

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER SECTION 11, 11B AND 11D OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 AGAINST ORION CAPITAL AND DEBT MARKET, ORION BROKING SERVICES INDIA PRIVATE LTD., MR. JOHNSON P JOSE, MRS. CINZY JOHNSON AND MR. JOSEPH P. C.

1. Orion Capital and Debt Market (“Orion Capital”), having its registered office at 1068, 1st Floor, Shanmugam Complex, MTP Road, Coimbatore – 641002 and Corporate office at Door No. 1, Next to Crompton & Greaves Ltd., M.K. Complex East, 3rd floor, Periyasamy Road, Coimbatore – 641002, is registered with Securities and Exchange Board of India (“SEBI”) as a Stock Broker in Equity, Futures and Options and Currency Derivatives segments of National Stock Exchange of India Ltd (“NSE”) (Registration Nos: INB231465627, INF231465627 and INE231465627), Bombay Stock Exchange Ltd. (“BSE”) (Registration Nos INB011465623 and INF011465623) and Metropolitan Stock Exchange of India Ltd (“MSEI”) (erstwhile MCX Stock Exchange Ltd) (Registration Nos. INB261465620, INF261465620 and INE261465627). Mr. Johnson P Jose and Mrs. Cinzy Johnson are Managing Partners and Mr. Joseph P. C. is a partner of Orion Capital. The holding (profit sharing ratio) amongst the partners is as under:

S. No	Name of the Partner	Designation	Holding (profit sharing ratio)
1	Mr. Johnson P Jose	Managing Partner	55%
2	Ms. Cinzy Johnson	Managing Partner	40%
3	Mr. Joseph P C	Partner	5%

2. Orion Broking Services India Private Ltd (“Orion Broking”), is an associate company of Orion Capital. Orion Broking is a Member of Multi Commodity Exchange of India Ltd. (“MCX”) (FMC Unique Code (FUC): MCX/TM/CORP/1875), National Commodity and Derivatives Exchange Ltd. (“NCDEX”) (FUC: NCDEX/TCM/CORP/1055), National Multi-Commodity Exchange of India Ltd. (“NMCE”) (FUC: NMCE/TCM/CORP/0402), ACE Derivatives and Commodity Exchange Ltd. (“ACE”) (FUC: ACEL/TM/CORP/0180) and Universal Commodity Exchange Ltd. (“UCX”) (FUC: UCX/TM/CORP/0086) in the commodities market. The registered office address of the Orion Broking is same as that of

Orion Capital. Mr. Johnson P Jose and Mrs. Cinzy Johnson are Promoters and Directors of Orion Broking. The Share holding pattern of Orion Broking is as under:

S. No	Name of the Directors	No. of Shares	% of Share Holding
1	Mr. Johnson P Jose	5,05,000	67%
2	Mrs. Cinzy Johnson	2,45,000	33%
	Grand Total	7,50,000	100%

3. A news was published in newspapers on August 23, 2015 that Police have booked the proprietor of Orion Broking, Johnson P Jose, his wife Cinzy Jose as well as Orion Capital's staff under sections 120B (criminal conspiracy), 420 (cheating and dishonestly inducing delivery of property) and 409 (criminal breach of trust by public servant, or by banker, merchant or agent) of the Indian Penal Code.
4. Meanwhile, SEBI, vide email dated August 24, 2015, also received a copy of notice dated August 24, 2015, issued by Office of the Inspector of Police, Cyber Crime Cell, Coimbatore to Globe Capital Market Ltd (Clearing Member of Orion Capital) to freeze the Demat accounts of Orion Broking maintained in its corporate name and in the name of its Directors viz. Johnson P Jose, Cinzy Johnson and Vice-President Jose. The said notice was issued under section 91 of Criminal Procedure Code. It is mentioned in the notice that a case has been registered and being investigated by the Cyber Crime Cell, Coimbatore City against Orion Broking for misappropriation of funds, shares and securities and commodities holding of its clients in Coimbatore and other places.
5. Pursuant to receipt of the aforesaid notice from police authorities, SEBI asked the Depositories viz. NSDL and CDSL to provide details of all the demat accounts if any, being held in the name of, Orion Broking, its directors, Orion Capital (an associate partnership firm of Orion Broking) and also in the name of the partners of Orion Capital maintained with other Depository Participants. SEBI also advised the Police authorities to extend the notice of suspension to cover those demat accounts also which belonged to Orion Capital and its partners. Both the depositories confirmed compliance to SEBI in this regard.
6. Based on the above, SEBI sought status of Orion Capital and number of complaints pending against it as on date from NSE. NSE vide emails dated August 24, 2015, September 18, 2015 and November 16, 2015, *inter alia*, submitted as under:

- a) NSE received a call from one of the clients of Orion Capital on August 19, 2015 that he was not able to transact in Futures and Options (“F&O”) segment and he received an error message as “Market Closed” (from Orion Capital’s trading platform).
- b) Based on the above information, NSE tried to contact Orion Capital and its Clearing Member, Globe Capital Markets Ltd. (“Globe Capital”). Globe Capital informed NSE that Orion Capital had reached the limit in F&O segment and it is yet to pay in funds, as a result only Immediate or Cancel orders (“IOC”) were permitted.
- c) Subsequently, NSE tried reaching the Managing Partner Mr. Johnson P Jose of Orion Capital but he was not reachable (over phone). Finally, NSE spoke to Mr. Mani, an employee of Orion Capital and he informed that he was also trying to reach Mr. Johnson P Jose who was in Chennai trying to organize funds. Further, Mr. Mani informed NSE that they have intimated their clearing member to square off all the positions in F&O.
- d) By the end of day there was market information that Mr. Johnson P Jose has called his Authorized Persons (“Aps”) and informed them that in about 15-20 days he will settle all the clients’ funds. Further, an SMS was sent on August 20, 2015 by Orion Capital, to all the APs through Bulk SMS, which reads as:
“Dear SubBroker, Due to some technical problem your clients open position are squared off, we will be initiating the settlement process / restart the business within 15-20 days. We regret the inconvenience highly”.
- e) In the meantime, NSE received calls from clients informing them that all the Branches of Trading Member in Kerala, Pune and Erode Offices were shut.
- f) NSE disabled the trading terminal of the Orion Capital on August 20, 2015.
- g) NSE deputed its officials to undertake a limited purpose inspection (“LPI”) on August 21, 2015 at the office of Orion Capital at Coimbatore. NSE’s inspection team reached Orion Capital’s corporate office at R S Puram, Coimbatore on August 21, 2015 and found the door locked. Then they visited Orion Capital’s branch office at Shanmugham Complex (near the corporate office) Coimbatore, which was also locked. The inspection team made calls to Orion Capital’s staff and Mr. Johnson P Jose but they were not able to speak to them as the message received was “Mobile Switched off”. One of the employees of Orion Capital answered the call and said that he is not in station since August 19, 2015 and also that there was a security threat in opening the office. The inspection team returned as they were unable to carry out the inspection.
- h) NSE sent a letter dated August 24, 2015 to Mr. Johnson P Jose seeking a clarification on the complaints received by Exchange about non-acceptance of client orders, reaching limit in Equity Derivatives Segment, pay-in of funds and abrupt closure of business etc. Orion Capital was called upon to provide clarification within seven days from the date of this

letter on the concerns raised in the letter. This letter got returned on September 01, 2015 with comments “CNEE SHIFTED FROM THE GIVEN ADDRESS”.

- i) Subsequently, NSE issued a Show Cause Notice (“SCN”) dated September 11, 2015 directing Orion Capital to reply to the Exchange letter dated August 24, 2015 and to explain as to why disciplinary action including Suspension/Expulsion should not be initiated against Orion Capital, failing which the Disciplinary Action Committee (“DAC”) of the Exchange may proceed with the matter based on material and facts on record and may take necessary disciplinary action without any further reference to Orion Capital. This SCN was personally taken by an Exchange Official to hand over to an official at the Corporate and Registered office of Orion Capital. It was observed that both the offices were locked and therefore, the SCN was pasted outside both the offices.
 - j) As Orion Capital had not responded to any of the communications of NSE including the SCN issued for disciplinary action, NSE placed the matter before DAC and based on the recommendations of the DAC, NSE vide Circular Download Ref. No.: NSE/COMP/31108 and Circular Ref. No.: 229/2015 dated November 09, 2015 expelled Orion Capital from the membership of the Exchange.
7. Thereafter, the other two Stock Exchanges viz, BSE vide Notice no. 20151124-11 dated November 24, 2015 and MSEI vide Circular no.: MSEI/MEM/3580/2015 dated November 24, 2015, expelled Orion Capital from their membership consequent to NSE’s expulsion of the entity.
8. Details of complaint status, pending before NSE, as on November 08, 2015 (before expulsion) and complaints placed before Defaulters’ Committee are as under:

Complaints details			Investor Service Cell (ISC)		Defaulters’ Committee	
Total Complaints received	Complaints closed	Claim disburse d so far	Pending complaint before Defaulter's Committee as on Nov 08, 2015	Claim amount (₹ in lakh)	Claim form Received by Defaulters’ Committee as on January 25, 2016	Claim amount (₹ in lakh) (Approx.)
489	51	32	406	719.68	212*	683.58

**212 investors’ claims include either the cases transferred from ISC where the investor has also filed the claim form before the DC or new investors’ claims that have been lodged before DC, but exclude the cases transferred from ISC where investor has not filed the claim form before DC.*

9. As on January 22, 2016, 212 claim forms were placed before Defaulter Committee amounting to ₹683.58 lakh.
10. The total value of claims pending against Orion Capital is ₹ 683.58 lakh at NSE. Further, details of Arbitration cases against Orion Capital as on January 15, 2016 are as below:

Nature of complaint	Taken before Arbitration Panel (Number)	Claim amount (₹)	Arbitration Award passed (Number)	Claim amount (₹)	Pending (Number)	Claim amount (₹)
Non-receipt/delay in receipt of: Funds / Payments	4	5,20,129	3	3,17,288	1	2,02,841

NSE has further submitted that there are no deposits of member available after appropriation of ISC / arbitration claims.

11. BSE and MSEI vide emails dated January 20, 2016 informed that they do not have any complaints pending against Orion Capital.
12. In view of several complaints received against Orion Broking in MCX, SEBI vide email dated October 16, 2015 also asked MCX to provide information with respect to the status of complaints received against Orion Broking. MCX vide email dated October 17, 2015 submitted, *inter alia*, as under:
- MCX received a scanned copy of letter dated August 22, 2015 from Office of Inspector of Police, Cyber Crime Cell, Coimbatore informing that Orion Broking has bankrupted and closed its offices without settling the dues of its clients. Further, MCX came across a newspaper article published on August 23, 2015, wherein it was mentioned that Orion Broking had defrauded hundreds of crore from many Investors.
 - Thereafter, MCX started receiving Complaints/Arbitration references from various investors alleging that Orion Broking had not settled their credit balance of clients, office has been closed and is thus not traceable, etc. In view of serious nature of the complaints filed against Orion Broking, MCX had disabled its trading terminal on August 24, 2015.
 - As MCX received several complaints against Orion Broking, MCX vide letter dated August 24, 2015 called upon Orion Broking for personal hearing, under rule 14.6 and rule 45 of the Exchange, before the DAC on August 27, 2015. However, Orion Broking

- neglected/failed to give clarification/comment and remained absent from personal hearing in the matter before the Committee.
- iv. MCX vide its letter dated August 24, 2015 intimated Globe Commodities Ltd. (Clearing Member of Orion Broking) about the pending complaints/arbitral references of the said Member and sought details of the deposits lying with them on account of the Member.
 - v. MCX vide letter dated August 24, 2015 informed HDFC Bank Ltd about the receipt of large number of investor complaint(s) against Orion Broking. Further, in the interest of protection of clients' money, the Bank was advised to freeze the accounts of Orion Broking and its directors and to hold the same till the disposal of pending investor grievances.
 - vi. Further, in terms of the procedure laid down by Defaulters' Committee with respect to the Members who are not responding, MCX issued public notices in daily newspapers (National and Regional) on August 26, 2015 and, additionally, hoisted the public notices at the Exchange's website inviting claims, if any, from the clients of Orion Broking. Simultaneously, a field visit was conducted by an official of the Exchange at the registered office of Orion Broking which confirmed the non-traceability of Orion Broking.
 - vii. MCX lodged a police complaint against Orion Broking with Commissioner of Police, Chennai and other local police authorities to investigate about the affairs of the Orion Broking *vis-a-vis* the complaints received by the Exchange, among others.
 - viii. Subsequently, MCX issued a SCN to Orion Broking on August 31, 2015 asking as to why the Exchange should not take appropriate disciplinary action like expulsion, suspension, fine and/or warning and/or withdraw any right of Orion Broking. Further, in compliance of the principles of natural justice, Orion Broking was given one more opportunity of personal hearing before the Committee of the Exchange on September 14, 2015. Orion Broking and its Directors neglected/failed to give clarification/comment and remained absent for personal hearing in the matter before the Committee twice.
 - ix. DAC deliberated upon the unbecoming conduct of the Member, which was in contravention to Rules, Bye laws, Business Rules and Circulars issued by the Exchange. Further, the committee viewed that the said act of the Member is very serious and highly detrimental to the interest and integrity of the Exchange and public interest. Hence the committee felt that the member is not a fit and proper person and decided to expel the Member from the Membership of the Exchange with immediate effect. Then MCX vide Circular no. MCX/ARB/267/2015 dated September 29, 2015 expelled Orion Broking and issued a public notice for the expulsion on October 02, 2015.

