

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. GEOJIT SECURITIES LTD., MEMBER THE STOCK EXCHANGE, SEBI REGISTRATION NO. INB010806736

1.0 BACK GROUND

- 1.1 M/s Geojit Securities Ltd. (hereinafter referred to as the 'broker') is a member of The Stock Exchange, Mumbai (hereinafter referred to as 'BSE') and is registered with the Securities and Exchange Board of India (hereinafter referred to as 'SEBI') as a Stock broker under Section 12 of SEBI Act, 1992 with Registration Number INB010806736.
- 1.2 An Inspection of the Books of Accounts, Documents and other records maintained by the broker was carried out by SRO for the period 2000-01, 2001-02 and from April 2002 to January 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 November 5, 2003 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 08.09.05 recommending for imposition of a minor penalty of censure on the broker.
- 2.2 A copy of the Enquiry Report was sent to the broker on 20.09.05, 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.
- 2.3 The broker requested for extension of time upto 2 weeks for submitting its reply and subsequently replied vide letter dated 17.10.05. The broker inter alia submitted that the minor lapses on its part were purely technical and procedural lapses having no adverse impact on the interest of investor or functioning of the securities market and therefore no penalty is warranted.

3.0 CONSIDERATION OF THE ENQUIRY REPORT

- 3.1 I have carefully considered the findings of inspection, enquiry and the submissions made by the broker and note significant points as under :

a) Violation of the provisions of SEBI Circular No.SMDRP/Policy/Cir-49/2001 dated October 22, 2001.

In terms of the above circular, no stock broker shall establish its trading terminals at any place other than its registered office, branch office and at the registered office of its registered sub-brokers. It has been alleged that the broker had a branch network of around 40 branches to carry on its trading activity. The terminals of the stock broker were located at Cochin Penta Menaca, Code MM and Chennai. The broker executed agreements with the aforesaid franchisee holders which provided that there were no employees, infrastructure of the stock broker at the above places and the franchisee holders were permitted to trade in stock broking activities on behalf of the broker on profit sharing basis. The abovementioned persons acted on behalf of the broker on commission basis without registration as a Remisier of the exchange and inspite of the objection of the exchange, the broker continued to allow the above persons on its behalf on commission basis without registration with the exchange as a Remisier. Rule 216 to 235 of the Rules, bye-laws and regulations of the stock exchange, Mumbai provide for the appointment of an entity as a Remisier by its members and also for its registration with the exchange. The broker submitted that the aforesaid circular of SEBI was silent as to what constitutes a branch office and therefore it had to go by the meaning of the terms as understood generally. The broker cited the definition of 'branch office' under the Companies Act, 1956, as per which branch office in relation to a company means (a) an establishment described as a branch by the company; or (b) an establishment carrying on either the same or substantially the same activity as that carried on by the head office of the company; or (c) any establishment engaged in any production, processing or manufacture but does not include any establishment specified in any order made by the Central Government. The broker contended that in terms of the aforesaid definition of the branch office, its offices at Malad, Cochin and Chennai squarely fall within the definition as it described the same as its branch office by keeping its sign boards and by carrying on the activity of broking as is done at its head office. The EO found the explanation of the broker that since its franchisees were doing the same business as the broker, its

franchisees are its branches, unacceptable. The EO after perusing the unauthenticated photocopies of the agreements brought on record by the broker noticed that (a) in all the three cases, the aforesaid individuals were required to pay security deposit to the stock broker; (b) in the case of Shri Porinju V. Veliyath, the agreement provides that the manager of the second party (Shri Porinju V. Veliyath) was to be paid compensation at the rate of Rs.1500/- per month which would be deducted from the commission accrued to the said second party; (c) all the agreements described the above individuals as franchisees; (d) the agreements entered into with Shri.K.P. Ahmed and Shri Divyesh Doshi provide that the employees required for managing the offices would be recruited by the second parties to the agreements (the aforesaid Shri K.P. Ahmed and Shri.Divyesh Doshi) and such employees shall be the employees of the said second parties and the said second parties are liable and responsible for the payment of salary, wages and other benefits of the employees and for the termination of their services and (e) as per the agreements entered into with Shri K.P. Ahmed and Shri Divyesh Doshi, the broker shall depute one of its employees who will be authorized signatory for signing receipts and contract notes on behalf of the first party. The EO found from the above features of the agreements that though the salary of the manager at the office of Shri.Porinju V. Veliyath is to be paid by the broker the same would be deducted from the commission accrued to Shri Porinju V. Veliyath. In all the three cases, the franchisees were required to pay security deposits to the broker. Therefore, the features of the agreement between the aforesaid individuals and the broker nullified the contention of the broker that the offices of its franchisees at Malad (Mumbai), Cochin and Chennai were only branches of the broker. The EO found that the franchisees were nothing but Remisiers as they were independent from the broker, working on commission etc. Also inspite of being informed by BSE, the broker employed Remisier without first having such appointment approved by the governing board. Hence, the EO found the broker guilty of violating the provisions of SEBI Circular No.SMDRP/Policy/Cir-49/2001 dated 22.10.2001; Rule 218 of the rules of BSE and Clause A(5) of SEBI (Stock Brokers and Sub brokers) Regulations, 1992 read with Regulation 7 of the said regulations.

- b) With regard to other charges like allowing a few clients to continue to trade in spite of continuous debit balances in their account, non collection of up front margins from the clients whose positions exceeded the limits prescribed by SEBI and short selling, the EO found the explanation of the broker satisfactory

4.0 On a careful perusal of the charges, findings of inspection and enquiry and the submissions made by the broker, I have no substantive reason to differ with the findings of the EO.

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 censure M/s Geojit Securities Ltd. (INB010806736), Member, The Stock Exchange, Mumbai.

5.2 This order shall come into force with immediate effect.

PLACE: MUMBAI

DATE : 02.2.06

MADHUKAR

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA