WTM/RKA/MIRSD/ 50 /2012

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

Under regulation 33A and 33B of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008.

In the matter of Amit Financial Services Private Limited, erstwhile trading member of the National Stock Exchange of India Limited.

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1. Amit Financial Services Private Limited (hereinafter referred to as 'the noticee') is a stock broker registered with SEBI having registration no. INB230855936. The registration certificate granted to the noticee is subject to compliance of the SEBI Act, SEBI (Stock Brokers and Sub-Brokers) Rules, 1992 (since repealed) and the SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 (hereinafter referred to as the 'Stock Brokers Regulations') .The noticee was a trading member of the National Stock Exchange of India (NSE). The NSE had declared the noticee a defaulter in accordance with its rules and bye-laws with effect from December 09, 1996.

2. The fact of declaration of defaulters of the noticee being a factor specified in regulation 15(c) of the SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (*since repealed*) gave rise to initiation of proceedings for suspension or cancellation of certificate of registration under section 12(3) of the SEBI Act read with the Enquiry Proceedings Regulations. In view of the same, SEBI initiated proceedings against the noticee in terms of the provisions of Chapter III of the Enquiry Proceedings Regulations and vide an order dated February 26, 2004 appointed an officer under Regulation 16(1) thereof to commence summary proceedings.

3. While the above proceedings were pending the Enquiry Proceedings Regulations were repealed with effect from the commencement of the SEBI (Intermediaries) Regulations, 2008 (Intermediaries Regulations) on May 26, 2008. During the pendency of the proceedings the Intermediaries Regulations were further amended on July 14, 2009 and the proceedings pending in the matter continued under Chapter VA thereof. Accordingly, the officer appointed in the matter completed the proceedings under Chapter VIA of the Intermediaries Regulations and submitted his Report dated December 30, 2011 under regulation 27 read with regulations 33A and 38 thereof. In the said Report the officer recommended the cancellation of certificate of registration granted to the noticee in terms of regulation 27 of the Intermediaries Regulations.

4. I have considered the case under regulation 33B(5) of the Intermediaries Regulations. I have taken note of the Report dated December 30, 2011 and the other material relevant on record which has been filed by the noticee or shared with the noticee.

5. I note that vide letter dated December 01, 2003 to SEBI, NSE provided to SEBI a list of trading members who had been declared as defaulters by it. The name of the noticee figures in the list and it is found to be declared a defaulter with effect from December 09, 1996. The noticee, vide letter dated May 29, 2004 filed in the summary proceedings, had submitted that it had filed a petition UTPE No. 97 of 1997 before the Monopolies and Restrictive Trade Practices Commission (MRTP Commission) against the NSE decision of declaring it as defaulter and that notice of enquiry was issued to NSE. I note from the records that the Competition Appellate Tribunal vide Order dated January 27, 2010 has dismissed the petition (UTPE No. 97 of 1997) filed by the noticee against the NSE, for non-prosecution.

6. In terms of rule 4 (a) and (b) of the SEBI (Stock Brokers and Sub-Brokers) Rules, 1992 read with regulation 6A (1)(a) and (b) of the Stock Brokers Regulations, the certificate of registration granted to a stock broker is subject to *inter alia* the condition, namely:-

   (a) he holds membership of any stock exchange;
   (b) he shall abide by the rules, regulations, bye-laws of the stock exchange of which he is a member.

7. In terms of Bye Law 1 (in Chapter XII-Declaration of Default) of the NSE Bye Laws , NSE may declare a trading member a defaulter (by direction/circular/notification) if the conditions stipulated therein are satisfied. Further, Rule 28 of Chapter II (Trading membership) of the NSE Rules, provides that any trading member may cease to be a member by being declared a defaulter in accordance with the Bye Laws, Rules and Regulations of the Exchange. Thus, the noticee being declared a defaulter by NSE had ceased to be its trading member.

8. I note that in terms of regulation 26(2)(iii), the certificate of registration granted to a stock broker may be cancelled in case of cancellation of membership of the stock broker by the concerned stock exchange. As the noticee has ceased to be a trading member of NSE and has not been re-admitted as its member, the very foundation on which SEBI had granted registration to the noticee as a stock broker is not in existence. The noticee which ceased to be a member of a stock exchange (NSE), cannot, therefore, be continued as a registered stock broker.

9. I, therefore, in exercise of the powers conferred upon me under section 12(3) read with section 19 of the SEBI Act and regulations 27 and 33B(5) of the SEBI (Intermediaries) Regulations, 2008, hereby cancel the certificate of registration of the noticee, Amit Financial Services Private Limited (registration no. INB230855936).

10. This Order shall come into force with immediate effect.

11. A copy of this Order shall also be served on the National Stock Exchange of India Limited.

Date: November 5th, 2012
Place: Mumbai

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