13. Based on MCX's expulsion, NCDEX, vide email dated January 21, 2016, informed that they are in the process of expelling the member and ACE, vide emails dated January 22, 2016 informed that Orion Broking has neither activated its trading on Exchange platform nor it has registered any client with Exchange.
14. MCX vide email dated January 22, 2016 has informed that 746 complaints have been received against Orion Broking, which have been converted into Combined Arbitration Proceedings ("CAP"). Out of the 746 arbitration references, awards have been passed in 738 references with the total award amounting to ₹4.17 Crore and in 8 instances, Arbitration is under process.
15. NMCE and ACE vide emails dated January 20, 2016 and January 22, 2016, respectively, have informed that they do not have any complaints pending against Orion Broking.
16. I note that Orion Capital and Orion Broking are two different and distinctive entities registered for carrying on their business activities in as much as the former was registered with SEBI as a stock broker in the status of a partnership firm to deal in Capital market and the latter was registered with erstwhile Forward Markets Commission to deal in Commodities market as a Commodities Broker in the capacity of a corporate body.
17. Orion Capital, Orion Broking and their partners / directors are absconding and have not replied, till date for any of the correspondences made by the Exchanges. Further, they have neither contested any of the Investor Grievance Resolution Panel ("IGRP") orders nor opted for arbitration nor implemented the orders of IGRP nor responded in any manner. Thus, Orion Capital and Orion Broking had not only failed to resolve the investor grievances, but also failed to implement the investor claims admitted by IGRP and Awards passed by Arbitrators.
18. I note that clients of Orion Capital could not execute their orders from August 19, 2015 as Orion Capital had already reached the limit in F&O and failed to bring in the additional funds, therefore only Immediate or Cancel orders were permitted. Further, Orion Capital misled its clients with an error message "Market Closed" contrary to the fact that Market was functioning and trading in NSE was taking place on that day. I find that Orion Capital had furnished a false and untrue statement to its clients and also mislead the clients for abrupt squaring off of their open positions.
19. Orion Broking is an associate of Orion Capital and all the acts and omissions on the part of Orion Broking reported by MCX is similar to that committed by Orion Capital in equities

market. The persons at the helm of affairs in both these entities are the same. The managing partners of Orion Capital viz: Mr. Johnson P Jose, Mrs. Cinzy Johnson are not only the two designated directors but also the only promoters and shareholders of Orion Broking. Further, clients of both the entities have grievances of non-settlement of funds and securities. In the interest of the investors and the securities market, there is a need to consider the acts and omissions of Orion Broking also along with Orion Capital for an appropriate action.

20. I note that the manner of conduct of business by both Orion Capital and Orion Broking are exactly similar in as much as both the entities have abruptly shut down their businesses without any prior intimation to their affiliated Exchanges or to their clients. Consequently, many of their clients could not execute any trade/order to cover their positions.
21. I further note that Orion Capital and Orion Broking have not responded to any of Exchange's communications for redressal of investor grievances and also the notices issued by Exchanges for disciplinary action have also not been responded to by them. Consequent thereto, the Exchanges have expelled Orion Capital and Orion Broking from their membership.
22. Further, the nature of investor complaints received against both Orion Capital and Orion Broking is predominantly on non-settlement of the funds and securities and balances due to their clients. I also find that in both the cases, several hundred complaints have been received against each of them and the claim amount is more than ₹ 6 Crore against Orion Capital and more than ₹ 4 Crore against Orion Broking. None of the claims have been settled by the entities so far. I also note that there are arbitration awards passed against both Orion Capital and Orion Broking and none of the awards have been implemented by the said entities.
23. In view of the aforementioned facts, as far as Orion Capital's and Orion Broking's conduct of business as stock broker in equities market and as a commodity derivatives broker in commodities market, respectively, is concerned, I, *prima facie*, find that Orion Capital and Orion Broking have failed to comply with the requirements and conditions of registration as specified under regulation 9 of the SEBI (Stock Brokers and Sub Brokers) Regulations, 1992 ("Stock Brokers Regulations") read with clauses A(1), A (3), A(5) and B(1) of Schedule II thereof.
24. Under section 11 of the SEBI Act, SEBI can take measures to protect the interests of investors and to regulate the securities market *inter alia* by registering and regulating the working of stock brokers. Further, the Code of Conduct specified in Schedule II of the Stock Brokers Regulations also provides for the minimum standards for the working of the stock brokers. If

the regulatory requirements are violated by the stock brokers without attracting any action, the measures taken by SEBI for regulation of the stock brokers would be rendered nugatory and the regulatory function would be jeopardized. Further, every stock broker is under an obligation to comply with the provisions of the Act and the Rules and Regulations made thereunder and also the circulars and guidelines issued by SEBI from time to time. It is also imperative that all the members of every Exchange shall adhere to the bye-laws, rules and regulations, circulars/directions, etc. of the Exchange.

25. A person acting as a securities market intermediary is expected to protect the interests of the investors in the securities market in which he operates and it ill-behooves him to become a party to any market misconduct. Such a person is required to maintain high standards of integrity, promptitude and fairness in the conduct of the business dealings, and not be motivated purely by prospects of financial gain.
26. Since the conduct of Orion Capital, Orion Broking and their partners/directors is not in the interest of investors in the securities market, necessary action has to be taken against them, else it may lead to loss of investors' trust in the Securities market. I find that Orion Capital, Orion Broking and their partners/directors have failed to act in accordance with the requirements of the Stock Brokers Regulations, the SEBI Act, circulars, bye-laws, rules and regulations, circulars/directions, etc. of the Exchange issued thereunder and failed to redress numerous investor grievances pertaining to "Non-receipt of funds/Securities". As a regulator of the capital markets, SEBI has the duty to safeguard the interests of investors and protect the integrity of the securities market. I am convinced that this is a case where effective action is required to send a stern message to prevent any person from indulging in acts as observed in this case.
27. In view of the foregoing, I, in exercise of powers conferred upon me by virtue of section 19 read with sections 11, 11B and 11D of the SEBI Act, 1992, by way of this *ad-interim ex-parte* order, hereby issue the following directions:
 - i. Orion Capital and Debt Market (PAN: AACFO9456G), Orion Broking Services India Pvt. Ltd. (PAN AABCO2694L), Mr. Johnson P. Jose (PAN: AFZPJ2029Q), Ms. Cinzy Johnson (PAN: AHNPC5874A) and Mr. Joseph P C (PAN: AKUPJ0403G) are restrained from accessing the securities market and are further prohibited from buying, selling or otherwise dealing in securities, either directly or indirectly, or being associated with the securities market in any manner whatsoever, till further directions;

- ii. The aforesaid entities and persons shall cease and desist from undertaking any activity in the securities market, directly or indirectly, in any manner whatsoever till further directions;
 - iii. The aforesaid entities and persons are directed to provide a full inventory of all their assets, whether movable or immovable, or any interest or investment or charge in any of such assets, including details of their bank and demat accounts within 5 working days from the date of receipt of this order.
 - iv. The aforesaid entities and persons are directed not to dispose off or alienate any assets, whether movable or immovable, or any interest or investment or charge in any of such assets except with the prior permission of SEBI.
28. The above directions are without prejudice to the right of SEBI to take any other action that may be initiated against the aforementioned entities in accordance with law.
29. This Order shall come into force with immediate effect. A copy of this Order shall be forwarded to all the Exchanges, the Depositories and Clearing Corporations to ensure that the directions given above are strictly complied with.
30. The entities/persons against whom this Order is passed may file their objections, if any, within twenty one (21) days from the date of this Order and, if they so desire, may avail themselves of an opportunity of personal hearing before the Securities and Exchange Board of India at its Head Office at SEBI Bhavan, Plot No. C4-A, G Block, Bandra Kurla Complex, Bandra (East), Mumbai - 400051 on a date and time to be fixed on a specific request in this regard.

Sd/-

DATE: March 18th, 2016

PLACE: MUMBAI

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