

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER REGULATION 13(4) OF SEBI (PROCEDURE FOR HOLDING ENQUIRY BY ENQUIRY OFFICER AND IMPOSING PENALTY) REGULATIONS, 2002, AGAINST M/S. UTI SECURITIES LIMITED, MEMBER, NATIONAL STOCK EXCHANGE, SEBI REGISTRATION NO. INB230639237.

1.0 BACKGROUND

- 1.1 M/s. UTI Securities Limited (hereinafter referred to as "the broker") is a member of National Stock Exchange ("NSE") registered with SEBI as a stock broker under section 12 of SEBI Act, 1992 with SEBI Registration No. INB230639237.
- 1.2 Inspection of the books of accounts, documents and other records of the broker was carried out by SEBI for the period from April 2001 to March 2003. During the inspection, certain irregularities found to have been committed by the broker were observed.

2.0 ENQUIRY PROCEEDINGS

- 2.1 In view of the above, an Enquiry Officer (EO) was appointed vide SEBI Order dated August 23, 2004 under Regulation 5(1) of SEBI (Procedure for Holding Enquiry) Regulations, 2002 (hereinafter referred to as the "said Regulations") to inquire into the irregularities observed during the inspection of books of accounts of the broker. The EO after conducting the enquiry in terms of the said regulations submitted his report on 03.12.04 recommending a warning to be issued to the broker.
- 2.2 A copy of the Enquiry Report was sent to the broker on 16.12.04, in terms of Regulation 13(2) of the said Regulations, advising it to show cause as to why appropriate penalty including the penalty as recommended by the Enquiry Officer should not be imposed on the broker.
- 2.3 The broker replied vide letter dated 03.01.05 and stated that all necessary clarifications were furnished to the EO. The observations in the inspection report were appearing more due to the fact that there were gaps in the replies given to the inspection team rather than actual violations having taken place. The reason for the gaps was because there were a large number of branches of UTI Securities Ltd and the information sought by the inspecting team was not easily accessible. The broker assured that they had taken measures to ensure total compliance of the Rules and Regulations of SEBI and the Stock Exchanges by strengthening their internal control systems. In view of this, the broker requested to take a lenient view in the matter and discharge them without levying any penalty including warning as recommended by the EO.

3.0 CONSIDERATION OF ISSUES

- 3.1 I have carefully considered the findings of inspection, Enquiry and the submissions made by the broker. Though the inspection report lists a number of violations alleged to have been committed by the broker, the EO has found the broker guilty of three violations.

a) Whether the broker has failed to frame a code of Internal Procedures and Conduct

It is alleged that the broker has not mentioned the following points in the internal code of conduct

- (i) Preservation of Price Sensitive Information
- (ii) Need to know basis
- (iii) Limited access to confidential information
- (iv) Chinese wall
- (v) Prevention of misuse of price sensitive information
- (vi) Pre-clearance of trades
- (vii) Restricted/grey list
- (viii) Other restrictions
- (ix) Reporting requirements for transaction in securities

(x) Penalty for contravention of code of conduct

(xi) Information to SEBI in case of violation of SEBI (Prohibition of Insider Trading) Regulations

The broker submitted that the Code of Conduct for Insider Trading deals with code of conduct for listed companies and other entities and the list of points indicated in the report do not apply to the stock brokers in all the cases and that the trading norms have to be framed in accordance with the working of stock brokers and their internal code of conduct is in line with their working.

After considering the contents of inspection report, explanations of the broker and model code of internal procedures, EO found that there was only partial compliance of the requirements by the broker and the broker should formulate detailed code of internal procedures to prevent insider trading as prescribed under Regulation 12 (1) of SEBI (Prohibition of Insider Trading) Regulations, 1992.

b) **Whether there was delay in submitting the information regarding database**

It was alleged that the broker submitted the information regarding broker database after the time period prescribed by the Exchange. The broker submitted that the delay in furnishing the information was on account of large clientele base and updation of database is a continuous process. It further stated that there were no complaints either with SEBI or NSE. I agree with the findings of the EO that submission of database was a one time requirement and hence the broker should have been more careful in complying with the requirements within the stipulated time period as per SEBI Circular No.SMD/POLICY/CIR-7/98 dated February 16, 1998.

c) **Whether there was failure in obtaining written consent from clients for payment of funds and holding of securities in beneficiary account**

It was alleged that no written consent was obtained for payment of funds and holding of securities in beneficiary account from clients maintaining running accounts and there were many scrips which were lying in the member broker's beneficiary account. The broker submitted that the clients had given them authority to retain the securities and funds to be treated as margin and for settlement obligations or future exposure and also to maintain running accounts. Copies of the authority letters had now been furnished. EO finds that the broker should have produced the copies of consent letters at the time of inspection itself.

d) It has been alleged that the broker had not adequately segregated client funds with own funds and in many instances transfer of funds from retail clients account to institutional clients and vice versa was done. The broker submitted that A/c No. 26899 maintained with OBC is its own account and not clients account as stated in the inspection report. A/c No. 26877 was client's a/c and the amount transferred from clients account to its account was for completing the settlement obligations of the client. The broker further submitted that A/c No. 888 and 02903 were clients' accounts and out of three instances, in two instances, the amount which was erroneously transferred to client a/c was transferred back to own account. In the other instance, there was an erroneous transfer of funds by the Head Office of the broker to the client account maintained at Branch Office which were used for payment to a franchisee. These funds were therefore not the clients' funds although they were erroneously routed through the client account. On the basis of the explanation furnished by the broker, the EO was of the opinion that the benefit of doubt may be given to it.

e) As regards other allegations like dealing with unregistered sub-broker, not maintaining order book, unauthorized persons operating a terminal and collecting inadequate margins, the EO after considering the material on record and the submissions made by the broker did not find the broker guilty of any violations.

4.0 In the light of the above, the EO concluded that there are some deficiencies, administrative and technical lapses in the operations of the broker. EO has also stated some of the observations of the inspection report have arisen due to a large number of branches of the broker and the information sought by the inspection team was not easily accessible. He also found that the broker has taken certain corrective steps after the inspection. Based on the above, the EO recommended for a warning. In the facts and circumstances of the case, I have no substantive reasons to take a different view.

5.0 ORDER

5.1 Now, therefore, in exercise of the powers conferred upon me in terms of Section 19 of the SEBI Act, 1992 read with Regulation 13(4) of the said Regulations, I hereby warn M/s. UTI Securities Ltd., member, National Stock Exchange, bearing SEBI Registration No. INB230639237 and direct him to be more cautious in future in its dealings with securities and to adhere to the provisions of SEBI Act, 1992 and the Rules and Regulations made thereunder. Any future lapse on the part of the broker in complying with the said provisions would invite stringent action.

5.2 This order shall come into force with immediate effect.

PLACE: MUMBAI

DATE : 12.1.06

MADHUKAR

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA