

**BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA
CORAM: RAJEEV KUMAR AGARWAL, WHOLE TIME MEMBER**

ORDER

**UNDER REGULATION 28(2) READ WITH REGULATION 38(2) OF THE
SECURITIES AND EXCHANGE BOARD OF INDIA (INTERMEDIARIES)
REGULATIONS, 2008**

**In respect of Alka Securities Ltd. (SEBI REGISTRATION NO. INB230629237 AND
INF230629237) (PAN: AAACA4875E)**

Dates of hearing: July 18, 2012 and September 5, 2012

Appearances:

For Alka Securities Ltd.: 1. Mr. Mahendra Pandey, Compliance Officer,
2. Mr. Tejas Pandey, Director, and
3. Mr. Rahul Pandey.

For SEBI: 1. Mr. Santosh Kumar Shukla, Joint Legal Adviser
2. Mr. B Rajendran, General Manager
3. Mr. Biswajit Choudhury, Dy. General Manager
4. Mr. Nirdosh Ranjan Minz, Assistant General Manager
5. Mr. Amitesh kumar, Assistant Legal Adviser
6. Mr. Mitrajeet Dey, Assistant Legal Adviser, and
7. Mr. Siddharth Dachalwal, Manager.

1. Alka Securities Limited ('ASL') is a member of National Stock Exchange ('NSE') and a stock broker registered with Securities and Exchange Board of India ('SEBI'). It is also a listed company whose shares were listed and traded on the Bombay Stock Exchange ('BSE'). SEBI observed a spurt in the volumes in the shares of ASL during November, 2008 to March, 2009. SEBI had also received several surveillance alerts relating to large volume of off-market transfers in the shares of ASL. In view of this, an immediate examination was carried out by SEBI into the dealings in the shares of ASL for the period November, 2008 to March, 2009. Based on the preliminary findings, SEBI vide its *ad interim ex-parte* order dated July 28, 2009, had issued various directions to many entities including ASL. The interim order was confirmed by SEBI vide orders dated October 16, 2009 and October 30, 2009. Pursuant to these orders, SEBI conducted investigation into the dealings in the scrip of ASL and into the whole scheme of manipulation for the period September 1, 2008 to July 31, 2009.

2. Vide another order dated January 28, 2010, an inspection of ASL was ordered to look into its books of accounts, the procedures adopted by it for safe keeping of the clients' securities and funds and their compliance with the rules, regulations, bye laws and other requirements.
3. Investigation and inspection carried out by SEBI revealed that ASL had allegedly not maintained register of securities and had not transferred the shares to the respective client within 24 hours of the pay-out. It had also mis-utilized client securities, accepted shares from other than the respective clients, allotted multiple client codes, submitted wrong details and produced fabricated KYC details, etc.
4. Based on the aforesaid findings, SEBI initiated proceedings against ASL under SEBI (Intermediaries) Regulations, 2008 ('Intermediaries Regulations') and appointed the Designated Authority ('DA') to enquire into the alleged violation of the provisions of Regulations 17(1)(e), 17(1)(g), 17(2), 21(1), 21(2) and 21(4) the SEBI (Stock Brokers and Sub-brokers) Regulations, 1992 ("Stock Broker Regulations") read with Clause A(1),(2),(5) and Clause C(6) of the Code of Conduct for stock brokers prescribed in schedule II read with regulation 7 of the Stock Broker Regulations and various SEBI circulars.
5. In the writ petition filed by ASL challenging the order dated May 16, 2011 passed by Hon'ble Securities Appellate Tribunal (SAT) before the Hon'ble Bombay High Court, the ASL had *inter alia*, sought a direction to SEBI to conclude the present proceedings under the Intermediaries Regulations. The Hon'ble Bombay High Court vide its order dated July 18, 2011 directed SEBI to pass the final order in the present proceedings within a period of four weeks of the conclusion of the hearing.
6. The DA submitted the Report dated July 20, 2011 wherein she found as following :-
 - (i) The noticee had accepted cash from the clients and had also accepted payments from persons/entities other than its clients (third parties) resulting in violation of *Clause A (1), (2) and (5) of the Code of Conduct* prescribed for stock brokers as specified in the Schedule II read with regulation 7 of the Stock Brokers Regulations read with *SEBI Circular SEBI/MRD/SE/Cir-33/2003/27/08 dated August 27, 2003*. The noticee had not maintained the required cash book and had not provided the details of cash deposits resulting in violation of *regulation 17(1)(e) of the Stock Broker Regulations*.
 - (ii) The noticee had allowed its clients to trade despite having huge debit balances in their account. It failed to reconcile its client's ledger with their bank account frequently and had permitted the credit balance of one client being used by another client having debit balance. Further, the noticee had pledged the shares of its clients to get the 'Over Draft

- Facility', despite having sufficient credit balance in the clients' account. Thus, it mis-utilized the clients securities. The noticee did not have adequate system and procedures to ensure that client collateral is used for meeting client's margin requirement/pay-in only. It also failed to ensure proper audit trail of the use of the client collateral. All these acts of the noticee resulted in violation of *Clause A(1) and (5) of the Code of Conduct* for stock brokers prescribed in schedule II read with regulation 7 of the Stock Broker Regulations *SEBI Circular no. MRD/DoP/SE/Cir- 11/2008 dated April 17, 2008*.
- (iii) The noticee had not segregated its own securities from that of MKSSB. It had also not segregated its own securities from that of its clients and has also not segregated securities of various clients. Further, the noticee had also pledged the shares of their clients with the bank for the purpose of availing 'Over Draft facility' despite sufficient credit balance in the accounts. Therefore, the noticee violated *Clause A (1), (2), (5) and C(6) of the Code of Conduct* prescribed for stock brokers as specified in the Schedule II read with regulation 7 of the Stock Brokers Regulations read with *SEBI Circular no. SMD/SED/CIR/93/23321 dated November 18, 1993* and *SEBI Circular no. MIRSD/DPS-1/Cir-31/2004 dated August 26, 2004*.
 - (iv) There were discrepancies in KYC in respect of five of its clients resulting in violation of *SEBI Circular no. SEBI/MIRSD/DPS-1/Cir-31/2004 dated August 26, 2004*.
 - (v) The noticee did not maintain the 'client master data' in its entirety and therefore has violated *SEBI Circular no. ISD/AML/Cir-1/2008 dated December 19, 2008*.
 - (vi) There was considerable delay on part of the noticee in processing the pay-out requests of the clients for the release of funds resulting in violation of *SEBI Circular no. SMD/POLICY/Cir-06/03 dated February 12, 2003*.
 - (vii) The noticee had allotted multiple client codes in contravention of *Clause A of the Code of Conduct* prescribed for stock brokers as specified in the Schedule II read with regulation 7 of the Stock Brokers Regulations *SEBI Circular no. SMDRP/POLICY/CIR/39/2001 dated July 18, 2001*.
 - (viii) In the report, it is also alleged that the noticee had violated *SEBI Circular no. SMD/POLICY/Cir-6 dated May 7, 1997*. The DA has found that the acts of the noticee in the nature of funding to the clients were in terms of the SEBI Circular No. SMD/Policy/Cir-6 dated May 07, 1997. However, the DA concluded that the noticee

having funded the clients through cash transactions, it has violated *SEBI Circular SEBI/MRD/SE/Cir-33/2003/27/08 dated August 27, 2003*.

- (ix) The noticee did not have a written risk management policy during the inspection and therefore, violated *SEBI Circular MRS/DoP/SE/Cir-07/2005 dated February 23, 2005*.
 - (x) The noticee had not maintained the 'register of securities' and proper documents showing client-wise and scrip-wise registers of securities showing the actual movement of shares in the pool account, beneficiary account and also the off-market transfers and violated regulation 17(1)(g) of the Stock Broker Regulations.
 - (xi) The noticee had provided wrong/incomplete data, that too with undue delay on several occasions. Further, the noticee had not given access to the inspection team of SEBI to its back office, despite various reminders. It, therefore, violated *regulation 21(1), (2) and (4)* of the Stock Brokers Regulations.
 - (xii) The noticee had not intimated SEBI about the place where its books of account, records and documents were maintained resulting in violation of *regulation 17(2)* read with *Clause A(1) and C(6) of the Code of Conduct* prescribed for stock brokers as specified in the Schedule II read with Regulation 7 of the Stock Broker Regulations.
7. In view of findings and observations in the Report, the DA has recommended suspension of the certificate of registration of ASL for a period of one year. In view of this, a show cause notice dated July 27, 2011 ('SCN') under regulation 28 of the Intermediaries Regulations was issued to ASL ('the noticee') asking it to show cause as to why penalty as recommended by the DA or a higher penalty should not be imposed on noticee. A copy of the Report was also furnished to the noticee along with the SCN.
8. The noticee vide letter dated August 3, 2011 replied to the SCN. Further, opportunity of personal hearing was granted to the noticee before me on various dates. The hearing was finally held on July 18, 2012 and September 05, 2012. On the scheduled dates, Mr. Mahendra Pandey and Mr. Rahul Pandey appeared before me and made submissions. The noticee also filed a written submission dated September 13, 2012. The noticee has, *inter alia*, submitted as under:
- (i) There was not a single instance of any cash received from any clients pointed out in the Report. There was no example either in Annexure 7 or 17 of the pre-enquiry show cause notice ('pre-enquiry SCN') of any cash given or taken by it from its clients. On the contrary, Annexure 7 showed that all payments were received by cheques. Annexure 7 is inherently

self-contradictory. On One hand, in column 2 thereof, the client codes were given whereas in the “remarks” Column it was mentioned that the name was not found in the client master. If there was the client code, it was apparent that it was a client and not a third party and the remark “name not found in client master” was, therefore, self-contradictory. The conclusion of the DA that the charges were established as the system maintained at its back office did not have the details of cash transactions was mere surmise and conjecture and totally untenable. On the basis of alleged non-maintenance of details, the DA could not have come to the conclusion that these were cash transactions. The DA had wrongly discarded its submission that all funds were being received from clients by account payee/cross cheques/demand draft or by way of direct remittance through RTGS/NEFT. Annexure 7 and 17 do not in any way bear out the contention that cash was received by it from clients.

- (ii) The conclusion arrived at by the DA that cash book was not maintained is totally unfounded and unwarranted. As a limited company it was regularly getting its books audited and the audit report did not reveal any non-maintenance of cash book. The fact of the matter was that cash book was never sought in the course of inspection and hence the occasion to produce the same did not arise. Therefore, there is no violation of regulation 17 (1) (e) of the Stock Brokers Regulations.
- (iii) Annexure 8 of the pre-enquiry SCN did not in any way establish that it had accepted third-party payments/receipts. The payments and receipt made to M/s Volvie Cap were payments made and received from a client and not from third party. The said Volvie Cap had client code V0050 which was wrongly rejected by the DA. Moreover, for each of the so-called third-party payments/receipts, it had given an explanation which was noted in the last column of the said Annexure 8. However, the DA has erroneously disregarded the explanation without assigning any reason. The direct deposit of cheque by the clients in its bank account did not establish that it had received third-party payments. It followed a procedure where it asked the clients to self-deposit the cheque and send it an attested photo copy or scanned copy from their registered email address. The amount was kept in suspense till the noticee verified that the payments were from clients and not from a third party.
- (iv) It is denied that it did not have adequate system and procedures in place to ensure that client securities were not used for any purpose other than meeting the respective clients requirements for margin/payments or that it had not maintained records to ensure proper audit trail of the use of clients securities or it had not periodically reconciled the actual

collateral deposited with it. It is also denied that it was not issuing daily statement of collateral utilization to clients including, inter alia details of collateral deposited, collateral utilized and collateral status (available balance/due from client) break up in terms of cash, fixed deposit receipts, bank guarantees and securities. This whole process was a software system driven process as it uses a software product "Comtek" which was purchased from an approved vendor of the exchange.

- (v) It is denied that it had allowed certain clients with large debit balances to continue trades or failed to reconcile its clients data with the bank account frequently and permitted the credit balance of one client being used by another client having debit balance. It stated that no details were furnished of such alleged instance to enable it to deal with the same. In case of group-wise or family-wise clients, it permitted such groups or families to continue trading based upon the net position. In any event, the consent from such clients was annexed. The DA has wrongly relied on Annexure H of pre-enquiry SCN instead of referring to Annexure G which shows the group-wise and family-wise position. The statement showing the consolidated position of the said clients in Annexure 24 demonstrates that the noticee had considered the overall position across all segments including the margins before allowing the clients to continue trading. It is denied that inter client adjustments were not permissible in case of group-wise or family-wise clients. It managed risk client wise and not branch wise. This procedure moving credit balances can only be done in a branch wise ordered system. It is stated as to why would a broker give this facility to anyone when the broker earns income via late payment charges on debit balances.
- (vi) It is denied that the noticee had pledged the shares of its clients to get overdraft facility for itself. Such overdraft facility was obtained where the clients desired to enhance trading limits or the margin. The DA has erroneously discarded its submission that the pledge of shares belonging to different clients was executed to take care of the margin requirements of the client and/or against anticipated exposure as intimated to it by the client. The DA also erroneously discarded its submission that merely because the client had only partly utilized such exposure as intimated, the same did not mean that it had mis-utilized securities of its client. Further, there was no specific case pointed out regarding mis-utilization of one client's share for financing the trades of other clients. The money received by pledging of such shares was used only for the specific clients whose shares were pledged and thus it denied that it failed to exercise due diligence. Annexure 12 of the pre-enquiry SCN did not bring out that the securities set out therein were client securities which were mis-utilized. The DA's refusal to rely upon the consents obtained from clients for transfers of shares purchased or sold on their behalf from one exchange to the other by it is also inexplicable.

- (vii) With regard to the allegation that the shares of clients were held in its beneficiary accounts irrespective of the outstanding dues, it submitted that the shares were held in the beneficial accounts with the express consent of the clients in order to avoid administrative difficulties of transferring in/out the securities to/from the DP accounts. Moreover, in the absence of any complaint or allegation from any of the clients, the allegation cannot be made out.
- (viii) It is denied that there were no shares lying in the beneficiary accounts or in the pool accounts to fulfill its obligations towards clients. The transfer of shares from its sister concern company and a stock broker namely Mahesh Kothari Shares and Stock Brokers Pvt. Ltd. ('MKSSB') to the noticee and *vice versa* was done at the specific instance and consent of the clients which has been produced on record. It is, therefore, denied that there was co-mingling of securities. It is also denied that its securities were not segregated from the securities of its clients as alleged. The noticee and MKSSB have memberships of two different exchanges under different names but one client code is assigned to clients to trade across both exchanges. No instances were furnished to show that it used money belonging to clients for itself or own money for use of clients. It is also stated that reference to money transfer amongst the group companies was nothing but transfer of clients funds from one exchange to another after considering the net position of the client and the same was with the express authorization of the client.
- (ix) With reference to the alleged discrepancies in KYC documents, the same was explained by it to the satisfaction of SEBI except five. It denied that personal verification of the KYC's was not done or that KYC's were incomplete. However it accepted that there may have been errors in the format of the verification done.
- (x) With reference to the allegation that its client master data did not have the details of the bank accounts and beneficiary accounts of its clients, it is submitted that the back-office system was capturing the clients accounts number only.
- (xi) The allegation regarding non-maintenance of client-wise and scrip-wise registers are also misplaced in view of the fact that the noticee had furnished the same, although not in the format as desired by SEBI.
- (xii) With reference to allegation of assigning multiple client codes for various clients, it has provided detailed explanation of the same to substantiate that multiple client codes were never used. In the report of Deloitte, Haskins & Sells, submitted to SEBI, on page number 22, it is clearly indicated that there were no duplication of client codes.

(xiii) It is denied that there was no risk management policy in place. No such risk management policy was ever called for during the course of inspection. It, therefore, denied that it violated SEBI Circular dated February 23, 2005.

(xiv) It is denied that noticee was required to maintain register of securities on real-time basis. It is reiterated that only those brokers who had their own DP were able to maintain register of securities on real-time basis. In noticee's case, the register of securities was maintained on daily basis. It is also denied that the noticee had failed to provide client-wise holdings statement of securities, and in fact the noticee had provided online facility to clients for verifying the account statements as well as the shareholdings statements including viewing the contract notes and bills. Therefore, it cannot be said that it was not maintaining client-wise or scrip-wise register of securities as alleged.

(xv) The conclusions arrived at by the DA in the circumstances were wholly unwarranted and unjustified. The recommendation of penalty of suspension for period of one year is also in the circumstances unjustified and unwarranted.

9. I have carefully considered the Report, the SCN, the reply, oral as well as written submissions of the noticee and other material available on record. Since the noticee has denied the allegations in general, I am dealing with the allegations *in seriatim*.

Acceptance of cash and third party cheque.

10. I note that SEBI circular bearing no. SEBI/MRD/SE/Cir-33/2003/27/08 dated August 27, 2003, prohibits the stock-brokers to accept cash from the client whether against obligations or as margin for purchase of securities and/ or give cash against sale of securities to the clients. It also provided that the payment should be received/ made by the brokers from/ to the clients strictly by account payee crossed cheques/demand drafts. The circular also requires the brokers to accept cheques drawn only by the clients and also issue cheques in favour of the clients only, for their transactions.
11. I have perused Annexure 7 and 17 of the pre-enquiry SCN cited by the noticee and find therefrom that there is one instance in annexure 7 and several instances in annexure 17 wherein it has been shown that the noticee had accepted cash from the clients. I further note that the DA upon scrutiny of the bank account statements of the noticee viz., client bank account numbers 008620110000157 and 008620110000364, maintained with the Bank of India had found transactions in the nature of receipts and payment from/ to persons/ entities other than that of its clients and therefore concluded that the payments were made by the noticee to third parties. I

find instances of the noticee accepting third party payments/ receipts at Annexure 8 of the of the pre- enquiry SCN. For example- payments were made to one 'VOLVIE CAP' on various dates. The noticee has argued that payments made to 'VOLVIE CAP' were those made to client code V0050, who is a client in the futures market. This submission of the noticee cannot be accepted as the updated final client master data of the noticee produced by it during the inspection conducted by SEBI does not show any client by the client code of V0050. Hence, I do not agree with contentions of the noticee. I, therefore, find that the noticee had accepted cash from the clients and had also made payments/receipts to/from the persons/entities other than its clients and has thus violated *Clause A (1), (2) and (5) of the Code of Conduct* prescribed for stock brokers as specified in the Schedule II read with regulation 7 of the Stock Brokers Regulations read with *SEBI Circular SEBI/MRD/SE/Cir-33/2003/27/08 dated August 27, 2003*.

12. In terms of rule 15(1)(e) of the Securities Contracts (Regulation) Rules, 1957 every member of a recognized stock exchange is under obligation to maintain and preserve the cash book for a period of 5 years. Regulation 17(1)(e) of the Stock Brokers Regulations provides for a similar obligation for the stock broker (member of a recognized stock exchange). Thus, the noticee being a stock broker and member of NSE has statutory obligation to maintain and preserve the cash book. The noticee has contended that cash book was not asked for by the inspection team hence the occasion to produce the same did not arise. If the noticee had maintained it, it could have produced the same in the course of the proceedings to substantiate its stand. However, it has not produced any proof of maintenance of the cash book. However, I note that before the DA the noticee had taken different stand that it had not done any cash transaction with the client and therefore, the question of back office maintaining the details of these cash transactions did not arise. In my view, the noticee is required by law to maintain the cash book. Moreover, it has taken cash as well as cheques from the clients as observed above. I, therefore, do not agree with the submissions of the noticee and I find that the noticee did not maintain the cash book and violated regulation 17(1)(e) of the Stock Broker Regulations.

Mis- utilisation of clients securities.

13. The noticee has also stated that the DA has wrongly relied upon "annexure H" to its reply dated February 8, 2011 instead of 'annexure G' to show the position with regard to clients mentioned in the annexure 24 of SCN after considering their group-wise or family-wise position and margin given by the clients.
14. I, however, find that 'annexure G' is the copy of SEBI circular dated December 03, 2009 which is not relevant in the present context. The "Annexure H" provided by the noticee also does not reveal any group-wise or family-wise position. Further, as regards the group-wise or family-wise

position, I note that the noticee has neither submitted proof to show the basis of any group/ family nor any list showing group-wise or family-wise position. Even otherwise inter-client adjustments executed by the noticee is not legally permissible and such submissions are of no help to the noticee.

15. I also note that the scrutiny of the beneficiary account and the pool account of the noticee has revealed that the noticee had pledged the shares of its clients to IndusInd Bank to get the 'Over Draft facility', despite having sufficient credit balance in the clients' account. Further, it is noted that no written authorization was obtained from the respective clients to pledge their shares. The the noticee had used the funds availed as loan against the pledge for financing other clients' trading. Thus, the noticee did not utilize the money, received by pledging of shares, for the client whose shares were pledged.
16. I also find that the shares of one client were used by the noticee to meet the pay-in obligations for other clients. For example- perusal of the trade details of the client code BO1000 belonging to Aidos Trade Limited ('ATL') at BSE shows that during the period of March, 2008 to March, 2009, there was neither any pay-in nor any pay-out of securities to/ from its demat account. In this context, I note that the SEBI order dated July 28, 2009, stated that the noticee had traded in its scrip namely Alka Securities Ltd. as a client of MKSSB with client code BO1000. MKSSB vide its letter dated December 08, 2009 has submitted to SEBI that the client account BO1000 belonged to one of its client namely ATL. MKSSB has claimed that it was an inadvertent clerical/ human error while entering the details in the Unique Client Code ('UCC') database, the PAN of ASL was inserted for the client code BO1000 instead of PAN of ATL. However, the SEBI investigation has revealed that UCC details for the client account BO1000 were originally uploaded at BSE on March 11, 2008 and on this date no client by the name of ATL existed. Further, the investigation also revealed that a company by the name of Gaurav Continental Trading Limited had changed its name to ATL only on March 27, 2008. Based on the 'Know Your Client' ('KYC') documents of BO1000, the details submitted by NSDL and CDSL and UCC history obtained from BSE, it was found that the client code BO1000 was operated for ASL and not for ATL during the period of March 11, 2008 to July 03, 2009.
17. In view of the above, I note that during the period of April, 2009 to July, 2009, shares were transferred from the de-mat account of ATL to the de-mat account of the clearing member MKSSB. However, no pay-in obligations from ATL were seen recorded on those occasions. Close scrutiny of the details of the beneficiary account of MKSSB reveals that the shares of its clients were held in the beneficiary accounts of the noticee/ broker irrespective of the outstanding dues. The noticee has submitted that the trade details relied upon by SEBI is of its

client, ATL. However, the fact remains that the noticee was using the shares in the demat account of ATL to meet the pay-in obligation of other clients. Thus, I find that shares of one client was used by the noticee to meet the pay-in obligation of other clients.

18. As regards the allegation that the shares of the clients were held in its beneficiary accounts irrespective of the outstanding dues, the noticee has submitted that the shares held in the beneficiary account were held with the express consent of the clients in order to avoid administrative difficulties of transferring in/ out the securities to/ from the DP accounts. I note that the noticee has not been able to substantiate its submission on the basis of any documentary proof. In my view, the noticee should not hold shares of the clients in its account.
19. I also find that the noticee had not furnished the details to establish that it had adequate systems and procedure in place to ensure that client collateral is not used for any purposes other than meeting the respective client's margin requirements/pay-ins. On the contrary, the aforesaid facts show that the noticee did not have adequate systems and procedure.
20. I therefore, find that the noticee violated Clause A (1) and (5) of the Code of Conduct for stock brokers as specified in the Schedule II read with regulation 7 of the Stock Broker Regulations and SEBI Circular no. MRD/DoP/SE/Cir- 11/2008 dated April 17, 2008.

Non- Segregation of funds and securities of clients.

21. The noticee has submitted that the noticee and MKSSB have two membership with two different exchanges but one client code was assigned to clients to trade across both exchanges. Transfer of shares from the account of MKSSB to noticee and *vice versa* was done at the specific consent of its clients. I note that the noticee has not shown any evidence about consent of its clients as contended. I find from Annexure 15 of pre-enquiry SCN, that there were various instances of co-mingling of securities by the noticee and MKSSB between their accounts and that of their clients. From the details of the pool and beneficiary account of the noticee it is also noted that the noticee had not segregated its own securities from that of its clients.
22. On scrutiny of the noticee's bank account statements maintained with the Bank of India, it is noted that the noticee had not segregated its own funds and that of the clients. The DA has also found that the noticee had used money belonging to its client for itself and that of its own money for the use of the client. The noticee has contended that no instances were furnished to show transfers of monies. I also do not find any evidence in support of this allegation on record.

23. DA has also noted instances of money transfers amongst the group companies. The noticee has contended that such transfer was transfer of clients' funds from one exchange to other after considering the net position of the clients and the same was done with the express authorization of the clients. I find that no such express authorization given by the clients has been submitted by the noticee in support of its claim.
24. I note that SEBI circular no. SMD/SED/CIR/93/23321 dated November 18, 1993 mandates clear segregation of stock brokers money and securities account and the clients' money and securities account. The circular also obligates the stock brokers to forthwith pay in the clients' account, all the monies received on account of clients. The circular does not permit use of funds and securities of clients for the stock brokers or other clients. Further, SEBI Circular no. MIRSD/DPS-1/Cir-31/2004 dated August 26, 2004 requires that the stock broker shall keep the money/ securities deposited by the clients in a separate account, distinct from his/ its own account or of any other client and shall not use for himself/ itself or for any other client or for any purpose other than the purposes mentioned in SEBI Rules and Regulations/ circulars/ guidelines/ Exchanges Rules/ Regulations/ Bye-laws and circulars.
25. Under the facts and circumstances as discussed above, I find that the noticee had not segregated its own securities from that of MKSSB. It has also not segregated its own securities from that of its clients and has also not segregated securities of various clients. Further, as found above, the noticee had also pledged the shares of their clients with the bank for the purpose of availing 'Over Draft facility' despite sufficient credit balance in the accounts. Therefore, the noticee violated *Clause A (1), (2), (5) and C(6) of the Code of Conduct* prescribed for stock brokers as specified in the Schedule II read with regulation 7 of the Stock Brokers Regulations read with *SEBI Circular no. SMD/SED/CIR/93/23321 dated November 18, 1993* and *SEBI Circular no. MIRSD/DPS-1/Cir-31/2004 dated August 26, 2004*.

Default in KYC requirements.

26. I note that out of KYC documents pertaining to 75 clients the noticee had provided explanation with regard to almost all the discrepancies relating to most of the KYCs except for five. I do not find any adverse finding by the DA with regard to compliance status of the noticee regarding KYC requirements except a general observations that *"incomplete KYCs and non compliance of 'in person verification' verification are serious lapses on the part of the noticee"*. I, therefore, do find noticee guilty of requirement in this regard and expect it to follow all KYC related requirements including those of SEBI regulations particularly *SEBI Circular no. SEBI/MIRSD/DPS-1/Cir-31/2004 dated August 26, 2004*.

Non -maintenance of 'client master data'

27. The DA has found that the 'client master data' as made available by the noticee to the inspection team did not have the details of the bank account and beneficiary account of the its clients. The noticee has submitted that its back office system was capturing the client's account number. I note that the noticee has not substantiated his stand by evidence either before the DA or before me. Thus, I agree with the inference of the DA that the noticee did not maintain the 'client master data' in its entirety and therefore has violated *SEBI Circular no. ISD/AML/Cir-1/2008 dated December 19, 2008*.

Delay in processing pay-out requests.

28. The DA observed considerable delay on the part of the noticee in processing the pay-out requests of the clients for the release of funds. Denying this allegation, the noticee has submitted that as the clients continued to trade, the noticee kept funds belonging to its clients in accordance with the risk management procedures. I note that the ledger entries produced by the noticee in support of its contention , do not show details of any continuous trading by the clients. Therefore, I am of the view that the charge of delay on the part of the noticee in processing the pay-out request of its clients stands established. I, therefore, find that the noticee has violated *Clause A(2) of Code of Conduct* for the Stock Brokers as prescribed in Schedule II read with regulation 7 of Stock Broker Regulations read with *SEBI circular no. SMD/POLICY/Cir-06/03 dated February 12, 2003*.

Multiple Client Codes.

29. The DA has found instances where the noticee had allotted multiple client codes to its clients. The noticee has clarified that in the report of Deollite, Haskins &Sells, the independent auditor, that is relied upon by DA, it has been clearly indicated that there were no duplication of clients code. I have perused the findings of the said independent auditor in his report and note that the auditor had also found that there were multiple codes to the same party. However, on comparison of client master of BSE (MKSSB) and NSE (the noticeee) no duplication of client code was noticed, except in case of BO1000 which was allotted to the noticee in NSE and ATL in BSE. In view of the same, I find that the noticee had allotted multiple client codes, though they were not duplicated for trading, except in one instance. This is clearly not in terms of *SEBI Circular no. SMDRP/Policy/CIR-39/2001 dated July 18, 2001*. The noticee should ensure strict compliance of this circular.

Not having a written risk management policy.

30. The DA has found that the noticee did not have a written risk management policy during the inspection and violated *SEBI Circular MRS/DoP/SE/Cir-07/2005 dated February 23, 2005*. I note that the noticee had proved that it had taken corrective steps after the inspection and had submitted the written risk management policy. Since the corrective measure has already been taken by the noticee, in my view, this charge should not subsist for the purpose of this proceedings.

Non - maintenance of documents register.

31. The DA has found that the noticee had not maintained proper documents showing client-wise and scrip-wise registers of securities showing the actual movement of shares in the pool account, beneficiary account and also the off-market transfers and violated regulation 17(1)(g) of the Stock Broker Regulations. I note that the noticee has later on provided the said documents to the DA. In my view, this charge should not subsist for the purpose of this proceedings.

Delay in submission of data to inspection team.

32. The DA has found that during the course of inspection the noticee had provided wrong/incomplete data, that too with undue delay on several occasions. Further, the noticee had not given access to the inspection team of SEBI to its back office, despite various reminders. The noticee has submitted that it had not delayed the inspection process deliberately/ willfully and the same happened due to sudden termination of its lease agreement of its Borivali office, they were required to shift its premises to Juhu and Fort. The noticee has explained that during the shifting of its office, some of the data got corrupted and the same was provided to SEBI inadvertently. However, correct data was submitted after restoring the data, once SEBI pointed out the same. Further, due to the *ex-parte ad interim* order of SEBI dated July 28, 2009, they were not permitted to take new clients and there was sharp fall of employees as number of staff resigned. I accept the explanation of the noticee that it may not have willfully done so. Further, this charge has been made in general and no specific instance has been provided by the DA. In the absence of any specific instance, it would be difficult to hold the noticee guilty of violating the provisions of the regulation 21(1), (2) and (4) of the Stock Brokers Regulations as found by the DA.

Not intimating SEBI about the place where the books of accounts, etc. are kept.

33. The DA has found that that the noticee had not intimated SEBI about the place where its books of account, records and documents were maintained and has thus violated regulation 17(2) read with Clause A(1) and C(6) of the Code of Conduct prescribed for stock brokers as specified in the Schedule II read with Regulation 7 of the Stock Broker Regulations. The noticee

has stated that due to shifting of the office on account of abrupt termination of the lease, when SEBI officials visited, the work of renovation for getting the office ready and transfer of lease line was underway. The servers were temporarily moved to the Fountain office of the noticee where the inspection took place. I note the noticee has given the explanation as to the difficulties it was facing due to the termination of lease. No explanation has, however, been given in respect of the charge that it had not provided any intimation about the place where the books of account, records and documents were maintained by the noticee. Just an intimation about the place to SEBI was not an impossible task that the noticee could not do. However, in the Report there is no finding about blameworthy conduct of the noticee in this regard. In the facts and circumstances of the case, I do not consider this a serious violation.

34. In view of the discussion above, I find that the noticee guilty of violating the provisions of regulations 17(1)(e) and 17(2) of the Stock Broker Regulations. The noticee has also been found violating the provisions of Code of Conduct for stock brokers as prescribed under Clause A (1), (2), (5) and C(6) of the Code of Conduct for the Stock Brokers as prescribed in Schedule II read with regulation 7 of the Stock Broker Regulations. Further, the acts of the noticee were in violation of SEBI circulars namely SEBI/MRD/SE/Cir-33/2003/27 dated August 27, 2003, SEBI/MRD/DoP/SE/Cir-11/2008 dated April 17, 2008, SEBI/SED/CIR/93/23321 dated November 18, 1993, SEBI/MIRSD/DPS-1/Cir-31/2004 dated August 26, 2004, SEBI Master Circular ISD/AML/Cir-1/2008 dated December 19, 2008, SEBI/POLICY/Cir-06/03 dated February 12, 2003, SEBI/SMDRP/Policy/Cir-39/2001 dated July 18, 2001 and SEBI/MRD/DoP/SE/Cir-07/2005 dated February 23, 2005.
35. In view of the aforesaid findings, I note that the systems and procedures of the noticee were not in place and its functions were not being conducted in the manner specified under the Stock Brokers Regulations and SEBI circulars. The noticee has also not followed the code of conduct applicable to the stock brokers prescribed by SEBI under the Stock Broker Regulations. The noticee, while investigated and inspected by SEBI, failed to show compliance with various provisions of law in force. In my view, it is, therefore, necessary to impose appropriate penalty for the violations committed by it. In the facts and circumstances of this case, in my view, suspension of certificate of registration of the noticee for a period of two months would be commensurate with the violations found hereinabove.
36. Taking into consideration, the facts and circumstances of the case, I, in exercise of the powers conferred upon me in terms of Section 19 of the Securities and Exchange Board of India Act, 1992 read with Regulation 28(2) of Securities and Exchange Board of India (Intermediaries) Regulations, 2008, hereby suspend the certificate of registration of the stock broker namely Alka

Securities Ltd. (SEBI REGISTRATION NO. INB230629237 and INF230629237) for a period of two months.

37. By another order dated October 08, 2012 the certificate of registration of Alka Securities Ltd. has been suspended for a period of two years. Both the orders shall operate concurrently.
38. This order shall come into force on expiry of twenty one days from the date of this order.
39. A copy of this order shall be sent to the NSE and the Depositories for necessary action.

DATE: October 8th, 2012
PLACE: MUMBAI

RAJEEV KUMAR AGARWAL
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA