A/c No. 03590340000090).
- vi. Further, it is observed that funds were transferred from LFS-PMS and MOLC to key managerial personnel, shareholders, and related entities of Noticee-1. During the period April 2, 2021, to June 28, 2022, funds amounting to Rs.32.83 crores were transferred by LFS-PMS (IDBI Bank A/c. No. 1138102000008907) and MOLC (ICBI Bank A/c. No. 1138102000001649) to key managerial personnel, shareholders, and other related entities of Noticee-1.

#### Forensic Audit

- vii. Pay-outs to the clients despite having debit balances

Upon verification of client ledgers, it is observed that Noticee-1 made pay-outs to the clients in 7 instances of 6 clients involving Rs.6,63,700/-

, despite having debit balances a day before the fund transfer or the balance turned debit after the pay-out was made.

viii. Scheme assuring fixed return to the clients

Upon perusal of the recording of the telephonic conversation between Mr. Manish Sarwan (Area Head - Senior Manager, Kolkata of Noticee-1) and a potential client regarding the fixed return scheme, it is observed that Noticee-1 is involved in providing assured returns to its clients.

A translated summary of the conversation is, as under: -

*"Apart from broking business, LFS offers 15% p.a. return on money given to LFS under PMS. Manish gave example of how when bank goes bankrupt, as per government norms, customers won't get more than Rs.1 lakh. He explained that under PMS, the comparative risk is negligible. Broker shall give payout within 24 hours. If within 3 months, customer has unutilized money and there is no trading activity, broker must return money to client. PMS has no lock-in period. Further, he provided example that if Rs.20 lakhs is invested by client, the client will earn monthly interest of approx. Rs.15,000 (calculated @15% p.a.). Manish is further noted saying that it is not illegal as client will give money to LFS through cheque. He further advised client that he can show advisory certificate so that it is allowable by Income Tax. Also, Manish was noted saying that it is not chit fund. Client money will be debited from bank account and shares bought credited to demat account."*

**SCN-2**

Based on additional information available on social media, the Exchange made further enquiries on the social media platforms. The findings are, as under: -

a. Video broadcasted on the YouTube Channel of Aaj Bangla

- i. The video clip is a media coverage of an investor awareness camp held in Arambagh, West Bengal by the MOL Group comprising Noticee-1, Moldarin Investments & Leniq Advisors Pvt. Ltd. etc.

- ii. The video clip shows many active/prospective investors gathered to attend the event to invest funds with Noticee-1 and its associates since it is offering 2% monthly assured returns. Further, as per the media report, approximately 30,000 people attended the event.
  - iii. The event is attended by remisers/agents of Noticee-1 who introduced such investors to Noticee-1 and its associates. These investors confirmed to the media personnel that they invested funds with Noticee-1 and its associates.
  - iv. The video clip shows investors interacting with media personnel and sharing their experience of receiving monthly returns. Some of the investors stated that they are attending the event to learn more about the investment schemes offering assured returns.
  - v. Noticee-1 stated that it is running investment schemes offering assured returns across the nation and has the experts to run such schemes. Noticee-2, Dominant Promoter and Director of Noticee-1, stated that its research team is providing stock tips, thereby minimizing the risk, and providing better returns than bank fixed deposits.
  - vi. The link to the video clip is <https://bit.ly/3Eny3Nc>.
- b. Social media posts available across various platforms

The Exchange found various posts on Facebook in the name of LFS-PMS highlighting assured monthly returns.

### **SCN-3**

Upon verification of IDBI Bank Statement of LFS Broking & PMS Services (Account No.1138102000008907), the Exchange observed 9270 instances of monthly fixed payments made to 1789 clients of Noticee-1 from July 1, 2021, to July 30, 2022, involving Rs.7,36,28,640/-. The account is a proprietary account operated by Noticee-2 who is the dominant promoter and director of Noticee-1 and proprietor of LFS PMS.

- a. In the case of Noticee-1's clients, Subhra Prasad Chakraborty and Sova Chakraborty, it is observed that: -
  - i. The beneficiaries received a fixed return of Rs.1,63,000/- on an initial investment of Rs.81,50,000/-, between the period December 2021 and January 2022.
  - ii. In January 2022, the beneficiaries withdrew Rs.50,00,000/- and received a fixed periodic return of Rs.63,000/- on the remaining amount, i.e., Rs.31,50,000/- until April 2022.
- b. In the Forensic Audit, it is observed that fixed periodic returns promises were made to clients at the rate of 3% monthly and 36% annualized of the investment amount by the Head of Administration of Noticee-1, Ms. Kajal Barik.
- c. The forensic auditor reported an email communication between Mr. Soumitra Sinha (Executive Director of Noticee-1) and Mr. Adil Khan (Assistant Manager – IT) pertaining to a commitment Agreement between LFS-PMS and Ms. Jayashree Patra (client) dated May 15, 2019, promising assured return at the rate 20% to 36% per annum on an investment of Rs. 5 lakhs.

The afore-stated facts indicate that Noticee-1 ran an assured returns scheme through Noticee-2 and his related entities.

- B. In reply to SCN-1, 2 and 3, Noticee-1 submitted as under: -

**SCN-1**

**Market intelligence and Exchange Investigation**

- a. The observations are against the proprietary concern of its director (Noticee-2). The operations of the said proprietary concern are beyond the purview and control of Noticee-1.
- b. The other entities related to the director, Noticee-2 do not have any influence or control over the day-to-day operations of Noticee-1.

- c. LFS-PMS is not related to the financial services offered by Noticee-1 and is rather involved in real estate and primary material supply business.
- d. Noticee-2 is a serial entrepreneur and has hosted several businesses before his acquisition of the broking business of Noticee-1. At the time of his admission, Noticee-1 was unaware that Noticee-2 used his earning from these other businesses to enter the business of Noticee-1.
- e. After identifying the other businesses in which Noticee-2 is involved, Noticee-1 took steps to remove Noticee-2 from its directorship. Pursuant thereto, a resolution for his removal was moved before its Board of Directors but the same was put to hold due to the Covid pandemic. Post-covid, Noticee-1 resumed the process. Noticee-2's exit process is ongoing, and he will be removed from the directorship of Noticee-1 before the end of the year 2022. However, due to the sum involved, Noticee-1 is facing difficulty in finding a replacement for Noticee-2 on its Board of Directors.
- f. Noticee-1 neither offers assured returns to its investors nor does the senior management encourage such practices. Since the name of Noticee-1 and LFS-PMS loosely resemble each other, the Exchange has incorrectly used the two names interchangeably. The two entities are separate with a strict firewall in the transaction between them unless authorized by the client.
- g. The only link between Noticee-1 and LFS-PMS is Noticee-2. In the past, Noticee-1's business rivals planted people as potential clients and manipulated them to make false recordings that were shared. In response, Noticee-1 issued clarifications on print and electronic media that Noticee-1 or its management does not provide assured returns.
- h. By the virtue of incorporation as a "Company," as defined under Section 2(20) of the Companies Act, 2013, Noticee-1 is a legal entity distinct and separate from its members or people controlling it. The company (Noticee-1) is not liable for the acts of its members. Thus, Noticee-1 cannot be held liable for the acts of its director (Noticee-2) through his proprietary concern.

- i. The data collected and evidence derived from the market intelligence and forensic audit does not propagate the actual scenario. It could force incorrect presumptions on Noticee-1, its employees, and its customers.
- j. Noticee-1 was not involved in the other business interest of its director, Noticee-2, and does not have access to the bank details. There was a firewall between Noticee-1 and the other businesses of Noticee-2. Noticee-1 did not interfere in the transactions of the other entities controlled by its director, even if it had knowledge of the same.
- k. There may have been a movement of funds from the clients of Noticee-1 to the accounts of LFS-PMS and/or MOLC, in the name of the clients who also have accounts with the other entities connected to Noticee-2. However, clients having trading-cum-broking accounts with Noticee-1 were permitted to flush funds only from their own mapped bank accounts. There was no movement of funds into the ledgers of Noticee-1 from LFS-PMS or MOLC. Furthermore, none of the clients having trading-cum- demat accounts with Noticee-1 made ledger entries for funds received from LFS-PMS or MOLC.
- l. Noticee-1 received Rs.1.83 crores from Noticee-2 in its proprietary account, during the relevant period from permissible transactions. Out of the said sum, Rs. 1 crore was utilized towards capitalization of share capital and the remaining Rs.0.83 crore was a loan which was repaid to Noticee-2.
- m. The alleged transfer of funds from accounts of LFS-PMS and MOLC to its key managerial personnel, shareholders, and other related entities does not have any relation with the broking activities of Noticee-1. Since the senior personnel are out of town, specific comments cannot be provided on the observation. Some narrations in the entries like “nursery” indicate the existence of some other business relationship between the people and entities mentioned. Since Noticee-2 had other businesses, these payments were possibly made in lieu of other services rendered by other businesses of Noticee-2. Noticee-1 cannot investigate other businesses of its promoters. Noticee-2 had several businesses and the stockbroking business of Noticee-1 which he acquired in 2017 is his latest venture. Acquiring and successfully running the stockbroking

business involved huge expenses in the form of membership/license from the Exchange, BSE, MCX, and CDSL, etc., which were funded by Noticee-2 through his other businesses.

- n. LFS-PMS is involved in real estate brokerage and primary material supply. The payments were made for the supply of materials like wood, cement, metals, bricks, concrete, clay, etc. by other businesses of Noticee-2. The observed payments are not connected to Noticee-1. There is no direct transaction between Noticee-1 and other businesses of Noticee-2.

#### Forensic Audit

- o. All the transfers made by Noticee-1 were backed by credible explanations and no undue credit was passed on to its debit balance clients. The credit entries pertain to payment allowed by the Exchange against IGRP orders or due to migration of the back-office software which was recovered later.
- p. Noticee-1 never authorized or directed payment of assured return. However, the sales team often indulges in such conversations to meet the sales target, without authority. The same, however, never translated into assured returns offered to clients.
- q. The observation is a result of rumours caused due to business rivalry which Noticee-1 countered by issuing clarifications through print and electronic media in every state where it operates. The enquiry from potential clients is a lay trap and Noticee-1 filed a complaint with the police about the *mala fide* campaigns.

#### SCN-2

##### Video Clip

- r. Mr. Saiyad Jiyajur Rahaman (Noticee-2) was involved in the business of real estate broking, construction, and materials supply through LFS-PMS and MOLC since 2015. LFS-PMS and MOLC neither have any trading/demat account nor trade in the securities market. Over 20,000 persons invested/deposited money with these 2 entities. In 2017, pursuant to permissions granted by SEBI and the Exchange, Noticee-



2 acquired a controlling interest in Noticee-1. Thereafter, many investors of LFS-PMS and MOLC became trading clients of Noticee-1 by the influence of Noticee-2.

- s. Noticee-1 never issued any post/pamphlet offering assured/fixed return rather publicly denied such posts on social media and categorically declared that no such schemes are offered by it.
- t. The video clip referred to by the Exchange in its SCN-2 is unverified and a translation of the same shows that the Exchange incorrectly interpreted it as an assured return being offered by Noticee-2, ex-director of Noticee-1. There is no evidence of Noticee-1 offering assured returns, The video is third-party hearsay from people waiting to enter the venue stating that an investment of Rs.1 lakh will fetch a return of Rs.2 thousand per month. The video appears scripted where the reporter hints at the speaker pressing his version of the narrative.
- u. Furthermore, the video has no evidentiary value as Noticee-1 does not control reporting in the present case. Thus, the same is unsubstantiated, vague, unverified, and unconfirmed. Coverage of the same event by another media house shows that the program was conducted to promote equity culture in mass and had nothing to do with fixed/assured returns.

#### Social Media Posts

- v. The purported pamphlets were not issued by Noticee-1. Legal recourse shall be adopted against the entities or individuals who issued the pamphlets to spread false narratives. The said pamphlets alleged to be broadcasted by Noticee-1 on social media are in the name of LFS-PMS or MOLC. Such mischief is not supported by the management of Noticee-1.

#### SCN-3

- w. Earlier the Exchange issued two show-cause notices to Noticee-1. Hon'ble SAT found that Noticee-1 is not the same as LFS-PMS and therefore, SCN-1, SCN-2, and the MCSGFC orders issued thereon were not sustainable against Noticee-1. Thereafter, SCN-3 was

issued, and the allegations leveled in it are repetitive. The law does not permit the issuance of multiple show-cause notices.

- x. The allegations in the show-cause notice are based on the forensic audit report which is not provided to Noticee-1.
- y. Noticee-1 assured that its books and records are clean, and no fixed or assured return is offered to its clients. Noticee-1 has not paid any fixed/assured returns to any of the 1789 clients, as alleged. The alleged payments were made from LFS-PMS and do not have any connection with Noticee-1.
- z. The observation pertaining to Ms. Subhra Prasad Chakraborty and Ms. Sova Chakraborty is incorrect as they invested Rs.2,780/- and Rs.1,380/- respectively in Noticee-1's business. Further, no assured return was given to them.
- aa. Noticee-2 was a director and a promoter of Noticee-1, but Noticee-1 is not connected with the operations of his other business. Noticee-2 left directorship with effect from October 14, 2022. The observations pertain to the transactions between LFS-PMS and its clients who are also the clients of Noticee-1. However, the dealing of common clients with two separate entities cannot be intermingled.
- bb. The reported social media post pertains to Ms. Kajal Barik who was in employment of Noticee-1 until May 2019. Since the advertisement was posted on her social media account post-severance i.e., in 2020, the same is not connected with Noticee-1. Furthermore, Noticee-1 denied the existence, contents, origin, and relation of the alleged advertisement/post with it as the alleged advertisement/post doesn't mention its name.
- cc. The email communications attached as Exhibit-2 to the Exchange SCN-3 do not prove any assured return offered by Noticee-1 through LFS-PMS. The charges are misplaced as Noticee-1 and LFS-PMS are separate entities and Noticee-1 has no bearing to the financial liabilities arising due to the alleged activities of LFS-PMS.
- dd. The document attached to the email sent by Mr. Soumitra Sinha (Executive Director of Noticee-1) to Mr. Adil Khan contains a

document that pertains to Ms. Jayshree Patra and proprietorship of Noticee-2, LFS-PMS. Mr Soumitra Sinha wrongly received the email and therefore, forwarded it to Mr. Adil Khan (Head-IT of Noticee-1) to test for the relevancy and veracity of its contents. Since the email was not related to the stockbroking business of Noticee-1 and Ms. Jayshree Patra was not among the clientele of Noticee-1, the email was ignored. No assured return was promised/paid by Noticee-1 to Ms. Jayshree Patra.

- ee. The observations are based on indirect indicative evidence of undesirable activities. However, even though the observations are not accurate, Noticee-1 is ready to amend its activities and take all necessary action to protect the interests of its investors and other stakeholders.

C. The Committee finds as under: -

- a. Noticee-1 denied the observation pertaining to the transfer of funds involving Rs.266 crores from LFS-PMS and MOLC to 6,219 registered clients of Noticee-1. It contended that none of its clients have ledger entries of funds received from LFS-PMS or MOLC.

Noticee-1 failed to substantiate its claim with relevant supporting documents. Mere denial of the observation/violation without supportings, is not acceptable. Thus, Noticee-1's contention is not tenable.

- b. Noticee-1 stated that due to the unavailability of its managerial personnel, it could not provide specific comments on the nature of the payments made by LFS-PMS and MOLC to Noticee-1's key managerial personnel, shareholders, and other related entities, etc. involving Rs.32.83 crores. It claimed that the payments were towards other business relations existing between the said individuals/entities and Noticee-2 (Mr. Saiyad Jiyajur Rahaman)

Noticee-1 failed to explain the transfer of funds from LFS-PMS and MOLC to key managerial personnel, shareholders, and other related entities in either of its replies or personal hearings granted before the Committee. Noticee-1's contention that the amount received relates to

other businesses of Noticee-2 is generic and not backed by sufficient evidence. Thus, Noticee-1's claim is not tenable.

- c. Noticee-1 denied passing on credit balance to its debit balance clients.

However, upon verification of client ledgers, it is observed that Noticee-1 made pay-outs to the clients in 7 instances of 6 clients involving Rs.6,63,700/-. The clients either had a debit balance a day before the fund transfer or the balance turned debit after the payout was made. In response to the said observation, Noticee-1 failed to provide any reasonable justification. Mere denial of the observation/violation without relevant supporting documents is not acceptable and hence, Noticee-1's contention is not tenable.

- d. Noticee-1 contended that the evidence produced by the Exchange pertains to LFS-PMS and MOLC. LFS-PMS and MOLC are other business interests of its director (Noticee-2), and Noticee-1 does not have any connection with its operations. Considering the principle of "separate legal identity," Noticee-1 cannot be held liable for the alleged violations committed by its director and his related entities namely LFS-PMS and/or MOLC.

In view of the contentions of Noticee-1, the Committee notes that: -

- i. Noticee-2 became the dominant promoter of Noticee-1 in March 2017. In April 2017, the proprietary concern of Noticee-2 was registered under the shop and establishment license with a similar name, i.e., "LFS Broking & PMS Services".
- ii. During the relevant period, Mr. Saiyad Jiyajur Rahaman (Noticee-2) was the director and dominant promoter of Noticee-1, controlling a shareholding of approximately 87% in Noticee-1. Hence, Noticee-2 had complete control of Noticee-1 and had the right to appoint the majority of the directors, the right to control the management, and the right to make policy decisions for and on behalf of Noticee-1. As such Noticee-2 directly or indirectly held effective control over the management and policy decisions of Noticee-1.

Further, Noticee-2 is the sole proprietor of LFS-PMS and a partner at MOLC. Thus, there was unity of control and interest between the three entities namely, Noticee-1, LFS-PMS, and MOLC.

Noticee-1 in its reply to SCN-2 admitted that many investors of LFS-PMS and MOLC became trading clients of Noticee-1 by the influence of Noticee-2. Thus, Noticee-2 also exercised effective control over the clientele and business operations of Noticee-1.

Post-issuance of SCN-1, Noticee-2 resigned from the directorship of Noticee-1 on October 14, 2022. However, Noticee-2 continued to hold stakes amounting to 87% in Noticee-1 and thereby maintained and continued to hold absolute control over Noticee-1.

- iii. Noticee-1 stated that there is a strict segregation between the operations of Noticee-1, LFS-PMS, and MOLC.

However, between April 2021 and June 2022, (a) 333 registered clients of Noticee-1 made UPI transfer of funds involving Rs.2.01 crores to LFS-PMS and MOLC; (b) 6,219 out of 11,546 registered clients of Noticee-1 received 266 crores from LFS-PMS and MOLC which amounts to 53.86% of the total registered clients of Noticee-1, and (c) LFS-PMS and MOLC transferred funds involving Rs.32.83 crores to key managerial personnel, shareholders, and other related entities of Noticee-1. Further, Noticee-1 admitted to the transfer of funds between MOLC/LFS-PMS and Noticee-2.

Hence, there was an intermingling of funds between the three entities. Thus, the statement made by the Noticee-1 that there is a strict segregation between the operations of Noticee-1, LFS-PMS, and MOLC is incorrect.

- iv. Noticee-1 claimed that LFS-PMS indulged in the business of real estate, construction, and primary material supply. Noticee-1 does not offer assured/fixed returns to its clients.

However, in the video clips, several investors gathered at the event organized by MOL Group comprising Noticee-1, and other

entities related to Noticee-2 namely M/s. Moldarin Investments Consultants Private Limited and Leniq Advisors Pvt. Ltd. etc, testified that LFS offered assured returns to its clients.

Further, in the commitment agreement entered into by LFS-PMS with Noticee-1's client, Ms. Jayashree Patra (UCC: 112012914) dated May 15, 2019, LFS-PMS agrees to provide 20-36% p.a. return on an investment of Rs.5,00,000/- in the share market. However, Noticee-1 contended that LFS-PMS is involved in real estate brokerage and primary material supply.

The said commitment agreement is forwarded by MOLC to one, Mr. Abhishek Dey who forwarded it to the executive director of Noticee-1, Mr. Soumitra Sinha on July 9, 2019. Further, the executive director of Noticee-1 forwarded the copy of the agreement to Mr. Adil Khan (Assistant Manager- IT of Noticee-1).

The above findings indicate that Noticee-1, its directors, and other related entities are involved in the assured returns schemes offered to its clients in the name of LFS-PMS. It also signifies that the representations made by Noticee-1, its director, and his related entities were such that the investors/potential clients of Noticee-1 could not distinguish between the identities and existence of LFS Broking Private Limited (Noticee-1) and LFS Broking & PMS Services (LFS-PMS). The same is evident from the investment agreement drawn between Ms. Jayashree Partra and LFS-PMS which claims to be engaged in the real estate brokerage, construction, and primary material supply business. Further, Noticee-1 admitted that LFS-PMS and MOLC are neither involved in the securities market nor have a demat/trading account. However, more than 20,000 investors deposited/invested funds with LFS-PMS and MOLC since 2015.

- v. Noticee-1 contended that the video recorded by Aaj Bangla is fake and scripted to tarnish its reputation. However, no evidence was provided by Noticee-1 of action taken for such defamatory recordings released in the market.
- vi. Noticee-1 contended that it neither published nor authorized the publication of any advertisement pertaining to assured returns.

However, upon scrutiny of the posts released on Facebook, it is observed that the posts mention the name, logo, SEBI registration number, CIN, GST number, PMS registration number, email IDs, etc. A contradictory statement is made by Noticee-1 in which it states that fixed returns are often offered by the sales team to meet the sales targets, but the employer cannot be held liable for the same.

- vii. Noticee-1 claimed that it is unaware of the operations and businesses of LFS-PMS and MOLC.

In a call recording, Noticee-1's employee, Mr. Manish Sarwan (Area-Head, Kolkata) explains to the potential client on the call that *"apart from broking business, LFS offers 15% p.a. return on money given to LFS under PMS"*.

This indicates that Noticee-1 and its employees are involved in the business and operations of LFS-PMS. Further, the statement made by Noticee-1 or its employees to potential clients, *"LFS offers 15% p.a. return on money given to LFS under PMS"* is suggestive and demonstrates its acts of deceiving investors by misrepresenting the two entities, LFS Broking Private Limited (Noticee-1) and LFS Broking & PMS Services (LFS-PMS) as one.

Several emails were written to Noticee-1 by investors/potential clients, as mentioned in SCN-1, enquiring about fixed returns being offered to its clients or complaining about non-receipt of the potential fixed monthly return which was guaranteed to them. All these emails were forwarded to Mr. Soumitra Sinha (Director), Mr. Saiyad Jiyajur Rahaman (Director and Noticee), or both but no response was sent to the clients denying fixed returns by Noticee-1.

Post-issuance of SCN-1, Noticee-1 issued a public notice dated October 25, 2022. The notice declared that *"Any person making such commitment on electronic & print media is doing at his/her own risk and the directors/employees of LFS Broking Pvt. Ltd. is not responsible for such commitments."* However, Noticee-1 neither clarified that it does not offer fixed/assured returns to its

clients nor declared that it is not associated with the unauthorized activities of LFS-PMS and MOLC.

- viii. Thus, Noticee-1 actively deceived its potential clients/investors into believing that LFS-PMS, the entity that offers fixed/assured returns through various social media posts, agreements, etc., is the same as or connected with the stockbroking activity of Noticee-1.
- ix. From the aforementioned findings, it is observed that (a) the three entities were dominantly controlled, managed, and operated by Noticee-2; (b) Noticee-1 and its employee actively deceived potential clients and investors into believing that the three entities are not separate; (c) as a result of such misrepresentation, the clients and investors invested fund in the assured return scheme run in the name of LFS-PMS; and (d) Noticee-1 used the separate legal entity of LFS-PMS as a garb to perpetrate its illegal objective.
- x. A corporate entity being an artificial person is run by the human will of the person(s) directing, controlling, and guiding the affairs of the company. Considering the nature of control exercised by Noticee-2 over the business and operations of Noticee-1, and LFS-PMS, it is evident that he is the common and dominant controlling will in both these entities. Further, the representations made by Noticee-1 clearly depict that Noticee-1 was actively involved in the assured returns schemes offered by its director (Noticee-2) and LFS-PMS to its client.
- xi. Therefore, from the facts mentioned above, it is evident that Noticee-1 through Noticee-2 and his related entities, is running illegal schemes and collecting huge amounts from the public in an unlawful manner. Further, it is evident that Noticee-2 has absolute control over the affairs of Noticee-1, which caused reasonable apprehension of risk to the interests of innocent investors and the securities market, as the money entrusted with Noticee-1 is within the control of Noticee-2.
- xii. As per Rule 8(3)(f) of Securities Contracts (Regulation) Rules, 1957, no person who is a Trading Member at the time of application for recognition or subsequently admitted as a Trading



Member shall continue as such if it engages either as a 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. From the facts mentioned above, it is evident that Noticee-1 knowingly allowed Notice-2, LFS-PMS, and MOLC to use its name, infrastructure, and employees for promoting its unlawful business.

- xiii. As per clarification provided under the Exchange Circular No. NSE/COMP/50957 dated January 7, 2022, directly or indirectly engaging into activities/schemes of unauthorized collective investments/portfolio management, promising, or indicating fixed/guaranteed/regular returns/capital protection, if undertaken by a Trading Member, is construed as a non-compliance to Rule 8(3)(f) of Securities Contracts (Regulation) Rules, 1957. By participating in offering assured/fixed returns to clients, Noticee-1 violated the regulatory provisions mentioned above.

10.2. **Failure to make arrangements for internal review, at least annually, of the business to detect and prevent violations and achieve compliance of the Byelaws, Rules, and Regulations of the Exchange**

**SCN-1**

A. The observations are as under: -

- a. Complaints from clients regarding fixed returns

Upon review of the emails sent by the clients to Noticee-1, it is observed that the clients were either enquiring about the fixed returns provided by Noticee-1 or complaining about Noticee-1's failure to provide potential fixed monthly returns on their investments. Some key enquiries and complaints are as follows:

- i. Mr. Kumar Vaibhav (Client Code: 120000006)

Noticee-1 informed the client that he will receive Rs.20,000/- per month on his investment of Rs.1,00,000/-. The client complained about unauthorized trading in his account. Upon review of the client ledger, it is observed that the client initially invested Rs.1,00,000/-

on October 5, 2019. Against the total investments of Rs.1,48,414/- during the review period, Noticee-1 paid Rs.4,87,905/- to the client. However, there were no potential fixed monthly payouts to the client. The payouts made to the client were towards trading activities in the client ledger as net bill entries (profit) reflected in the client ledger amounted to Rs.2,44,904/-.

ii. Mr. Bhaskar Pathak (Client Code: 117000002)

The client complained that the Branch Manager of Noticee-1 at Guwahati guaranteed that Noticee-1 will provide 20% profit per month. Additionally, the client complained about unauthorized trading in his account without his knowledge. Upon review of the client ledger, it is observed that the client initially invested Rs.50,000/- on November 16, 2018. Against the total investments of Rs.50,000/- during the review period, Noticee-1 paid Rs.50,431/- to the client. The net bill entries (loss) reflected in the client ledger amounted to Rs.8,899/-.

iii. Mr. Dipankar Ghosh (Client Code: 112060152)

Noticee-1 issued a cheque for Rs.20,000/- in favor of LFS PMS Services. He did not receive any intimation of the monthly payout of 2% on his deposit. He requested Noticee-1 to provide the certificate of investment/deposit and e-statement. However, no reply to the email from Noticee-1 is noted. Upon review of the client ledger, no bank payment/bank receipt entries or trading activities are noted. Additionally, no ledger or bank account is noted under the name of LFS PMS Services.

b. Investment documents not shared with client

Ms. Ghoshal Sudipta (Client Code: 112011056) - The client claimed that she did not receive any document against her investment. She requested for the monthly commission statement be sent to her UBI account. However, no reply to the email from Noticee-1 is noted.

c. Enquiries from potential customers on fixed return

- i. Noticee-1 received 3 emails on its email ID customersupport@lfsbroking.co.in wherein people were enquiring about potential fixed returns offered by Noticee-1 in terms of guaranteed monthly returns or 2% monthly interest or monthly interest return. These emails were then forwarded to Mr. Soumitra Sinha, Director, or Mr. Chandan Manna, Branch Manager, Arambagh. However, no reply to the email from Noticee-1 is noted.
- ii. An email was noted whereby the sender Mr. Tapash Chowdhury questioned Noticee-1 about the security of the principal amount and enquired whether it was a ponzy scheme. However, no reply to the email from Noticee-1 is noted.

d. Enquiries from potential remisier on fixed return commission

Emails were noted regarding fixed monthly income, its benefits, and how one can become a remisier with Noticee-1. Reference was given to the scheme which gave 2% of the return every month and 1% as commission to the remisier. However, no reply to these emails from Noticee-1 is noted. The complaints from the clients or enquiries received by Noticee-1 were forwarded to the directors of Noticee-1, i.e., Mr. Soumitra Sinha or Mr. Saiyad Rahaman Jiyajur or both. However, no reply to the emails from Noticee-1 is noted either denying or accepting the observation. In one case, Noticee-1 mutually settled the client's complaint in the Grievance Redressal Committee of the Exchange. In another case, Noticee-1 reversed the brokerage paid by the client. It is observed that Noticee-1 received multiple emails enquiring about fixed returns to the clients. Additionally, Noticee-1 received complaints from existing clients whereby the clients complained that Noticee-1 failed to provide a fixed monthly return to them on their investments. Noticee-1 received enquiries from potential remisier/customers on fixed return commission. However, no reply or action on the emails from Noticee-1 is noted.

B. In reply to SCN-1, Noticee-1 submitted as under: -

- a. Mr. Kumar Vaibhav (Client Code: 120000006)

The observation is incorrect. The ledger shows that no payments were made to the clients beyond the available credit balance. The excess

pay-out pertains to the sale proceeds received from the depository participant. The ledger does not reflect any excess payout beyond the payment made for the IGRP order.

b. Mr. Bhaskar Pathak (Client Code: 117000002)

The payouts were made towards the IGRP order.

c. Mr. Dipankar Ghosh (Client Code: 112060152)

The complaint was not entertained as he does not have an account with Noticee-1 and is not a registered client.

d. Investment documents not shared with the client, Ms. Ghoshal Sudipta (Client Code: 112011056)

The observation is incorrect as Noticee-1 allows stockbroking services only when the client executes trades using the available balance in the trading account. The client must make a pay-out request to claim the credit balance.

e. Enquiries from potential customers on fixed returns and from potential remisiers on fixed return commission

Noticee-1 did not respond to the enquiries on fixed return and fixed return commissions, as it does not offer any such scheme and is not aware of the other business interest of its director, Noticee-2.

f. Noticee-1 engaged all the resources including the internal auditor and statutory auditor to independently report on its functions and enable proper control over its day-to-day affairs. It has a set of independent auditors duly recognized by the Exchange who provide independent auditing services and scrutinize the policies, procedures, books, and records.

## C. The Committee finds as under: -

a. Mr. Kumar Vaibhav (Client Code: 120000006)

Noticee-1 contended that the observation/violation is incorrect as the ledger does not reflect any excess payout beyond the payment made for the IGRP order. However, Noticee-1 did not adduce any documentary proof evidencing that the client's concern/complaint pertaining to unauthorized trades and monthly payouts were duly addressed.

b. Mr. Bhaskar Pathak (Client Code: 117000002)

Noticee-1 contended that the payouts were made towards the IGRP order. However, Noticee-1 did not adduce any documentary proof evidencing that the client's concern/complaint pertaining to unauthorized trades and monthly payouts were duly addressed.

c. Mr. Dipankar Ghosh (Client Code: 112060152)

Noticee-1 contended that the complaint was not entertained as the individual is not its registered client.

Upon verification of the UCC records of the Exchange, it is observed that Mr. Dipankar Ghosh is a client of Noticee-1 bearing UCC: 112060152.

d. Investment documents not shared with the client, Ms. Ghoshal Sudipta (Client Code: 112011056)

Noticee-1 contended that the observation is incorrect as Noticee-1 allows stockbroking services only when the client executes trades using the available balance in the trading account. The client must make a pay-out request to claim the credit balance.

However, Noticee-1 did not adduce any documentary proof evidencing that the clients' request was denied stating reasons for the same, as contended.

- e. Enquiries from potential customers on fixed returns and from potential remisiers on fixed return commission

Noticee-1 contended that it did not respond to the enquiries on fixed return and fixed return commissions, as it does not offer any such scheme and is not aware of the other business interest of its director, Noticee-2.

Upon verification, it is observed that the complaints from the clients or enquiries received by Noticee-1 were forwarded to the directors of Noticee-1, i.e., Mr. Soumitra Sinha or Mr. Saiyad Rahaman Jiyajur or both. However, no reply to the emails from Noticee-1 is noted either denying or accepting the concerns of the clients/investors.

- f. The above-mentioned events suggest that Noticee-1 does not have the appropriate processes in place to redress complaints and enquiries raised by its clients/individuals in a timely manner and duly maintain records of the same.
- g. From the available records, it is gathered that there are various instances wherein the clients registered with Noticee-1 raised issues and enquiries especially pertaining to assured returns and fixed monthly payouts to clients. However, the Noticee failed to provide any satisfactory response to such queries and issues raised by the investors. It is observed that several complaints/enquiries pertaining to issues like assure returns were pending with Noticee-1. It is obligatory on the part of Noticee-1 to review its business in which it engages, which shall be reasonably designed to assist in detecting and preventing violations of and achieving compliance with Bye Laws, Rules, and Regulations.
- h. As per Regulation 4.2.2 of NSEIL Regulations, Trading Member shall conduct a review, at least annually, of the business in which it engages, which shall be reasonably designed to assist in detecting and preventing violations of and achieving compliance with Bye Laws, Rules, and Regulations. By failing to establish effective control through internal inspections, Noticee-1 violated the regulatory provision mentioned above.

10.3. **Non-fulfilment of fit and proper criteria by the Directors/Dominant Promoter**

**SCN-3**

A. Upon perusal of the news reported at the URLs: <https://youtu.be/gHvKLidRCw>; and <https://www.jagran.com/Bihar/kishanganj-37-lakh-indian-and-5-lakh-uaecurrency-recovered-in-bihar-dubai-golden-visa-holder-hotel-businessmanarrested-23391886.html>; it is observed that Noticee-2 and Noticee-3 are arrested by Kishanganj (Bihar) Police on April 21, 2023, while traveling from Siliguri towards Arambagh. Upon search of the vehicle, police officials found that Noticee-2 and Noticee-3 carried funds and foreign currency beyond the permissible limits. It is reported that Noticee-2 and Noticee-3 were presented before Hon'ble Court on April 25, 2023, and sent to judicial custody until May 6, 2023.

Thus, Noticee-2 and Noticee-3 do not fulfill the fit and proper criteria prescribed by SEBI/Exchange.

B. In reply to SCN-3, Noticees-1, 2 and 3 submitted as under: -

- a. The observation is based on an unfortunate event involving the arrest of the erstwhile and present directors of Noticee-1 for acts unrelated to the financial market. The arrest was for an offense within the geographical stretch of the state of Bihar and was accidental without any serious offense. Further, bail was granted in the matter by the Hon'ble Patna High Court.
- b. The investigation into the matter is currently ongoing and no charge sheet has been filed. Thus, no negative inference can be drawn against the director.
- c. Furthermore, the matter in the FIR pertains to the possession of Indian and foreign currency. Noticee-2 claimed that the Indian currency belonged to him. Noticee-2 is a respected businessman with varied business and a regular taxpayer. He will file the income tax return with the Income Tax Department. The foreign currencies recovered were within the permissible limit of USD5,000/- or the equivalent amount of foreign currency allowed under the Foreign Exchange Management

Act, 1999. As per law, a person returning from a foreign country is allowed to declare the unspent amount within 90 days of his arrival. Noticee-2 arrived on April 1, 2023, and was arrested within less than 90 days i.e. April 20, 2023. Therefore, he couldn't declare the unspent currencies. The relevant designated authority shall decide on the matter following due process but the same does not fall within the regulatory purview of the Exchange or the financial regulators.

- d. Noticee-2 resigned from the directorship of Noticee-1 on October 14, 2022, and is only a shareholder in Noticee-1.
  - e. Noticee-3 was acquainted to the other travelers in the vehicle but the seized amount neither belonged to him nor was he aware of it.
  - f. The FIR is merely a first information/allegation and therefore cannot be attributed against Noticee-3 until convicted.
  - g. Furthermore, the Hon'ble Supreme Court in Karmachand Ganga Prasad and Another v. Union of India, held that the findings of a civil court are binding on the criminal courts, but the converse is not true. Therefore, the FIR filed cannot be used against Noticee-3.
  - h. The arrest of the director has not affected the activities or operations of the business of Noticee-1.
- C. The Committee finds as under: -
- a. It is contended that the Exchange and financial regulators do not have jurisdiction to hear and adjudicate on the charges leveled against Noticee-2 and Noticee-3.

The present proceeding before the Committee is to determine if Noticee-2 (who is actively controlling Noticee-1 being a shareholder with 87% shareholding) and Noticee-3 fulfill the 'fit and proper criteria' under the Securities and Exchange Board of India (Intermediaries) Regulations, 2008, and not to adjudicate on the allegations in the FIR filed against Noticees-2 and 3. Thus, the issue is within the regulatory purview of the Exchange and financial regulators, and Noticees-2 and 3's contention pertaining to regulatory jurisdiction is not tenable.



- b. It is contended that the alleged violations committed by Noticees-2 and 3 are venial. It neither pertains to the financial market nor affects the stockbroking business of Noticee-1. Further, an investigation into the matter is ongoing.

The FIRs filed against Noticees-2 and 3 and the consequent arrests, tarnished the integrity and reputation of the directors in the securities market. Further, the fact that Noticee-2 was instrumental in offering assured/fixed returns to clients raised serious concerns about the integrity, honesty, ethical behavior, and reputation of Noticee-2. Thus, the observations are not venial and have a detrimental impact on the interest of the investor and the secure functioning of the securities market.

- c. As per SEBI (Intermediaries) Regulations, 2008, integrity, honesty, ethical behaviour, reputation, fairness, and character of the person shall be considered to determine if the person fulfills the fit and proper criteria.
- d. As per SEBI (Intermediaries) Regulations, 2008, a person may be declared not “fit and proper person” for any reasons as deemed fit, including but not limited to criminal complaint or information filed under section 154 of the Code of Criminal Procedure, 1973 (2 of 1974) filed against such person by the Board and which is pending.
- e. In view of the criminal complaints pending against Noticees-2 and 3, and violations pertaining to assured/fixed returns committed by Noticee-2, it is observed that Noticees-2 and 3 do not fulfill the ‘fit and proper criteria’ under Clause 3 of Schedule II of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008.

10.4. **Change in director without Exchange approval**

**SCN-3**

- A. Upon verification of the records of the Exchange pertaining to directors of Noticee-1 vis-a-vis records of the Ministry of Corporate Affairs, it is observed that: -
- a. Noticee-1 filed an application seeking approval for a change in directors on March 17, 2023, with the Exchange.

- b. As per the MCA records, Noticee-3, Saurav Adhikari has been appointed as Designated Director on December 16, 2022.
- c. Further, Noticee-2, Saiyad Jiyajur Rahaman has resigned as Designated Director on October 14, 2022.

From the above, it is observed that Noticee-1 failed to take prior approval of the Exchange for the aforesaid change in directors. i.e., Noticee-2 and Noticee-3 as per the regulatory requirement.

Exchange has sought clarification from Noticee-1 for the aforesaid lapses vide its letter dated April 20, 2023. It is observed that Noticee-1 responded to the said letter vide email dated April 27, 2023. Noticee-1 cited various events related to SCN and proceedings before Exchange and with various authorities, for not obtaining prior approval of Exchange as per regulatory requirement.

B. In reply to SCN-3, Noticees-1, 2 and 3 submitted as under: -

- a. Noticee-1 informed the Exchange regarding the removal of Noticee-2 with effect from October 14, 2022, in its reply to SCN-1 dated October 14, 2022.
- b. Noticee-1 intimated the Exchange regarding the appointment of Noticee-3 *post facto* vide communication dated April 27, 2023. Noticee-1 explained the reason behind the delay in obtaining approval, prior to issuance of SCN-3 for the same.
- c. As explained earlier, the delay was due to regular stock exchange inspections, forensic audits, a series of show-cause notices, etc. Due to continuous scrutiny, unceasing regulatory actions, and turbulence in the market, it was difficult to fill the vacancy on the Board.
- d. Appropriate steps were taken, and the appointment was therefore intimated to the Exchange, *post facto*. The delay was technical and not intentional.

C. The Committee finds as under: -

- a. Noticee-1 accepted the observed violation and attributed the same to incessant regulatory actions and inspections and failure to find a replacement to fill the vacancy on its Board of Directors.
- b. As per the Exchange Circular No. NSE/MEM/18010 dated June 8, 2011, Trading Members shall seek prior approval of the Exchange in case of change in status or constitution by way of change in its managing director, whole-time director, or director appointed in compliance with clause (v) of sub-rule (4A) of Rule 8 of the Securities Contracts (Regulation) Rules, 1957. By failing to obtain the prior approval of the Exchange before the removal or appointment of a director from/to its Board of Directors, Noticee-1 violated the regulatory provisions mentioned.

### **CONCLUSION**

11. From the foregoing, it is observed that Noticee-1 participated in offering fixed/assured return by Noticee-2 and his related entities i.e., LFS-PMS and MOLC to clients of Noticee-1. Noticee-2 through his common control in the three entities collected deposits/investments from clients under the promise of assured fixed return on it. The Committee observed that the findings of the Exchange investigation and the forensic auditor conclusively establish that (a) the three entities were dominantly controlled, managed, and operated by Noticee-2; (b) Noticee-1 and its employee actively deceived potential clients and investors into believing that the three entities are not separate; (c) as a result of such misrepresentation, the clients and investors invested fund in the assured return scheme run in the name of LFS-PMS; and (d) Noticee-1 used the separate legal entity of LFS-PMS as a garb to perpetrate its illegal objective. The act of Noticee-1 is tantamount to misconduct under Rules 3(a) and 3(b) of Chapter IV of Rules of the Exchange and therefore liable for disciplinary action under Rules 1 and 2 of Chapter IV of Rules of the Exchange. The relevant extracts are reproduced below: -

#### **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;*

*(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;*

*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 dishonourable, 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.*

12. Trading Members are required to act honestly and fairly, and in the best interests of its constituents while conducting its business activities. By offering assured returns to clients through Noticee-2 and his related entities, Noticee-1 put the interests of innocent investors at risk to derive unlawful gains. Noticee-1 used the funds invested by the investors to suit the vested interests of its promoter/director. Further, by misrepresenting itself as same or connected to LFS-PMS and using the garb of a separate identity to run its assured return scheme, Noticee-1 violated the just and equitable principle of trade and failed to act in adherence with the principle of professionalism. Thus, Noticee-1 failed to adhere to the General Principles prescribed

under Regulation 4.5.2 of Exchange Regulations (CM and F&O Segments), relevant extracts of which are produced below: -

#### 4.5.2 GENERAL PRINCIPLES

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

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

13. Considering the findings mentioned above, it is observed that there is substantial and irrefutable evidence available on the records of the Exchange to prove that Noticees-1, 2, and 3 ran a scheme of assured return through an arrangement amongst Noticee-1, LFS-PMS and MOLC. It is clear that Noticee-1 did not use its own bank/demat accounts to camouflage its identity and hoodwink the investigators. Further, assured return schemes have the potential of evolving into serious risks ultimately leading to disastrous situations wherein the innocent investors are left in a lurch when the circle of the scheme is eventually exposed.
14. Therefore, in the best interest of the securities market, it is just, proper, and necessary to prevent Noticee-1 from directly or indirectly promoting, soliciting, and collecting funds from clients under assured return schemes. It is observed that Noticee-1 participated in offering fixed/assured returns through Noticee-2 and his related entities i.e., LFS-PMS and MOLC to the clients of Noticee-1. Noticee-2 through his common control in the three entities collected deposits/investments from clients under the promise of assured fixed returns on it. The potential loss to clients through such assured return schemes also causes a loss of investors' confidence and reliability in the safety of the securities market. Under the said circumstances and in light of the potential risks involved, the continuance of trading membership of Noticee-1 in the Exchange is detrimental to the interest of investors in the securities market. Therefore, the Committee decided to pass the following decision: -

#### **DECISION**

15. Noticee-1 is hereby expelled from the membership of the Exchange under Rules 1 and 2 of Chapter IV of NSEIL Rules. This decision will be effective after three weeks from the date of this order, i.e. August 8, 2023.

16. Noticees- 2 and 3 are restrained from associating with any Trading Member of the Exchange, directly or indirectly, in any capacity including as an Authorized Person, as a director, shareholder, or compliance officer of any Authorized Person or Trading Member for a period of 12 months from the date of this order.

Sd/-  
Mona Bhide  
(Chairperson)

Sd/-  
K Narasimha Murthy  
(Committee Member)

Sd/-  
S Ravindran  
(Committee Member)

Sd/-  
Ranganayakulu Jagarlamudi  
(Committee Member)

Sd/-  
Ashishkumar Chauhan  
(Committee Member)

Date: July 18, 2023