

**SECURITIES AND EXCHANGE BOARD OF INDIA**  
**FINAL ORDER**

**Under Sections 11(1), 11(4), 11(4A), 11B (1), 11B (2) and 15I of the Securities and Exchange Board of India Act, 1992, Sections 12A(1), 12A(2) and 23I of the Securities Contracts (Regulation) Act, 1956, Regulation 49 (c) of Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012 (Since Repealed) read with Rule 5 of Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 and Rule 5 of Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties) Rules, 2005.**

<b>Noticee No.</b>	<b>Name of the Noticees</b>	<b>PAN</b>
1.	Ms. Chitra Ramkrishna	ABVPR7353M
2.	National Stock Exchange of India Limited	AAACN1797L
3.	Mr. Ravi Narain	AAYPN8382Q
4.	Mr. J Ravichandran	AAEPR0184L
5.	Mr. V.R. Narasimhan	AACPN2071J
6.	Mr. Anand Subramanian	AARPA8290K

*(Aforesaid entities hereinafter individually referred to as either by their respective name or the noticee number and collectively as "Noticees")*

**In the matter of issues at NSE relating to (1) appointment of Mr. Anand Subramanian as Chief Strategic Advisor ('CSA') and his Re-designation as 'Group Operating Officer and Advisor to MD' and (2) Sharing of internal confidential information of NSE with unknown person by Ms. Chitra Ramkrishna.**

1. Present order deals with proceedings emanated from show cause notices (hereinafter collectively referred to as "**SCNs**") issued by Securities and Exchange

Board of India (hereinafter referred to as “**SEBI**”) to aforesaid Noticees. As all these SCNs have been issued in relation to the governance issues at National Stock Exchange of India Limited (hereinafter also referred to as “**NSE**”/ “**Noticee no. 2**”) therefore all these actions are being dealt together in this order. The details of the SCNs are tabulated below:

<b>S. No.</b>	<b>Name of the Noticee</b>	<b>SCN/Supplementary SCN (Number and date)</b>
1.	Ms. Chitra Ramkrishna	SCN No. MRD/DSA-I/VA/SKS/26770/1/2019 dated October 09, 2019 and Supplementary SCN No. MRD/DSA-I/VA/SKS/33600/1/2019 dated December 16, 2019 (hereinafter collectively referred to as “ <b>SCN-I</b> ”).
2.	National Stock Exchange of India Limited	SCN No. MRD/DSA-I/VA/SKS/26772/1/2019 dated October 09, 2019 and Supplementary SCN No. MRD/DSA-I/VA/SKS/33591/1/2019 dated December 16, 2019 (hereinafter collectively referred to as “ <b>SCN-II</b> ”).
3.	Mr. Ravi Narain	SCN No. MRD/DSA-I/VA/SKS/26773/1/2019 dated October 09, 2019 and Supplementary SCN No. MRD/DSA-I/VA/SKS/33597/1/2019 dated December 16, 2019 (hereinafter collectively referred to as “ <b>SCN-III</b> ”).
4.	Mr. J Ravichandran	MRD/DSA-I/VA/SKS/33618/1/2019 dated December 16, 2019 (hereinafter referred to as “ <b>SCN-IV</b> ”).
5.	Mr. V.R. Narasimhan	MRD/DSA-I/VA/SKS/33622/1/2019 dated December 16, 2019 (hereinafter collectively referred to as “ <b>SCN-V</b> ”).
6.	Mr. Anand Subramanian	SCN No. MRD/DSA-I/VA/SKS/26769/1/2019 dated October 09, 2019 and Supplementary SCN No. MRD/DSA-I/VA/SKS/33605/1/2019 dated December 16, 2019 (hereinafter collectively referred to as “ <b>SCN-VI</b> ”).

**Brief Background:**

2. In order to better understand the background of the case and for the purposes of this order, the brief introduction of the Noticees, is necessary. As per the allegations made in the SCNs, it is noted that National Stock Exchange of India Limited - **Noticee no. 2** is a recognised stock exchange. Ms. Chitra Ramkrishna - **Noticee no. 1** was the Managing Director and CEO of Noticee no. 2 from April 01, 2013 to December 02, 2016. Mr. Ravi Narain - **Noticee no. 3** was the Managing Director and CEO of Noticee no. 2 from April 1994 till March 31, 2013 and thereafter, he was appointed as Vice–Chairman, in Non-Executive category on the Board of Noticee no. 2 with effect from April 01, 2013 and remained so till June 01, 2017 when he resigned from his post. Mr. J. Ravichandran - **Noticee no. 4** was the President and Company Secretary of Noticee no. 2. Mr. V. R. Narsimhan - **Noticee no. 5** was the Chief Regulatory Officer (“**CRO**”) and Compliance Officer of Noticee no. 2. Mr. Anand Subramanian - **Noticee no. 6** was the Chief Strategic Advisor from April 01, 2013 and was re-designated as Group Operating Officer (“**GOO**”) and advisor to MD and CEO of Noticee no. 2 from April 01, 2015 till October 21, 2016.
  
3. SEBI received certain complaints dated December 15, 2015, May 25, 2016 and November 11, 2016 (hereinafter referred to as "**Complaints**") against Noticee no. 2 alleging governance issues in appointment of Noticee no. 6, then Group Operating Officer (GOO) and Advisor to MD, NSE. The complaints, *inter alia* alleged as under:
  - (i) No employment documentation. Any experience in the finance couldn't be verified since no papers provided to HR department.
  - (ii) Direct posting as consultant to MD, unequal pay of more than Rs. 4 crore per annum higher than most of the seniors at NSE.
  - (iii) After all these powers and privileges he is still not identified as a key person to SEBI.

- (iv) Current MD, Ms. Chitra Ramkrishna (Noticee no. 1), has brought in Subramanian Anand (Noticee no. 6) as Chief Operation Officer into NSE. Subramanian Anand has worked in Balmer and Lawrie in a middle level management with zero exposure to capital markets. His cost to company is not less than 5 Crores. Ms. Chitra is totally dependent on Subramanian Anand and does not do anything without his consultation.
4. Upon receipt of the complaints, SEBI vide emails dated February 19, 2016, May 24, 2016, May 27, 2016, June 20, 2016 and June 30, 2016 advised the Noticee no. 2 to clarify, *inter alia*, if Noticee no. 6 had been designated as Key Management Personal (hereinafter referred to as “KMP”) and Securities Contracts (Regulations) (Stock Exchanges and Clearing Corporations) Regulations, 2012 (hereinafter referred to as “SECC Regulations, 2012”) (since repealed) have been complied with. Mr. V.R. Narasimhan (Noticee no. 5) then Chief Regulatory Officer of NSE vide emails dated March 14, 2016 and June 30, 2016, *inter alia*, submitted that there was no violation of SECC Regulations, 2012 in the appointment of Noticee no. 6 as 'Group Operating Officer and Advisor to MD' and MD being the competent authority appointed Noticee no. 6.
5. SEBI vide letter dated September 15, 2016 advised Noticee no. 2 to place the complaints before its Board to decide whether there has been any violation of code of conduct or principle of avoidance of conflict of interest while appointing Noticee no. 6 and submit a report to SEBI.
6. Thereafter, SEBI issued repetitive reminders vide emails/letters dated October 24, 2016, November 09, 2016, December 19, 2016 and May 18, 2017, as a result, NSE submitted a report dated November 22, 2017 of its NRC vide its email dated November 29, 2017 and subsequently, vide its letter dated September 14, 2018.
7. **Report of NRC of NSE, *inter alia*, observed that:**
- (i) Mr. Anand Subramanian was offered to join NSE in the role of Chief Strategic Advisor with effect from April 01, 2013 vide NSE letter dated January 18, 2013. At that material point of time he was VP Leasing & Repair Services of Transafe

Services Limited, a subsidiary of Balmer & Lawrie. His last drawn compensation was less than Rs.15 lacs per annum.

- (ii) The only person who interviewed Mr. Anand Subramanian for his appointment was Ms. Chitra Ramkrishna, MD & CEO of NSE. There are no notings in the personnel file of Mr. Anand Subramanian in relation to his interview.
- (iii) The position of Chief Strategic Advisor was neither advertised nor any other person was considered for the position.
- (iv) Previous experience of Mr. Anand Subramanian was found not relevant to the position for which he was appointed by the NSE.
- (v) No satisfactory answers by NSE to NRC on following :-
  - a. Compensation proposed for Mr. Anand Subramanian which was Rs. 1.68 Crore per annum, a significant multiple of his current compensation, i.e. Rs.15 Lakhs per annum, looked disproportionate and also that the compensation was for just part-time working as a Consultant for working four days in a week.
  - b. How Chief Strategic Advisor would be able to discharge his duties working on a part-time basis.
- (vi) Compensation of Mr. Anand Subramanian was increased from Rs. 1.68 Crore per annum to Rs. 2.016 Crore per annum with effect from April 1, 2014. The increase given was at the highest level (Rating as A+) in the organization and there was no record of the evaluation of his performance. NRC was informed that as he directly reported to the CEO, the CEO evaluated him and recommended the enhancement.
- (vii) In March 2015, Mr. Anand Subramanian was again rated as A+ (no evidence for the basis) and was given a 15 percent increase. In addition, Mr. Anand Subramanian was asked to work for five days a week instead of four days a week and given a pro-rated increase. As such, his compensation went up to Rs. 3.3327

Crore per annum. In addition, Mr. Anand Subramanian was re-designated as Group Operating Officer (GOO) and Advisor to MD with effect from April 01, 2015.

- (viii) The re-designation was not tabled to the then NRC despite the fact that as per the provision of the Companies Act, 2013, he would have been a KMP and his re-designation would have needed an approval from the NRC.
  - (ix) Mr. Anand Subramanian was drawing less than Rs. 15 lacs per annum as on March 2013 in a subsidiary of Balmer & Lawrie and was in April 2016 drawing a compensation of Rs. 4.21 Crore per annum for part-time working as a Consultant with a designation of Group Operating Officer and Advisor to the CEO at NSE. There was no evidence on the file of his performance evaluation although he was consistently rated as a top performer.
  - (x) Mr. Anand Subramanian undertook several visits overseas. Applications were filed for his visa where he was mentioned as being a confirmed employee of NSE as opposed to being a Consultant. The Board also noted that he travelled first class which was inconsistent with NSE Rules.
  - (xi) Mr. Anand Subramanian made multiple travels to Chennai virtually over every weekend. This was explained as being on account of the fact that he was based out of Chennai and was required to come to Mumbai for work. The documentation showed that he was actually based out of Mumbai.
8. In view of the complaints regarding governance issues in appointment of Noticee no. 6 at NSE, SEBI conducted an examination in the matter for the period 2013-2017, i.e. starting with when the Noticee no. 6 joined NSE and ending when NSE submitted a report dated November 22, 2017 of NRC to SEBI.
9. The brief facts of the case as found during the examination by SEBI, as recorded in the SCNs, are as given below:
- 9.1 Examination by SEBI found that Noticee no. 6 was offered to join NSE in the role of Chief Strategic Advisor vide NSE's letter dated January 18, 2013. Appointment

of Noticee no. 6 as Chief Strategic Advisor was approved by Noticee no. 1, then JMD vide internal note dated January 18, 2013, based on the delegation of powers made in her favour in the 74<sup>th</sup> Board meeting of NSE held on February 02, 2005. The NSE policy dated July 01, 2009 for appointment of consultants specifies criteria for selection of consultants as 'professional and with relevant experience'. In the internal approval note dated January 18, 2013, Noticee no. 1 (the then JMD) stated that Noticee no. 6 had an experience of around 23 years in the industry with a well-rounded exposure in areas of Strategy/Business Development/New Product Development/BE/Legal/People Management & General Administration.

- 9.2 Examination by SEBI found that previous experience of Noticee no. 6 was not relevant to the position for which he was appointed at Noticee no. 2. Also, only Noticee no. 1 interviewed Noticee no. 6 for his appointment, and no noting were made in the personnel file of Noticee no. 6 in relation to his interview. Examination by SEBI found that duration of the consultancy contract as 5 years and notice period as 6 months for Noticee no. 6 was highest among the consultants engaged by NSE during the period 2013 to 2016. As per the NSE policy dated July 01, 2009, a consultant was not entitled for conveyance and any deviation/waiver from the policy required approval from MD/Deputy MD. However, Noticee no. 6 was entitled for conveyance in terms of its letter of agreement dated January 18, 2013 whereas the internal approval note dated January 18, 2013 for appointment of Noticee no. 6 as Chief Strategic Advisor did not grant any waiver in this regard. Further, position of Chief Strategic Advisor was neither advertised nor any other person considered for the position. Noticee no. 6 was offered the role of Chief Strategic Advisor at an annual compensation of Rs. 1.68 crore for part-time working as a Consultant for four days in a week. Whereas in his earlier organization, Noticee no. 6 was drawing a compensation of Rs.15 lakhs per annum only. It was also found that Noticee no. 3 who was then MD & CEO of Noticee no. 2 was also informed by Noticee no. 1 about the appointment of Noticee no. 6. It was found that Noticee no. 6 also met Noticee no. 3 and Mr. S.B. Mathur, the then Chairman of the board of Noticee no. 2.

9.3 It was also found that 'position for the advisory and support function to the MD's office was identified at the time of hiring of Noticee no. 6, in 2013. Thereafter, a letter of agreement dated January 18, 2013 was executed between NSE and Noticee no. 6. Tenure of Noticee no. 6, as Chief Strategic Advisor started from April 01, 2013. Also Noticee no. 1 started her stint as MD & CEO of Noticee no. 2 from April 01, 2013.

9.4 Examination found that frequent, arbitrary and disproportionate increases in the compensation of Noticee no. 6 were granted by Noticee no. 1. Details of compensation of Noticee no. 6, during his tenure with Noticee no. 2, as given in the SCNs are as under:

<b>Contract Date/Internal note date</b>	<b>Relating to year</b>	<b>Details</b>	<b>Fixed Pay (Rs. Crore)</b>	<b>Variable Pay (Rs. Crore)</b>	<b>Total</b>
18-01-2013	2013-14	Compensation fixed	1.26	0.42	1.68
31-03-2014	2014-15	Compensation revised upward 20% as market correction and to maintain the compensation difference with executives of his grade	1.51	0.50	2.01
06-05-2014	2014-15	Compensation revised upward 15% as per appraisal as A+	1.74	0.58	2.32
30-03-2015	2015-16	Compensation revised upward 15% as per appraisal as A+ and pro rata increase equivalent to 3 months for 4 days/week to 5 days/week	2.50	0.83	3.33
16-04-2015	2015-16	Compensation revised upward 10% as market correction	2.75	0.92	3.67



Contract Date/Internal note date	Relating to year	Details	Fixed Pay (Rs. Crore)	Variable Pay (Rs. Crore)	Total
01-04-2016	2016-17	Compensation revised upward 15% as per appraisal as A+	3.16	1.05	4.21

9.5 Noticee no. 6 was re-designated as 'Group Operating Officer and Advisor to MD' with effect from April 01, 2015 on consultancy vide letter dated April 01, 2015 by Noticee no. 1 at par with Job grade M 13. Group President & Company Secretary (Mr. J. Ravichandran- Noticee no. 4), was the only employee in the job grade M 13 (Senior Director). The Group President & Company Secretary was one of the key management personnel under SECC Regulations, 2012. Board of NSE, in its meeting held on August 11, 2015 delegated substantial power of management akin to the powers granted to Noticee no. 1 in the NSE Board meeting dated February 23, 2005. Noticee no. 1, 3 and 4 were also present in the NSE board meeting held on August 11, 2015, however, they did not raise any concern regarding delegation of substantial power to Noticee no. 6 who was merely a consultant. Thereafter, having been vested with substantial power akin to MD & CEO Noticee no. 6 started attending all the Board meetings of NSE since August 11, 2015 onwards. Board of NSE in its meeting held on June 23, 2016 while giving approval for setting up of a Stock Exchange at GIFT IFSC authorized Noticee no. 6 among others, to do all such things as may be required for the purpose of forming a subsidiary of NSE and for setting up a stock exchange as its IFSC unit in GIFT SEZ. Various functional heads viz. Chief People Officer, Chief Marketing Officer & CSR, Strategic Business Head-C&D, CBO-Curr & Derivatives, CTO-Projects, CTO-Operations, CEOs-subidiaries, Business Head-Int. & FII Interface, etc. of Noticee no. 2 were reporting to Noticee no. 6. As Group Operating Officer and advisor to MD, Noticee no. 6 was reporting directly to MD & CEO i. e. Noticee no. 1. In the annual report of NSE for the years 2014-15 and 2015-16, the name of Noticee no. 6 has been indicated amongst the 'Management Team' as Group Operating Officer just next to Group President (F&L) & Company Secretary - Mr.

J Ravichandran (Noticee no. 4). Re-designation of Noticee no. 6 as GOO and Advisor to MD & CEO was not tabled to the then NRC despite the fact that he would have been a KMP and his re-designation would have needed an approval from the NRC. However, Noticee no. 6 was not designated as key management personnel under SECC Regulations, 2012 by Noticee no. 1 with whose approval categorization of KMPs, including changes caused by resignation, appointment, transfer etc. from time to time, was being processed by the HR Head of Noticee no. 2.

- 9.6 SEBI's examination found that S.N. Anantha Subramanian & Co, (hereinafter referred to as "**SNACO**") who carried out the secretarial audit of NSE had raised the issues with regard to the re-designation of Noticee no. 6 as 'Group Operating Officer and Advisor to MD' without the approval of NRC and without noting thereof by NSE Board through its letter/email dated October 14, 2015 and March 15, 2016.
- 9.7 In response to the said query of SNACO, on May 10, 2016, Mr. Chandrasekhar Mukherjee (then Chief People officer, NSE) replied to the secretarial department of NSE on query of SNACO with copy marked to Noticee no. 4 that Noticee no. 6 is a consultant and not on the rolls of Noticee no. 2 and is not handling any KMP function. All KMPs directly report to the MD & CEO of NSE. Hence, the role does not require approval of NRC/Board as is within the administrative powers of the MD & CEO. The Secretarial department of NSE then forwarded the reply of Mr. Chandrasekhar Mukherjee to SNACO on same day. Noticee no. 2 in its letter dated September 14, 2018, informed to SEBI that the aforesaid view of HR head was also confirmed by the then MD & CEO i.e. Noticee no. 1 to the NRC of NSE during October 2016.
- 9.8 Mr. Chandrasekhar Mukherjee informed that the reply was given based on discussion between secretarial department, Noticee no. 6 and Noticee no. 1. Finally, the communication was dictated by Noticee no. 1 and the aforesaid team at NSE.

- 9.9 Upon receipt of complaint dated December 15, 2015 on Governance issues on appointment of Noticee no. 6 by NSE, when SEBI raised query vide email dated February 19, 2016 to NSE to clarify whether Noticee no. 6 has been appointed as Key Management Personal (KMP) and SECC Regulations, 2012 have been complied with, Noticee no. 5 the then CRO, vide his email dated March 14, 2016 and June 30, 2016 submitted to SEBI that there is no violation of SECC Regulations, 2012 in the appointment of Noticee no. 6 as 'Group Operating Officer and Advisor to MD'.
- 9.10 Noticee no. 2, vide email dated January 29, 2019 submitted the response of Noticee no. 5 clarifying that the email dated March 14, 2016 was drafted by Noticee no. 5 and Mr. Chandrasekhar Mukherjee at the instruction of Noticee no. 1 and email dated June 30, 2016 was prepared based upon inputs from various departments of NSE and shown, *inter alia*, to Noticee no. 1 before filing with SEBI.
- 9.11 Noticee no. 2 vide its email dated June 03, 2019 submitted an email correspondence dated June 27, 2016 between Noticee no. 5 and Mr. Chandrasekhar Mukherjee (HR head) indicating draft response to SEBI. Mr. Chandrasekhar Mukherjee in his statement dated June 10, 2019 before SEBI has submitted that he was not competent to approve to the reply of Noticee no. 5 as the query in this regard was raised by SEBI and he had seen the reply of Noticee no. 5 in the context of verifying factual statement relating to the appointment of Noticee no. 6 only. Mr. Chandrasekhar Mukherjee further submitted that, in case of Noticee no. 6, he has worked and delivered under the directions/instructions of Noticee no. 1. Thus, Noticee no. 1 through her improper intervention on replies to the Secretarial auditor vide email dated May 10, 2016 and to SEBI through email dated March 14, 2016 and June 30, 2016 impaired the independent functioning of the Regulatory department of Exchange and thereby compromised on the Governance of the Stock Exchange as envisaged under the SECC Regulations, 2012.
- 9.12 During the course of investigation into the issue of co-location facilities at NSE, SEBI came across certain documentary evidences, which demonstrated that

Noticee no. 1, erstwhile MD & CEO of NSE had shared certain internal confidential information of NSE viz: Organizational Structure, Dividend scenario, Financial Results, Human Resources Policy and related Issues, Response to Regulator, etc. with an unknown person by addressing her correspondence to an email id rigyajursama@outlook.com (referred as 'unknown person'/rigyajursama@outlook.com) during the period 2014 to 2016.

- 9.13 SEBI vide its letter May 03, 2018 and August 10, 2018 sought clarification from Noticee no. 2. Noticee no. 2 vide its letter dated June 01, 2018, July 06, 2018, September 14, 2018 and email dated October 10, 2018 submitted its detailed response along with a report of forensic investigation conducted by Ernst & Young ('E&Y') into the matter and also the statements of Noticee no. 1 and Noticee no. 6.
- 9.14 On the issue of identity of the person with whom correspondence was exchanged by Noticee no. 1, Noticee no. 2 in its letter dated July 06, 2018 has drawn reference to the forensic investigation report of E&Y wherein E&Y upon examination of the matter has concluded that the said person was Noticee no. 6. NSE has also concurred with the same.
- 9.15 SEBI's examination found that the said unknown person i.e. Noticee no. 6 had significantly influenced the decision making of Noticee no. 1 as reflected from the emails exchanged between Noticee no. 1 and the unknown person, as perused by SEBI.
- 9.16 As mentioned above, SEBI vide letter dated September 15, 2016 advised Noticee no. 2 to place the complaints before its board to decide whether there has been any violation of code of conduct or principle of avoidance of conflict interest while appointing Noticee no. 6 and submit a report to SEBI. SEBI examination found that the said SEBI letter dated September 15, 2016 was discussed in the meeting of NRC of Noticee no. 2 held on October 04, 2016 along with a note on KMP practice adopted by Noticee no. 2. In the said meeting, NRC advised Noticee no. 2 that a legal opinion be taken in the matter. Noticee no. 3 as Vice Chairman and member of NRC was present in the meeting of the NRC held on October 04, 2016.

- 9.17 SEBI examination found that above findings of NRC was discussed in the NRC and NSE Board meeting held on October 21, 2016, initially without Noticee no. 1 being present at the discussion, and thereafter, discussed with Noticee no. 1 and it was agreed that in the light of the facts Noticee no. 6 should step down from Noticee no. 2, immediately. However, in view of the confidential and sensitive nature of information, the same was not reflected in the minutes of the respective meetings. Noticee no. 3 was also present in the meeting of NSE Board held on October 21, 2016, as Vice Chairman and member of NRC.
- 9.18 Noticee no. 6 resigned from Noticee no. 2 with effect from October 21, 2016. However, no report were submitted to SEBI as advised by SEBI letter dated September 15, 2016. Subsequently, when SEBI issued repetitive reminders vide email/letter dated October 24, 2016, November 09, 2016, December 19, 2016 and May 18, 2017, the Noticee no. 2 in its Board meeting dated June 07, 2017 made efforts to prepare a report on appointment of Noticee no. 6 which was ultimately submitted to SEBI vide Noticee no. 2's email dated November 29, 2017.
- 9.19 Thus, SEBI examination found that Noticee no. 2 and its board were aware of such grave irregularities and misconduct on the part of Noticee no. 1 on appointment of Noticee no. 6, in the NRC and board meeting of Noticee no. 2 held on October 21, 2016 but did not record the aforesaid matter in the minutes of meeting on October 21, 2016 in the name of confidentiality and sensitive information and submitted the report on above irregularities to SEBI only after repeated reminders.
- 9.20 As mentioned above, when SEBI came to know that Noticee no. 1 was exchanging confidential information of NSE with an unknown person, SEBI vide letter dated May 03, 2018 and August 10, 2018 sought clarification from Noticee no. 2. The Noticee no. 2 vide its letter dated June 01, 2018, July 06, 2018, September 14, 2018 and email dated October 10, 2018 submitted their detailed response on above along with a report of forensic investigation conducted by Ernst & Young (hereinafter referred to as "**E&Y**") wherein it was concluded that the said unknown person was Noticee no. 6. The said unknown person being Noticee no. 6 came to

the knowledge of Noticee no. 2 upon forensic investigation conducted by it when SEBI sought clarification in this regard vide its letter dated May 03, 2018.

- 9.21 Noticee no. 2 vide email dated December 06, 2018 has submitted that the emails referred above between Noticee no. 2 and the unknown person at that time was brought to the notice of the Chairman of the Board and the Chairman of the NRC and the same were shared with the NSE Board by the Chairman in a closed door meeting held on November 29, 2016 and in view of the confidential and sensitive nature of information, the same was not reflected in the minutes. SEBI examination found that Noticee no. 2 was aware of such email exchange by Noticee no. 6 with an unknown person at that time in and around November 2016 which was brought to the notice of Chairman of the NSE Board and the Chairman of the NRC in November 2016 and was shared by the Chairman of NSE with the NSE Board. SEBI examination found that Noticee no. 3 was also present in the said meeting held on November 29, 2016, as Vice Chairman and member of NRC.
- 9.22 Thus, Noticee no. 2 and its Board were aware of the exchange of confidential information by Noticee no. 1 with an unknown person having email id rigyajursama@outlook.com in its meeting held on November 29, 2016. However, Noticee no. 2 and its Board had taken a conscious decision to not report the matter to SEBI and keep the matter under wraps.
- 9.23 Noticee no. 1 resigned with effect from December 02, 2016. SEBI examination found that in spite of having knowledge of such grave irregularities and misconduct on the part of Noticee no. 1 on appointment of Noticee no. 6 in the NRC and NSE Board meeting held on October 21, 2016 and knowledge of exchange of confidential information by Noticee no. 1 with unknown person in the NSE Board meeting held on November 29, 2016, Noticee no. 2 and its NRC and Board members, in the Board meeting held on December 02, 2016, allowed Noticee no. 1 to exit through resignation despite having committed such bizarre misconduct as reflected from her email correspondence with a fictitious email address apparently belonging to Noticee no. 6 without taking any action in this regard. Moreover,

Noticee no. 2 and its board also appreciated Noticee no. 1 on record while accepting her resignation with immediate effect.

9.24 SEBI examination found that in terms of Clause 12 of SEBI Circular dated December 13, 2012 public interest directors in the Board of Noticee no. 2 are required to identify important issues that may have significant impact on the functioning of Stock exchange and that may not be in the interest of market and report to SEBI, however, SEBI was not informed about the aforesaid decisions taken by the board of Noticee no. 2 in its meetings held on October 21, 2016 and November 29, 2016 reflecting the serious governance issues in NSE.

9.25 SEBI examination also found that in terms of Regulation 27(4) of SECC Regulations, 2012, the terms and conditions of the compensation of the managing director shall not be changed without prior approval of SEBI. Noticee no. 3, in spite of having knowledge of such grave irregularities and misconduct on the part of Noticee no. 1, in the earlier meeting of Board/NRC held on October 21, 2016 and November 29, 2016, allowed excess leave encashment Rs 1.54 crore to Noticee no. 1 in the NRC/Board meeting held on December 19, 2016 over the existing policy of Noticee no. 2 citing her sterling contribution to the growth of organization without approval of SEBI in violation of Regulation 27(4) of SECC Regulations, 2012.

9.26 SEBI examination found that on October 12, 2016, SNACO in its letter addressed to Company Secretary, NSE (i.e. Noticee no. 4) submitted its views that engagement of Noticee no. 6 is an employment in substance and as already communicated, this should have been placed before NRC as required under Section 178 of the Companies Act, 2013, considering the followings:

- a) Noticee no. 6 was delegated substantial powers of management akin to the powers conferred on the MD;
- b) the nature of consultancy was not on any specific assignment but on a continuing basis; was on a long term basis, i.e. for more than a year with no terminable event; and

c) Noticee no. 6 was shown as part of the management team in the annual report for the year 2014-15 and 2015-16.

9.27 However, the concerns raised by SNACO in its communications made to Noticee no. 4 were not pursued further under the pretext that Noticee no. 6 had foreclosed his consultancy contract with effect from October 10, 2016.

9.28 SEBI examination found that Noticee no. 4, then Group President & Company Secretary and also KMP, who had the responsibility to observe the compliance with Companies Act and assist and advise the Board in ensuring good corporate governance and best practices in Noticee no. 2, had ignored the repetitive concern raised by the SNACO on Noticee no. 6 being granted substantial power of management without the approval of NRC and without noting thereof by NSE Board. Noticee no. 4 just forwarded the replies of HR head of Noticee no. 2 to the secretarial auditor without applying his mind, which was later on rejected by the secretarial auditor. Thus, Noticee no. 4 has failed to address the issue properly in compliance with law and his defined role and responsibility by Noticee no. 2 and acted in a manner resulting in suppression of the irregularities on appointment of Noticee no. 6.

9.29 SEBI examination found that Noticee no. 5 as Chief Regulatory Officer (hereinafter referred to as “**CRO**”) and compliance officer of Noticee no. 2 was responsible for supervision of the regulatory functions of Noticee no. 2, monitoring of compliance of SEBI Act, rules and regulations, report to SEBI on non-compliance observed by him, etc. In board meetings of Noticee no. 2 held on February 08, 2016, April 25, 2016 and September 14, 2016, Noticee no. 5 was also present wherein Noticee no. 6 had attended the board meetings as GOO. Noticee no. 5 as a CRO and compliance officer of Noticee no. 2, while replying to SEBI, should have applied his own judgment and knowledge which was not done. As a matter of duty, Noticee no. 5 as compliance officer under the SECC Regulations, 2012 was required to report to SEBI independently about non-compliance of SECC Regulations, 2012 with respect of the re-designation of Noticee no. 6 as ‘Group Operating Officer and Advisor to MD’ which was also not done. In view of the above, it was observed that



Noticee no. 5 has failed to address the issue properly in line with his defined role and responsibility and made misleading and incorrect statement to SEBI on compliance with the SECC Regulations, 2012 resulting in suppression of the irregularities on appointment of Noticee no. 6.

10. In view of the aforesaid finding of the SEBI examination, SCNs, as referred to in para 1 above came to be issued to the respective noticees, calling upon them to show cause, as to why, -

(i) Appropriate directions under Sections 11 (1), 11 (4) and 11B of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act, 1992**") and Section 12A of the Securities Contracts (Regulations) Act, 1956 (hereinafter referred to as "**SCRA, 1956**") read with Regulation 49 (c) of SECC Regulations, 2012; and

(ii) Appropriate penalty under relevant provisions of SEBI Act, 1992 and SCRA, 1956;

be not issued/imposed against them.

11. Noticees have filed their detailed replies. Noticee no. 1 has filed replies dated December 10, 2020, April 12, 2021, June 04, 2021 and written submissions dated July 09, 2021. Reply dated December 18, 2020 has been filed by Noticee no. 2. Replies dated December 24, 2019, December 25, 2020 and May 10, 2021 has been filed by Noticee no. 3. Reply dated November 06, 2020 has been filed by Noticee no. 4. Reply dated November 23, 2020 and written submissions dated May 10, 2021 have been filed by Noticee no. 5 and Replies dated November 04, 2019 and April 25, 2021 has been filed by Noticee no. 6. Following the principles of natural justice, an opportunity of personal hearing was granted to all the Noticees on April 26, 2021. Advocates appeared on behalf of Noticee no. 2, Noticee no. 3 and Noticee no. 5 via video conferencing and made submissions. Advocate for Noticee no. 3 and Noticee no. 5 sought 2 weeks time to file written submissions and the same was granted to them. Noticee no. 1, Noticee no. 4 and Noticee no. 6 sought for adjournment vide their respective letters. Accordingly, another opportunity of personal hearing was

granted to the Noticee no. 1, Noticee no. 4 and Noticee no. 6 on May 17, 2021. On May 17, 2021, advocates appeared on behalf of Noticee no. 4 via videoconferencing and made submissions. Noticee no. 1 vide email dated May 13, 2021 sought for adjournment and accordingly, a final opportunity of hearing was granted to Noticee no. 1 on June 08, 2021. Noticee no. 6 did not appear for the hearing on May 17, 2021 or seek adjournment and since this was the second opportunity of hearing, the hearing for Noticee no. 6 was concluded. The Noticee no. 1 then vide email dated June 02, 2021 sought for adjournment of the matter to June 09, 2021 and accordingly, the request of the Noticee no. 1 was acceded to. On June 09, 2021, advocates for Noticee no. 1 appeared via videoconferencing and made submissions and sought 2 weeks time to file their written submissions. Thereafter, the Noticee no. 1 vide email dated June 29, 2021 sought further weeks' time to file their written submissions. The Noticee no. 1 then filed her written submissions vide email dated July 12, 2021. Further to the request made by the advocates of Noticee no. 1, vide SEBI email dated September 22, 2021, the Noticee no. 1 was granted cross examination of Mr. Chandrasekhar Mukherjee and Mr. Dinesh Kanabar to be scheduled on October 08, 2021. On October 08, 2021, cross examination of Mr. Chandrasekhar Mukherjee and Mr. Dinesh Kanabar was conducted by the advocates of Noticee no. 1 at Head Office of SEBI. Another opportunity of cross examination of Mr. Chandrasekhar Mukherjee was granted to Noticee no. 1 on December 16, 2021 through video conferencing and the transcript for the cross examination of Mr. Chandrasekhar Mukherjee on December 16, 2021 was forwarded to Noticee no. 1 on December 23, 2021 for her comments, if any. However, I note that no comments have been filed by Noticee no. 1.

12. Before dealing with the issue, it would be appropriate to refer to the relevant provisions of law which are alleged to have been violated by the Noticees and relevant extract thereof is reproduced hereunder:

**Relevant provisions of the extract of the SEBI Act, 1992**

***Functions of Board.***

**11.** (1) Subject to the provisions of this Act, it shall be the duty of the Board to protect the interests of investors in securities and to promote the development of, and to regulate the securities market, by such measures as it thinks fit.

**Power to issue directions and levy penalty.**

**11B.** (1) Save as otherwise provided in section 11, if after making or causing to be made an enquiry, the Board is satisfied that it is necessary,—

(i) in the interest of investors, or orderly development of securities market; or

(ii) to prevent the affairs of any intermediary or other persons referred to in section 12 being conducted in a manner detrimental to the interest of investors or securities market; or

(iii) to secure the proper management of any such intermediary or person, it may issue such directions,—

(a) to any person or class of persons referred to in section 12, or associated with the securities market; or

(b) to any company in respect of matters specified in section 11A, as may be appropriate in the interests of investors in securities and the securities market.

*Explanation.*—For the removal of doubts, it is hereby declared that the power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.

(2) Without prejudice to the provisions contained in sub-section (1), sub-section (4A) of section 11 and section 15-I, the Board may, by an order, for reasons to be recorded in writing, levy penalty under sections 15A, 15B, 15C, 15D, 15E, 15EA, 15EB, 15F, 15G, 15H, 15HA and 15HB after holding an inquiry in the prescribed manner.

**Power to adjudicate.**

**15-I.** (1) For the purpose of adjudging under sections 15A, 15B, 15C, 15D, 15E, 105[15EA, 15EB, 15F, 15G, 15H, 15HA and 15HB, the Board may appoint any officer not below the rank of a Division Chief to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the sections specified in subsection (1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.

(3) The Board may call for and examine the record of any proceedings under this section and if it considers that the order passed by the adjudicating officer is erroneous to the extent it is not in the interests of the securities market, it may, after making or causing to be made such inquiry as it deems necessary, pass an order enhancing the quantum of penalty, if the circumstances of the case so justify:

Provided that no such order shall be passed unless the person concerned has been given an opportunity of being heard in the matter:

Provided further that nothing contained in this sub-section shall be applicable after an expiry of a period of three months from the date of the order passed by the adjudicating officer or disposal of the appeal under section 15T, whichever is earlier.

**Relevant provisions of the extract of the SECC Regulations, 2012.**

**Regulation 2**

(i) "key management personnel" means a person serving as head of any department or in such senior executive position that stands higher in hierarchy to the head(s) of department(s) in the recognised stock exchange or the recognised clearing corporation or in any other position as declared so by such stock exchange or clearing corporation;

**Code of Conduct for directors and key management personnel.**

**26.** (1) Every director of a recognised stock exchange and a recognised clearing corporation shall abide by the Code of Conduct specified under Part– A of Schedule– II of these regulations.

(2) Every director and key management personnel of a recognised stock exchange and a recognised clearing corporation shall abide by the Code of Ethics specified under Part– B of Schedule– II of these regulations.

(3) Every director and key management personnel of a recognised stock exchange and a recognised clearing corporation shall be a fit and proper person as described in regulation 20.

(4) The Board may, for any failure by the directors to abide by these regulations or the Code of Conduct or Code of Ethics or in case of any conflict of interest, either upon a reference from the recognised stock exchange or the recognised clearing corporation or suo motu, take appropriate action including removal or termination of the appointment of any director, after providing him a reasonable opportunity of being heard.

**Regulation 27**

(4) The compensation payable to the managing director shall be as approved by the Board and the terms and conditions of the compensation of the managing director shall not be changed without prior approval of the Board.

(5) The compensation given to the key management personnel shall be disclosed in the Report of the recognised stock exchange or recognised clearing corporation under section 217 of the Companies Act, 1956.

### **Regulation 32**

(2) The compliance officer shall, immediately and independently, report to the Board any non-compliance of any provision stated in sub-regulation (1) observed by him.

### **Directions by the Board.**

**49.** Without prejudice to exercise of its powers under the provisions of the Act or the Securities and Exchange Board of India Act, 1992 and rules and regulations made thereunder, the Board may, either suo motu or on receipt of any information or during pendency of any inspection, inquiry or investigation or on completion thereof, in the interest of public or trade or investors or the securities market, issue such directions as it deems fit, including but not limited to any or all of the following:—

(a) directing a person holding equity shares or rights over equity shares in a recognised stock exchange or recognised clearing corporation in contravention of these regulations to divest his holding, in such manner as may be specified in the direction;

(b) directing transfer of any proceeds or securities to the Investor Protection Fund of a recognised stock exchange or Settlement Guarantee Fund of a recognised clearing corporation;

(c) debarring any recognised stock exchange or recognised clearing corporation, any shareholder of such recognised stock exchange or recognised clearing corporation, or any associate and agent of such shareholder, or any transferee of shares from such shareholder, directors and key management personnel of recognised stock exchange and recognised clearing corporation from accessing the securities market or dealing in securities for such period as may be determined by the Board.

## **SCHEDULE-II PART-A**

### **iv. Regulatory Compliances.**

Every director of the recognised stock exchange and recognised clearing corporation shall –

a) endeavour to ensure that the recognised stock exchange or recognised clearing corporation abides by all the provisions of the Securities and Exchange Board of India Act, 1992, Securities Contracts (Regulation) Act, 1956, rules and regulations framed thereunder and the circulars, directions issued by the Board from time to time;

b) endeavour compliance at all levels so that the regulatory system does not suffer any breaches;

### **v. General responsibility.**

Every director of the recognised stock exchange and recognised clearing corporation shall –

b) endeavour to analyse and administer the recognised stock exchange or recognised clearing corporation issues with professional competence, fairness, impartiality, efficiency and effectiveness;

d) unless otherwise required by law, maintain confidentiality and shall not divulge/disclose any information obtained in the discharge of their duty and no such information shall be used for personal gains;

e) maintain the highest standards of personal integrity, truthfulness, honesty and fortitude in discharge of their duties in order to inspire public confidence and shall not engage in acts discreditable to their responsibilities;

f) perform their duties in an independent and objective manner and avoid activities that may impair, or may appear to impair, their independence or objectivity or official duties;

g) perform their duties with a positive attitude and constructively support open communication, creativity, dedication, and compassion;

h) not engage in any act involving moral turpitude, dishonesty, fraud, deceit, or misrepresentation or any other act prejudicial to the administration of the recognised stock exchange or recognised clearing corporation.

## **SCHEDULE-II PART-B**

### **Code of Ethics for directors and key management personnel of stock exchanges or clearing corporations**

#### **i. Objectives and underlying principles.**

The Code of Ethics for directors and key management personnel of the recognised stock exchange or recognised clearing corporation seeks to establish a minimum level of business/ professional ethics to be followed by these directors and key management personnel, towards establishing a fair and transparent marketplace. The Code of Ethics is based on the following fundamental principles:

- Fairness and transparency in dealing with matters relating to the stock exchange or clearing corporation and the investors.
- Compliance with all laws/ rules/ regulations laid down by regulatory agencies/ recognised stock exchange/ recognised clearing corporation.
- Exercising due diligence in the performance of duties.
- Avoidance of conflict of interest between self interest of directors/ key management personnel and interests of recognised stock exchange or recognised clearing corporation and investors.

#### **iii. General standards**

c) The conduct of directors and key management personnel in business life should be exemplary which will set a standard for other members of the recognised stock exchange or recognised clearing corporation.

d) Directors and key management personnel shall not use their position to give/get favours to/from the executive or administrative staff of the stock exchange or clearing corporation, technology or service providers and vendors of the recognised recognised stock exchange or clearing corporation, or any listed company at the recognised stock exchange.

e) Directors and key management personnel shall not commit any act which will put the reputation of the recognised stock exchange or recognised clearing corporation, in jeopardy.

f) Directors, committee members and key management personnel of the recognised stock exchange or recognised clearing corporation, should comply with all rules and regulations applicable to the securities market.

**ix. Access to information.**

d) Any information relating to the business/operations of the recognised stock exchange or recognised clearing corporation, which may come to the knowledge of directors/ key management personnel during performance of their duties shall be held in strict confidence, shall not be divulged to any third party and shall not be used in any manner except for the performance of their duties.

**Relevant provisions of the extract of the SECC Regulations, 2018.**

**Repeal and savings**

**52** (2) Notwithstanding such repeal, anything done or any action taken or purported to have been taken or contemplated under the repealed regulations and circulars before the commencement of these regulations shall be deemed to have been done or taken or commenced or contemplated under the corresponding provisions of these regulations

**Relevant provisions of the extract of the SCRA 1956.**

**Section 6(4)**

(4) Where an inquiry in relation to the affairs of a recognised stock exchange or the affairs of any of its members in relation to the stock exchange has been undertaken under sub-section (3),—

(a) every director, manager, secretary or other officer of such stock exchange;

(b) every member of such stock exchange;

(c) if the member of the stock exchange is a firm, every partner, manager, secretary or other officer of the firm; and

(d) every other person or body of persons who has had dealings in the course of business with any of the persons mentioned in clauses (a), (b) and (c), whether directly or indirectly;

shall be bound to produce before the authority making the inquiry all such books of account, and other documents in his custody or power relating to or having a bearing on the subject-matter of such inquiry and also to furnish the authorities within such time as may be specified with any such statement or information relating thereto as may be required of him.

**Power to issue directions.**

**12A.** (1) If, after making or causing to be made an inquiry, the Securities and Exchange Board of India is satisfied that it is necessary—

- (a) in the interest of investors, or orderly development of securities market; or
- (b) to prevent the affairs of any recognised stock exchange or clearing corporation, or such other agency or person, providing trading or clearing or settlement facility in respect of securities, being conducted in a manner detrimental to the interests of investors or securities market; or
- (c) to secure the proper management of any such stock exchange or clearing corporation or agency or person, referred to in clause (b), it may issue such directions,—
  - (i) to any stock exchange or clearing corporation or agency or person referred to in clause (b) or any person or class of persons associated with the securities market; or
  - (ii) to any company whose securities are listed or proposed to be listed in a recognised stock exchange, as may be appropriate in the interests of investors in securities and the securities market.

**SEBI Circular CIR/MRD/DSA/33/2012 dated December 13, 2012**

8.1 Regulation 27 of the SECC Regulations mandates that the compensation policy for key management personnel of stock exchange/ clearing corporation shall be in accordance with the norms specified by SEBI. The compensation norms, in this regard, shall be as follows:-

- a) The variable pay component will not exceed one-third of total pay.
- b) 50% of the variable pay will be paid on a deferred basis after three years.
- c) ESOPs and other equity linked instruments in the stock exchange/ clearing corporation will not form part of the compensation for the key management personnel.
- d) The compensation policy will have malus and clawback arrangements.

12. **Report to SEBI:-** The public interest directors shall identify important issues which may involve conflict of interest for the stock exchange/ clearing corporation, may have significant impact on the functioning of SE/CC, may not be in the interest of market. The same shall be reported to SEBI.

13. For structured presentation of the case of various Noticees, this order has been divided into parts. The first part of the order deals with certain preliminary issues raised by the Noticees and in subsequent parts the allegations made in SCNs against each of the Noticees, submissions made by Noticees *qua* the allegations made against them and my findings thereon are dealt with, wherein each part deals with one particular Noticee.

**PART – I - PRELIMINARY ISSUES**



14. Before dealings with the merits of the various allegations and violations levelled against the Noticees, I note that Noticees have raised certain preliminary issues which in my view, needs to be dealt first, before delving on other issues.
  
15. After perusing the replies of Noticees, I observe that most of the Noticees, particularly Noticees no. 1, 2 and 3, are trying to trivialise the serious allegations made in the SCN in respect of a Market Infrastructure Institution (MII) and its key functionaries, by contending that acts alleged against Noticee no. 1, at the most, amounts to violation of employee regulations of Noticee no. 2 under which maximum punishment is termination from service which has already happened in the matter as Noticee no. 1 has resigned from the service of Noticee no. 2 on December 02, 2016. In this regard, I note that Noticee no. 2 is a Market Infrastructure Institution. It is a recognised stock exchange ("**RSE**") in terms of SCRA, 1956. In terms of provisions of SCRA 1956, SECC Regulations and various other circulars issued by SEBI from time to time, Noticee no. 2 is the first level regulator as RSE. I also note that 51% shareholding of Noticee no. 2 is held by public shareholders in accordance with provisions of SECC Regulations, 2012 (*since repealed*) and SECC Regulations, 2018. As per its last annual report, NSE is one of the largest exchanges in the world and the No. 1 exchange in India. It is *inter alia* the largest derivative exchange in the world in terms of contracts traded, second largest derivatives exchange in the world in terms of currency futures traded, the fourth largest exchange in the world in the capital market cash segment etc. and has a combined market capitalisation of Rs. 2,02,95,813 crores. In this regard, it is relevant to refer to some judgments that have stressed on the importance of the role of stock exchanges. I note that the Hon'ble Bombay High Court in the matter of *MCX Stock Exchange Limited vs. SEBI* vide its order dated March 14, 2012, held that:

*51. Stock exchanges provide what is described as "the first layer of oversight". In many areas, stock exchanges are self regulators. As self regulatory organizations, stock exchanges have a front-line responsibility for regulation of their markets and for controlling compliance by members of rules to which they are subject. They ensure in that capacity, compliance of the requirements established the statutory regulator. Apart from the regulation of members, market surveillance carried on by stock exchanges in certain jurisdictions*

*regulates issuers. They do so by ensuring that the stocks of issuers are reliably traded and that issuers meet standards of corporate governance. In exercising these powers, stock exchanges may face issues involving a conflict of interest. Such conflicts of interest have to be handled and addressed effectively within the regulatory framework.*

*52. Stock exchanges as institutional mechanisms have an important role to play in ensuring the stability of the financial and economic system. ....”*

Further, the Hon’ble High Court of Allahabad vide its Order dated May 23, 2014 in the matter of *U.P Stock Exchange Brokers Association & Ors. Vs. SEBI & Anr* held that:

*“The global financial crisis in 2008 impacted the international economic order besides manifesting itself in serious financial instability in economies across the world. India, as contemporary experience indicates, was not immune from its aftermath. A volatile securities market is a source of grave peril to investor confidence. SEBI constituted a Committee chaired by Dr. Bimal Jalan, former Governor of Reserve Bank of India, to examine issues arising from the ownership and governance of Market Infrastructure Institutions (MIs). The report of the Jalan Committee in 2010 adverted to the position of these institutions as constituting “the nucleus of (the) capital allocation system”, indispensable for economic growth and constituting a part of the vital economic infrastructure. The Jalan Committee noted that unlike typical financial institutions, the number of stock exchanges, depositories and clearing corporations in an economy is limited due to the nature of their business. Any failure of those institutions could lead to bigger cataclysmic collapses that may result in an overall economic downfall that could potentially extend beyond the boundaries of the securities market and the country.”*

16. Having regard to its important role as a first level regulator, recognised as stock exchange under provisions of SCRA, 1956, as well as systemically important MI, it is not correct to compare the institution with any other company incorporated under the Companies Act, 2013. Equally it is also not in the fitness of things that any misdemeanour by its key officials is treated as any other violation by the employee of an ordinary company, especially in view of the fact that it is a RSE and further SECC Regulations, 2012 and SECC Regulations 2018 lays down the code of ethics

and conduct to be followed by KMP of a stock exchange. Any conduct which does not conform to the code of ethics and conduct specified in the SECC Regulations, 2012 by the KMP of Stock exchanges may attract appropriate action by SEBI as deemed fit in accordance with the provisions of law. Therefore, I find the contention of the Noticees that acts alleged against Noticee no. 1 at the most amounts to violation of employee regulations of Noticee no. 2 under which maximum punishment is termination from service which has already happened in the matter and therefore no action from SEBI is required, is not tenable.

17. The Noticee no. 1 has also raised a preliminary contention that the present proceedings for breach of Code of Ethics and Code of Conduct under SECC Regulations, 2012 cannot be initiated against an ex-employee of a Stock Exchange. The submissions of the Noticee no. 1 in this regard, vide her replies dated April 12, 2021, July 09, 2021 and are *inter alia* as under:

- a) *Since the Noticee resigned on 2 December 2016 there was no question of any action being taken against an ex-employee under any Service Regulations as there are none and the NSEIL Staff Rules do not apply to the Noticee.*
- b) *The jurisdiction to probe into alleged violations of the Code of Conduct and the Code of Ethics can only exist during the tenure of the employee and comes to an end once the employee has resigned. This equally applies to SEBI and to the SCNs issued by SEBI under the aforementioned provisions of the SEBI Act, SCRA and SECC Regulations.*
- c) *The jurisdiction of the SEBI is limited only to those persons who are, as on the date of the issuance of the SCNs, associated with the registered stock exchange which are regulated by SEBI under the aforesaid provisions. Upon the resignation of the Applicant from the NSEIL, she is not covered by the scope and ambit of the said Regulations.*

18. From the aforesaid contentions, I note that the Noticee no. 1 is submitting that the jurisdiction of SEBI is limited only to those persons who are, as on the date of the issuance of the SCNs, associated with the stock exchange and that action can only be taken during the tenure of the employee or KMP and not once the employee or KMP has resigned. Therefore, what the Noticee no. 1 is contending is that if an employee or KMP has violated any provisions of the SEBI laws and resigns prior to any inquiry or investigation or issuance of SCN, then SEBI has no jurisdiction over such person. In effect, what the Noticee is submitting is that if any person commits any violation of the SEBI laws and manages to resign quickly before the stock exchange or SEBI finds out or initiates its investigation, then such person can go scot free. I find such a contention to be erroneous. In this regard, the following is noted:

- a) If a person has violated the securities laws during his tenure as employee of the stock exchange, he will continue to be liable for his actions irrespective of whether such person has resigned as an employee of the stock exchange. Resignation is not an immunity from being proceeded against under the securities laws.
- b) The proceedings have been initiated against the Noticee no. 1 for violations of the securities laws alleged to have been committed by the Noticee no. 1 during her tenure as MD & CEO of NSE and not after she resigned.
- c) The appointment of Noticee no. 1 as MD&CEO of NSE was with approval of SEBI on March 20, 2013 in terms of Regulation 25(1) of the SECC Regulations, 2012 which states that the appointment, renewal of appointment and termination of service of the managing director of a recognized stock exchange shall be subject to prior approval of SEBI.
- d) Upon receipt of the complaints, SEBI vide emails dated February 19, 2016, May 24, 2016, May 27, 2016, June 20, 2016 and June 30, 2016 advised NSE (Noticee no. 2) to clarify, *inter alia*, if Noticee no. 6 had been appointed as KMP and SECC Regulations, 2012 have been complied with. Further, SEBI vide letter dated September 15, 2016 advised Noticee no. 2 to place the

complaints before its Board to decide whether there has been any violation of code of conduct or principle of avoidance of conflict of interest while appointing Noticee no. 6 and submit a report to SEBI. Therefore, SEBI had already begun inquiring into the alleged violations of Noticee no. 1 while the Noticee no. 1 was still in office of the MD & CEO of NSE.

- e) Proceedings have also been initiated against NSE for failing to submit its report on the complaints against the Noticee no. 1 even after repeated reminders from SEBI vide emails/letters dated October 24, 2016, November 09, 2016, December 19, 2016 and May 18, 2017 and submitting the same only November 2017 after accepting the resignation of Noticee no. 1 in December 2016.
- f) Proceedings have also been initiated against NSE for concealing the discussions pertaining to the complaints against Noticee no. 1 in the minutes of the Board meetings and also accepting the resignation of Noticee no. 1 without taking any course of action even though the NRC gave findings against Noticee no. 1.

19. Therefore, in view of the above, I find the contention of the Noticee no. 1 that the jurisdiction of SEBI is limited only to those persons who are, as on the date of the issuance of the SCNs, associated with the stock exchange as erroneous and untenable. Further, I note that the Noticees have relied upon the reports of the Enquiry Officer appointed by NSE to inquire into the matter. However, I find that the reports of the Enquiry Officer has no bearing on the proceedings initiated by SEBI. Further, with regard to the various judgements of the Supreme Court cited by the Enquiry Officer and relied upon by the Noticee no. 1, i.e. *B.J. Shelat vs. State of Gujarat and Ors (1978) 2 SCC 202*, *Bhagirathi Jena v Board of Directors, OSFC and Ors (1999 3 SCC 666)*, *Dev Prakash Tewari v Uttar Pradesh Cooperative Institutional Service Board Lucknow and Ors (2014 7 SCC 260)* and *State Bank of India v A. N. Gupta and Ors (1997 8 SCC 60)* and *Manojbhai N. Shah vs. Union of India and Ors (2015) 4 SCC 482*, I note that none of the said judgments pertain to violations of the SEBI Act, 1992 or SCRA, 1956 and Regulations made thereunder

and none of them holds that an employee cannot be proceeded independently for other violations found to have been committed by such employee and is therefore, irrelevant. Further, the aforesaid judgements pertain to either disciplinary proceedings or claims/schemes of employees, whereas, the proceedings initiated by SEBI are not in the capacity of disciplinary proceedings against an employee but proceedings initiated by SEBI for violation of the provisions of the SEBI Act and SCRA and SECC Regulations, 2012 therein, in order to protect the interests of investors in securities and to regulate the securities market.

20. Further, I note that Noticee no. 1 was not merely an employee or just any other employee with Noticee no. 2. I note that Noticee no. 1 was the MD & CEO of Noticee no. 2, the leading stock exchange in India and was part of the Board of Noticee no. 2 and a KMP. I note that in the 74<sup>th</sup> Board Meeting of NSE held on February 23, 2005, the Board had delegated various important powers to Noticee no. 1, which *inter alia* included the power to sign any receipt for amount or moneys or for securities or valuables; power to acquire, pledge, exchange, dispose off, transfer, deal with etc. any property, actionable claims, rights etc.; the power to sign, execute and deliver any legal documents; the power to manage the affairs of the company and to perform and exercise all the powers, rights and discretion assigned to or vested in her by articles of association; the power to make appointments for the management of the business affairs of the company including the appointment of advisers; and generally to make all such arrangements and to do all such acts, deeds, matters and things on behalf of the company including sub-delegation as may be usually necessary or expedient in the conduct and management of the business. Further, I note that for executing such powers, responsibility and position, Noticee no. 1 as the MD & CEO of NSE was receiving high remuneration that increased each year, the details are as under:

FROM	TO	Annual Remuneration
01-April-2013	31-March-2014	Rs. 6,59,38,008
01-April-2014	31-March-2015	Rs. 7,52,98,008
01-April-2015	31-March-2016	Rs. 8,65,90,018
		Rs. 9,52,47,218

01-April -2016	02- December-2016	Rs. 10,50,78,219
02-December-2016		Rs. 10,50,78,219

Hence, I note that the Noticee no. 1 was holding an important and significant position in the leading stock exchange of the country, vested with many important powers and functions such as day to day operation of the stock exchange, supervision of its members, monitoring of listed companies etc. and was receiving high remuneration over the years and therefore, cannot equate herself as that of a regular employee of Noticee no. 2. As widely quoted, 'with great power comes great responsibility'.

21. The Noticees have also contended that there are no grounds for issuing directions under the relevant provisions of the SECC Regulations, 2012 SEBI Act, 1992 or SCRA, 1956. The Noticees have submitted that since there is no allegation in the SCN that the Noticee has done anything that is detrimental to the interest of public or trade or investors or securities market, Section 49(c) of the SECC Regulations, 2012 is not attracted. Further, that the Noticees do not fall within the class of persons referred to in Section 12A of the SCRA, 1956 and nor can any directions be issued which can be said to be in the interest of investors in Securities and the Securities market. In this regard, I note that determination as to whether the actions of the Noticees are detrimental to the interest of the public or trade or investors of the securities market, is subjective and will be deliberated in the subsequent paras to see if the Noticees have violated any of the provisions of the SECC Regulations, 2012 or the SEBI Act, 1992 or SCRA, 1956 which have been *inter alia* enacted for the purpose of safeguarding the interest of the investor and in the interest of the Securities market. Further, with regard to the contention of the Noticees that they do not fall within the class of persons referred to in Section 12A of the SCRA, 1956 as they have resigned and are no longer associated with the securities market, I find that for the reasons stated in paras 17 to 19, the same is erroneous and untenable as the violation is alleged to have been committed when the Noticees were very much persons associated with the Securities market.

22. Further, I note that the Noticee no. 1 has also argued that since she has resigned and ceased to be an employee of NSE, therefore directions under Section 11B of the SEBI Act, 1992 are not called for as they are preventive and not punitive. I note that under Section 11B, if the Board is satisfied that it is necessary in the interest of investors, or orderly development of securities market; or to prevent the affairs of any intermediary or other persons referred to in Section 12 being conducted in a manner detrimental to the interest of investors or securities market; or to secure the proper management of any such intermediary or person, it may issue such directions to any person or class of persons referred to in Section 12, or associated with the securities market or to any company in respect of matters specified in Section 11A, as may be appropriate in the interests of investors in securities and the securities market. I note that there is nothing in the language of Section 11 and 11B to suggest that it is only preventive. I further note that under Section 11(4) of the SEBI Act, 1992, SEBI is empowered in the interests of investors or securities market, to take any measures, as stated therein, either pending investigation or inquiry or on completion of such investigation or inquiry which shows that under Section 11(4) of the SEBI Act, 1992, directions on completion of inquiry which may be preventive or punitive in nature such as suspend any officer bearer of any stock exchange or prohibit any person associated with the securities market to buy, sell or deal in securities etc., can also be issued. Further, under Section 11B, SEBI in the interest of investors, or orderly development of securities market, or for the proper management of an intermediary or persons referred to in Section 12 of SEBI Act, 1992, has the power to issue appropriate directions, which can be preventive or punitive depending on the facts and circumstances of the case. For these reasons, I find that the contention of the Noticee is untenable.
23. The Noticees have submitted that SEBI has not specified the exact measures which it proposes to take against them. In this regard, I note that the measures prescribed in sub-section (2) of Section 11 read with 11(4) and 11B of SEBI Act, 1992 are merely illustrative of various measures that may be taken by the SEBI in furtherance of its duties to attain the object of the statute, without affecting the generality of provisions of sub-section (1). SEBI has such powers and is duty bound to take measures in any manner as it may deem fit in the securities markets to protect the interests of



investors and for the development of the securities market. The SCN issued to the Noticees have spelt out the provisions under which the actions would be taken. The SCN issued to the Noticees also clearly indicates the specific nature of violations that have been alleged against the Noticees in terms of different provisions of SCRA 1956 and SECC Regulations, 2012 which, if found to be violated, require issuance of possible directions under specific provisions as mentioned under the SCN. I note that Sections 11, 11B of the SEBI Act, 1992 and Section 12A of the SCRA, 1956 vest in the quasi-judicial authority a plenary power to issue appropriate directions as it may deem fit, in the interest of securities market which cannot be proposed prior without considering the reply or explanation of the Noticees. Therefore, it is necessary on the part of the Noticees to explain their position with support of relevant evidence in response to the various allegations made against them in the SCN. I note that it would be imperative for the competent authority to determine as to if and what direction is required to be issued against the Noticees, depending on the extent of the gravity of violations committed by the Noticees, only after examining and considering the explanation offered by the Noticees to the allegations levelled in the SCN. Therefore, I find the contention of Noticees that SEBI has not specified the exact measures which it proposes to take against them, is untenable as the SCNs stated measures prescribed in Section 11(2)(a), 11(4) and 11B of the SEBI Act, 1992, was specified.

24. Further, the Noticees have also submitted that the SCN does not comply with the mandate as laid down by the Hon'ble Supreme Court in the matter of *Gorkha Security Services vs. The Government (NCT of Delhi) 2014 (9) SCC 105*. Noticees based on the said judgment, have also contended that SCNs must disclose particular penalty/action which is proposed to be taken. In this regard, I find that the case is factually distinguishable from the present case and not applicable to the present proceedings. This is for the reasons that in Gorkha Security case, the matter pertained to blacklisting of a contractor by a government agency, which resulted in depriving the contractor from entering into any public contracts with government, thereby violating the fundamental rights of equality of opportunity in the matter of public contract of such person. Further, in Gorkha Security case, the contractor was blacklisted for breaching the terms of the contract. On the other hand, the present SCN has been issued for breach of provisions of securities law in relation to integrity

of securities market. In Gorkha Security Case, blacklisting of the contractor was provided in the governing contract itself as a penalty to be imposed in case of breach of terms of contract, whereas, in the present matter provisions of law under which directions are contemplated to be issued, confer discretion to SEBI to take such measure as it thinks fit in the interest of investors and securities market. Keeping in view the above points that clearly distinguishes the facts and circumstances of Gorkha Security case from the facts of the present proceedings, reliance placed by the Noticees on Gorkha Security case to contend that SCN must disclose specific penalty/action which is proposed to be taken, is misplaced. I note that the SCN in the present case, clearly brings out the charges levelled against the Noticees as well as the specific provisions of the SEBI Act, 1992, SCRA, 1956 and SECC Regulations, 2012 under which directions are proposed to be issued.

25. I also note that the Noticees have contended that there has been delay in the present proceedings of almost 6 years as the entire allegations in the SCN relate to the years from 2013 till about 2017, while the SCN was issued to the Noticees only in October 2019. In this regard, as brought out in the narration of facts in the foregoing paras and discussed in detail in the subsequent paras, SEBI had received complaints vide emails dated December 15, 2015, May 25, 2016 and November 11, 2016 against Noticee no. 2. Thereafter, SEBI vide emails dated February 19, 2016, May 24, 2016, May 27, 2016, June 20, 2016 and June 30, 2016 advised Noticee no. 2 to *inter alia* clarify if there had been any violation of the SECC Regulations, 2012. SEBI then vide letter dated September 15, 2016 advised Noticee no. 2 to place the complaints before its Board and submit a report to SEBI. Thereafter, SEBI issued repetitive reminders vide emails/letters dated October 24, 2016, November 09, 2016, December 19, 2016 and May 18, 2017, as a result, NSE submitted a report dated November 22, 2017 of its NRC vide its email dated November 29, 2017 and subsequently, vide its letter dated September 14, 2018. Subsequently, SEBI issued separate SCNs dated October 09, 2019 and supplementary SCNs dated December 16, 2019 to Noticees no. 1, 2, 3 and 6 and SCNs dated December 16, 2019 to Noticees no. 4 and 5. I note that SEBI had sent repetitive reminders to Noticee no. 2 to file its report before SEBI and allegations for such delay in submitting the report to SEBI have been made against Noticee no. 2 in the present proceedings. Therefore, I find that there is no

delay in the initiation of present proceedings as contended by the Noticees. Without prejudice to finding of fact recorded herein that there is no delay, I note that SEBI Act, 1992 or SCRA 1956, do not provide any limitation period for initiating these proceedings under these Acts or the rules, regulations, circulars issued thereunder. On the contrary, I note that Section 11C of the SEBI Act, 1992, expressly provides that SEBI may initiate investigation “**at any time**”, if it has *inter alia* reasonable ground to believe that any person associated with the securities market has violated any of the provisions of the SEBI Act, 1992 or the rules or the regulations made or directions issued thereunder, against such person. Therefore, the contention of the Noticees based on delay is not tenable either in fact or in law.

## **PART – II - In respect of Noticee no.1 (Ms. Chitra Ramkrishna)**

### **A. Allegations against Noticee no. 1 in SCN-I, submissions of Noticee no. 1 and findings thereon:**

26. In view of the facts narrated in para 9 above, SCN-I makes following allegations against Noticee no. 1:
- (i) Appointment of Noticee no. 6 by Noticee no. 1 was arbitrary and not in compliance with NSE's policies, which specifies criteria for selection of consultants as 'professional and with relevant experience'. Thus Noticee no. 1 misused the power delegated by NSE Board.
  - (ii) Noticee no. 1 indulged in financial misdeed relating to fixation and frequent revision of compensation of Noticee no. 6 in arbitrary manner and at significant multiple of his compensation with earlier organization.
  - (iii) Noticee no. 1 has made incorrect and misleading submission before SEBI on appointment and selection of Noticee no. 6.
  - (iv) Noticee no. 1 failed to designate Noticee no. 6 as KMP in terms of SECC Regulations and thus failed to declare compensation of Noticee no. 6 in

the report of the exchange and violated norms for compensation policy as prescribed by SEBI in this regard.

- (v) Noticee no. 1, who played an active role on appointment of Noticee no. 6 as consultant, didn't raise any concern with respect to delegation of substantial power almost akin to MD & CEO to Noticee no. 6, merely a consultant, in the NSE Board meeting held on 11-08-2015.
- (vi) Noticee no. 1 through her involvement on replies to the Secretarial auditor vide email dated 10-05-2016 and to SEBI (submitted by Mr. V.R. Narasimhan, CRO, NSE) vide email dated 14-03-2016 and 30-06-2016 has impaired the independent functioning of the Regulatory department of Exchange and thereby compromised on the Governance of the Stock Exchange as envisaged under the SECC Regulations, 2012.
- (vii) Noticee no. 1 continuously shared internal confidential information of NSE with the unknown person (at that time) and allowed her decisions on various aspects of the functioning of the stock exchange to be influenced by that unknown person.
- (viii) Noticee no. 1 has made incorrect and misleading submission before NSE that the unknown person was a 'siddha-purusha' or 'paramhansa' who did not have physical persona and could materialise at will.

27. SCN-I alleges following violations by Noticee no. 1:

- (a) Regulatory Compliance as specified under Clause iv (a) and (b) of the Code of Conduct as specified under Part- A of Schedule- II read with Regulation 26(1) of the SECC Regulations, 2012.
- (b) General responsibility as specified under Clause v (b), (d), (e), (f), (g) and (h) of the Code of Conduct as specified under Part- A of Schedule- II, read with Regulation 26(1) of the SECC Regulations, 2012.

- (c) Provisions relating to Fairness and transparency, Compliance with all laws/ rules/ regulations, Exercising due diligence as specified in clause (i) of the Code of Ethics under Part– B of Schedule– II read with Regulation 26(2) of the SECC Regulations, 2012.
- (d) General Standards as specified under Clause iii. (c), (d) (e) and (f) of the Code of Ethics as specified under Part– B of Schedule– II read with Regulation 26(2) of the SECC Regulations, 2012.
- (e) Clause ix (d) of the Code of Ethics as specified under Part– B of Schedule– II read with Regulation 26(2) of the SECC Regulations, 2012.
- (f) Regulation 2 (i) of the SECC Regulations, 2012.
- (g) Regulation 27 (5) of the SECC Regulations, 2012.
- (h) Para 8.1 of the SEBI Circular CIR/MRD/DSA/33/2012 dated 13-12-2012 read with Regulation 27(3) of SECC Regulations, 2012.
- (i) Violation of Section 6(4) of SCRA, 1956

28. My observations and findings on the aforesaid allegations and the submissions made by Noticee no. 1 are as under:

**28.1 The SCN-I alleges that the appointment of Mr. Anand Subramanian by Noticee no. 1 was arbitrary and not in compliance with NSE's policies, which specifies criteria for selection of consultants as 'professional and with relevant experience'. Thus it was alleged that Noticee no. 1 misused the power delegated by NSE Board.**

28.1.1 I note that Noticee no. 6 was offered to join NSE in the role of Chief Strategic Advisor vide NSE's letter dated January 18, 2013 and the tenure of Noticee no. 6, as Chief Strategic Advisor started from April 01, 2013. Appointment of Noticee no. 6 as Chief Strategic Advisor was approved by Noticee no. 1, then JMD vide internal note dated January 18, 2013, based on the delegation of powers made in her favour in the 74<sup>th</sup> Board meeting of NSE held on February 02, 2005. I note that the appointment of Noticee no. 6 has been alleged to be arbitrary for the following reasons:

- a) No other person was called or interviewed for the position given to Noticee no. 6.

- b) Noticee no. 6 was interviewed only by Noticee no. 1 and not HR.
- c) The position for the advisory and support function to the MD's office was identified at the time of hiring of Noticee no. 6.
- d) The duration of the consultancy contract as 5 years and notice period as 6 months for the Noticee no. 6 was highest among the consultants engaged by NSE during the period 2013 to 2016.
- e) Prior to being appointed as CSA in NSE, Noticee no. 6 was the VP Leasing & Repair Services of Transafe Services Limited, a subsidiary of Balmer & Lawrie and his last drawn compensation was less than Rs.15 lacs per annum.
- f) Noticee no. 6 was offered Rs. 1.68 Crores per annum for working 4 days a week, which was disproportionately higher than any of the consultants or employees hired during the same period.

28.1.2 As per the NSE policy dated July 01, 2009 for appointment of consultants, it specifies criteria for selection of consultants as 'professional and with relevant experience'. In the internal approval note dated January 18, 2013, Noticee no. 1 (the then JMD) stated that Noticee no. 6 had an experience of around 23 years in the industry with a well-rounded exposure in areas of Strategy / Business Development / New Product Development / BE / Legal / People Management & General Administration. However, I note that there are finding of SEBI examination that there were no notings in the personnel file of Noticee no. 6 in relation to his interview and no pre-employment documents such as educational qualification certificate, experience certificate etc. were handed over to HR of NSE or kept in the personal file of Noticee no. 6, as submitted by NRC in its report.

28.1.3 I note that Noticee no. 1 has submitted that SEBI appears to have examined the recruitment of Noticee no. 1 in isolation, without bothering to examine the practices and policies of NSE and past recruitments in NSE and that if viewed from the correct perspective, it will be seen that no case of any wrongdoing is made out in appointment of Noticee no. 6. In this regard, I note that during the same period when Noticee no. 6 was appointed as Chief Strategic

Advisor, 5 other persons were also appointed as consultants at NSE. The comparative details of the consultants appointed during the same period with Noticee no. 6, as furnished by NSE, are as under:

Sr. No.	Consultant Name	Contract date	Prior experience	Last organization	Department of Appointment	Compensation/ package offered
1	Ms. Suchitra Hari	January 17, 2013	8 years	CRISIL	Marketing then SBU Education	Rs. 12 lakhs per annum
2	Mr. Kinjal Medh	January 04, 2013	22 years	ULKA Advertising Pvt. Ltd.	Marketing	Rs. 12 lakhs per annum
3	Ms. Sunitha Anand (wife of Noticee no. 6)	April 01, 2013	13 years	NSEIL	Regional Office, Chennai	Rs. 60 lakhs per annum
4	Mr. L. Sundaresan	April 15, 2013	14 years	ILFS	Regional Officer, Chennai - BD	Rs. 38 lakhs per annum
5	Mr. T. Sampathkumar Jagadharini	November 01, 2013	16 years	NSEIL	Special Projects	Rs. 30,000/- per day (3- days a month)
6	Mr. Anand Subramanian (Noticee no. 6)	April 01, 2013	23 years	Transafe Services Limited, a subsidiary of Balmer & Lawrie	Chief Strategic Advisor to MD&CEO	Rs. 1.68 Crores per annum for working 4 days a week.

28.1.4 From the above, I note that all the consultants other than Noticee no. 6 had relevant years of experience and organizational background for being placed in the department in which they were appointed, whereas, I note that Noticee no. 6 was Vice President, Leasing & Repair Services of Transafe Services Limited, a subsidiary of Balmer & Lawrie prior to being appointed at NSE as Chief Strategic Advisor to MD&CEO. However, I note that none of them received a compensation/package even remotely close to what Noticee no. 6 was offered, even though Noticee no. 6 had no relevant experience for the

position he was being appointed, as also observed by the NRC in their report submitted to SEBI. I also note that during this period, Noticee no. 5 was appointed as a full time employee with the designation of Chief Regulatory (Sr. Vice President) on May 30, 2013 having 34 years of experience having worked last at Kotak Mahindra Bank as an Executive Vice President, and was offered Rs. 1.5 Crores at NSE and designated as KMP and shown in the Annual Reports. Hence, it is clear that Noticee no. 6 having no relevant experience was offered an annual remuneration of Rs. 1.68 crores for working 4 days in a week, which is even more than full time employees who were having far more relevant experience in the industry. Further, I note that there are no notings in the personnel file of Noticee no. 6 in relation to his interview and no pre-employment documents such as educational qualification certificate, experience certificate etc. were handed over to HR of NSE or kept in the personal file of Noticee no. 6, as submitted by NRC in its report.

28.1.5 With regards to the allegation on the qualification of Noticee no. 6 and his job experience, Noticee no. 1 in her reply has reiterated what has been stated by her in her statement to SEBI on April 12, 2018 and to NSE on June 20, 2018. I note that from the statements of the Noticee no. 1 to SEBI on April 12, 2018, the Noticee, with regard to the experience of Noticee no. 6, has *inter alia* stated as under:

*“32. What was the process followed for appointment of Mr. Anand Subramanian at NSE?*

*A requirement was identified for the advisory and support function to the MD’s office. Accordingly, a known HR consultant had recommended the candidate to HR department. Interviews were done by HR, myself. Subsequently, the candidate also met Mr. Narain and Mr. Mathur (chairman). There are other recruitments also which we would normally do where we have interviewed only one candidate.*

33.....



34. Given the job description of Mr. Anand Subramanian what in your opinion as part of this previous job experience made him suitable for the position at NSE? We recruit based on multiple assessment of skillsets and suitability. We look at not just the domain experience but also their ability, resourcefulness, ability to grasp new areas quickly, etc. In this particular case among other things a long standing operational experience with a public sector background was felt particularly as an additional asset.

35.....

36.....

37. Did you know Mr. Anand Subramanian prior to him joining NSE? I knew him through his wife, Mrs. Sunitha Anand, who was an employee of NSE and my good friend.”

Further, from the statements of the Noticee no. 1 to NSE on June 20, 2018, the Noticee, with regard to the experience of Noticee no. 6, has *inter alia* submitted as under:

“10. With respect to Anand, a HR personnel (Rajjapa) suggested his name as a good resource. Rajjapa used to introduce good resources to Chitra from time to time.”

28.1.6 In this regard, I note certain discrepancies in the statements given by Noticee no. 1 in her statements to SEBI, which are discussed along with my observations, as under:

A. The Noticee has stated that a known HR consultant had recommended the candidate to HR department. However, I note that there is no record with the HR of NSE of such recommendation. It is even more astonishing that for such an important position, there was only one candidate who was called for the interview, which as the facts revealed was an acquaintance of the Noticee no. 1. I note that this candidate i.e. Noticee no. 6, was the husband of Mrs. Sunitha Anand, an employee of NSE and a good friend of the Noticee, as stated by her. Therefore, it

appears suspicious that such a recommendation of a well-known acquaintance has been given by an outside consultant to the Noticee no. 1.

- B. Further, I note that the recommendation of the candidate was for the role of advisory and support function to the MD & CEO of NSE. In this regard, I note that prior to joining NSE, Noticee no. 6 was Vice President, Leasing & Repair Services of Transafe Services Limited, a subsidiary of Balmer & Lawrie and his last drawn compensation was less than Rs.15 lakhs per annum. I note from the website of Transafe Services Limited that it is a company that manufactures various tank containers, like, oil/water/milk tanks, car-carrier capsules and other specialty containers for companies/ institutions, such as ONGC, ISRO, private rail operators and defense sector. Therefore, I note that a person who was in the Leasing and Repair Services department of a container manufacturing company and drawing a compensation of less than Rs. 15 lakhs per annum, appears to have been recommended and then appointed as Chief Strategic Advisor to the MD and CEO of NSE, which is the leading stock exchange in India and one of the largest stock exchanges in the world. Further, I note that the compensation offered to Noticee no. 6 was Rs. 1.68 crore, which is a significant raise from his earlier compensation of Rs. 15 lakhs. More pertinently, as brought out in the table of the foregoing paras, compared to the other consultants and employees appointed during the same period, who had the relevant years of experience in the industry and field in which they were appointed, Noticee no. 6 was given an exorbitantly higher compensation/salary package, while having no relevant experience in the position in which he was appointed. I note that in all of these astounding facts, no pre-employment documents such as educational qualification certificate, experience certificate etc. were handed over to HR of NSE of this candidate who was the only candidate that was called for interview for this position. Therefore, I note that a person who appears to have had no background or working experience of the

securities market or stock exchanges or even of a technical background related to securities market, had been the only candidate called for an interview which took place only with Noticee no. 1 and not HR, was then appointed as Chief Strategic Advisor to Noticee no. 1, with no record of the interview proceedings or any notings. I note that the NSE internal approval note dated January 18, 2013 on appointment of Noticee no. 6 as Chief Strategic Advisor, as approved by the Noticee no. 1, who was the Joint MD at that time states that: -

*“Mr. Subramanian Anand has an experience of around 23 years in the industry with a well-rounded exposure in areas of Strategy/Business Development/New Product Development/BE/Legal/People Management & General Administration.”*

However, I note that no pre-employment documents such as educational qualification certificate, experience certificate etc. were handed over to HR of NSE or kept in the Noticee no. 6's personal file to support the above statement, especially given that Noticee no.6 was earlier working in the Leasing and Repair Services department of a container manufacturing company.

- C. I note that Mr. Chandrasekhar Mukherjee, then VP-HR, NSE in his statement dated June 10, 2019 and through his email dated June 12, 2019 and June 26, 2019, *inter alia* made the following statements:
- a. *Process followed for selection of Mr. Anand Subramanian was different from the normal process. Normally engagement of consultants used to be for the period of one year which could be renewed every one as per the terms of the contract and notice period maximum three months. But in the Anand Subramanian matter, Chitra Ramkrishna insisted for the contract to be of five years and notice period 6 months.*
  - b. *The draft contract covering role and responsibility, compensation, tenure, notice period etc was dictated and vetted by Ms. Chitra Ramkrishna.*

- c. *The note for approval for engagement of Anand Subramanian was also dictated and finalized by Chitra Ramkrishna.*
- d. *While preparing the draft contract or note for approval no pre-employment documents viz educational qualification certificate, experience certificate etc were handed over to HR despite a number of reminders which is a normal practice/pre-requisites in case of employment/selection of candidates.*
- e. *No other candidate was considered for the position, rather the designation of CSA was decided post finalization of the candidate i.e. Anand Subramanian.*
- f. *Anand Subramanian was not interviewed by anybody but Chitra Ramkrishna.*
- g. *HR did not receive any documents relating to the interview of Mr. Anand Subramanian.*
- h. *HR head had no role to play for salary fixation of Anand Subramanian as CSA as the same was decided by Ms. Chitra Ramkrishna. For other cases, HR had a role in discussion and recommendation of compensation of consultants/employment.*

I note that Mr. Chandrasekhar Mukherjee, the then HR Head of NSE during this cross examination by the advocates of Noticee no. 1 in the present proceedings, has re-affirmed all the aforesaid statements. From the above submissions of the then head of HR of NSE, it is evident that the appointment of Noticee no. 6 was done arbitrarily by Noticee no. 1 and was different from the process carried out for other consultants, where HR had a role in discussion and recommendation of compensation of consultants/employment. I note that the above statements of Mr. Chandrasekhar Mukherjee, the then head of HR of NSE, have been supported by the findings in the report of NRC, wherein it was observed that the only person who interviewed Noticee no. 6 for his appointment was the Noticee no. 1 and there are no notings in the personnel file of Noticee no. 6 with NSE in relation to his interview.

D. I note that the appointment of Noticee no. 6 was approved by Noticee no. 1 based on the delegation of powers to her from the minutes of the 74<sup>th</sup> Board meeting of NSE held on February 23, 2005. On perusal of the delegation of powers as approved in the 74<sup>th</sup> Board meeting of NSE to Noticee no. 1, it is noted that the NSE Board had approved a general Power to Noticee no. 1 with regard to the appointments at NSE including appointment of advisors. Even if the NSE Board in its 74<sup>th</sup> Board meeting had delegated such powers to the Noticee no. 1, it does not mean that the Noticee could act arbitrarily without complying with the NSE policies in place for appointment of consultants and appoint anyone having no relevant experience to the position offered with an exorbitant compensation package while keeping no record of his interview and pre-employment documents such as educational qualification certificate, experience certificate etc.

28.1.7 I view of the above, I find that it was an arbitrary appointment of Noticee no. 6 by the Noticee no. 1, which was not in compliance with NSE's policies for appointment of consultants and thus Noticee no. 1 had misused the power as delegated by NSE Board in its 74<sup>th</sup> Board meeting held on February 23, 2005 to Noticee no. 1. Hence, I find that the Noticee no. 1 has:

- a) failed to act with professional competence, fairness, impartiality, efficiency and effectiveness in the appointment of Noticee no. 6; failed to maintain the highest standards of personal integrity, truthfulness, honesty and fortitude in discharging her duties and has engaged in acts discreditable to her responsibilities as MD& CEO of NSE by acting arbitrarily and misusing her delegated powers; in violation of *Clause v. (b) and (e) of the Code of Conduct as specified under Part– A of Schedule– II read with Regulation 26(1) of the SECC Regulations, 2012.*
- b) not complied with the Code of Ethics by failing to act in fairness and transparency in the appointment of Noticee no. 6, failing to comply with the policies laid down by the stock exchange and failing to exercise due

diligence in the performance of her duties as the MD&CEO in violation of *Clause (i) of the Code of Ethics under Part– B of Schedule– II read with Regulation 26(2) of the SECC Regulations, 2012.*

- c) by acting arbitrarily, not complying with NSE’s policies and misusing the powers delegated to her in the appointment of Noticee no. 6, Noticee no. 1 has not maintained an appropriate conduct and put the reputation of the stock exchange in jeopardy in violation of *Clause iii. (c), (e) and (f) of the Code of Ethics as specified under Part– B of Schedule– II read with Regulation 26(2) of the SECC Regulations, 2012.*

**28.2 It has been alleged in the SCN that Noticee no. 1 indulged in financial misdeed relating to fixation and frequent revision of compensation of Mr. Anand Subramanian in arbitrary manner and at significant multiple of his compensation with earlier organization.**

28.2.1 I note that prior to being appointed in NSE in March 2013, Noticee no. 6 was receiving a compensation of Rs. 15 lakhs per annum and after joining NSE, by April 2016, he was drawing a compensation of Rs. 4.21 crore. In addition to the disparity in compensation offered to Noticee no. 6 compared to the other consultants and employees taken during the same period as discussed in the foregoing paras, I also note that Noticee no. 6 was offered a consultancy contract for 5 years and notice period as 6 months, which was highest among the consultants engaged by NSE during the period 2013 to 2016. Further, the increase in the compensation during this period is tabulated as under:

<b>Contract Date/Internal note date</b>	<b>Relating to year</b>	<b>Details</b>	<b>Fixed Pay (Rs Crore)</b>	<b>Variable Pay (Rs Crore)</b>	<b>Total</b>
18-01-2013	2013-14	Compensation fixed	1.26	0.42	1.68
31-03-2014	2014-15	Compensation revised upward 20% as market correction and to maintain the compensation	1.51	0.50	2.01

Contract Date/Internal note date	Relating to year	Details	Fixed Pay (Rs Crore)	Variable Pay (Rs Crore)	Total
		difference with executives of his grade			
06-05-2014	2014-15	Compensation revised upward 15% as per appraisal as A+	1.74	0.58	2.32
30-03-2015	2015-16	Compensation revised upward 15% as per appraisal as A+ and pro rata increase equivalent to 3 months for 4 days/week to 5 days/week	2.50	0.83	3.33
16-04-2015	2015-16	Compensation revised upward 10% as market correction	2.75	0.92	3.67
01-04-2016	2016-17	Compensation revised upward 15% as per appraisal as A+	3.16	1.05	4.21

28.2.2 From the above table, it can be seen that the compensation of Noticee no. 6 had increased substantially every year since being appointed as a consultant at NSE. I note that he was being rated A+ i.e. the highest level of rating in the organisation, every year. However, there was no record of the evaluation of his performance in all the years even though he was consistently rated as a top performer.

28.2.3 I note that as per the letter of agreement dated January 18, 2013, Noticee no. 6 was offered the role of Chief Strategic Advisor w.e.f. April 01, 2013 at annual compensation of Rs. 1.68 Crore. I note that the NRC of NSE, in its report dated November 22, 2017 submitted to SEBI, has considered the compensation of Rs 1.68 Crore per annum offered to Noticee no. 6 at NSE as being significantly disproportionate to the compensation of Rs.15 lakhs per annum from his earlier organization. More so when his past experience

was not relevant to the position offered to him and such a disproportionate amount of compensation was for just part-time working as a Consultant for working four days in a week.

28.2.4 I note that as per NSE internal note dated March 31, 2014, compensation fixed in January 2013 for Noticee no. 6 is stated to be as per internal benchmark. However NSE vide email dated January 24, 2019 has submitted there was no such internal benchmarking for a consultant role to be referred to for fixation of compensation. Compensation was fixed as per the designation of above SVP level i.e. Director Grade assigned to Noticee no. 6. Mr. Chandrasekhar Mukherjee, the then head of HR in NSE in his statement dated June 10, 2019 before SEBI has, inter alia, submitted that *HR head had no role to play for salary fixation of Anand Subramanian as CSA as the same was decided by Ms. Chitra Ramkrishna. For other cases, HR had a role in discussion and recommendation of compensation of consultants/employment.* Mr. Chandrasekhar Mukherjee has also submitted that *the role and responsibility, compensation, tenure, notice period etc were dictated by Ms. Chitra Ramkrishna.* All these statements have been reaffirmed by Mr. Chandrasekhar Mukherjee in his cross examination.

28.2.5 I note that NSE vide its internal note dated March 31, 2014 approved by the Noticee no. 1 allowed 20% increment to Noticee no. 6 w.e.f April 01, 2014. In view of the above, compensation of Noticee no. 6 for year 2014-15 was revised to Rs. 2,01,60,000/-. The reason cited in the said note for 20% increment to Noticee no. 6 is attributed to compensation increase in April 01, 2013 for executives of Noticee no. 6's grade and to maintain the compensation difference with them. As per details submitted by NSE vide email dated January 24, 2019, it is noted that Noticee no. 4 (Director rank) was the only person of the grade of Noticee no. 6 and Noticee no. 4 was granted increment of 12% for FY 2013-14 and as per his performance rating as A. Mr. Chandrasekhar Mukherjee, then head-people management, in his statement dated June 10, 2019 has submitted that *Ms. Chitra Ramkrishna had directed him to benchmark salary of Anand Subramanian with salary of*



*Director i.e. Mr. J Ravichandran and based on that she had instructed to enhance salary of Anand Subramanian by 20% wef 01-04-2014. Mr. Chandrasekhar Mukherjee has further vide its statement and also by email dated June 12, 2019 and June 26, 2019 has submitted that notes for approval on Mr. Anand Subramanian were always dictated by Ms. Chitra Ramkrishna including contents of the note dated March 31, 2014. Therefore, I find that the reason cited for giving increment of 20% to Noticee no. 6 for FY 2014-15 is not only disproportionate and misleading, but also against the then existing norms at NSE.*

28.2.6 I note that just five weeks after the note dated March 31, 2014 which gave 20% salary increment to Noticee no. 6, through internal note dated May 06, 2014, approved by the Noticee no. 1, again 15% increment was granted to Noticee no. 6 w.e.f. April 01, 2014 citing the review of his performance as A+ (exceptional performance) for the year 2013-14. In view of the above, compensation of Noticee no. 6 for year 2014-15 was again revised to Rs. 2,31,84,000/-. NRC of NSE in its report dated November 22, 2017 has noted that there is no evidence in the file to provide any for the performance evaluation of Noticee no. 6 as A+.

28.2.7 I note that as per NSE internal note dated March 30, 2015 approved by the Noticee no. 1, 15% increment to Noticee no. 6 for the year 2015-16 was granted citing the review of his performance as A+ (exceptional performance) for the year 2014-15 and prorated increase for his assignment days from 4 days per week to 5 days per week. Further, as per NSE internal note dated April 16, 2015 approved by the Noticee no. 1, again 10% increment was granted to Noticee no. 6 as market correction effective April 01, 2015. In view of the above, total compensation of Noticee no. 6 for the year 2015-16 was Rs 3.67 Crore. NRC of NSE in its report dated November 22, 2017 to SEBI has noted that there is no evidence in file to provide any basis for the performance evaluation of Noticee no. 6 as A+.

28.2.8 I note that the Noticee no. 1 through her letter dated April 01, 2015 to Noticee no. 6 on the subject "Review of Consultancy Fees based on performance for the year 2014-15, role enhancement and increase in assignment days", mentions revision in the total emoluments of Noticee no. 6 at Rs. 3,66,59,700/-. It is noted that approval for the aforesaid total emoluments of Noticee no. 6 at Rs. 3,66,59,700/- is actually through the NSE internal note dated April 16, 2015. It indicates that increase in salary was decided solely by Noticee no. 1 which was not even formally approved at that time. This shows that increase given to Noticee no. 6 was not the result of any performance evaluation but rather the result of arbitrary decision of Noticee no. 1.

28.2.9 I note from the e-mail correspondence dated February 19, 2015 between the noticee and an unknown person with email address viz *rigyajursama@outlook.com*, that the revision in the contract with Noticee no. 6 to 5 days a week was only on papers for the sake of emoluments and not meant to be complied with. The extract of the e-mail correspondence between the unknown person and Noticee no. 1 is as under:

*Email Date & time: February 19, 2015 08:32 PM*

*From: [rigyajursama@outlook.com](mailto:rigyajursama@outlook.com)*

*To: Chitra Ramkrishna; anand Subramanian*

*Subject: RE: Proposed Organization Structure with notes.*

*"1. contract to revise to 5 day week only for paper and emoluments. 3 day will continue on routine with HO and rest at will.*

*2. One day brought additional on contract per week Kanchan to withdraw and surrender to me per month as gratitude on gross amt."*

28.2.10 This again shows that the increase given to Noticee no. 6 by noticee no. 1 was a result of arbitrary decisions and not on rationale basis. Further, I note that there is huge disparity in the increments given to Noticee no. 6 as opposed to the other consultants that were appointed during his time. The details of the increments, as furnished by NSE, are as under:

Sr. No.	Consultant Name	From	To	Fees Annual	Remarks
---------	-----------------	------	----	-------------	---------

*Final Order against Ms.Chitra Ramkrishna and others*

1.	<b>Ms. Suchitra Hari</b>	17/1/2013	30/6/2013	1,200,000/-	Per month = Rs. 1 Lac - 1/2 day for 5 days a week
		1/7/2013	16/1/2014	24,00,000/-	Per month = Rs. 2 Lacs - Full day for 5 days a week
		17/1/2014	16/1/2015	25,92,000/-	Revision on Contract Renewal
		17/1/2015	31/3/2016	28,51,200/-	Revision on Contract Renewal
			NA	30,79,296/-	Revision on Contract Renewal
		1/4/2016	31/12/2016	33,25,640/-	Market Correction (Annual Contract till 31 March 2017) Foreclosure of Contract on 31 Dec 2016
2.	<b>Mr. Kinjal Medh</b>	1/4/2013	31/3/2014	1,20,00,000/-	240 work days
		1/4/2014	31/3/2015	1,35,93,090/-	240 work days
		1/4/2015	31/3/2016	1,46,80,440/-	Revision on Contract Renewal
		1/4/2016	28/2/2017	1,80,86,303/-	Revision on Contract Renewal
		31/8/2017	28/2/2018	81,38,836/-	Revision on Contract Renewal - 3 days a week
		1/3/2018	31/3/2019	1,30,00,000/-	Revision on Contract Renewal - 3 days a week
		1/4/2019	31/12/2019	1,40,40,000/-	Revision on Contract Renewal - 3 days a week
		1/1/2020	30/6/2020	46,80,000/-	Rs. 97,500/- per day. (1 day a week for the Contract Period) Contract Ended and not renewed
3.	<b>Ms. Sunitha Anand (wife of Noticee no. 6)</b>	1/4/2013	31/3/2014	60,00,000/-	
		1/4/2014	NA	72,00,000/-	Revision on Contract Renewal & Market Correction
			31/3/2015	1,00,80,000/-	
		1/4/2015	31/3/2016	1,15,92,000/-	Revision on Contract Renewal
		1/4/2016	31/12/2016	1,33,30,800/-	Contract Period was till 31 March 2017 Foreclosed the contract on 31 Dec 2016
4.	<b>Mr. L Sundaresan</b>	15/4/2013	27/6/2014	38,00,000/-	Contract Period was till 14 April 2016 Foreclosed the Contract on 27 June 2014
5.	<b>Mr. T. Sampathkumar Jagadharini</b>	11/1/2013	3/3/2014	30,000/-	Per day fees (3-4 days a month). Additional Economy class air fare, Lodging & Boarding and intercity travel arrangements
		4/3/2014	30/11/2014	30,000/-	Renewal on same terms till 31 May 2015. Foreclosed the contract on 30 Nov 2014.
6	<b>Mr. Anand Subramanian (Noticee no. 6)</b>	31/03/2014	05/05/2014	2.01 crores	Compensation revised upward 20% as market correction and to maintain the compensation difference with executives of his grade

		06/05/2014	29/03/2015	2.32 crores	Compensation revised upward 15% as per appraisal as A+
		30/03/2015	15/04/2015	3.33 crores	Compensation revised upward 15% as per appraisal as A+ and pro rata increase equivalent to 3 months for 4 days/week to 5 days/week
		16/04/2015	31/03/2016	3.67 crores	Compensation revised upward 10% as market correction
		01/04/2016		4.21 crores	Compensation revised upward 15% as per appraisal as A+

28.2.11 From the above table, I note that none of the other consultants had an increase in their compensation as substantially as Noticee no. 6 had. Further, I note from the records available before me that there is no records/documents to explain the appraisal of A+ given to Noticee no. 6, as also observed by the NRC in its report. In the absence of supporting record, I find that rating to Noticee no. 6 was assigned in arbitrary manner and was ruse just to give him arbitrary increase in his salary package. As also noted from the above table, all the other consultants had to renew their contracts, at most after 2 years, whereas, I note that Noticee no. 6 was offered a consultancy contract for 5 years and notice period as 6 months. In view of the above, I note that compensation of Noticee no. 6 was fixed by the Noticee no. 1 in arbitrary manner and at significant multiple of his compensation with earlier organization. Moreover so when his past experience was not relevant to the position offered to him. I also note that the compensation of Noticee no. 6 was not based on his qualification and experience but on the basis of designation assigned to him by the Noticee no. 1. Further, frequent, arbitrary and disproportionate increase in compensation of Noticee no. 6 was granted by the Noticee no. 1 and there is no evidence of any performance evaluation being done for Noticee no. 6 nor is there any evidence to satisfy rating him at A+ for giving such high increments. Further, I note that these have been gross violation of procedures normally followed for approvals by the Noticee no. 1 and increase in number of working days to Noticee no. 6 was allowed by the Noticee no. 1 only on papers for the sake of emoluments only.

28.2.12 With regard to the above allegation, Noticee no. 1 has *inter alia* submitted the following:

- (a) *The process of identifying talent and hiring them cannot and does not follow any set pattern. The process depends on the vision for the organisation and its needs at that point of time. In all cases, applicable HR policies and benchmarks are followed. Once a person was identified and brought in at a particular position, then the management level at which they are inducted, the benchmarks of salaries available at the level, etc. are overseen by HR on the basis of the clear policy for the same.*
- (b) *Without prejudice to the above, the record produced along with the SCN itself shows that the Noticee had received various Notes for approvals from Mr. Chandrasekhar Mukherjee for approving the revision in consultancy fees at various points of time. These approvals have been furnished to SEBI by NSEIL's email dated 11th April 2018. Thus, the revision of consultancy fee was on the basis of recommendation made by HR and not a unilateral decision taken by the Noticee. Mr. Chandrasekhar Mukherjee at the contemporaneous time did not raise any concerns about the increments proposed to Noticee no. 6 and, in fact, is the author of the approval notes. It is only for the first time in his statement recorded by the SEBI that he claimed that these notes were dictated by the Noticee. It may be borne in mind that the statements were recorded by SEBI after the Noticee's resignation from NSEIL had been accepted by the Company and the Noticee was no longer associated with the Company. The correspondence in this regard at the highest only shows that the Noticee was consulted after the draft Note had been prepared by Mr. Chandrasekhar Mukherjee as seen in email dated April 17, 2014 exchanged between the Noticee and Mr. Chandrasekhar Mukherjee. The same, therefore, does not bear out Mr. Chandrasekhar Mukherjee's statement that there was any dictation by the Noticee. On the contrary, it only shows a consultative process which was being followed and of which Mr. Chandrasekhar Mukherjee was a part of. In fact, a close scrutiny of the statement made by Mr. Chandrasekhar Mukherjee clearly shows that he refutes the allegation of SEBI that there was any misleading statement recorded in the internal note dated 31st March 2014 circulated by him. This aspect has been completely ignored by the SEBI while formulating its allegations on these grounds.*
- (c) *Furthermore, the Noticee has submitted that the allegations in respect of the quantum of compensation are also misconceived and incorrect. The Noticee*

*recalls that discussions around the fixation of compensation to Noticee no. 6 as well as other new entrants to the management team was a well deliberated process and to the best of her recollection, the same would be minuted in the NSEIL. As the Noticee has no access to these records, the Noticee is unable to deal with the allegations and calls upon SEBI to furnish to her, copies of the minutes of all meetings chaired by the Noticee in this behalf. As far as compensation paid to Noticee no. 6 is concerned, the record annexed to the SCN shows the process which was followed and the involvement of the HR department in the process. The same was not controlled or driven by the Noticee. The Noticee denies that at any point of time she had any role in suggesting the quantum of compensation which was to be paid to Noticee no. 6. None of the records produced by the SEBI along with the SCN demonstrates anything to the contrary. Insofar as the evaluation of performance of Noticee no. 6 is concerned, it must be borne in mind that Noticee no. 6's ability was recognised by the Board in as much the Board directly delegated functions to him and also inducted him on the Boards of various subsidiaries of NSEIL. Mr. Chandrasekhar Mukherjee in his email dated June 22, 2019 had also highlighted the delegation of functions to Noticee no. 6. Thus, the Board was aware of the performance of Noticee no. 6 and had not expressed any concerns in respect of his performance or suitability of his role at the relevant time.*

*(d) The fact that there is no violation in either appointment or increase in compensation of Noticee no. 6 is clear from the Note submitted by NSEIL, wherein NSEIL has explained as to how there was no violation of any of rules. It is submitted that the same demonstrates the agreement to enhance the role of Noticee no. 6 and increase in his compensation was taken on account of his performance and abilities, which were vetted by NSEIL.*

28.2.13 With regard to the above submissions, I find that it would be relevant to start by referring to certain emails between Noticee no. 1 with the unknown person having the email id '[rigyajursama@outlook.com](mailto:rigyajursama@outlook.com)', the contents of which I note that Noticee no. 1 has not denied. I note that Noticee no. 1 in her statements before SEBI on April 14, 2018 has stated that the identity of the email id holder [rigyajursama@outlook.com](mailto:rigyajursama@outlook.com) is the Siddha Purusha/Yogi i.e. a Paramahansa who maybe largely dwelling in the Himalayan ranges. Further

that he is a spiritual force who has been guiding her for the past 20 years and that as a spiritual force, their spiritual powers do not require them to have any such physical co-ordinates and would manifest at will. Hence, I note that Noticee no. 1 has submitted that for the past 20 years she has sought guidance from the unknown person on many personal and professional matters and therefore, it may suffice to say that Noticee no. 1 holds the unknown person in very high regard and is influenced significantly by the unknown person. In this regard, I note that as per email dated September 05, 2015, the unknown person has stated to Noticee no. 1 that “*SOM, If I had the opportunity to be a person on Earth then Kanchan is the perfect fit. Ashirvadhams. SIRONMANI.*” Noticee no. 1 vide her email dated December 30, 2015 to the unknown person, stated that “*Struggle is I have always seen THEE through G, and challenged to on my own realise the difference.*” Here, I note that “*SOM*” refers to Noticee no. 1 and “*Kanchan*” and “*G*” refers to Noticee no. 6. Therefore, from the said emails it is apparent that Noticee no. 1 holds Noticee no. 6 in the same light as her spiritual force, whom she greatly relies upon, and thus would have been looking towards the interest of Noticee no. 6. Hence, the preferential treatment towards Noticee no. 6 becomes apparent from the above that Noticee no. 1 regards Noticee no. 6 as to be like her spiritual guru whom she has revered and relied upon for the past 20 years.

28.2.14 With the aforesaid in mind, it is not surprising to see the frequent, arbitrary and disproportionate increase in compensation granted to Noticee no. 6 by the Noticee no. 1 when there was no evidence of any performance evaluation being done for Noticee no. 6 and nor was there any evidence to satisfy the rating of A+ given to Noticee no. 6 for giving such high increments. In this regard, I note that the NRC of NSE in its report dated November 22, 2017 to SEBI has noted that there is no evidence in file to provide any basis for the performance evaluation of Noticee no. 6 as A+. This finding in the NRC report has been confirmed by Mr. Dinesh Kanabar, the then Chairman of NRC, during his cross examination by Noticee no. 1 on October 08, 2021. However, as can be seen from the table in sub-para (i) to this allegation

above, there has been a substantial and disproportionate increase every year in the compensation granted to Noticee no 6. Further, I note from the email correspondence dated February 19, 2015 between the Noticee no. 1 and the unknown person, as brought out in sub-para (ix) to this allegation above, that "Siddha Purusha" has advised her to revise the contract with Noticee no., 6 to 5 days a week only on paper for the sake of emoluments. Further, from the said mail, "Kanchan" i.e. Noticee no. 6 is to withdraw and surrender to the unknown person per month as gratitude on gross amount. Therefore, I note that it is not just advise from the unknown person but also payment "as gratitude" was to be made to the unknown person by Noticee no. 6. I note that Noticee no. 6 is also a recipient of the said mail from the unknown person. Hence, there appears to be a glaring conspiracy of a money making scheme that involves Noticee no. 1 and 6 with the unknown person, by which Noticee no. 1 would increase the compensation granted to Noticee no. 6 and Noticee no. 6 would then pay the unknown person from such increased compensation. This gives further credence to the allegation that there was an arbitrary and disproportionate increase in compensation granted to Noticee no. 6 by Noticee no. 1. Further, to supplement the above, I note from the statements dated June 10, 2019 made by Mr. Chandrasekhar Mukherjee, that Noticee no. 1 had instructed him to enhance the salary of Noticee no. 6 by 20% and that notes for approval on Noticee no. 6, were always instructed by Noticee no. 1. Further, as discussed in the foregoing paras, I also note that the reason cited for giving increment of 20% to Noticee no. 6 for FY 2014-15 is not only disproportionate and misleading, but also against the prevailing norms at NSE.

28.2.15 In view of the above, I find the contention of the Noticee no. 1 that the compensation paid to Noticee no. 6 was not controlled or driven by the Noticee is untenable as from the communications with her "Siddha Purusha", the unknown person, it is clear that his increase in the compensation of Noticee no. 6 was advised to her. Further, from the said emails, as discussed above, it is clear that Noticee no. 1 had an agenda or reason for increasing the compensation paid to Noticee no. 6. I also see no reason on record as to



why Mr. Chandrasekhar Mukherjee, would have proposed for disproportionately increasing the compensation paid to Noticee no. 6, as contended by Noticee no. 1, as there appears to be no relationship between Noticee no. 6 with Mr. Chandrasekhar Mukherjee, unlike the relationship shared by Noticee no. 6 with Noticee no. 1. Furthermore, I find the contention of Noticee no. 1 that at the contemporaneous time, Mr. Chandrasekhar Mukherjee did not raise any concerns about the increments proposed, is untenable, as given that Noticee no. 6, who was not qualified, was already appointed at the whims and fancy of Noticee no. 1 without any HR role, it would have been but futile for Mr. Chandrasekhar Mukherjee to question the directions of the MD & CEO with regard to the increments of Noticee no. 6, when she was already acting in an arbitrary manner. It would not be overstretching to imagine that since Noticee no. 1 as the MD&CEO, i.e. the head of NSE was already over exercising her authority in disproportionate favour of Noticee no. 1, it is unlikely that any employee under her would have taken up such issue directly with Noticee no. 1 during his/her employment at NSE. It is not unusual that the whip of an arbitrary and dictatorial reign would cause any employee to be reluctant in filing a complaint against its top leader in fear of the repercussions. This is evident from the various anonymous complaints received by SEBI against the Noticee no. 1 from which these proceedings have emanated and various irregularities unearthed.

28.2.16 From the aforesaid paras, I note that no other person was called or interviewed for the position given to Noticee no. 6. Noticee no. 6 was interviewed only by Noticee no. 1 and not by HR of NSE. I note that the position for the advisory and support function to the MD's office was identified only at the time of hiring of Noticee no. 6. Further, the duration of the consultancy contract as 5 years and notice period as 6 months for the Noticee no. 6, as decided by Noticee no. 1, was highest among the consultants engaged by NSE during the period 2013 to 2016. I note that prior to being appointed as CSA in NSE, Noticee no. 6 was the VP Leasing & Repair Services of Transafe Services Limited, a subsidiary of Balmer & Lawrie and his last drawn compensation was less than Rs.15 lacs per

annum. However, I note that Noticee no. 6 was offered Rs. 1.68 Crores per annum for working 4 days a week, which was disproportionately higher than any of the consultants or employees hired during the same period. Further, from the table given in para 28.2.1, I note that the compensation of Noticee no. 6 had increased substantially every year as per the instructions of Noticee no. 1 and by April 2016, he was drawing a compensation of Rs. 4.21 crores. I note that he was being rated A+ i.e. the highest level of rating in the organisation, every year by Noticee no. 1. However, there was no record of the evaluation of his performance in all the years even though he was consistently rated as a top performer. In view of the above, it is evident that Noticee no. 1 has been acting in an absolutely arbitrary manner while appointing Noticee no. 6, who had no relevant experience and disproportionately raising his compensation every year without recording the evaluation of his performance. I find that such actions by Noticee no. 1 is an abuse of the position of Noticee no. 1 as MD&CEO and the powers delegated to her by the Board of NSE.

28.2.17 In view of the above, I find that Noticee no. 1 has indulged in financial misdeed relating to fixation and frequent revision of compensation of Noticee no. 6 in an arbitrary and disproportionate manner. Hence, I find that the Noticee no. 1 has:

- a) failed to act with professional competence, fairness, impartiality, efficiency and effectiveness by arbitrarily and disproportionately increasing the compensation paid to Noticee no. 6; failed to maintain the highest standards of personal integrity, truthfulness, honesty and fortitude in discharging her duties and has engaged in acts discreditable to her responsibilities as MD& CEO of NSE by acting arbitrarily and misusing her delegated powers; in violation of *Clause v. (b) and (e) of the Code of Conduct as specified under Part– A of Schedule– II read with Regulation 26(1) of the SECC Regulations, 2012.*

- b) not complied with the Code of Ethics by failing to act in fairness and transparency in increasing the compensation paid to Noticee no. 6, failing to comply with the policies laid down by the stock exchange and failing to exercise due diligence in the performance of her duties as the MD&CEO in violation of *Clause (i) of the Code of Ethics under Part– B of Schedule– II read with Regulation 26(2) of the SECC Regulations, 2012.*
- c) by acting arbitrarily, not complying with NSE’s policies and misusing the powers delegated to her by disproportionately increasing the compensation of Noticee no. 6 at the instructions of an unknown person, Noticee no. 1 has not maintained an appropriate conduct and put the reputation of the stock exchange in jeopardy in violation of *Clause iii. (c), (e) and (f) of the Code of Ethics as specified under Part– B of Schedule– II read with Regulation 26(2) of the SECC Regulations, 2012.*

**28.3 It has been alleged in the SCN that the Noticee no. 1 has made incorrect and misleading submission before SEBI on appointment and selection of Mr. Anand Subramanian.**

28.3.1 With regard to the process followed for appointment of Noticee no. 6, the Noticee no. 1 in her statement dated April 12, 2018 before SEBI had, *inter alia*, stated that “*a requirement was identified for the advisory and support function to the MD’s office and accordingly, a known HR consultant has recommended the candidate to HR department. Interviews were done by HR and herself and subsequently Anand Subramanian also met Ravi Narain and S.B. Mathur (Chairman of the NSE Board at that time). The compensation benchmarking for Mr. Anand Subramanian was done by HR based on his role and bandwidth available with them as governed by HR policy.*”

28.3.2 Mr. Chandrasekhar Mukherjee in his statement dated June 10, 2019 before SEBI has, *inter alia*, stated that “*process followed for selection of Mr. Anand Subramanian was different from the normal process. No external consultant/head*

*hunters was hired for the same, instead the CV was directly handed over by the joint MD/deemed MD Ms. Chitra Ramkrishna to him. The draft contract covering role and responsibility, compensation, tenure, notice period etc was dictated and vetted by Ms. Chitra Ramkrishna. The note for approval for engagement of Anand Subramanian was also dictated and finalized by Chitra Ramkrishna. Anand Subramanian was not interviewed by anybody but Chitra Ramkrishna did mention to him in January 2013 that Mr. Ravi Naraian (MD) has been kept in the loop. HR did not receive any documents relating to the interview of Mr. Anand Subramanian. HR head had no role to play for salary fixation of Anand Subramanian as CSA as the same was decided by Ms. Chitra Ramkrishna. For other cases, HR had a role in discussion and recommendation of compensation of consultants/employment”.*

- 28.3.3 NRC of NSE in its report dated November 22, 2017 submitted to SEBI has, inter alia, stated that *“only Ms. Chitra Ramkrishna interviewed Mr. Anand Subramanian for his appointment, and there are no noting in the personnel file of Mr. Anand Subramanian in relation to his interview and position of Chief Strategic Advisor was neither advertised nor any other person considered for the position”*. Further, NSE vide email dated June 11, 2019 has stated that position for the advisory and support function to the MD’s office as identified at the time of hiring of Mr. Anand Subramanian in 2013 and no HR consultants/recruitment agencies were engaged by NSE for hiring of Anand Subramanian.
- 28.3.4 In view of the above it is alleged that the statement of Noticee no. 1 before SEBI on appointment of Noticee no. 6 that a requirement was identified for the advisory and support function to the MD’s office, known HR consultant has recommended the candidate to HR department, Interviews were done by HR and herself and *compensation* benchmarking for Noticee no. 6 was done by HR, is incorrect and misleading.
- 28.3.5 The Noticee no. 1 has submitted that the aforesaid allegations are only based on the statements made by Mr. Mukherjee and the NRC report and has reiterated her objection to the reliance upon statement of Mr. Mukherjee without granting an opportunity to cross-examine Mr. Mukherjee. As regards the NRC Report, the Noticee has submitted that she does not admit the

findings of the NRC in its report. That the Noticee was never consulted by the NRC in respect of the said report and has presently no access to the records of NSEIL to ascertain the correctness of the statements made in the NRC report. The Noticee has objected to the reliance upon this report without affording the Noticee an opportunity to cross- examine the members of the NRC on the purported findings in the said report. The Noticee has submitted that at the relevant time, neither the Compensation Committee / the NRC nor the Board of NSEIL had never raised any query in relation to these issues, nor was any issue in this regard ever brought to her attention. The Noticee denies that she has made any incorrect statements to SEBI, as alleged or otherwise.

28.3.6 With regard to the above allegation and the contentions raised by Noticee no. 1, I note that cross examination of Mr. Chandrasekhar Mukherjee (then Head of HR of NSE) and Mr. Dinesh Kanabar (then Chairman of NRC of NSE), as sought by Noticee no. 1, was granted to Noticee no. 1 on October 08, 2021 and December 16, 2021. Therefore, from the records and evidence available before me, I note that the NRC of NSE in its report dated November 22, 2017 submitted to SEBI, has inter alia, stated that *“only Ms. Chitra Ramkrishna interviewed Mr. Anand Subramanian for his appointment, and there are no noting in the personnel file of Mr. Anand Subramanian in relation to his interview and position of Chief Strategic Advisor was neither advertised nor any other person considered for the position”*. Further, NSE vide email dated June 11, 2019 has stated that position for the advisory and support function to the MD’s office as identified at the time of hiring of Mr. Anand Subramanian in 2013 and no HR consultants/recruitment agencies were engaged by NSE for hiring of Anand Subramanian. Therefore, from the records available with NSE itself and the findings of the NRC, it is seen that there are no records of notings in the personnel file of Noticee no. 6 in relation to his interview. Further, NSE has submitted that there were no advertisements made for considering the position of Chief Strategic Advisor, that was given to Noticee no. 6.

- 28.3.7 Further, as discussed in the foregoing paras, I note that the unknown person having the email id '*rigyajursama@outlook.com*' was known to Noticees no. 2 and 6. Noticee no. 1 has stated that she knew and was guided by the unknown person, the "Siddha Purusha", for the past 20 years. Further, Noticee no. 6, in his statements dated September 12, 2018, has also stated that he knew the unknown person for the past 22 years. In this regard, I note that the unknown person in his email dated September 05, 2015 to Noticee no. 1, stated that "*SOM, If I had the opportunity to be a person on Earth then Kanchan is the perfect fit. Ashirvadhams. SIRONMANI.*" ("Kanchan" here referring to Noticee no. 6). Therefore, I note that the unknown person clearly favored Noticee no. 6, and Noticee no. 1, who greatly relied on the unknown person, would have acted on the same. Therefore, from the record of events of the appointment of Noticee no. 6 and his substantial increase in his emoluments every year, along with the email exchanges between Noticee no. 1 with the unknown person, it is clear that there has been a plan for the appointment and rise of Noticee no. 6 in NSE which was being implemented by Noticee no. 1.
- 28.3.8 In view of the above, it is clear that the statements made by Noticee no. 1 in her statement dated April 12, 2018 before SEBI that a known HR consultant had recommended Noticee no. 6 to HR department and that interviews were done by HR and herself were incorrect and misleading statements. Further, the statements that the compensation benchmarking for Noticee no. 6 was done by HR based on his role and bandwidth available with them as governed by HR policy is also incorrect and misleading as I note that both the NRC and Mr. Chandrasekhar Mukherjee have stated that the interview and appointment was entirely handled by Noticee no. 1 and given the exchange of emails between Noticee no. 1 with the unknown person, it is apparent that the compensation of Noticee no. 6 has been constantly decided externally and not by the HR of NSE.
- 28.3.9 Further, with regard to submission of Noticee no. 1 that at the relevant time, neither the Compensation Committee / the NRC or the Board of NSEIL had

ever raised any query in relation to these issues, nor was any issue in this regard ever brought to her attention, I find that the same does not absolve her actions of giving incorrect and misleading statements to SEBI. Furthermore, the present proceedings also hold NSE (Noticee no. 2) accountable for failure to take action against Noticee no. 1 for the same. Therefore, I find the said submissions of Noticee no. 1, as untenable.

28.3.10 In view of the above, I find that Noticee no. 1 has made incorrect and misleading submissions about the appointment and selection of Noticee no. 6 before SEBI. Hence, I find that the Noticee no. 1 has:

- a) failed to maintain the highest standards of personal integrity, truthfulness, honesty and fortitude in discharging her duties and has engaged in acts discreditable to her responsibilities as MD& CEO of NSE and engaged in an act of dishonesty and misrepresentation by making incorrect and misleading submissions before SEBI, in violation of *Clause v. (e) and (h) of the Code of Conduct as specified under Part– A of Schedule– II read with Regulation 26(1) of the SECC Regulations, 2012.*
- b) by furnishing incorrect and misleading statements before SEBI, the Noticee no. 1 has violated Section 6(4) of SCRA, 1956.
- c) by furnishing incorrect and misleading statements before SEBI, the Noticee no. 1 has violated provisions of the SCRA, 1956 and thereby failed to comply with all the provisions of the SCRA in violation of Clause iv (a) and (b) of the Code of Conduct as specified under Part– A of Schedule– II read with Regulation 26(1) of the SECC Regulations, 2012.

**28.4 The SCN-I alleges that Noticee no. 1 failed to designate Noticee no. 6 as KMP in terms of SECC Regulations, 2012 and thus failed to declare compensation of Noticee no. 6 in the report of the exchange and violated norms for compensation policy as prescribed by SEBI in this regard.**

28.4.1 Regulation 2(i) of SECC Regulations, 2012 stipulates that:-

*"key management personnel" means a person serving as head of any department or in such senior executive position that stands higher in hierarchy to the head(s) of department(s) in the recognised stock exchange or the recognised clearing corporation or in any other position as declared so by such stock exchange or clearing corporation;*

28.4.2 Noticee no. 6 was re-designated as 'Group Operating Officer and Advisor to MD' w.e.f. April 01, 2015 on consultancy vide letter dated April 01, 2015 by the noticee at par with Job grade M 13. NSE vide its email dated January 24, 2019 has submitted that Group President & Company Secretary (Noticee no. 4), was the only employee in the job grade M 13 (Senior Director). The Group President & Company Secretary was one of the key management personnel under SECC Regulations, 2012 during the relevant period.

28.4.3 I note that the Board of NSE, in its meeting held on August 11, 2015 delegated substantial power of management akin to the powers granted to the Noticee no. 1 in the NSE Board meeting dated February 23, 2005 including the following to Noticee no. 6 in order to further smoothen the day to day conduct of business operations of the exchange. Such power included the following:-

- (a) to make all such arrangements and to do all such acts, deeds, matters and things on behalf of the company as may be usually necessary or expedient in the conduct of day to day activities of the company.
- (b) to apply for, obtain and renew licenses, permits etc. from Central Government, State Government, Municipal or other statutory authority as may be necessary or requisite for the purpose of carrying on or developing the business of the Company.
- (c) to appoint, employ, remove, dismiss, discharge, suspend, reappoint, re-employ, or replace bankers, solicitors, advocates, accountants, advisers in the areas of systems & software, security,



taxation, law, accounts etc. technicians, medical practitioners and with such powers and duties and upon such terms as he may think fit.

28.4.4 Thereafter, having been vested with substantial power akin to MD & CEO Noticee no. 6 started attending all the Board meetings of NSE since August 11, 2015 onwards as reflected by NSE letter dated November 26, 2018. It is further noted that the Board of NSE in its meeting held on June 23, 2016, while giving approval for setting up of a Stock Exchange at GIFT IFSC authorized Noticee no. 6, GOO among others, to do all such things as may be required for the purpose of forming a subsidiary of NSE and for setting up a stock exchange as its IFSC unit in GIFT SEZ.

28.4.5 As per the organizational chart depicting the reportees of Noticee no. 6, as submitted by NSE vide email dated April 10, 2018, various functional heads viz. Chief People Officer, Chief Marketing Officer & CSR, Strategic Business Head-C&D, CBO-Curr & Derivatives, CTO-Projects, CTO-Operations, CEOs-subsiadiaries, Business Head-Int. & FII Interface, etc. were reporting to Noticee no. 6. This made it obvious that the position of Noticee no. 6 was a senior executive position standing higher in hierarchy to the head(s) of department(s) and also just one level below the MD & CEO. As Group Operating Officer and advisor to MD, Noticee no. 6 was reporting directly to MD & CEO. In the annual report of NSE for the years 2014-15 and 2015-16, the name of Noticee no. 6 has been indicated amongst the 'Management Team' as Group Operating Officer just next to Noticee no. 4, Group President (F&L) & Company Secretary. Further, NRC of NSE in its report dated November 22, 2017 to SEBI has, inter alia, stated that re-designation of Noticee no. 6 was not tabled to the then NRC despite the fact that he would have been a KMP and his re-designation would have needed an approval from the NRC.

28.4.6 In view of the above, I find that Noticee no. 6 held a very senior executive position, standing higher in hierarchy to the head(s) of department(s),

Noticee no. 6 and was required to be designated as key management personnel under SECC Regulations, 2012 and :-

- (a) compensation given to Noticee no. 6 as 'GOO and advisor to MD' was required to be disclosed in the Annual Report of the NSEIL as per Regulation 27 (5) of the SECC Regulations, 2012; and
- (b) compliance of the compensation norms as specified under para 8.1 of the SEBI Circular CIR/MRD/DSA/33/2012 dated December 13, 2012 read with Regulation 27(3) of SECC Regulations, 2012 was required for the compensation given to Noticee no. 6 as 'GOO and advisor to MD' through letter of agreement dated January 18, 2013 between NSE and Noticee no. 6 and letter dated April 01, 2015 by Noticee no. 1 letter to Noticee no. 6.

28.4.7 NSE in its letter dated September 14, 2018 has submitted that categorization of KMPs, including changes caused by resignation, appointment, transfer etc. from time to time was being processed by the HR Head with the approval of the MD & CEO. Mr. Chandrasekhar Mukherjee in his statement dated June 10, 2019 before SEBI and email dated June 12, 2019 has, *inter alia*, submitted that *matter relating to Mr. Anand Subramanian were always dictated by Ms. Chitra Ramkrishna*. Further, as per the details submitted by NSE vide email dated June 12, 2019 it is noted that 10 emails were exchanged during the period from February 17, 2015 to February 19, 2015 (i.e. before the re-designation of Noticee no. 6 as 'Group Operating Officer and advisor to MD') between the Noticee no. 1 and the unknown person having email id as rigyajursama@outlook.com which carried discussions, *inter alia* over new designation of Noticee no. 6 without making it as KMP. In view of the above, I find that decision of re-designation of Noticee no. 6 as 'Group Operating Officer and Advisor to MD' without designating as KMP was taken by the Noticee no. 1.

28.4.8 In this regard, the Noticee no. 1 has *inter alia* submitted that:

- (a) *she was not responsible for the designation of a particular employee and/or declaring the same as a KMP in accordance with the applicable laws. The Statutory Compliance Team, then headed by Dr. V.R. Narmishan, or the Legal and Regulatory team, then headed by Mr. J. Ravichandran, was responsible for compliance with all statutory and regulatory requirements, ought to have taken the necessary steps at the relevant time, if it was a statutory requirement to declare any person as a KMP.*
- (b) *Noticee no. 1 submitted that at the time when Noticee no. 6 was designated as Group Operating Officer and Advisor to Managing Director, none of the departments, including HR, regulatory, compliance, raised any issue in respect of the designation of Noticee no. 6 or that he was required to be designated as a KMP. As the Show-Cause Notice itself records, the decision to delegate powers to Noticee no. 6 was taken by the Board of NSEIL and not by the Noticee no. 1 alone. The Board of NSEIL was also not informed that, having regard to the powers delegated to Noticee no. 6, he ought to have been classified as a KMP. If at all, for the reasons set out below, this is a failure of NSEIL's Compliance Department and not of the Noticee.*
- (c) *Noticee no. 1 has referred to the NSE letter dated September 14, 2018, and submitted that it is explained in detail as to why Noticee no. 6 was not classified as a KMP. That it has, inter alia, referred to the report of the secretarial audit conducted by SNACO, the practicing company secretary, wherein also no observation was made about Noticee no. 6 being KMP of the company. It has also pointed out the explanation provided by the HR Head as to why Noticee no. 6 was not classified as a KMP.*
- (d) *Noticee no. 1 has referred to the NSEIL email dated 14th March 2016, submitting that NSEIL had denied that there was any violation of the SECC Regulations in appointment of Noticee no. 6, as Group Operations Officer and Advisor to MD. It had also in its email of 30<sup>th</sup> June 2016, in response to a specific query by SEBI in respect of appointment of Noticee no. 6 as a Key Managerial Personnel, clarified as to why Noticee no. 6 was not designated as a KMP. NSEIL in its email dated 20th January 2019 had clarified that the email dated 30th June 2016 was addressed after obtaining necessary information from the relevant departments and after showing the draft to the*

Noticee no. 1 and other senior employees of NSEIL, including Noticee no. 4 and Mr. Ravi Varanasi. That this shows that the Noticee alone was not dealing with the queries raised by SEBI but other senior management of NSEIL were also involved in dealing with the same and were providing necessary inputs for the same. That the Noticee, therefore, cannot be faulted for having acted upon the advice that Noticee no. 6 was not required to be classified as a KMP.

- (e) The Noticee no. 1, therefore, submits that no fault can be attributed to the Noticee in respect of classification of Noticee no. 6 as a KMP. As stated above at the contemporaneous point of time, none of the relevant officers in-charge of the regulatory, legal or the HR Departments informed the Noticee of the need for classification. Indeed, NSEIL, even in its communications as late as September 14, 2018, defended the non-classification of Noticee no. 6 as a KMP.

28.4.9 With regard to the contentions raised by Noticee no. 1, at the outset, it is relevant to refer to the emails exchanged by Noticee no. 1 with the unknown person prior to the Noticee no. 6 being appointed as GOO. The relevant emails are as under:

- a) Email dated February 18, 2015 at 15:59 Hrs from Noticee no. 1 to Unknown Person:  
"1. The role and designation of group chief coordination officer is fine and we could take that forward. I have a small submission, Can we make this as Group president and chief coordination officer? And over a time frame as You direct we can move the entire operations of the exchange under G and redesignate him as chief operating officer? seek Your guidance on the path forward on this Swami  
If this meets with your Highness' approval, then parallely could we coin JR as group President Finance and stakeholder relations and Corporate General Counsel?"
- b) Email dated February 18, 2015 at 18:01 Hrs from Unknown Person to Noticee no. 1  
"I have the following questions, that will place all of you in an awkward situation. I buy your argument and analysis, interesting but have not got my answers from your own concerns. If on one hand I call JR a President who is a KMP the other person how can he/she be excused, is it subjective?"

*Competitors bring new faces much below par at intelligent levels and functional expertise, they bring all as coo and VP, we are bringing a legitimate case here, which needs introspection? I have never suggested any changes in reporting of trading and other verticals, I am only trying to initiate the importance of levels within organisation. So from a strategic perspective can I bring the title Group Chief Co-Ordination Officer (COO) since subsidiaries also report to him and acceptable to all. Larger the thoughts, clearer our stand, postures become easier.  
ASHIRVADHAMS, a revert on this is good for one and all. GNANA VEL”*

c) E-mail dated February 19, 2015 from Unknown Person to Noticee no.

1:

*“I will draw the curtains down to this discussion with the following points for consideration, of course SOM can execute her authority to change if required suiting the company requirement or write to me seeking clarifications.*

*Any journey the enjoyment is there after completion of the path that we tread, similar is the HR process. In this journey if we view our personal goals then it is difficult to align with business goals. So in order to have a mix of all and not preceptitate the contract entered into and also maintain status on hierarchy, and considering legally the terms of reference in TITLE NOT AS KMP and still get an executive authority I propose with love and abundant blessings that you will be called from April 01, 2015 as "GROUP OPERATING OFFICER & ADVISOR TO MD" at the same level as group president of the company.*

*With this I call upon SOM to discharge the following:*

- 1. contract to revise to 5 day week only for paper and emoluments. 3 day will continue on routine with HO and rest at will.*
- 2. one day brought additional on contract per week Kanchan to withdraw and surrender to me per month as gratitude on gross amt.*
- 3. Travel intl first class exceeding 5hrs journey point to point, business class for domestic for group president and above.”*

28.4.10 From the above exchange of emails between Noticee no. 1 with the unknown person, it is evident that they were discussing the title/designation to be given to Noticee no. 6 in order to prevent him from being considered as a KMP. From the email dated February 18, 2015, the unknown person has raised the query that “*If on one hand I call JR a President who is a KMP the other person how can he/she be excused, is it subjective?*”. From the aforesaid query it is evident that they wanted to designate Noticee no. 6 at par or higher than “JR” i.e. Noticee no. 4 (who was designated President and KMP) but wanted to

avoid designating Noticee no. 6 as President as that would also classify him as a KMP. This query is then resolved by email dated February 19, 2015 from the unknown person to Noticee no. 1, wherein, the Noticee no. 1 advises that *“So in order to have a mix of all and not precepitate the contract entered into and also maintain status on hierarchy, and considering legally the terms of reference in TITLE NOT AS KMP and still get an executive authority I propose with love and abundant blessings that you will be called from April 01, 2015 as "GROUP OPERATING OFFICER & ADVISOR TO MD" at the same level as group president of the company”*. From the aforesaid email, it is evident that they decided to designate him as Group Operating Officer & Advisor to MD so as to avoid him being classified as KMP and still have executive authority. I note that thereafter, Noticee no. 6 was re-designated as ‘Group Operating Officer and Advisor to MD’ w.e.f. April 01, 2015 on consultancy vide letter dated April 01, 2015 by the Noticee no. 1. Hence, from the above, it is clear that Noticee no. 1 appointed Noticee no. 6 as ‘Group Operating Officer and Advisor to MD’ with the intention to avoid making Noticee no. 6 a KMP and yet give him extensive executive authority, as advised to her by the unknown person. Therefore, all the contentions of Noticee no. 1 that it was not her responsibility, or that no one from the Board, NRC, HR or NSE raised any objection becomes untenable as it has been in the knowledge of Noticee no. 1, prior to appointing Noticee no. 6 as GOO, that Noticee no. 6 would be given powers and seniority that would require him to be declared a KMP under the SECC Regulations, 2012 and the same was attempted to be avoided by giving him the designation of ‘Group Operating Officer and Advisor to MD’. Accordingly, assuming that even if none of the relevant officers in charge of the regulatory, legal or the HR Departments informed the Noticee of the need for classifying Noticee no. 6 as KMP, Noticee no. 1 was herself aware that Noticee no. 6 was to be designated as KMP. The Noticee no. 1 cannot plead ignorance or shirk her responsibility, as the attempt to prevent Noticee no. 6 from being classified as KMP was very much part of her conspiracy and devious scheme with the unknown person, as evident from the aforesaid emails.

28.4.11 In view of the above, I find that it has been the plan and effort of Noticee no. 1 to ensure that Noticee no. 6 was not classified as a KMP. Therefore, the contention of the Noticee no. 1 that letters submitted by NSE to SEBI stating that Noticee no. 6 was not a KMP was upon her discussion with other senior management and relevant officers in charge of regulatory, legal and HR Department of NSE, is untenable, as it can be rightly assumed that Noticee no. 1 would have chaired such meetings towards ensuring that Noticee no. 6 was not classified as KMP since that was part of her devious scheme.

28.4.12 Further, with regard to the contention as to whether Noticee no. 6 was a KMP, I note that Regulation 2(1)(i) of the SECC Regulations, 2012 defines KMP as a person serving as head of any department or in such senior executive position that stands higher in hierarchy to the heads of departments in the recognised stock exchange. In this regard, I note that as per the organizational chart depicting the reportees of Noticees no. 6, as submitted by NSE vide email dated April 10, 2018, various functional heads viz. Chief People Officer, Chief Marketing Officer & CSR, Strategic Business Head-C&D, CBO-Curr & Derivatives, CTO-Projects, CTO-Operations, CEOs-subsiidiaries, Business Head-Int. & FII Interface, etc. were reporting to the GOO i.e. Noticee no. 6. This made it clear that the position of Noticee no. 6 was a senior executive position standing higher in hierarchy to the heads of departments and also just one level below the MD & CEO. I also note that in the annual report of NSE for the years 2014-15 and 2015-16, the name of Noticee no. 6 has been indicated amongst the 'Management Team' as Group Operating Officer just next to Mr. J Ravichandran (Noticee no. 4), Group President (F&L) & Company Secretary, who was also a KMP. Further, from the statements given by Noticee no. 6 to SEBI on April 11, 2018 I note that upon being asked "*who were the direct reportees during your tenure in NSE and whom were you reporting in NSE during your tenure*", the Noticee no. 6 stated that there were various heads of departments that were directly reporting to him, which include the IISL Detox, Business Head International, Head premises and administration, Head Business excellence, Communication Head, Chief Marketing Officer, CTO Projects and CEO NSE

IT. Further, that he was reporting to the MD & CEO of NSE during his entire tenure. Therefore, from the above, it is clear that Noticee no. 6 fell within the definition of KMP under Regulation 2(1)(i) of the SECC Regulations, 2012 as a senior executive position that stands higher in hierarchy to the heads of departments in the recognised stock exchange. Further, as a KMP, the compensation given to Noticee no. 6 was to be disclosed in the Report of NSE as required under Regulation 27 (5) of the SECC Regulations, 2012, which the Noticee no. 1 has failed to do.

28.4.13 I note that Noticee no. 1 has contended that NSE had sent emails dated March 14, 2016 and June 30, 2016 submitting that there was no violation of the SECC Regulations, 2012 in the appointment of Noticee no. 6 and that Noticee no. 6 was not a KMP. Further, that NSE vide its email dated January 20, 2019 had clarified that the email dated 30th June 2016 was addressed after obtaining necessary information from the relevant departments and after showing the draft to the Noticee no. 1 and other senior employees of NSEIL, including Noticee no. 4 and Mr. Ravi Varanasi and this shows that the Noticee alone was not dealing with the queries raised by SEBI but other senior management of NSEIL were also involved in dealing with the same and were providing necessary inputs for the same. With regard to the aforesaid contention, I note that the NSE letters dated March 14, 2016 and June 30, 2016 were signed by Noticee no. 5, as the as Chief Regulatory Officer (hereinafter referred to as “**CRO**”), compliance officer of NSE, and proceedings have also been initiated against Noticee no. 5 for making misleading and incorrect statements to SEBI that there has been no violation of the SECC Regulations, 2012. Further, with regard to the contention that the Noticee no. 1 alone was not dealing with the queries raised by SEBI but other senior management of NSE were also involved in dealing with the same and were providing necessary inputs for the same, as discussed in the foregoing paras, I note that the attempt to prevent Noticee no. 6 from being classified as KMP was very much part of Noticee no. 1’s devious scheme, as evident from the aforesaid emails. Therefore, irrespective of whether the other senior management of NSE and relevant officers in charge of



regulatory, legal and HR Department of NSE were involved or even advised that Noticee no. 6 was not a KMP, the same is irrelevant as Noticee no. 1 was very much aware that Noticee no. 6 was a KMP and had been designated as GOO by her merely to avoid Noticee no. 6 from being classified as a KMP even though he was granted extensive executive authority and power. Hence, the contention of the Noticee no. 1 that she cannot be faulted for having acted upon the advice that Noticee no. 6 was not required to be classified as a KMP is erroneous and untenable.

28.4.14 In view of the above, I find that Noticee no. 1 failed to designate Noticee no. 6 as KMP in terms of SECC Regulations, 2012 as she was very much aware that Noticee no. 6 was a KMP and was instrumental in ensuring that Noticee no. 6 was not classified as a KMP since that was part of her conspiracy with the unknown person, and thus I find has been instrumental in the failure to declare compensation of Noticee no. 6 in the report of the exchange and violated norms for compensation policy as prescribed by SEBI in this regard. Hence, I find that the Noticee no. 1 has:

- a) failed to declare Noticee no. 6 as KMP in line with *Regulation 2 (i) of the SECC Regulations, 2012*.
- b) failed to declare compensation of Noticee no. 6, a KMP, in the Report of NSE as required under *Regulation 27 (5) of the SECC Regulations, 2012*.
- c) by failing to declare Noticee no. 6 as KMP and declare his compensation in the Report of Noticee as required under the SECC Regulations, 2012 upon the instructions of an unknown person, the Noticee no. 1 has failed to maintain high standards of integrity and perform her duties in a independent and objective manner and acted in a manner prejudicial to the administration of the stock exchange in violation of *Clause v (e), (f) and (h) of the Code of Conduct as specified under Part– A of Schedule– II, read with Regulation 26(1) of the SECC Regulations, 2012*.

- d) by failing to declare Noticee no. 6 as KMP and declare his compensation in the Report of Noticee as required under the SECC Regulations, 2012, the Noticee no. 1 has failed to act in a fair and transparent manner while dealing with matters relating to stock exchange, failed to comply with the SECC Regulations, 2012 and failed to exercise due diligence in the performance of her duties as MD&CEO of NSE in violation of *Clause (i) of the Code of Ethics under Part– B of Schedule– II read with Regulation 26(2) of the SECC Regulations, 2012.*
- e) by not declaring Noticee no. 6 as KMP and giving him powers akin to that of MD&CEO and disproportionate compensation, Noticee no. 1 has used her position and powers delegated to her to give undue favour to Noticee no. 6, while failing to comply with the SECC Regulations, 2012 in violation of *Clause iii. (d) (e) and (f) of the Code of Ethics as specified under Part– B of Schedule– II read with Regulation 26(2) of the SECC Regulations, 2012.*

**28.5 The SCN-I alleges that Noticee no. 1, who played an active role on appointment of Noticee no. 6 as consultant, didn't raise any concern with respect to delegation of substantial power almost akin to MD & CEO to Noticee no. 6, merely a consultant, in the NSE Board meeting held on August 11, 2015.**

28.5.1 As noted in para 28.4 above, substantial power of management akin to the powers granted to the noticee was granted to Noticee no. 6, merely a consultant, in the NSE Board meeting held on August 11, 2015. It is noted that the Noticee no. 1 was present in the NSE Board meeting on August 11, 2015 which approved the delegation of such power to Noticee no. 6 on August 11, 2015. The Noticee no. 1, who played an active role on appointment of Noticee no. 6 as consultant, as discussed in the foregoing

paras, didn't raise any concern with respect to such delegation of substantial power to Noticee no. 6, merely a consultant.

28.5.2 In this regard, the Noticee no. 1 has submitted that the *very title of this allegation demonstrates that the delegation of powers was by the Board of NSEIL. SEBI's deliberate attempt to foist this allegation on the Noticee demonstrates the intent of SEBI to find any and all faults at the doorstep of the Noticee, without any thought as to its causality or legality. Merely the presence of the Noticee at the said Board Meeting appears to be an offence in the eyes of SEBI to foist this allegation on the Noticee. This allegation, if not the others, clearly reveal that SEBI is clutching at straws to find some allegation against the Noticee, in an effort to bring disrepute to not just her good name, but also the institution of which she was a founding member and helped shape its growth until her resignation in December 2016. In fact, this allegation is so ludicrous that it is almost as if SEBI is attempting to fit a square peg in a round hole, that SEBI has identified that the Noticee is to be found guilty of some offence and are then seeking draw up allegations around the person to be accused, rather than a genuine investigation into any matter impacting the finance market and investor interests. The allegations, therefore, are completely misconceived.*

28.5.3 As discussed in detail in the foregoing paras regarding the emails dated February 18 and 19, 2015 between Noticee no. 1 and the unknown person, it is evident that Noticee no. 1 had conspired to appoint Noticee no. 6 as GOO in order to prevent Noticee no. 6 from being classified as a KMP even though he was given extensive executive authority. Further, that she has been instrumental in ensuring that Noticee no. 6 was not classified as a KMP by overseeing the correspondences made by NSE to SEBI submitting that Noticee no. 6 was not a KMP. Therefore, given that this was all part of Noticee no. 1's conspiracy, it is not surprising that Noticee no. 1 didn't raise any concern with respect to delegation of substantial power almost akin to MD & CEO to Noticee no. 6, merely a consultant, in the NSE Board meeting held on August 11, 2015. In fact the entire appointment of GOO & Advisor to

MD and delegation of substantial powers to Noticee no. 1 has all been orchestrated by Noticee no. 1 as part of her devious scheme in complying with the advice of an unknown person who has been influencing the decision of the head of the leading stock exchange in India.

28.5.4 The contention of Noticee no. 1 that that the delegation of powers to Noticee no. 6 in the Board meeting dated August 11, 2015 was by the Board of NSE and she was merely present is preposterous if not laughable. The Noticee no. 6 was delegated substantial power almost akin to MD & CEO. Clearly the consent or approval, if not proposal itself, of the MD&CEO would be taken in such circumstances where such substantial powers almost akin to MD&CEO were being granted to a consultant. Given that Noticee no. 6 was appointed by Noticee no. 1 as her Chief Strategic Advisor just 2 years prior and he reported directly to her, it is obvious that such delegation of powers could have emanated from Noticee no. 1. Be that as it may, as discussed in the foregoing paras, from the email dated February 18 and 19, 2015 between Noticee no. 1 and the unknown person, it is evident that Noticee no. 1 had conspired to appoint Noticee no. 6 as GOO in order to prevent Noticee no. 6 from being classified as a KMP even though he was given extensive executive authority. Hence, it is evident that there was a conspiracy by Noticee no. 1 to elevate Noticee no. 6 and the delegation of powers granted to Noticee no. 6 in the Board meeting of NSE on August 11, 2015 was a part of her scheme of things. The allegations are therefore not misconceived as contended by Noticee no. 1, but based on facts brought out from communications of Noticee no. 1 with an unknown person who appears to be dictating her actions and running NSE. In fact it is from SEBI's investigations that such disturbing emails have been unearthed. Therefore, I find the aforesaid submissions made by Noticee no. 1 to be merely disparagements without any merit and hence, untenable.

28.5.5 In view of the above, I find that Noticee no. 1 has:

- a) by not raising any concern with respect to the delegation of substantial power to Noticee no. 6, who was merely a consultant appointed by Noticee no. 1, Noticee no. 1 has failed to maintain high standards of integrity and perform her duties in a independent and objective manner and acted in a manner prejudicial to the administration of the stock exchange in violation of *Clause v (e), (f) and (h) of the Code of Conduct as specified under Part- A of Schedule- II, read with Regulation 26(1) of the SECC Regulations, 2012.*
- b) by not raising any concern with respect to the delegation of substantial power to Noticee no. 6, who was merely a consultant appointed by Noticee no. 1, Noticee no. 1 has used her position and powers delegated to her to give undue favour to Noticee no. 6 in violation of *Clause iii. (d) (e) and (f) of the Code of Ethics as specified under Part- B of Schedule- II read with Regulation 26(2) of the SECC Regulations, 2012.*

**28.6 The SCN-I alleges that Noticee no. 1 through her involvement on replies to the Secretarial auditor vide email dated May 10, 2016 and to SEBI (submitted by Mr. V.R. Narasimhan, CRO, NSE) vide email dated March 14, 2016 and June 30, 2016, has impaired the independent functioning of the Regulatory department of Exchange and thereby compromised on the Governance of the Stock Exchange as envisaged under the SECC Regulations, 2012.**

28.6.1 I note that SNACO who carried out the secretarial audit of NSE had raised the issues with regard to the re-designation of Noticee no. 6 as 'Group Operating Officer and Advisor to MD' without the approval of NRC and without noting thereof by NSE Board through its letter/email dated October 14, 2015 and March 15, 2016. On May 10, 2016, Mr. Chandrasekhar Mukherjee (then Chief People officer, NSE) replied to the secretarial department of NSE on query of SNACO with copy marked to Mr. J.

Ravichandran (Noticee no. 4) that *Mr. Anand Subramanian is a consultant and not on the roles of NSE and is not handling any KMP function. All KMPs directly report to the MD & CEO of NSE. Hence, the role does not require approval of NRC/Board as is within the administrative powers of the MD & CEO.* The Secretarial department of NSE then forwarded the reply of Mr. Chandrasekhar Mukherjee to SNACO on same day. NSE in its letter dated September 14, 2018, has informed that the aforesaid view of HR head was also confirmed by the then MD & CEO to the NRC of NSE during October 2016.

28.6.2 Mr. Chandrasekhar Mukherjee in his statement dated June 10, 2019 before SEBI has stated that *in the first place this query of SNACO should not have been raised to HR, nevertheless, reply was given based on discussion between secretarial department, Anand Subramanian and Chitra Ramkrishna. Finally, the communication was dictated by Chitra Ramkrishna and the aforesaid team at NSE.*

28.6.3 Upon receipt of complaint dated December 15, 2015 on Governance issues on appointment of Noticee no. 6 by NSE, when SEBI raised query vide email dated February 19, 2016 to NSE to clarify whether Noticee no. 6 has been appointed as KMP and SECC Regulations, 2012 have been complied with, Noticee no. 5 the then CRO, vide his email dated March 14, 2016 and June 30, 2016 submitted to SEBI that there is no violation of SECC Regulations, 2012 in the appointment of Noticee no. 6 as 'Group Operating Officer and Advisor to MD'.

28.6.4 NSE, vide email dated January 29, 2019 has submitted the response of Noticee no. 5 clarifying that the email dated March 14, 2016 was drafted by Noticee no. 5 and Mr. Chandrasekhar Mukherjee at the instruction of the Noticee no. 1 and email dated June 30, 2016 was prepared based upon inputs from various departments of NSE and shown, inter alia, to the Noticee no. 1 before filing with SEBI. NSE vide its email dated June 03, 2019 has submitted an email correspondence dated June 27, 2016 between Noticee

no. 5 and Mr. Chandrasekhar Mukherjee (HR head) indicating draft response to SEBI. Mr. Chandrasekhar Mukherjee in his statement dated June 10, 2019 before SEBI has submitted that he was not competent to approve to the reply of Noticee no. 5 as the query in this regard was raised by SEBI and had seen the reply of Noticee no. 5 in the context of verifying factual statement relating to the appointment of Noticee no. 6 only. Mr. Chandrasekhar Mukherjee has further submitted that, in Noticee no. 6 case, he has worked and delivered under the directions/instructions of Noticee no. 1.

28.6.5 In view of the above, I note that the Noticee no. 1 through her improper intervention on replies to the Secretarial auditor vide email dated May 10, 2016 and to SEBI through email dated March 14, 2016 and June 30, 2016 has impaired the independent functioning of the Regulatory department of Exchange and thereby compromised on the Governance of the Stock Exchange as envisaged under the SECC Regulations, 2012.

28.6.6 The Noticee no. 1 has submitted that *the entire basis of this allegation is the statement of Mr. Mukherjee. The Noticee has, in the preceding paragraphs, demonstrated the improbity of the said statements, the same being entirely inconsistent with the record maintained by the same person during the contemporaneous period. As reiterated several times, without the said Mr. Mukherjee being offered for cross-examination, the statements cannot be accepted. In any event, SEBI's own allegations demonstrate that at the relevant period when the Noticee was in office, the reply to SEBI was in fact prepared after obtaining inputs from various departments of NSEIL and the Noticee, as the MD & CEO, had seen the same before it was filed with SEBI. If SEBI's allegations are to be taken at face value, it would mean that the MD & CEO of a stock exchange should not be consulted when the said stock exchange is to respond to SEBI on a statutory / regulatory issue. The Noticee denies that the Noticee has compromised on the governance of the stock exchange as alleged in the said paragraphs. The Noticee further denies the contents of the statement given by Mr. Mukherjee. The Noticee submits, for the reasons aforesaid, that the said statement cannot be relied upon at all.*

28.6.7 I note that cross examination of Mr. Chandrasekhar Mukherjee (then Head of HR of NSE) and Mr. Dinesh Kanabar (then Chairman of NRC of NSE), as sought by Noticee no. 1, was granted to Noticee no. 1 on October 08, 2021 and December 16, 2021. Thereafter, Noticee no. 1 has not made any submissions with regard to the same till date. From the observations and findings in the aforesaid paras, it is apparent that Noticee no. 6 has been arbitrarily appointed by Noticee no. 1 without the much role of HR even though Noticee no. 6 was not qualified for the same. Further, it has been found that there was a frequent, arbitrary and disproportionate increase in compensation granted to Noticee no. 6 by the Noticee no. 1 when there was no evidence of any performance evaluation being done for Noticee no. 6 and nor was there any evidence to satisfy the rating of A+ given to Noticee no. 6 for giving such high increments. Furthermore, her relationship with Noticee no. 6 as seen from the email exchanges with the unknown person, as discussed in the aforesaid paras, makes it evident that he was to be favored. Hence, in light of the above, it is evident that Noticee no. 1 would have had a vivid interest and taken complete control of all questions or issues pertaining to the appointment of Noticee no. 6 as sought by SEBI, in order to protect the interest of Noticee no. 6. Accordingly, the statements given by Mr. Chandrasekhar Mukherjee that he has worked and delivered under the directions/instructions of Noticee no. 1 is more probable and credible as there is no evidence on record to suggest as to why Mr. Chandrasekhar Mukherjee would protect the interest of Noticee no. 6 by replying to SNACO that Noticee no. 6 was not a KMP when Noticee no. 6 was in fact evidently a KMP. Therefore, given the above relationship of Noticee no. 1 with Noticee no. 6 and that Mr. Chandrasekhar Mukherjee reported directly to Noticee no. 1 who was the MD & CEO of NSE, the statements made by Mr. Chandrasekhar Mukherjee that the communication was dictated by Noticee no. 1 is more credible, as the personal agenda of Noticee no. 1 for Noticee no. 6, as discussed in the aforesaid paras, is apparent.



28.6.8 Further, I note that when SEBI raised query vide email dated February 19, 2016 to NSE to clarify whether Noticee no. 6 has been appointed as KMP and SECC Regulations, 2012 have been complied with, Noticee no. 5 the then CRO, vide his email dated March 14, 2016 and June 30, 2016 submitted to SEBI that there is no violation of SECC Regulations, 2012 in the appointment of Noticee no. 6 as 'Group Operating Officer and Advisor to MD'. I note that NSE, vide email dated January 29, 2019 has submitted the response of Noticee no. 5 clarifying that the email dated March 14, 2016 was drafted by Noticee no. 5 and Mr. Chandrasekhar Mukherjee at the instruction of the Noticee no. 1 and email dated June 30, 2016 was prepared based upon inputs from various departments of NSE and shown, inter alia, to the Noticee no. 1 before filing with SEBI. Therefore, I note that the emails dated March 14, 2016 and June 30, 2016 submitted by the then CRO to SEBI was also under the instructions of Noticee no. 1. I note that there has been a blatant abuse of power by Noticee no. 1 in protecting the interest of Noticee no. 6, at the cost of impairing the independent functioning of the Regulatory departments of NSE. Such an arbitrary and autocratic control by Noticee no. 1 on the employees and departments of NSE in order to circumvent the law is deplorable and highly detrimental to the securities market.

28.6.9 In view of the above, I find that Noticee no. 1 through her involvement on replies to the Secretarial auditor vide email dated May 10, 2016 and to SEBI (submitted by Noticee no. 5, then CRO, NSE) vide email dated March 14, 2016 and June 30, 2016, has impaired the independent functioning of the Regulatory department of Exchange and thereby compromised on the Governance of the Stock Exchange as envisaged under the SECC Regulations, 2012. Hence, I find that Noticee no. 1 has:

- a) by getting involved and impairing the independent functioning of the regulatory department of NSE as discussed above, the Noticee no. 1 has failed to administer the stock exchange with professional competence, impartiality, efficiency and effectiveness; failed to maintain the highest standards of personal integrity, honesty and fortitude in discharging her

dtires; failed to perform her duties in an independent and objective manner and avoid activities that may impair their independence or official duties, failed to constructively support open communication and acted in a manner that is prejudicial to the administration of NSE in violation of *Clause v (b), (e), (f) and (h) of the Code of Conduct as specified under Part- A of Schedule- II, read with Regulation 26(1) of the SECC Regulations, 2012.*

b) by getting involved and impairing the independent functioning of the regulatory department of NSE as discussed above, the Noticee no. 1 has failed to deal with matters relating to NSE in fairness and transparency in violation of *Clause (i) of the Code of Ethics under Part- B of Schedule- II read with Regulation 26(2) of the SECC Regulations, 2012.*

c) by getting involved and impairing the independent functioning of the regulatory department of NSE as discussed above, the Noticee no. 1 has used her position and powers delegated to her to get undue favour from the staff of NSE for Noticee no. 6 in violation of *Clause iii. (d) (e) and (f) of the Code of Ethics as specified under Part- B of Schedule- II read with Regulation 26(2) of the SECC Regulations, 2012.*

**28.7 The SCN-I alleges that Noticee no. 1 continuously shared internal confidential information of NSE with the unknown person and allowed her decisions on various aspects of the functioning of the stock exchange to be influenced by that unknown person.**

28.7.1 During the course of investigation into the issue of co-location facilities at NSE, SEBI has come across certain documentary evidences, which demonstrate that Noticee no. 1, erstwhile MD & CEO of NSE has shared certain internal confidential information of NSE viz Organizational Structure, Dividend scenario, Financial Results, Human Resources Policy and related

Issues, Response to Regulator etc. with an unknown person by addressing her correspondence to an email id rigyajursama@outlook.com (referred as 'unknown person'/rigyajursama@outlook.com) during the period 2014 to 2016.

28.7.2 SEBI vide its letter May 03, 2018 and August 10, 2018 sought clarification from NSE. NSE vide its letter dated June 01, 2018, July 06, 2018, September 14, 2018 and email dated October 10, 2018 submitted its detailed response along with a report of forensic investigation conducted by Ernst & Young ('E&Y') into the matter and also the statements of Noticee no. 1 and Noticee no. 6. On the issue of identity of the person with whom correspondence was exchanged by Noticee no. 6, NSE in its letter dated July 06, 2018 has drawn reference to the forensic investigation report of E&Y wherein E&Y upon examination of the matter has concluded that the said person was Mr. Anand Subramanian. NSE has also concurred with the same.

28.7.3 NSE vide its letter dated November 27, 2018 has submitted that its legal advisors had consulted practitioners dealing with human psychology. As per the opinion of human psychology expert the noticee has been exploited by Noticee no. 6 by creating another identity in the form of Mr. Rigyajursama to guide her to perform her duties according to his wish. The Noticee no. 1 was manipulated by the same man in the form of different identities; one as Noticee no. 6 who enjoyed her trust and other as Mr. Rigyajursama who had her devotion and dependence.

28.7.4 In view of the above, and as per the E&Y report and also from the submission of NSE vide letter dated July 06, 2018, it is observed that the said unknown person i.e. Noticee no. 6 has significantly influenced the decision making of the Noticee no. 1 as reflected from some of the emails as given below:-

- (i) 10 emails were exchanged between the noticee and the said unknown person (Email id rigyajursama@outlook.com) from February 17, 2015 to February 19, 2015 under the subject "Proposed Organization Structure with notes" which carried discussions over (1) new designation of Noticee no. 6 without making it as KMP (2) revision of

the contract of Noticee no. 6 to 5 days/week only for paper and emoluments etc. In email dated February 19, 2015, the unknown person (Email id rigyajursama@outlook.com) states to draw the curtains down to the discussion and to pronounce the new designation of Noticee no. 6 as "Group Operating Officer & Advisor to MD" at the same level as group president of the company. The extract of few e-mail correspondence is given below:

- a) E-mail dated February 17, 2015 from the noticee to Unknown Person

*"This is a version of the organogram that we have put together for Your consideration. For confidentiality reasons we did not incorporate the new designations of JR and CSA.*

*Swami await your guidance"*

Note: Above discussion is wrt new designations of Noticee no. 4 (JR) and Noticee no. 6 (CSA) effective April 01, 2015.

- b) E-mail dated February 17, 2015 from Unknown Person to the noticee

*"The following are my observations that requires proper understanding and incorporation if that goes well within the framework.*

- 1. Lala to be brought up with current portfolio and that of kasam as Deputy head Regulatory under same grade. Nisha to handle Kasam portfolio reporting to Lala.*
- 2. Kasam to be removed from structure and kept on abeyance till leaving orgn.*
- 3. Mayur to be titled Chief - Trading Operations under the same grade*
- 4. Umesh to be titled Chief - Information Technology*
- 5. Huzan to be titled Chief - Group Products (Debts&....)*
- 6. Ravi Varanasi to be titled Chief BD- New Products & (SME/Education/RO Coordination)*
- 7. Nagendra to be removed and separate under promotion as Head - Equities reporting to you and dotted to RV/Subbu.*
- 8. Hari to be removed and separate under same grade as Head -IPO & OFS reporting to you and dotted to RV/Subbu.*

Official Spokesperson for Group apart from you are as follows: 1.

*RV/JR/HM/Mukesh/VRN/TVR/UJ/ Arindham representing Subbu"*

(ii) In another email dated February 25, 2015 from rigyajursama@outlook.com to the Noticee no. 1 under the subject "Corporate Announcements" the unknown person refers to the proposed announcement of two big levels to be made on March 02, 2015.

It is noted that the Noticee no. 1 vide email dated March 02, 2015 announced the re-designation of Noticee no. 6 as "Group Operating Officer & Advisor to MD" as decided by the unknown person vide email dated February 19, 2015.

(iii) In email dated February 17, 2015 from rigyajursama@outlook.com to the Noticee no. 1 vide subject "Proposed Organization Structure with notes", the unknown person seems to direct the Noticee no. 1 to propose the promotion of Mr. Chandrasekhar Mukherjee (CM) as Chief People Officer as SVP Grade.

In another email dated February 24, 2015 from the Noticee no. 1 to rigyajursama@outlook.com vide subject "List", Noticee no. 1, seeks guidance over promotions and reporting of certain employees of NSE, including reporting of Mr. Chandrasekhar Mukherjee to Group Operating Officer (GOO) upon promotion from VP to SVP.

It is noted from NSE internal note dated March 30, 2015 and April 16, 2015, designation of Mr. Chandrasekhar Mukherjee has changed from 'Head' to 'Chief People Officer' (CPO) in line with the direction of the unknown person ([rigyajursama@outlook.com](mailto:rigyajursama@outlook.com)).

The extracts of few e-mail correspondence between them in this regard are given below:

a) E-mail dated February 24, 2015 from the noticee to Unknown Person:

*"I have put down the suggestions on the promotions, Swami. Seek Your Guidance Promotions*

1 VP to SVP

*Chandrashekar Mukherjee reporting to GOO*

2. AVP to VP

*Nagendra to be called Head Equities with direct reporting to MD and dotted reporting to RV and GOO*

3. CM to AVP

*Tojo to move as Head BD to Kolkata*

*Achal to move as Head BD to WRO*

*Gaurav to move as Head BD to Delhi (Gaurav to be promoted provided he achieves his KRA for the year, which as of Jan is shortfall)"*

b) E-mail dated February 24, 2015 from Unknown Person to the noticee

*"Some googly,*

*Nagendra can continue as AVP as Head Equities under impendent charge. Once his competency is checked for one year and his decision making levels with market and region BD team we can evaluate his promotion.*

*Tojo to Kolkota and Achal to Delhi is required under promotion for strategy as Delhi government interface Achal will be a better person than others.*

*Gaurav, wait for his response and then you will revert.*

*Seema is a darling child, she requires polishing, everyone has a god father for his growth for her it is ME for a commitment given yesteryears, so she can be promoted and moved to SME as head and also be Management Representative for Business Excellence for the audit purpose reporting to RV and SS.*

*Rachana may be moved back as Regulatory Head for WRO pending same grade and will be promoted next year as guarantee. '*

*Anuradha may be moved to BE under Sanjay and also handle Board meetings of NSEIL and NSCCL alone as additional portfolio."*

(iv) In another email correspondence dated February 05, 2016 and February 06, 2016 between rigyajursama@outlook.com and the Noticee no. 1 vide subject "We follow suit" the unknown person has

provided guidance to Noticee no. 1 with regard to constitution of committee as sought by the Noticee no. 1. The extract of e-mail correspondence between them is as under:

a) E-mail dated February 05, 2016 - from the Noticee no. 1 to Unknown Person:

*" I have been trying to think over the composition of the committee and seek Thy guidance on the composition of the committee While the committee can be constituted before March end, many of the public directors will demit office by March end. So the 2 directors who are to be named in the committee may not have enough term to contribute. Only justice Srikrishna has a term of a few months left. The new directors who get approved and come in this month or next month may have little history and background to contribute; these are all the thoughts in my mind and so I am struggling to see how to solve this. Swami I also seek Thy guidance on the common nominee by the Board, as I understand this should be a non-board person, and a person acceptable to all.*

*Swami as G suggested we must make an effort and put some names to Thee, I have discussed the same with G and our thoughts are-Could we think of SBI, as domestic nominee, LIC and Abhay as the two shareholder directors, on the foreign shareholder category, we have Saif who is a troublemaker and Goldman who is a useful category, and temasek who has hitherto played a neutral role, if Goldman is brought in he may be very useful however G usually says making the troublemaker as monitor is best way to shut them up, so I am unclear whether it should be Saif.*

*I seek Thy guidance on the committee names Swami."*

Note: As per the E&Y report as submitted by NSE vide its letter dated July 06, 2018, Noticee no. 6 has been referred as 'G'.

b) E-mail dated February 06, 2016 from Unknown Person to the noticee:

*"My suggestions are follows.*

*The constitution of committee must be like a fresh term for the said people, govt forms various committee's for different purposes. Like that when we constitute these are considered for a period of two years*

*maximum and like the srikrishna committee, Lodha committee, sarlcaria committee, etc which resolves to a definite purpose.*

*Likewise it is not PID which must form the framework, it is people who are familiar to bring an early resolve to this problem and also will have a capacity to handle SEBI and govt with their stature and I propose the following under changed conditions stated by you.*

- 1. Chairman for Committee - Chairman of Main Board*
- 2. Abhay Havaladar*
- 3. LIC Representative 4.Sadagopan*
- 5. Goldman Sachs Representative*
- 6. SBI Nominee*

*Common Nominee:*

- 1. Justice Srikrishna and Saif Nominee*

*Permanent Invitee:*

*CEO, GOO, Shareholder dept*

*Give your feedback on MY comments."*

*Think different and you will reach MY end goal."*

(v) On SEBI norms on listing of stock exchanges, the Unknown Person, vide e-mail dated December 04, 2015, has suggested the Noticee no. 1 to approach Ministry, PMO, SEBI, etc. for self-listing of NSE.

a) The extract of his email dated December 04, 2015 to the Noticee no. 1 is as under:

*"The spirit is seen but the fire is yet to be initiated. I have a twist to all my thoughts and deeds. If one has to drive home a point then we need to continuously ponder on seeing our agenda through. So restructuring is already now a buy in. We need to make noises on self-listing by knocking doors of the few. FM, PMO Somanathan, Cabinet Secretary, Economic Advisor and finally the PM. These are not difficult as you think we must do two people in a mix at a time Kanchan will evaluate as per MY will. Don't worry the straw knows when to be a capillary and when NOT to. Kanchan is the straw and I will be the suction force for this and you will vomit all that is required as always.*



*After doing rounds intermittently we must sound SEBI that ministry is also pressing for listing even if we need to do these adjustments..(self Listing).... See what happens, enjoy the run...."*

Note: As per the E&Y report as submitted by NSE vide its letter dated July 06, 2018, Noticee no. 6 has been referred as 'Kanchan'.

28.7.5 In view of the above, and as per the E&Y report and also form the submission of NSE vide letter dated July 06, 2018, it is alleged that the Noticee no. 1 sought guidance from the unknown person on various aspects of the functioning of the stock exchange and the said unknown person i.e. Noticee no. 6 has significantly influenced the decision making of the Noticee no. 1 and she was completely dependent on an outsider for taking vital managerial decisions of the exchange.

28.7.6 In this regard the Noticee no. 1 has *inter alia* submitted that

(a) *from a perusal of the said allegation would show that part of this is based on certain documents, none of which have been made available to the Noticee, despite repeatedly calling upon SEBI to furnish the same. Interim Application No. 1 dated 10th December 2020 records the same and until these documents are made available to the Noticee, she is not in a position to deal with or defend these allegations.*

(b) *SEBI has also based this allegation on an E&Y Report and a Psychology report obtained by the legal advisors of NSEIL. SEBI has not produced the documents provided to E&Y or the human psychology practitioners, on the basis of which the said report/s were prepared. The authors of the respective reports also did not consult / meet the Noticee at the time of preparation of the report. In the circumstances, without offering the authors of the said report/s for cross-examination, SEBI cannot be allowed to rely upon the said report/s to lay allegations on the Noticee. This is wholly violative of the principles of natural justice.*

(c) *The Noticee repeats and reiterates all that is stated by her in her statement to SEBI and NSE in respect of this baseless allegation. The unfair manner in which*

*these allegations are being made is apparent and the Noticee is being targeted in this investigation is clear from the fact that NSEIL and SEBI have chosen to rely upon and draw inference from a document purporting to be a report from Human Psychology experts. The Noticee in her long tenure in NSEIL has not seen any precedent in SEBI or otherwise where a corporate entity or SEBI relies upon a psychology report to determine whether the person is fit and proper for the designation. The cloak and dagger manner in which such report has been commissioned also testifies to the desperate attempt by NSEIL and SEBI to foist some salacious allegations on the Noticee and make her a scapegoat in the matter.*

(d) *In any event, in the SCN SEBI has not been able to demonstrate that any harm, loss or prejudice was caused to NSEIL, the Exchange functions or investors or indeed to the market at large by the consultation sought by the Noticee, or that it in any manner impaired the working of NSEIL. The NSEIL has, in its own correspondence to SEBI dated 6th July 2018 and 14th September 2018, admitted that no damage was caused on account of the said correspondence, which conclusion was arrived at after a detailed inquiry and forensic audit by NSEIL itself. Thus, there is no basis for alleging any violation by the Noticee on the basis of the correspondence. For the sake of record, the Noticee confirms that she does not admit the correctness of the findings arrived at by the forensic report of E&Y.*

28.7.7 With regard to the submissions made by the Noticee no. 1, as discussed in detail in the subsequent paras 31.2.13 – 31.2.14, I note that the observations made in the E&Y report submitted by Noticee no. 2 are not being relied upon to the extent that the unknown person was Noticee no. 6. Further, the Psychology report obtained by the legal advisors of NSE are also not being relied upon as they have been independently conducted in the absence of Noticee no. 1. Therefore, it is now relevant to look into who the unknown person is (who used the email id 'rigyajursama@outlook.com') according to Noticee no. 1. In this regard, the statements made by Noticee no. 1 in her statements dated April 14, 2018 are relevant and some of the statements are provided as under:

*Question: Can you please share the identity of the email id holder 'rigyajursama@outlook.com'*

*Noticee no. 1: The Siddha Purusha/Yogi is a Paramahansa who maybe largely dwelling in the Himalayan Ranges. I have met him on occasions in holy places. No locational co-ordinates are given.*

*Question: Given the fact that the Siddha Purusha largely dwells in the Himalayan Ranges, kindly explain how He would have accessed emails and corresponded with you regularly.*

*Noticee no. 1: To the best of my knowledge, their spiritual powers do not require them to have any such physical co-ordinates.*

*Question: Can you please share when you met him and who introduced you to Him.*

*Noticee no. 1: I met Him for the first time on the banks of the Ganges nearly 20 years ago directly. Subsequently, over the years I have taken his guidance on many personal and professional matters. Along the way, since He would manifest at will and I did not have any locational co-ordinates I requested Him for a way in which I could seek His guidance whenever I felt the need. Accordingly, He gave me an id on which I could send my requests.*

*Question: Is the Siddha Purusha some person who was from NSE/NSE Governing Board at any point of time?*

*Noticee no. 1: No, he is a spiritual force.*

*Question: Can you please elaborate as how the Siddha Purusha was aware about a lot of intricate details on the functioning and hierarchy at NSE.*

*Noticee no. 1: Largely, I would have provided that inputs.*

*Question: In the majority of correspondence it is observed that Shri Anand Subramanian was marked a copy. Please explain.*

*Noticee no. 1: Primarily, I had clarity on issues that I sought. Who else and whom he would correspond with was outside my purview. He may have corresponded with any others too.*

*Question: As per the organizational structure and the governance principle independently constituted board was available for consultation and guidance on*

*aforesaid organizational matters. Please explain as to whether above consultation with the Siddha Purusha violates the principle of governance.*

*Noticee no. 1: I would like to state that all discussions and guidance that are sought from board and or other available experts is always done. As an MD and CEO, before I am able to come to a perspective of my view only, the guidance is sought. It is only to enable me in my role to have a primary view. As we know, senior leaders often seek informal counsel from coaches, mentors or other seniors in this industry which are all purely informal in nature. In a similar strain I felt that this guidance would help me perform my role better. Being spiritual in nature there would never be a question of any confidentiality or integrity issues being compromised for the organization. There would be no question of any personal gain because of the information shared. Hence I felt that this would help me perform in the best interest of the organization.*

28.7.8 From the aforesaid statements by Noticee no. 1, I note that:

- (a) The unknown person according to Noticee no. 1 was a spiritual force that could manifest itself anywhere it wanted and did not have any physical or locational co-ordinates and largely dwelt in the Himalayan ranges.
- (b) That for 20 years, Noticee no. 1 has been taking his guidance on many personal and professional matters.
- (c) A lot of intricate details on the functioning and hierarchy at NSE was known to the unknown person through Noticee no. 1 who provided him the inputs.

28.7.9 In this regard, it is clear from the statements of Noticee no. 1 itself that she has provided intricate details that are confidential information of NSE to the unknown person who the Noticee no. 1 fails to identify stating that he is apparently a spiritual force that has no physical co-ordinates. The Noticee no. 1 has tried to justify to sharing of confidential information with such unknown person by stating that being spiritual in nature there would never be a question of any confidentiality or integrity issues being compromised for the organization. I note that there is no exception in the Regulations or the SEBI Act or SCRA, that confidential information of the stock exchange may

be shared with a spiritual force. It is unfortunate that the head of the leading and largest stock exchange in India has had to resort to such attempts to justify her actions of sharing confidential information pertaining to NSE with an unknown person. I find that it is a bizarre attempt at concealing the identity of the unknown person. Clearly such an attempt is unacceptable. I note that the Noticee no. 1 herself has stated that *“Who else and whom he would correspond with was outside my purview. He may have corresponded with any others too”*, and therefore, the Noticee no. 1 has no assurance herself that the confidential information she has passed on to the unknown person is not being passed on to other persons. Therefore, I find that it is a glaring breach of the Regulations and laws in place that requires key officials and employees to maintain confidential information of the company, which in this case being NSE, which is the leading and largest stock exchange in India. The contention of the Noticee no. 1 that other senior leaders often seek informal counsel from coaches, mentors or other seniors in this industry which are all purely informal in nature, is untenable and an attempt to dilute the gravity of her conduct, given that she has not just sought advice on a situation or issue, but provided confidential information and documents to an unknown person that the Noticee no. 1 herself claims that she cannot identify as a physical being. Further, it begs to question the rationale of Noticee no. 1 for appointing Noticee no. 6 as a Chief Strategic Advisor in NSE when they were both seeking advice and guidance from the same unknown person that they have both relied upon for the past 20 years. It only gives more credence to the findings that the appointment, delegation of power and increase in compensation of Noticee no. 6 was arbitrarily done and orchestrated by Noticee no. 1 as the MD&CEO of NSE for ulterior motives or reasons.

28.7.10 In this regard, I also note that Noticee no. 1 has not just sought advice but has acted upon the advice given by the unknown person which is evident from delegation of powers, designation and increase in compensation paid to Noticee no. 6 itself, which were all advised by the unknown person. Given that Noticee no. 6 was not qualified for the post and there were no records or notings to explain the A+ grading given to Noticee no. 6 to justify his

substantial increase in compensation, as observed in the NRC Report, it is evident that the decisions of Noticee no. 1 have been influenced by the unknown person.

28.7.11 Further, with regard to the contention of Noticee no. 1 that in the SCN SEBI has not been able to demonstrate that any harm, loss or prejudice was caused to NSE, the Exchange functions or investors or to the market at large by the consultation sought by the Noticee, or that it in any manner impaired the working of NSE, I note that the E&Y Report dated July 05, 2018, submitted by Noticee no. 2 had observed that *“We observed select emails which may be confidential information pertaining to NSE being shared by Chitra and Subbu with Rigyajursama. Such information included those pertaining to NSE 5 year financial projections, dividend pay-out ratio, NSE’s business plans, agenda of NSE’s board meeting and consultations over the ratings/performance appraisals of NSE employees.”* Hence, it is clear that confidential information including those pertaining to NSE 5 year financial projections, dividend pay-out ratio, NSE’s business plans, agenda of NSE’s board meeting and consultations over the ratings/performance appraisals of NSE employees has been shared by Noticee no. 1 with the unknown person, the impact of which could be unimaginably wide and still at large and detrimental for NSE if not the securities market. For the Noticee no. 1 to contend that sharing of such confidential information that includes financial and business plans of NSE has not caused any harm, loss or prejudice to the market is absurd and questionable. The Securities market is a competitive market and the stock exchanges, which are also profit making companies, have constantly competed to gain maximum market capitalisation. Hence, the sharing of financial and business plans of NSE with unknown person by the MD & CEO is a glaring, if not unimaginable, act that could shake the very foundations of the stock exchange. If such confidential and sensitive information of NSE could be blatantly, if not shamelessly, shared over official emails by Noticee no. 1, one can only fathom how much more confidential information has been shared over private emails, phone or word of mouth. Such irresponsible conduct and behaviour is not expected of

an MD&CEO that is heading the leading and largest stock exchange of the country. I note that as MD&CEO of NSE, the Noticee no. 1 was expected to have the experience and knowledge for which she was receiving an annual remuneration of over Rs. 10.5 crores and yet she was taking advice, providing confidential and sensitive information/documents and acting on the decision of an unknown person, an outsider. It also begs to question as to why Noticee no. 6, with no relevant experience, was appointed as Chief Strategic Advisor to the MD&CEO by Noticee no. 1 when she was already taking all her official advice from the unknown person, admittedly for the past 20 years.

28.7.12 Further, from the email dated December 04, 2015 of the unknown person to Noticee no. 1, I note that the unknown person has stated that "*Kanchan is the straw and I will be the suction force for this and you will vomit all that is required as always*". From the same, it is evident that Noticee no. 1 had abdicated all her powers to the unknown person and was playing in the hands of an unknown person through the instrumentality of Noticee no. 6. This is further evident from the email dated October 08, 2015 from Noticee no. 1 to the unknown person, wherein the Noticee no. 1 states that "*Company is running only because of THY Grace and my G's blessings, Swami*". This clearly shows that it is the unknown person who was running Noticee no. 2 and Noticee no. 1 was merely a puppet in his hands. I also note that even after SEBI had sent the complaints filed against Noticee no. 1 to Noticee no. 2, the Noticee no. 1 was still seeking guidance and directions from the unknown person, which is evident from the email dated September 25, 2016 from Noticee no. 1 to the unknown person, wherein, Noticee no. 1 has stated "*Swami, we are still in preparation of the briefing note regarding the complaint. However atleast the prima facie responses to allegations have been prepared. I am placing the same for They guidance and directions. I shall send the cover note as soon as I have received it once again My Lord*". From the above, it is more than evident that it is the unknown person who was running NSE and all the decisions of Noticee no. 1 were taken or

influenced by the unknown person, upto the very end of her tenure in Noticee no. 2. Thus, completely jeopardizing the governance of an MII.

28.7.13 In view of the above, as alleged in the SCN, I find that Noticee no. 1 has continuously shared internal confidential information of NSE with the unknown person and allowed her decisions on various aspects of the functioning of the stock exchange to be influenced by that unknown person. Hence, I find that the Noticee no. 1 has:

- a) failed to maintain confidentiality and not divulge/disclose information obtained in the discharge of her duties; failed to maintain the highest standards of personal integrity, truthfulness, honesty and fortitude in discharging her duties and has engaged in acts discreditable to her responsibilities as MD& CEO of NSE; failed to perform her duties in an independent and objective manner, by continuously sharing internal confidential information of NSE with an unknown person in violation of *Clause v. (d), (e) and (f) of the Code of Conduct as specified under Part– A of Schedule– II read with Regulation 26(1) of the SECC Regulations, 2012.*
- b) by continuously sharing internal confidential information of NSE with an unknown person, the Noticee no. 1 has put the reputation of the NSE in jeopardy in violation of *Clause iii. (e) of the Code of Ethics as specified under Part– B of Schedule– II read with Regulation 26(2) of the SECC Regulations, 2012*
- c) by continuously sharing internal confidential information of NSE with an unknown person, the Noticee no. 1 has failed to maintain in strict confidence the information relating to the business/operations of NSE and divulged information to third party in violation of *Clause ix (d) of the Code of Ethics as specified under Part– B of Schedule– II read with Regulation 26(2) of the SECC Regulations, 2012 for failure to maintain confidentiality of the Stock exchange information.*



- d) by continuously sharing internal confidential information of NSE with an unknown person, the Noticee no. 1 has failed to comply with provisions of the SECC Regulations, 2012 in violation of *Clause iv (a) and (b) of the Code of Conduct as specified under Part- A of Schedule- II read with Regulation 26(1) of the SECC Regulations, 2012.*

**28.8 The SCN-I alleges that Noticee no. 1 has made incorrect and misleading submission before NSE that the unknown person was a 'siddha-purusha' or 'paramhansa' who did not have physical persona and could materialise at will.**

28.8.1 The Noticee no. 1 in her statement dated June 20, 2018 to NSE stated that the said person was not Noticee no. 6, but instead was a 'siddha-purusha' or 'paramhansa' who did not have physical persona and could materialize at his will.

28.8.2 It is observed, based on the e-mail correspondences between the unknown person and Noticee no. 1 and statement before SEBI that the unknown person and the Noticee no. 1 have met several times during the year 2015.

(a) The Noticee no. 1 in her statement dated April 14, 2018, before SEBI, has submitted to have attended the meeting with the unknown person at the Swamimalai temple in Delhi and also met him on occasions in holy places.

(b) E-mail dated February 17, 2015 from the unknown person to the noticee - "...p.s, keep bags ready I am planning a travel to Seychelles next month, will try if you can come with me, before Kanchan goes to london with Kaanchana and Barghava and you to New Zealand with two children. HK is a preferred transit or Singapore for onward journey. In case you need help pi let me know Seshu will do the needful. If you know swimming then we

*could enjoy a sea bath in Seychelles and rest in the beach. I am asking my tour operator to connect with Kanchan for all of our tickets."*

- (c) E-mail dated February 18, 2015 from the unknown person to the noticee - *"Today you are looking Awesome. You must learn different ways to platt your hair which will make your looks interesting and appealing!! Just a free advice, I know you will grab this. Keep March mid a little free."*
- (d) E-mail dated February 25, 2015 from the unknown person to the noticee - *"...PS : I overheard with Kanchan when you said lets pack and leave, Get ready count down starts now I accomodate for Seychelles where you can chill it out."*
- (e) E-mail dated September 16, 2015 from the unknown person to the noticee - *"Did you hear that Makara Kundala song I sent? You must hear the resonance of that iterations. I am happy to see cheer, on your face and absolutely from your heart. I did rejoice the time yesterday with you. These small things you did for yourself make you feel younger and energetic."*

- (f) E-mail dated March 02, 2015 from the unknown person to the noticee and Nawaz Patel (secretary to the MD & CEO) and subsequent reply from Nawaz Patel to the unknown person on the same date:

*"Hi Chitra / Navaz,*

*I am a good friend of your foreign shareholders representation committee on your Board and would like to discuss the global trend on the dividend payout that is worldwide accepted with you in person. I am on a trip to India and in Delhi on 7th and 8th March and will be happy to meet on any of these two days at your convenience. Since 7th will be a tight schedule will March 8th Forenoon work, then we will meet at VasantVihar Delhi at my India Office. Looking forwarding to hearing from you."*

From Nawaz Patel to Unknown Person:

*"Greetings from NSE! Thank you for your email to Ms. Chitra Ramkrishna, MD & CEO, NSE. Ms. Ramkrishna will be pleased to meet you on Sunday, March 08, 2015. As regards the time and venue for the meeting we will touch base with you."*

- 28.8.3 In view of the above it is alleged that the noticee has made incorrect and misleading submission before NSE that the unknown person was a 'siddha-purusha' or 'paramhansa' who did not have physical persona and could materialise at will.
- 28.8.4 The Noticee no. 1 has denied that she has made incorrect and misleading submissions before the NSEIL. The Noticee no. 1 has reiterated all that is stated by her in statements made to SEBI and NSEIL. Further, the Noticee no. 1 has sought discovery of documents referred to in paragraph 62 of the SCN, dealing with this head of the allegation and until such documents, as sought for, are not provided, SEBI cannot rely upon the same nor call upon the Noticee to deal with the same.
- 28.8.5 With regard to the submissions made by the Noticee no. 1, seeking discovery of documents, I find that the relevant documents relied upon in the SCN upon which the allegations have been made have been provided to the Noticee no. 1 in the SCN issued to her. Therefore, the request for seeking discovery of documents is irrelevant and untenable. As discussed in the aforesaid paras, the Noticee no. 1 has stated that the unknown person having email id '*rigyajursama@outlook.com*' was a 'siddha-purusha' or 'paramhansa' who did not have physical persona and could materialize at will. From a perusal of the emails given in sub-para (ii) above, without unnecessarily going into the details of each email, it is evident that the unknown person is a physical being and has gone on vacations with the Noticee no. 1 to "chill". It is apparent that Noticee no. 1 has refused to reveal the identity of the unknown person and has sought to claim that the unknown person is a spiritual force. As already discussed in detail in the foregoing paras, it is not necessary for me to once again dwell into the conduct of the Noticee no. 1 in submitting to SEBI that the unknown person is a spiritual force having no physical persona. In view of the above, I find that Noticee no. 1 has made incorrect and misleading submission before NSE that the unknown person was a 'siddha-purusha' or 'paramhansa' who did not have physical persona and could materialise at will.

28.8.6 In view of the above, I find that Noticee no. 1 has:

- a) failed to maintain the highest standards of personal integrity, truthfulness, honesty and fortitude in discharging her duties and has engaged in acts discreditable to her responsibilities as MD& CEO of NSE and engaged in an act of dishonesty and misrepresentation by making incorrect and misleading submissions about the unknown person before SEBI, in violation of *Clause v. (e) and (h) of the Code of Conduct as specified under Part- A of Schedule- II read with Regulation 26(1) of the SECC Regulations, 2012.*
- b) by furnishing incorrect and misleading statements of the unknown person before SEBI, the Noticee no. 1 has violated *Section 6(4) of SCRA, 1956.*
- c) by furnishing incorrect and misleading statements about the unknown person before SEBI, the Noticee no. 1 has violated provisions of the SCRA, 1956 and thereby failed to comply with all the provisions of the SCRA in violation of *Clause iv (a) and (b) of the Code of Conduct as specified under Part- A of Schedule- II read with Regulation 26(1) of the SECC Regulations, 2012.*

### **PART – III - In respect of Noticee no. 2 (NSE)**

#### **B. Allegations against Noticee no. 2 in SCN – II, submissions of Noticee no. 2 and findings thereon:**

29. In view of the facts narrated in para 9 above, SCN-II makes following allegations against Noticee no. 2:

- (i) Noticee no. 2 and its Board and NRC in spite of being aware of the irregularities on appointment of Mr. Anand Subramanian (Noticee no. 6) as GOO without being designated as KMP in its meeting on 21-10-2016

neither opposed the serious governance lapses in NSE nor recorded the aforesaid matter in the minutes of said meeting in the name of confidentiality and sensitive information. Further, the report on above irregularities was submitted to SEBI only after repeated reminders.

- (ii) Noticee no. 2 and its Board and NRC, in spite of, having knowledge of such grave irregularities and misconduct on the part of Noticee no. 1 and even after knowing that Noticee no. 1 has not applied her independent judgment and was dependent on the guidance of an unknown person while taking important decisions, permitted Noticee no. 1 to exit through resignation and also recorded the appreciation in the Board meeting held on December 02, 2016 citing her sterling contribution to the growth of organization.
- (iii) In terms of Clause 12 of SEBI Circular dated December 13, 2012 public interest directors are required to identify important issues that may have significant impact on the functioning of Stock exchange, may not be in the interest of market and report to SEBI. None of the PIDs informed to SEBI about the kinds of aforesaid decisions being taken by the Board.

30. SCN-II alleges following violations by Noticee no. 2:

- (a) Violation of regulatory Compliance as specified under Clause IV (a) and (b) of the Code of Conduct as specified under Part– A of Schedule– II read with Regulation 26(1) of SECC Regulations, 2012.
- (b) Violation of general responsibility as specified under Clause V (b), (e), (f), (g) and (h) of the Code of Conduct as specified under Part– A of Schedule– II read with Regulation 26(1) of the SECC Regulations, 2012.
- (c) Violation of provisions relating to fairness and transparency, Compliance with all laws/ rules/ regulations, exercising due diligence as specified in Clause (i) of the Code of Ethics under Part– B of Schedule– II read with Regulation 26(2) of the SECC Regulations, 2012.

(d) Violation of General Standards as specified under Clause iii. (c), (e) and (f) of the Code of Ethics as specified under Part– B of Schedule– II read with Regulation 26(2) of the SECC Regulations, 2012.

(e) Violation of Section 6(4) of SCRA, 1956.

31. My observations and findings on the aforesaid allegations and the submissions made by Noticee no. 2 are as under:

**31.1 The SCN-II alleges that Noticee no. 2 and its Board in spite of being aware of the irregularities on appointment of Mr. Anand Subramanian (Noticee no. 6) as GOO without being designated as KMP in its meeting on October 21, 2016 neither opposed the serious governance lapses in NSE nor recorded the aforesaid matter in the minutes of said meeting in the name of confidentiality and sensitive information. Further, the report on above irregularities was submitted to SEBI only after repeated reminders.**

31.1.1 It is alleged in the SCN-II that upon receipt of the complaints dated December 15, 2015 and May 25, 2016, as discussed in para 3 above, SEBI vide email dated February 19, 2016, May 24, 2016, May 27, 2016, June 20, 2016 and June 30, 2016, advised the Noticee no. 2 to provide its comments on the said complaints. Mr. V.R. Narasimhan (Noticee no. 5) then Chief Regulatory Officer, NSE vide his email dated March 14, 2016 and June 30, 2016 submitted that there is no violation of SECC Regulations, 2012 in the appointment of Mr. Anand Subramanian (Noticee no. 6) as 'Group Operating Officer and Advisor to MD' and MD being the competent authority appointed Noticee no. 6. Subsequently, SEBI vide letter dated September 15, 2016 advised Noticee no. 2 to place the complaints before its Board to decide whether there has been any violation of code of conduct or principle of avoidance of conflict of interest while appointing Noticee no. 6 and submit a report to SEBI.

31.1.2 Upon examination of the matter it was observed that the said SEBI letter dated September 15, 2016 was discussed in the meeting of NRC of

Noticee no. 2 held on October 04, 2016 along with a note on KMP practice adopted by Noticee no. 2. In the said meeting, NRC advised Noticee no. 2 that a legal opinion be taken in the matter.

31.1.3 As noted from the report of NRC, brought out in para 7 above, the said findings of NRC as stated in its report was tabled to the Board of the Noticee no. 2, initially without Noticee no. 1 being present at the discussion, and thereafter discussed with Noticee no. 1 and it was agreed that in the light of the facts Noticee no. 6 should step down from the Company immediately. It is noted that Noticee no. 6 resigned from NSE w.e.f October 21, 2016. The Noticee no. 2 vide its email dated January 04, 2019 has submitted that above findings of NRC was discussed in the NRC and NSE Board meeting held on October 21, 2016, however, in view of the confidential and sensitive nature of information, the same was not reflected in the minutes of the respective meeting.

31.1.4 As reflected above, the findings of NRC was discussed in the Board meeting and NRC meeting of the Noticee no. 2 held on October 21, 2016. However, no report was submitted to SEBI as advised by SEBI letter dated September 15, 2016. Subsequently when SEBI issued repetitive reminders vide email/letter dated October 24, 2016, November 09, 2016, December 19, 2016 and May 18, 2017, the Noticee no. 2 in its Board meeting dated June 07, 2017 made efforts to prepare a report on appointment of Noticee no. 6 which was ultimately submitted to SEBI vide Noticee no. 2's email dated November 29, 2017. A tabular chart with respect to receipt of complaint by SEBI highlighting Governance issues in appointment of Noticee no. 6 and response thereon by the Noticee no. 2, as alleged in the SCN-I, is as given below:-

Date	Details
15-09-2016	SEBI advised NSE to place complaint before Board and submit a report to SEBI

Date	Details
04-10-2016	NRC considered the SEBI letter dated 15-09-2016 and note on KMP practice adopted by NSE and advised NSE that a legal opinion be taken in the matter.
21-10-2016	Findings of NRC along with the legal opinion discussed in NSE Board.
24-10-2016 & 09-11-2016	SEBI sent reminders to NSE
25-11-2016	CRO-NSE reply that matter has been placed before Board
19-12-2016 & 18-05-2017	SEBI reminders to NSE for report as sought vide SEBI letter dated 15-09-2016
07-06-2017	Date of NSE Board meeting in which SEBI reminder email dated 18-05-2017 discussed and it was advised to prepare a report and circulate to NSE Board before submitting to SEBI.
29-11-2017	NSE submitted report of its NRC, comprising Mr. Ashok Chawla, Mr. Dinesh Kanabar and Mr. Ravi Narain on above matter which revealed findings of NRC were discussed in Board on 21-10-2016.

31.1.5 In view of the above, it is alleged in the SCN-II that the Noticee no. 2 and its Board were aware of such grave irregularities and misconduct on the part of Noticee no. 1 on appointment of Noticee no. 6 in the NRC and Board meeting of the Noticee no. 2 held on October 21, 2016 but did not record the aforesaid matter in the minutes of meeting on October 21, 2016 in the name of confidentiality and sensitive information and submitted the report on above irregularities to SEBI only after repeated reminders.

31.1.6 In this regard, I note that the Noticee no. 2 has vide its reply dated December 18, 2020, submitted a factual narration of the information requests and directions sent by SEBI to Noticee no. 2 and the response given by Noticee no. 2 in this regard. Table illustrating the same, as submitted by Noticee no. 2, is as given below:

Sr. No.	Date of communication from SEBI	Date on which NSE responded
1.	February 19, 2016	March 14, 2016



2.	May 24, 2016, May 27, 2016, June 20, 2016 and June 30, 2016	June 30, 2016
3.	September 15, 2016, October 24, 2016, November 09, 2016, December 19, 2016, May 18, 2017	November 25, 2016 December 21, 2016 November 29, 2017
4.	April 11, 2018	April 11, 2018
5.	May 3, 2018	June 01, 2018 July 06, 2018
6.	August 10, 2018	October 10, 2018
7.	August 14, 2018	September 14, 2018
8.	October 25, 2018	October 25, 2018
9.	November 30, 2018	December 06, 2018
10.	January 04, 2019	January 04, 2019
11.	January 17, 2019	January 24, 2019

31.1.7 Noticee no. 2 has submitted that it has always responded to SEBI's numerous requests by giving all the information required. However, the allegation in the SCN-II is not on whether Noticee no. 2 has replied to letters of SEBI but whether Noticee no. 2 has provided the required information that SEBI has sought from Noticee no. 2. The allegation in the SCN-II is that Noticee no. 2 and its Board were aware of the grave irregularities and misconduct on the part of Noticee no. 1 on appointment of Noticee no. 6 in the NRC and Board meeting of the Noticee no. 2 held on October 21, 2016 but did not record the aforesaid matter in the minutes of meeting on October 21, 2016 in the name of confidentiality and sensitive information and submitted the report on above irregularities to SEBI only after repeated reminders.

31.1.8 At the outset, I note that a letter of agreement dated January 18, 2013 was executed between NSE and Noticee no. 6 and the tenure of Noticee no. 6, as Chief Strategic Advisor started from April 01, 2013. From the email dated June 21, 2021 of Noticee no. 2, I note that during the same period when Noticee no. 6 was appointed as Chief Strategic Advisor, 5 other persons were also appointed as consultants at NSE. The comparative details of the consultants appointed during the same period with Noticee no. 6 are as under:

Sr. No.	Consultant Name	Contract date	Prior experience	Last organization	Department of Appointment	Compensation/ package offered
1	Ms. Suchitra Hari	January 17, 2013	8 years	CRISIL	Marketing then SBU Education	Rs. 12 lakhs per annum
2	Mr. Kinjal Medh	January 04, 2013	22 years	ULKA Advertising Pvt. Ltd.	Marketing	Rs. 12 lakhs per annum
3	Ms. Sunitha Anand	April 01, 2013	13 years	NSEIL	Regional Office, Chennai	Rs. 60 lakhs per annum
4	Mr. L. Sundaresan	April 15, 2013	14 years	ILFS	Regional Officer, Chennai - BD	Rs. 38 lakhs per annum
5	Mr. T. Sampathkumar Jagadharini	November 01, 2013	16 years	NSEIL	Special Projects	Rs. 30,000/- per day (3- days a month)
6	Mr. Anand Subramanian (Noticee no. 6)	April 01, 2013	23 years	Transafe Services Limited, a subsidiary of Balmer & Lawrie	Chief Strategic Advisor to MD&CEO	Rs. 1.68 Crores per annum for working 4 days a week.

31.1.9 From the above, I note that all the consultants other than Noticee no. 6 had relevant years of experience and organizational background for being placed in the department in which they were appointed. However, I note that none of them received a compensation/package even remotely close to what Noticee no. 6 was offered, even though Noticee no. 6 had no relevant experience for the position he was being appointed, as observed by the NRC in their report submitted to SEBI. I also note that during this period, Noticee no. 5 was appointed as an employee with the designation of Chief Regulatory (Sr. Vice President) on May 30, 2013 having 34 years of experience having worked last at Kotak Mahindra Bank as an Executive Vice President, and was offered Rs. 1.5 Crores at NSE. Hence, it is clear

that Noticee no. 6 having no relevant experience was being offered even much more than full time employees who were having far more relevant experience in the industry, for working 4 days a week. Further, I note that there are no notings in the personnel file of Noticee no. 6 in relation to his interview and no pre-employment documents such as educational qualification certificate, experience certificate etc. were handed over to HR of NSE or kept in the personal file of Noticee no. 6, as submitted by NRC in its report. Therefore, it is evident that Noticee no. 6 was being offered an exorbitant amount without any justification. Further, I note that compensation of Noticee no. 6 was increased from Rs. 1.68 Crore per annum to Rs. 2.016 Crore per annum with effect from April 1, 2014. The increase given was at the highest level (Rating as A+) in the organization and as per the NRC Report there was no record of the evaluation of his performance. In March 2015, Noticee no. 6 was again rated as A+ and was given a 15 percent increase and his compensation went up to Rs. 3.3327 Crore per annum. In addition, Noticee no. 6 was re-designated as Group Operating Officer (GOO) and Advisor to MD with effect from April 01, 2015. As observed in the NRC Report, the re-designation was not tabled to the then NRC despite the fact that as per the provision of the Companies Act, 2013, he would have been a KMP and his re-designation would have needed an approval from the NRC. I note that Noticee no. 6, who was drawing less than Rs. 15 lacs per annum as on March 2013 in a subsidiary of Balmer & Lawrie, was in April 2016 drawing a compensation of Rs. 4.21 Crore per annum for part-time working as a Consultant with a designation of Group Operating Officer and Advisor to the CEO at NSE and there was no evidence on the file of his performance evaluation although he was consistently rated as a top performer.

31.1.10 In this regard, I note that SEBI vide letter dated September 15, 2016 had advised Noticee no. 2 to place the complaint letters, which SEBI had forwarded vide letter dated February 19, 2016, before the Board to decide whether there has been any violation of code of conduct or principle of avoidance of conflict of interest while appointing Noticee no. 6 as Group

Operation Officer and Advisor to MD and submit a report to SEBI. Thereafter, SEBI issued reminders vide email/letters dated October 24, 2016 and November 09, 2016, and Noticee no. 2 vide letter dated November 25, 2016 informed SEBI that the matter regarding Noticee no. 6 had been placed before the Board. SEBI sent another reminder dated December 19, 2016 and Noticee no. 2 vide letter dated December 21, 2016 informed SEBI that Noticee no. 6 had resigned with effect from October 21, 2016. SEBI sent another reminder dated May 18, 2017 to Noticee no. 2 to submit its report after placing the complaints before the NSE Board. It is only on November 29, 2017, that Noticee no. 2 submitted its NRC Report dated November 22, 2017 from which it was revealed to SEBI that the findings of NRC were discussed in the Board Meeting dated October 21, 2016 of Noticee no. 2. Therefore, from the above, it is noted that the findings of the NRC on the appointment of Noticee no. 6, as submitted by Noticee no. 2 on November 29, 2017 was discussed in the Board meeting of Noticee no. 2 on October 21, 2016 but the discussion was not reflected in the minutes of the said meeting. Further, that the findings of the NRC were discussed in the Board meeting dated October 21, 2016 was never informed to SEBI even after SEBI sent reminders dated October 24, 2016, November 09, 2016, December 19, 2016 and May 18, 2017 to Noticee no. 2 to submit its report. It is only on November 29, 2017 that Noticee no. 2 submitted its NRC report, from which it was revealed that the NRC findings were discussed in the Board meeting dated October 21, 2016. The fact that the findings of NRC were discussed in the Board meeting dated October 21, 2016 is brought out clearly from Noticee no. 2's letter dated September 14, 2018, wherein they submitted as under:

*"10. The re-constituted NRC had re-examined the Engagement and Re-Designation of Mr. Anand for this purpose, had reviewed the files relating to the Engagement, revision in salary and Re-Designation of Mr. Anand and other relevant documentation, during October 2016. The NRC had also conducted meetings with the relevant NSE officials, including, the then MD & CEO who had approved the Engagement, revision in salary, Re-Designation, etc. After the examination, the NRC and the Board, at their respective meetings held on October 21, 2016, discussed the observations without the presence of*

*NSE officials, including the then MD & CEO. The NRC believed that the Re-Designation of Mr. Anand, who lacked relevant experience as Group Operating Officer by the then MD & CEO in 2015 coupled with such a high compensation, ought to have been approved by the NRC/Board. The NRC accordingly informed the then MD & CEO about the same. Thereafter, the members of the Board, discussed the recommendations of the NRC and Ms. Chitra Ramkrishna was invited into the Board meeting and firmly told about the opinion of the Board as to the unsuitability of Mr. Anand to perform the task assigned to him and hence he should step down immediately.”*

31.1.11 Therefore, from the above, it is clear that the findings of the NRC was discussed during the Board meeting on October 21, 2016. I note that thereafter, Noticee no. 6 resigned with effect from October 21, 2016 and Noticee no. 1 also resigned on December 02, 2016. Hence, I note that the findings of the NRC were discussed during the Board meeting on October 21, 2016 pursuant to which Noticee no. 6 had resigned on October 21, 2016 and Noticee no. 1 resigned on December 02, 2016, however, Noticee no. 2 chose to inform SEBI of the report of NRC only on November 29, 2017, which is much later to the spate of events, even though SEBI sent repeated reminders to Noticee no. 2 to submit the report. Further, as noted above, it is only from the report of the NRC submitted on November 29, 2017, did SEBI come to know that the findings of NRC was discussed in the Board meeting on October 21, 2016. In this regard, I note that vide email dated January 04, 2019, SEBI advised Noticee no. 2 to *inter alia* provide copy of the minutes of the Board meeting where the findings of the NRC was tabled to the Board, initially without Noticee no. 1 and thereafter discussed with Noticee no. 1, wherein it was agreed that Noticee no. 6 should step down immediately. Noticee no. 1 first replied to the said SEBI email on January 04, 2019 at 1:22 pm stating as under:

*“We refer to your email below. With respect to point no. 1, please find attached copy of minutes of NRC meeting and relevant extract from the Board minutes of October 21, 2016 as Annexure 1 and 2, respectively. For point no. 2, relevant extract of minutes of Board meeting dated December 2, 2016 is attached as Annexure 3.”*

Thereafter, on the same day, Noticee no. 2 sent another email at 7:38 pm stating as under:

*“Further, to our mail below, we would like to clarify that while the first page of the minutes of the NRC and Board meeting of October 21, 2016 attached to our trailing mail mentions the names of the officials present at the meeting besides the names of Directors, the NSE officials including the MD & CEO were not present for the discussion relating to Mr. Subramanian Anand. However, as stated in the Report referred in your mail below, the then MD & CEO was called into the Board meeting and the matter was discussed with her. Further, in view of the confidential and sensitive nature of information, the same was not reflected in the minutes of the respective meetings.”*

31.1.12 From the above, I note that the complaints relating to Noticee no. 6 was discussed during the Board meeting of October 21, 2016 but the same was not reflected in the minutes of the meeting. Hence, it is apparent that Noticee no. 2 was trying to conceal the discussions relating to Noticee no. 6 that took place during the Board meeting on October 21, 2016 in the presence of Noticee no. 1. It is only after repeated reminders, as discussed in the aforesaid paras, that Noticee no. 2 vide email dated November 29, 2017, submitted the NRC report to SEBI. Furthermore, I note from the findings of the NRC Report that the re-designation of Noticee no. 6 to GOO was not tabled to the then NRC despite the fact that as per the provision of the Companies Act, 2013, he would have been a KMP and his re-designation would have needed an approval from the NRC. Hence, as alleged in the SCN-II, I find that Noticee no. 2 and its Board were aware of the grave irregularities and misconduct on the part of Noticee no. 1 on appointment of Noticee no. 6 in the NRC meeting and Board meeting of the Noticee no. 2 held on October 21, 2016 but did not record the aforesaid matter in the minutes of meeting on October 21, 2016 in the name of confidentiality and sensitive information and submitted the report on above irregularities to SEBI only after repeated reminders.

31.1.13 In view of the above, it is apparent that Noticee no. 2 tried to conceal its irregularities and that of its key officials from SEBI and the public. This is a

serious breach of the integrity of Noticee no. 2 given its standing as the leading and largest exchange in India and questions the very fabric of its functioning and regulatory compliance. As a Market Infrastructure Institution and first level regulator, whose 51% shareholding is held by public shareholding, there is significant, if not greater, responsibility on the Noticee no. 2 to comply with the Regulations as the ramifications and consequences of its lapses are far more substantial on the securities market and therefore, any irregularity or non-compliance on its part, cannot be taken lightly. Further, Noticee no. 2 as a stock exchange is a statutory body and a “State” within the meaning of Article 12 of the Constitution of India, as held by the Hon’ble Supreme Court in its Order dated April 01, 2005 in the matter of *K.C. Sharma vs. Delhi Stock Exchange & Ors.* It has an important role to play in ensuring the stability of the financial and economic system. In this regard, I note that companies whose securities are listed with Noticee no. 2 are required to comply with corporate governance norms. I note that Noticee no. 1 has gone one step ahead by launching a new corporate governance initiative “NSE Prime” to raise the bar for corporate governance standards in India by prescribing higher standards of corporate governance for listed companies in NSE Prime. As a recognized stock exchange and first level regulator of the securities market, it is expected from Noticee no. 2 that it leads the market by setting examples to be emulated by the listed companies. Noticee no. 2 must be the citadel for higher standards of corporate governance for the companies having securities listed on its platform. Failure on the part of Noticee no. 2 to provide the information to SEBI even after repeated reminders, failing to designate Noticee no. 6 as a KMP and conceal information from SEBI demonstrates the non-deference to the advice of SEBI and indifference to the provisions of law. Hence, I find that Noticee no. 2 has:

- d) failed to administer the stock exchange with professional competence, fairness, impartiality, efficiency and effectiveness; failed to maintain the highest standards of personal integrity, truthfulness, honesty and fortitude in discharging their duties and has engaged in acts

discreditable to their responsibilities; failed to perform their duties in an independent and objective manner; failed to perform their duties with a positive attitude and constructively support open communication, in violation of *Clause v. (b), (e), (f) and (g) of the Code of Conduct as specified under Part– A of Schedule– II read with Regulation 26(1) of the SECC Regulations, 2012.*

- e) failed to provide the information sought by SEBI even after repeated reminders in violation of *Section 6(4) of SCRA, 1956.*
- f) failed to comply with the provisions of the SECC Regulations, 2012 and ensure compliance at all levels in violation of *Clause IV (a) and (b) of the Code of Conduct as specified under Part– A of Schedule– II read with Regulation 26(1) of SECC Regulations, 2012.*

**31.2 The SCN has alleged that NSE and its Board, in spite of, having knowledge of such grave irregularities and misconduct on the part of Noticee no. 1 and even after knowing that Noticee no. 1 has not applied her independent judgment and was dependent on the guidance of an unknown person while taking important decisions, permitted Noticee no. 1 to exit through resignation and also recorded the appreciation in the Board meeting held on December 02, 2016 citing her sterling contribution to the growth of organization.**

31.2.1 I note that during the course of investigation into the issue of co-location facilities at NSE, SEBI had come across certain documentary evidences, which demonstrate that Noticee no. 1, erstwhile MD & CEO of the Noticee no. 2, has shared certain internal confidential information of Noticee no. 2 viz. Organizational Structure, Dividend scenario, Financial Results, Human Resources Policy and related Issues, Response to Regulator etc. with an unknown person by addressing her correspondence to an email id rigyajursama@outlook.com during the period 2014 to 2016.

31.2.2 SEBI vide letter dated May 03, 2018 and August 10, 2018 sought clarification from the Noticee no. 2. The Noticee no. 2 vide its letter dated June 01, 2018, July 06, 2018, September 14, 2018 and email dated October



10, 2018 submitted their detailed response on above along with a report of forensic investigation conducted by E&Y wherein it was concluded by NSE that the said unknown person is Noticee no. 6. It is noted that the said unknown person being Noticee no. 6 came to the knowledge of Noticee no. 2 upon forensic investigation conducted by Noticee no. 2 when SEBI sought clarification in this regard vide its letter dated May 03, 2018.

- 31.2.3 However, as noted on perusal of the Noticee no. 2's letter dated July 06, 2018 and September 14, 2018, Noticee no. 2 was aware of such email exchange by Noticee no. 1 with an unknown person at that time in and around November 2016 which was brought to the notice of Chairman of the NSE Board and the Chairman of the NRC in November 2016 and was shared by the Chairman of NSE with the NSE Board.
- 31.2.4 The Noticee no. 2 vide email dated December 06, 2018 has submitted that the emails referred above between Noticee no. 1 and the unknown person at that time was brought to the notice of the Chairman of the Board and the Chairman of the NRC and the same were shared with the NSE Board by the Chairman in a closed door meeting held on November 29, 2016 and in view of the confidential and sensitive nature of information, the same was not reflected in the minutes.
- 31.2.5 With regard to the reason for not informing to SEBI or conducting any inquiry in the matter, the Noticee no. 2 had submitted in its letter dated July 06, 2018 and September 14, 2018 that even while the Board was contemplating its next move on the subject, since Noticee no. 1 tendered her resignation on December 2, 2016, it was felt that the resignation should be accepted forthwith. That since the eventual consequences under Regulation 25(5) of the SECC Regulations, 2012 is termination of the personnel, the Board decided not to wait for the notice period applicable, and to terminate the relationship by forthwith accepting the resignation of Noticee no. 1. Noticee no. 2 had further submitted that while the conduct of the Former MD & CEO was improper and constituted a violation of the code

of Ethics and the Code of conduct under the SECC Regulations and indeed, provisions of her employment agreement, given the nature of developments at that time, it was the considered view of the Board that an approach of looking forward in terms of rebuilding trust in the Exchange rather than continuing to get embroiled in legacy issues that would continue the negativity surrounding the Exchange, should be pursued, particularly when the relationship with the relevant personnel had come to an end. Accordingly, the identity of the person was not explored. That in any case, as part of a larger capacity building exercise, the NSE Board was focused on bolstering internal processes for the future. Accordingly, Noticee no. 2 submitted that given the other pressing concerns of Noticee no. 2 at the relevant time relating to the SEBI investigation of the CoLo infrastructure, replacement of the MD/CEO, the NSE Board considered the said governance issues to have resolved themselves with the resignation of the Former MD & CEO (on December 2, 2016) and therefore, no further action was taken by Noticee no. 2 in the matter at that time, including informing SEBI.

- 31.2.6 The Noticee no. 2 vide its email dated June 12, 2019 has submitted the copy of emails between Noticee no. 1 and the unknown person that were brought to the notice of Chairman of the Board and Chairman of NRC in November 2016. These emails exchanged between Noticee no. 1 and the said unknown person having email id [rigyajursama@outlook.com](mailto:rigyajursama@outlook.com) relates to the period from February 17, 2015 to February 19, 2015 under the subject "Proposed Organization Structure with notes" reflect discussions over (1) new designation of Noticee no. 6 without making it as KMP (2) revision of the contract of Noticee no. 6 to 5 days/week only for paper and emoluments etc. In email dated February 19, 2015, the unknown person (Email id [rigyajursama@outlook.com](mailto:rigyajursama@outlook.com)) states to draw the curtains down to the discussion and to pronounce the new designation of Noticee no. 6 as "Group Operating Officer & Advisor to MD" at the same level as group president of the company. These emails reflect that the said unknown

person at that time has significantly influenced the decision making of Noticee no. 1. The extract of few e-mail correspondence is given below:

a) E-mail dated February 17, 2015 from Noticee no. 1 to Unknown Person

*"This is a version of the organogram that we have put together for Your consideration. For confidentiality reasons we did not incorporate the new designations of JR and CSA."*

Note: Above discussion is wrt new designations of Mr. J Ravichandran (JR) and Mr. Anand Subramanian (CSA) effective April 01, 2015.

b) Email dated February 18, 2015 at 15:59 Hrs from Noticee no. 1 to Unknown Person:

*"1. The role and designation of group chief coordination officer is fine and we could take that forward. I have a small submission, Can we make this as Group president and chief coordination officer? And over a time frame as You direct we can move the entire operations of the exchange under G and redesignate him as chief operating officer? seek Your guidance on the path forward on this Swami*

*If this meets with your Highness' approval, then parallely could we coin JR as group President Finance and stakeholder relations and Corporate General Counsel?"*

c) Email dated February 18, 2015 at 18:01 Hrs from Unknown Person to Noticee no. 1

*"I have the following questions, that will place all of you in an awkward situation. I buy your argument and analysis, interesting but have not got my answers from your own concerns. If on one hand I call JR a President who is a KMP the other person how can he/she be excused, is it subjective? Competitors bring new faces much below par at intelligent levels and functional expertise, they bring all as coo and VP, we are bringing a legitimate case here, which needs introspection? I have never suggested any changes in reporting of trading and other verticals, I am only trying to initiate the importance of levels within organisation. So from a strategic perspective can I bring the title Group Chief Co-Ordination Officer (COO) since subsidiaries also report to him and acceptable to all. Larger the thoughts, clearer our stand, postures become easier. ASHIRVADHAMS, a revert on this is good for one and all. GNANA VEL"*

d) E-mail dated February 19, 2015 from Unknown Person to Noticee no. 1:

*"I will draw the curtains down to this discussion with the following points for consideration, of course SOM can execute her authority to change if*

required suiting the company requirement or write to me seeking clarifications.

Any journey the enjoyment is there after completion of the path that we tread, similar is the HR process. In this journey if we view our personal goals then it is difficult to align with business goals. So in order to have a mix of all and not preceptitate the contract entered into and also maintain status on hierarchy, and considering legally the terms of reference in TITLE NOT AS KMP and still get an executive authority I propose with love and abundant blessings that you will be called from April 01, 2015 as "GROUP OPERATING OFFICER & ADVISOR TO MD" at the same level as group president of the company.

With this I call upon SOM to discharge the following:

1. contract to revise to 5 day week only for paper and emoluments. 3 day will continue on routine with HO and rest at will.
2. one day brought additional on contract per week Kanchan to withdraw and surrender to me per month as gratitude on gross amt.
3. Travel intl first class exceeding 5hrs journey point to point, business class for domestic for group president and above."

It is noted from the letter dated April 01, 2015 by Noticee no. 1, Noticee no. 6 was re-designated as "GROUP OPERATING OFFICER & ADVISOR TO MD" w.e.f 01-04-2015 and his contract revised to 5 days/week in line with the aforesaid direction of the unknown person.

- e) E-mail dated February 17, 2015 from Unknown Person to Noticee no. 1:

"The following are my observations that requires proper understanding and incorporation if that goes well within the framework.

1. Lala to be brought up with current portfolio and that of kasam as Deputy head Regulatory under same grade. Nisha to handle Kasam portfolio reporting to Lala.
2. Kasam to be removed from structure and kept on abeyance till leaving orgn.
3. Mayur to be titled Chief - Trading Operations under the same grade
4. Umesh to be titled Chief - Information Technology
5. Huzan to be titled Chief - Group Products (Debts&....)
6. Ravi Varanasi to be titled Chief BD- New Products & (SME/Education/RO Coordination)
7. Nagendra to be removed and separate under promotion as Head - Equities reporting to you and dotted to RV/Subbu.
8. Hari to be removed and separate under same grade as Head -IPO & OFS reporting to you and dotted to RV/Subbu.

Official Spokesperson for Group apart from you are as follows: 1. RV/JR/HM/Mukesh/VRN/TVR/UJ/ Arindham representing Subbu"

Note: In aforesaid email the said unknown person directs on internal HR matter of NSE.

- f) In another email dated February 17, 2015 at 10:03:31 Hrs from rigyajursama@outlook.com to Noticee no. 1 vide subject "Proposed Organization Structure with notes", the unknown person seems to direct Noticee no. 1 to propose the promotion of Mr. Chandrasekhar Mukherjee (CM) as Chief People Officer as SVP Grade.

It is noted from Noticee no. 2 internal note dated March 30, 2015 and April 16, 2015, designation of Mr. Chandrasekhar Mukherjee has changed from 'Head' to 'Chief People Officer' (CPO) in line with the direction of the unknown person ([rigyajursama@outlook.com](mailto:rigyajursama@outlook.com)).

31.2.7 Above facts indicates that the Noticee no. 2 and its Board were aware of the exchange of confidential information by Noticee no. 1 with an unknown person having email id rigyajursama@outlook.com, in its meeting held on November 29, 2016. However, the Noticee no. 2 and its Board had taken a conscious decision to not report the matter to SEBI and keep the matter under wraps.

31.2.8 It is noted that Noticee no. 1 resigned w.e.f December 02, 2016. On perusal of the minutes of Board meeting dated December 02, 2016 and considering the aforesaid findings, it is alleged that in spite of having knowledge of such grave irregularities and misconduct on the part of Noticee no. 1 on appointment of Noticee no. 6 in the NRC and NSE Board meeting held on October 21, 2016 and knowledge of exchange of confidential information by Noticee no. 1 with unknown person in the NSE Board meeting held on November 29, 2016, the Noticee no. 2 and its NRC and Board members, in the Board meeting held on December 02, 2016, allowed Noticee no. 1 to exit through resignation despite having committed such bizarre misconduct as reflected from her email correspondence with a factious email address apparently belonging to Noticee no. 6 without taking any action in this regard. Moreover, the Noticee no. 2 and its board also appreciated Noticee no. 1 on record while accepting her resignation with immediate effect.

31.2.9 In view of the above it is alleged that the Noticee no. 2 in spite of being aware of the irregularities on appointment of Noticee no. 6 as GOO without being designated as KMP and correspondences of confidential information by Noticee no. 1 with unknown person in its meeting on October 21, 2016 and November 29, 2016 neither opposed the serious governance lapses in NSE nor recorded the aforesaid matter in the minutes of said meeting in the name of confidentiality and sensitive information. Further, the report on above irregularities was submitted to SEBI only after repeated reminders. The Noticee no. 2 and its Board and NRC, in spite of, having knowledge of such grave irregularities and misconduct on the part of Noticee no. 1 and even after knowing that Noticee no. 1 has not applied her independent judgment and was dependent on the guidance of an unknown person while taking important decisions, permitted Noticee no. 1 to exit through resignation and moreover recorded the appreciation in the Board meeting held on December 02, 2016.

31.2.10 With regard to the aforesaid allegations, Noticee no. 2, vide its letter dated December 18, 2020 has *inter alia* submitted that:

*“20. NSE by its letter dated June 1, 2018 responded to SEBI's letter dated May 3, 2018, clarifying that the emails appended to the May 3, 2018 letter primarily discussed internal issues of management, organizational structure and corporate governance of NSE. NSE also confirmed that Ms. Ramkrishna's conduct was not consistent with a detailed forensic investigation into all emails/ communications sent/ received by Ms. Ramkrishna in relation to the third party/ entity, who used the email id 'rigyajursama@outlook.com'.*

*21. On June 20, 2018, Ms. Ramkrishna had a meeting with two directors of NSE and three partners of AZB & Partners, the law firm engaged by NSE. When asked about the email id 'rigyajursama@outlook.com', Ms. Ramkrishna stated that the person guiding her through this email was a 'siddha-purusha' or 'paramhansa', guiding her spiritually for over 20 years. Ms. Ramkrishna asserted that the said person was not Mr. Subramanian. Ms. Ramkrishna*

*asserted that all decisions taken by her were only hers. As regards the appointment of Mr. Subramanian as GOO, she stated that she had tried to give this role internally within NSE, but it was not effective. As Mr. Subramanian was a good resource, and she was happy with his services, she then offered him the position of GOO.*

*22. While Ms. Ramkrishna stated that the third person was not Mr. Subramanian, the results of the forensic investigation conducted by EY concluded that the person using the email id 'rigyajursama@outlook.com' was Mr. Subramanian himself. EY's conclusion was inter-alia based on the facts that (i) the Skype accounts in the name of "anand.subramanian9" and "sironmani.10" which were found on Mr. Subramanian's NSE desktop were configured in the Skype application database and linked to the email ID 'rigyajursama@outlook.com', and Mr. Subramanian's mobile number and (ii) the document properties in some emails sent from the email ID 'rigyajursama@outlook.com' indicated the 'author' (document author), 'last modified by' (document last modified by), 'created' (document created date/time) and 'last modified' (document last modified date/time) as Mr. Subramanian.*

*23. Accordingly, NSE sent its detailed response on July 6, 2018 to SEBI's letter dated May 3, 2018 confirming that the confidential information of NSE were not disclosed to an unknown entity, but to the GOO, who anyways had access to financial, operational and HR related information about NSE. Further, NSE confirmed that no damage to the market was caused in any manner due to such correspondence and that Ms. Ramkrishna confirmed that the third party had not used confidential information for any personal or monetary gain. NSE also provided detailed responses to SEBI's questions framed in the May 3, 2018 letter."*

31.2.11 From the above, I note that Noticee no. 2 has submitted that it had conducted its own forensic investigation and had concluded that the unknown person who used the email id 'rigyajursama@outlook.com' with whom Noticee no. 1 was communicating confidential information, was actually Noticee no. 6. In addition to the above, I note that Noticee no. 2 have also submitted that Noticee no. 6's statements were taken on

September 12, 2018, wherein, Noticee no. 6 *inter alia* stated that he was not the unknown person and had never met the unknown person but had communicated with him telephonically and sought his guidance for the past 22 years. Accordingly, Noticee no. 2 have submitted that they have done all that could fairly and appropriately be done upon discovery of the facts and events narrated by them.

31.2.12 In this regard, I note that the forensic investigation and statements taken of Noticee no. 1 and 6 by Noticee no. 2 have been done only pursuant to the letter dated May 03, 2018 from SEBI to Noticee no. 2 seeking information and response from Noticee no. 2 regarding the said emails/correspondences of Noticee no. 1 with the unknown person. Further, such forensic investigation by Noticee no. 2 has been done only post the resignation of Noticee no. 1 which was accepted by Noticee no. 2 on December 02, 2016. Therefore, I note that in spite of having knowledge of exchange of confidential information by Noticee no. 1 with unknown person in the NSE Board meeting held on November 29, 2016, the Noticee no. 2 and its NRC and Board members, in the Board meeting held on December 02, 2016, allowed Noticee no. 1 to exit through resignation without taking any action in this regard, despite Noticee no. 1 having committed such bizarre misconduct as reflected from her email correspondence with a factious email address, which Noticee no. 2 only found out after its forensic investigation in 2018 that the unknown person was Noticee no. 6. The contention of Noticee no. 2 that since it has been established that the unknown person was Noticee no. 6 there would be no breach of confidentiality as Noticee no. 6 in any case had access to such information, is untenable, as Noticee no. 2 was not aware of the identity of the unknown person when the emails were placed before the NSE Board meeting held on November 29, 2016, as the E&Y report was submitted only in July 2018 to Noticee no. 2, and yet Noticee no. 2 accepted Noticee no. 1's resignation on December 02, 2016. In this regard, I note that the E&Y Report dated July 05, 2018, submitted by Noticee no. 2 has *inter alia* made the following observations in its report:



*“We observed select emails which may be confidential information pertaining to NSE being shared by Chitra and Subbu with Rigyajursama. Such information included those pertaining to NSE 5 year financial projections, dividend pay-out ratio, NSE’s business plans, agenda of NSE’s board meeting and consultations over the ratings/performance appraisals of NSE employees. Based on the emails, it appears that such information was forwarded to Rigyajursama by Chitra for obtaining guidance or in response to information requested by Rigyajursama.”*

31.2.13 Hence, it is clear that confidential information including those pertaining to NSE 5 year financial projections, dividend pay-out ratio, NSE’s business plans, agenda of NSE’s board meeting and consultations over the ratings/performance appraisals of NSE employees has been shared by Noticee no. 1 with the unknown person. With regard to the observations made in the E&Y report, as submitted by Noticee no. 2, I have perused the E&Y report and I find that the same does not give a conclusive finding that Noticee no. 6 is the unknown person who used the email id '*rigyajursama@outlook.com*'. From a perusal of the report and the emails, one would assume that if the unknown person was Noticee no. 6 then Noticee no. 1 need not deny that the unknown person was in deed Noticee no. 6 as then the exchange of emails of issues pertaining to NSE would have been in the normal course of their official relationship. Further, the E&Y report states that the maximum number of cell phone calls made by Noticee no. 1 was to Noticee no. 6 and vice versa. Therefore, in such circumstances, assuming that the unknown person was Noticee no. 6, it would appear that such emails between the Noticee no. 1 and 6 would not be required given the constant calls to each other. However, I note that Noticee no. 1 has submitted that Noticee no. 6 is not the unknown person and Noticee no. 6 has also denied that he is the unknown person. Further, from the report, I note that the unknown person was well known and in close proximity to Noticees no. 2 and 6, however, the report itself does not give any conclusive finding that the unknown person was in deed Noticee no. 6, and in this regard, I note that the report states that there were no direct

identifiers in the emails (like name, contact number, government identifications etc.) that could have suggested the identity of the unknown person. Further, the E&Y Report states that their findings are based on the information and documents to the extent provided to them by Noticee no. 2. I also note that the E&Y report has *inter alia* made the following observation:

**“10. Other observations:**

***Email alerts were configured by NSE which had identified email to Rigyajursama***

*On our review, we observed that on 9 October 2014 email from Chitra was sent to Rigyajursama with document name NSE 5 year projections sheet. Based on select emails noted, it appears that NSE had configured email alerts when emails would be sent to an external domain id were sent with attachments that contained strategic key words like equity; ipo; market. Growth; marketing strategy; opportunities; present.*

*On 13 November 2015, email of Rigyajursama were undeliverable to Chitra. The undeliverable email message was sent by Chitra to Rigyajursama. On 19 November 2015, Chitra’s message to Rigyajursama was undeliverable. On 19 November 2015, Rigyajursama wrote an email to Chitra stating that “Unfortunately your company has blocked MY id from your outgoing so your msgs are not being delivered properly by mail from you”. On verbal instructions of Chitra, it appears that Sanskaron Banerjee from NSE tech wrote and email internally to Narayan Neelakantan (IT/TRC) stating “Please investigate why this id rigyajursama@outlook.com is unable to send or receive emails to MD” post which the mail was forwarded internally to allow such exchange on emails and to check the same on priority. On 19 November 2015 at 19:31 Rigyajursama wrote an email to Chitra stating that “All checked CHITSOM the mail works fine”.*

31.2.14 From the aforesaid observations, one would assume that if the unknown person was Noticee no. 6, such internal documents need not have been sent through the email of the unknown person as the same would have already been accessible to Noticee no. 6 as Chief Strategic Advisor to MD&CEO of NSE. In view of the aforesaid paras, I note that the E&Y report, at best, reveals that the unknown person was also well known and in close proximity to Noticee no. 6 but does not give a conclusive finding that Noticee no. 6 was in fact the unknown person who used the email id 'rigyajursama@outlook.com'. I note from the E&Y Report that only the desktops assigned to Noticee no. 1 and 6 were imaged/checked and the

laptops assigned to Noticees no. 2 and 6 were not available for forensic imaging as they were disposed as E-waste. I also note from the E&Y Report that only the official emails id's of Noticees no. 2 and 6 could be checked and emails send/received to/from their private emails to the unknown person could not be accessed. Further, the said report records that based on the emails, it appeared that confidential data pertaining to NSE was forwarded to the unknown person by Noticee no. 1 and also by Noticee no. 6 for seeking guidance or in response to information requested by the unknown person. In view of the above, I find that there is no conclusive evidence or finding from the E&Y Report or the documents before me to prove that the unknown person who used the email id '*rigyajursama@outlook.com*' was in fact Noticee no. 6. However, what is evident from the E&Y Report is that confidential information/data including those pertaining to NSE 5 year financial projections, dividend pay-out ratio, NSE's business plans, agenda of NSE's board meeting and consultations over the ratings/performance appraisals of NSE employees, has been shared by Noticee no. 1 with an unknown person/ an outsider.

31.2.15 Further, as noted in the aforesaid paras, the discussion relating to appointment of Noticee no. 6 was discussed during the Board meeting of October 21, 2016 but the same was not recorded in the minutes of meeting on October 21, 2016 in the name of confidentiality and sensitive information. Likewise, even though the exchange of emails with unknown person by Noticee no. 1, were brought to the notice of Chairman of the Board and Chairman of NRC in November 2016, the Noticee no. 2 vide email dated December 06, 2018 had submitted that the said emails were brought to the notice of the Chairman of the Board and the Chairman of the NRC and the same were shared with the NSE Board by the Chairman in a closed door meeting held on November 29, 2016 and in view of the confidential and sensitive nature of information, the same was not reflected in the minutes. Hence, it is apparent that Noticee no. 2 was trying to conceal the discussions relating to Noticee no. 6 that took place during the Board meeting on October 21, 2016 in the presence of Noticee no. 1 and also the

discussions relating to the said exchange of emails by Noticee no. 1 with unknown persons that took place during the board meeting on November 29, 2016. This attempt by Noticee no. 2 to conceal the above facts is further evident from the Board meeting on December 02, 2016, wherein, it is stated that:

*“(a) Resignation of Managing Director & CEO*

*Mr. Ashok Chawla, the Chairman, placed the resignation letter from Ms. Chitra Ramkrishna as Managing Director & CEO of NSE due to personal reasons. The Chairman further informed the Board about her desire to step down with immediate effect.*

*The Board further noted that the Nomination & Remuneration Committee in its meeting held earlier in the day discussed the matter and recommended to the Board that her resignation be accepted with immediate effect.*

*The Board discussed the matter and accepted her resignation with immediate effect. The Board also appreciated her sterling contribution to the growth of the Organization over the long years that she had been associated with it.”*

31.2.16 Therefore, given that the discussion of the appointment of Noticee no. 6 was not reflected in the minutes of the Board meeting of October 21, 2016 or that the discussion of the emails of Noticee no. 1 with unknown person was not reflected in the minutes of the Board meeting on November 29, 2016, it would appear to the public from the above minutes of the Board meeting on December 02, 2016, that Noticee no. 6 has decided to step down as Managing Director & CEO of NSE due to personal reasons and not for reasons relating to the grave irregularities and misconduct of Noticee no. 1 in the appointment of Noticee no. 6 and emails with unknown persons, as discussed in the aforesaid paras. The act of concealing such irregularities is further blatantly evident by the fact that it is recorded in the minutes that the Board appreciated her contribution to the organization, giving the impression that Noticee no. 1 has resigned with a clean slate. However, as discussed in the aforesaid paras, that is evidently not the case. It is clear that the Noticee no. 2 and its Board had taken a conscious decision to not report the matter to SEBI and conceal the matter.

31.2.17 I note that Noticee no. 1 had resigned on December 02, 2016 and the E&Y Report observing that the unknown person, with whom Noticee no. 1 exchanged confidential information, was Noticee no. 6 was submitted to NSE only on July 05, 2018. Therefore, even if assuming that Noticee no. 6 was the unknown person, as observed in the E&Y Report, Noticee no. 2 was not aware of the same when it accepted the resignation of Noticee no. 1 on December 02, 2016. However, Noticee no. 2 was very much aware during the resignation of Noticee no. 1 that Noticee no. 1 had shared confidential information with an unknown person. Therefore, the E&Y Report appears to be of no relevance and seems to be only an obligated attempt made pursuant to the repeated emails of SEBI to investigate into the same, given that Noticee no. 2 had already accepted the resignation of Noticee no. 1. Hence, I find that Noticee no. 2 accepted the resignation of Noticee no. 1 even though it was very much aware that confidential information/data of NSE was shared with an unknown person, who at the point of resignation of Noticee no. 1, Noticee no. 2 had no idea about his identity. Therefore, it certainly appears that Noticee no. 2 intentionally and consciously tried to protect Noticee no. 1 by accepting her resignation and not reporting the matter to SEBI in spite of being aware of the regulatory infractions.

31.2.18 In view of the above, I find that Noticee no. 2 and its Board, in spite of, having knowledge of such grave irregularities and misconduct on the part of Noticee no. 1 and even after knowing that Noticee no. 1 had shared confidential information and has not applied her independent judgment and was dependent on the guidance of an unknown person while taking important decisions, permitted Noticee no. 1 to exit through resignation and also recorded the appreciation in the Board meeting held on December 02, 2016 citing her sterling contribution to the growth of organization. Hence, I find that Noticee no. 2 and its Board has:

- a) failed to administer the stock exchange with professional competence, fairness, impartiality, efficiency and effectiveness; failed to maintain

the highest standards of personal integrity, truthfulness, honesty and fortitude in discharging their duties and has engaged in acts discreditable to their responsibilities; failed to perform their duties in an independent and objective manner; failed to perform their duties with a positive attitude and constructively support open communication, in violation of *Clause v. (b), (e), (f) and (g) of the Code of Conduct as specified under Part- A of Schedule- II read with Regulation 26(1) of the SECC Regulations, 2012.*

- b) by failing to maintain an appropriate conduct, putting the reputation of the stock exchange in jeopardy and failing to comply with the SECC Regulations, 2012, the Noticee no. 2 have violated *Clause iii. (c), (e) and (f) of the Code of Ethics as specified under Part- B of Schedule- II read with Regulation 26(2) of the SECC Regulations, 2012.*
- c) failed to comply with the provisions of the SECC Regulations, 2012 and ensure compliance at all levels in violation of *Clause IV (a) and (b) of the Code of Conduct as specified under Part- A of Schedule- II read with Regulation 26(1) of SECC Regulations, 2012.*

**31.3 In terms of Clause 12 of SEBI Circular dated December 13, 2012 public interest directors are required to identify important issues that may have significant impact on the functioning of Stock exchange, may not be in the interest of market and report to SEBI. None of the PIDs informed to SEBI about the kinds of aforesaid decisions being taken by the Board.**

- 31.3.1 As discussed in the foregoing paras, the discussion relating to appointment of Noticee no. 6 was discussed during the Board meeting of October 21, 2016 but the same was not recorded in the minutes of meeting on October 21, 2016 in the name of confidentiality and sensitive information. Likewise, even though the exchange of emails with unknown person by Noticee no. 1, were brought to the notice of Chairman of the Board and Chairman of NRC in November 2016, the Noticee no. 2 vide email dated December 06, 2018 had submitted that the said emails were brought to the notice of the

Chairman of the Board and the Chairman of the NRC and the same were shared with the NSE Board by the Chairman in a closed door meeting held on November 29, 2016 and in view of the confidential and sensitive nature of information, the same was not reflected in the minutes. Hence, it is apparent that Noticee no. 2 was trying to conceal the discussions relating to Noticee no. 6 that took place during the Board meeting on October 21, 2016 in the presence of Noticee no. 1 and also the discussions relating to the said exchange of emails by Noticee no. 1 with unknown persons that took place during the board meeting on November 29, 2016.

31.3.2 The aforesaid irregularities in the appointment of Noticee no. 6 and the exchange of confidential emails by Noticee no. 1 with unknown persons were important issues that may have significant impact on the functioning of the stock exchange as a person having no relevant experience was being delegated powers equivalent to that of the MD&CEO and the MD&CEO was sharing confidential information pertaining to the exchange such as NSE 5 year financial projections, dividend pay-out ratio, NSE's business plans, agenda of NSE's board meeting etc. with an unknown person. I note that in terms of Clause 12 of SEBI Circular dated December 13, 2012, Public Interest Directors (hereinafter referred to as "**PID**") are required to identify important issues that may have significant impact on the functioning of Stock exchange, may not be in the interest of market and report to SEBI. Whenever they see any major regulatory lapse in the functioning of the exchange they have to report to SEBI. However, in this case, I note that the PIDs of Noticee no. 2 have not reported the same to SEBI. The Noticee no. 2 has not properly monitored the management, whereby Noticee no. 2 was taken over by one individual and governance was outsourced to an unknown person. Further, Noticee no. 2, by permitting Noticee no. 1 to merely resign and by not taking any action against her, have not acted in the interest of securities market resulting in failure of their primary responsibilities. Board of directors of any corporate is the directing mind and will of the corporate entity. In terms of Regulations 23 of the SECC Regulations, 2012, PIDs have been given prominence in the board of

directors of a recognized stock exchange. Any failure on the part of board in discharge of its statutory duties is attributable to Noticee no. 2 and makes Noticee no. 2 liable for the same. Thus, I find that the because of failure of board of Noticee no. 2 to properly monitor the management and to inform SEBI about the issues which had significant impact on the functioning of Noticee no. 2 and were not in the interest of the market, as required under Clause 12 of SEBI Circular dated December 13, 2012 Noticee no. 2 has failed to comply with Clause 12 of SEBI Circular dated December 13, 2012.

**PART – IV - In respect of Noticee no.3 (Mr. Ravi Narain)**

**C. Allegations against Noticee no. 3 in SCN-III, submissions of Noticee no. 3 and findings thereon:**

32. In view of the facts narrated in para 9 above, SCN-III makes following allegations against Mr. Ravi Narain (Noticee no. 3):
- (i) Noticee no. 3, in spite of being aware of the irregularities on appointment of Noticee no. 6 as GOO without being designated as KMP and correspondences of confidential information by Noticee no. 1 with unknown person in its meeting on October 21, 2016 and November 29, 2016 neither opposed the serious governance lapses in NSE nor recorded the aforesaid matter in the minutes of said meeting in the name of confidentiality and sensitive information. Further, the report on above irregularities was submitted to SEBI only after repeated reminders.
  - (ii) Noticee no. 3 has made incorrect and misleading submission before SEBI on appointment and selection of Noticee no. 6.
  - (iii) Noticee no. 3, in spite of being aware, didn't raise any concern with respect to delegation of substantial power almost akin to MD & CEO to Noticee no. 6, merely a consultant, in the NSE Board meeting held on August 11, 2015.



- (iv) Noticee no. 3, in spite of, having knowledge of such grave irregularities and misconduct on the part of Noticee no. 1 and even after knowing that Noticee no. 1 has not applied her independent judgment and was dependent on the guidance of an unknown person while taking important decisions, permitted Noticee no. 1 to exit through resignation and also recorded the appreciation in the Board meeting held on December 02, 2016 and subsequently, in the Board meeting held on December 19, 2016, allowed excess leave encashment of Rs 1.54 crore to Noticee no. 1 over the existing policy without SEBI's approval citing her sterling contribution to the growth of organization.

33. SCN-III alleges following violations by Noticee no. 3:

- (a) Regulatory Compliance as specified under Clause iv (a) and (b) of the Code of Conduct as specified under Part– A of Schedule– II read with Regulation 26(1) of the SECC Regulations, 2012.
- (b) General responsibility as specified under Clause v (b), (e), (f), (g) and (h) of the Code of Conduct as specified under Part– A of Schedule– II, read with Regulation 26(1) of the SECC Regulations, 2012.
- (c) Provisions relating to Fairness and transparency, Compliance with all laws/ rules/ regulations, Exercising due diligence as specified in clause (i) of the Code of Ethics under Part– B of Schedule– II read with Regulation 26(2) of the SECC Regulations, 2012.
- (d) General Standards as specified under Clause iii. (c), (e) and (f) of the Code of Ethics as specified under Part– B of Schedule– II read with Regulation 26(2) of the SECC Regulations, 2012.
- (e) Regulation 27(4) of SECC Regulations, 2012.
- (f) Violation of Section 6(4) of SCRA, 1956.

34. My observations and findings on the aforesaid allegations and the submissions made by Noticee no. 3 are as under:

**34.1 Noticee no. 3, in spite of being aware of the irregularities on appointment of Noticee no. 6 as GOO without being designated as KMP and correspondences of confidential information by Noticee no. 1 with unknown person in its meeting on October 21, 2016 and November 29, 2016 neither opposed the serious governance lapses in NSE nor recorded the aforesaid matter in the minutes of said meeting in the name of confidentiality and sensitive information. Further, the report on above irregularities was submitted to SEBI only after repeated reminders.**

34.1.1 It is alleged in the SCN-III that upon receipt of the complaint dated December 15, 2015 and May 25, 2016, SEBI vide email dated February 19, 2016, May 24, 2016, May 27, 2016, June 20, 2016 and June 30, 2016, advised NSE to provide its comments. Mr. V.R. Narasimhan (Noticee no. 5) then Chief Regulatory Officer, NSE vide his email dated March 14, 2016 and June 30, 2016 submitted that there is no violation of SECC Regulations, 2012 in the appointment of Noticee no. 6 as 'Group Operating Officer and Advisor to MD' and MD being the competent authority appointed Noticee no. 6. Subsequently, SEBI vide letter dated September 15, 2016 advised NSE to place the complaints before its Board to decide whether there has been any violation of code of conduct or principle of avoidance of conflict of interest while appointing Noticee no. 6 and submit a report to SEBI.

34.1.2 Upon examination of the matter it was observed that the said SEBI letter dated September 15, 2016 was discussed in the meeting of NRC held on October 04, 2016 along with a note on KMP practice adopted by NSE. In the said meeting, NRC advised NSE that a legal opinion be taken in the matter. The Noticee no. 3 as Vice Chairman and member of NRC was present in the meeting of the NRC held on October 04, 2016.

34.1.3 As noted from the report of NRC, the said findings of NRC as stated in its report was tabled to the Board of NSE, initially without Noticee no. 1 being present at the discussion, and thereafter discussed with Noticee no. 1 and it was agreed that in the light of the facts Noticee no. 6 should step down from the Company immediately. It is noted that Noticee no. 6 resigned from NSE w.e.f October 21,

2016. NSE vide its email dated January 04, 2019 has submitted that above findings of NRC was discussed in the NRC and NSE Board meeting held on October 21, 2016 however in view of the confidential and sensitive nature of information, the same was not reflected in the minutes of the respective meetings. The Noticee no. 3 as Vice Chairman and member of NRC was present in the meeting of the NRC and NSE Board held on October 21, 2016.

34.1.4 As reflected above, the findings of NRC was discussed in the NSE Board meeting and NRC meeting held on October 21, 2016. However, no report was submitted to SEBI as advised by SEBI letter dated September 15, 2016. Subsequently when SEBI issued repetitive reminders vide email/letter dated October 24, 2016, November 09, 2016, December 19, 2016 and May 18, 2017, NSE in its Board meeting dated June 07, 2017 made efforts to prepare a report on appointment of Noticee no. 6 which was ultimately submitted to SEBI vide NSE email dated November 29, 2017. It is noted that till the time the Noticee no. 3 was in NSE (the noticee resigned from the Board of NSE wef June 01, 2017), as Vice Chairman and member of NRC, no effort was made by the NSE to submit the report to SEBI on violation of code of conduct or principle of avoidance of conflict of interest while appointing Noticee no. 6, as sought vide SEBI letter dated September 15, 2016. The Noticee no. 3 as a member of NRC was aware of the findings relating to the governance lapses on appointment of Noticee no. 6 in NSE in October 2016 itself but a report in this regard submitted to SEBI on November 29, 2017 only after repeated reminders issued by SEBI.

34.1.5 In view of the above, it is alleged in SCN-III that the Noticee no. 3 was aware of such grave irregularities and misconduct on the part of Noticee no. 1 on appointment of Noticee no. 6 in the NRC and NSE Board meeting held on October 21, 2016 but did not record the aforesaid matter in the minutes of meeting on October 21, 2016 in the name of confidentiality and sensitive information and the report on above irregularities was submitted to SEBI only after repeated reminders.

34.1.6 Noticee no. 3 vide his reply to the SCN has submitted that he retired as MD & CEO of NSE with effect from March 31, 2013, and with effect from April 01, 2013, he was appointed as a Non-Executive Director and vice chairman on the Board of Directors of NSE till June 2017, after which he has in no manner been involved or connected with NSE. The Noticee no. 3 has submitted that at the meeting on October 21, 2016, the Board of Directors had discussed the said matter without Noticee no. 1 being present. Thereafter the Board discussed the matter with Noticee no. 1 and it was decided that Noticee no. 6 should leave the NSE immediately and Noticee no. 6 submitted his letter of resignation on the same day. That thereafter, even Noticee no. 1 tendered her resignation letter dated November 29, 2016 and the same was accepted by the Board of Directors on December 02, 2016. Further, that by an email dated December 21, 2016, SEBI had been informed by Noticee no. 5 that as regards the said complaints, Noticee no. 6 had resigned and been immediately relieved on October 21, 2016. He has submitted that in these circumstances, he believed that the matter was closed and objections / complaints which had been raised as regards Noticee no. 6 and Noticee no. 1 had been fully addressed and they had even resigned and left the NSE. The Noticee goes on to submit that the very fact that he was part of the NRC which undertook the said investigation and made the said report, and the fact that he was also a member of the Board which took the said decision, belies and contradicts the allegations in the SCN against him.

34.1.7 With regard to the aforesaid submissions by Noticee no. 3, I note that Noticee no. 3 has been with NSE since its inception. He was initially appointed as Deputy Managing Director of NSE and in the year 2000, he was appointed as the MD and CEO of NSE. I note that Noticee no. 3 has along with Noticee no. 1 been with NSE since its inception and Noticee no. 1 took over as MD and CEO of NSE from Noticee in No. 3 on April 01, 2013. Prior to becoming MD and CEO of NSE, Noticee no. 1 was the Joint MD of NSE. Hence, I note that Noticee no. 1 and 3 have been closely associated with each other at NSE since its inception. In this regard, the involvement of Noticee no. 3 at every relevant

stage of the appointment, re-designation and resignation of Noticee no. 6 as alleged in the SCN, is as under:

- a) **Appointment Letter dated January 18, 2013:** I note from the NRC report dated November 22, 2017 submitted by NSE to SEBI on November 29, 2017 that vide letter dated January 18, 2013, Noticee no. 6 was offered to join NSE in the role of Chief Strategic Advisor w.e.f. April 01, 2013. I note that when the Noticee no. 6 was offered to join NSE, Noticee no. 3 was still the MD and CEO of NSE.
- b) **Board meeting on August 11, 2015:** It is noted that the Board of NSE in its meeting held on August 11, 2015, in order to further smoothen the day to day conduct of business operations of the exchange, delegated substantial power of management akin to the powers granted to MD & CEO to Noticee no. 6. I note that the Attendees in the board meeting dated August 11, 2015, where Noticee no. 3 was the Vice Chairman are as under:

S. No	Name	Category
1	Mr. S B Mathur	Chairman PID & NRC member
2	Mr. Ravi Narain	Vice Chairman, Shareholder director & NRC member
3	Mr. Y H Malegam	PID & NRC member
4	Dr. K R S Murthy	PID & NRC member
5	Justice B N Srikrishna (Retd)	PID
6	Mr. S Sadagopan	PID
7	Ms. Chitra Ramkrishna	MD & CEO
8	Mr. S B Mainak	Shareholder Director
9	Mr. Prakash Parhasarthy	Shareholder Director
10	Mr. Abhay Havaladar	Shareholder Director

- c) Thereafter, having been vested with substantial power akin to MD & CEO Noticee no. 6 started attending all the Board meetings of NSE since August 11, 2015 onwards, along with Noticee no. 3 who continued to

serve as Vice Chairman of NSE during the entire period that Noticee no. 6 was at NSE.

- d) **NRC Meeting on October 04, 2016:** I note that pursuant to SEBI letter dated September 15, 2016, the appointment of Noticee no. 6 was discussed in the meeting of NRC held on October 04, 2016 along with a note on KMP practice adopted by NSE. In the said meeting, NRC advised NSE that a legal opinion be taken in the matter. The Noticee no. 3 as Vice Chairman and member of NRC was present in the meeting of the NRC held on October 04, 2016 where the said issue was discussed.
- e) **NRC and NSE Board meeting on October 21, 2016:** I note that the findings of NRC was discussed in the NRC and NSE Board meeting held on October 21, 2016, wherein it was agreed that in the light of the facts Noticee no. 6 should step down from the Company immediately. Accordingly, Noticee no. 6 resigned from NSE on October 21, 2016. However, in view of the confidential and sensitive nature of information, the same was not reflected in the minutes of the respective meetings. The Noticee no. 3 as Vice Chairman and member of NRC was present in the meeting of the NRC and NSE Board held on October 21, 2016. I note that the attendees of board meeting dated October 21, 2016 where Noticee no. 3 was the Vice Chairman are as under:

S. No	Name	Category
1	Mr. Ashok Chawla	Chairman PID & NRC
2	Mr. Ravi Narain	Vice Chairman Shareholder director & NRC
3	Mr. Dinesh Kanabar	PID & Chairman, NRC
4	Mr. Naved Masood	PID
5	Mr. T V Mohan Das Pai	PID
6	Ms. Dharmishtha Rawal	PID
7	Mr. Abhay Hawaldar	Shareholder director

8	Ms. Anshula Kant	Shareholder director
9	Mr. Prakash Parthasarthy	Shareholder director

f) **Board meeting on November 29, 2016:** Further, as per NSE email dated December 06, 2018 I note that exchange of emails between Noticee no. 1 and the unknown person at that time was brought to the notice of the Chairman of the Board and the Chairman of the NRC in November 2016 by Deloitte and the same were shared with the Board by the Chairman in a closed door meeting held on November 29, 2016 without the presence of NSE officials including the then MD & CEO. In view of the confidential and sensitive nature of information, the same was not reflected in the minutes. The attendees of board meeting dated November 29, 2016 where Noticee no. 3 was the Vice Chairman is the same as given in the aforesaid table for October 21, 2016.

g) **Board meeting on December 02, 2016:** I note that in spite of having knowledge of such grave irregularities and misconduct on the part of Noticee no. 1 on appointment of Noticee no. 6 in the NRC and NSE Board meeting held on October 21, 2016 and knowledge of exchange of confidential information by Noticee no. 1 with unknown person in the NSE Board meeting held on November 29, 2016, NSE and its NRC and Board members in the Board meeting held on December 02, 2016 allowed Noticee no. 1 to exit through resignation without taking any action in this regard. NSE and its board also appreciated Noticee no. 1 on record while accepting her resignation with immediate effect. As noted above,

34.1.8 From the above, I note that Noticee no. 3 has been present at every stage concerning the appointment of Noticee no. 6, to delegating him substantial powers, to his resignation and to the ultimate resignation of Noticee no. 1 in this regard. I note that Board members and Chairman of NSE during the appointment and delegation of substantial powers to Noticee no. 1 are different from the Board members who discussed the NRC finding on the issues

pertaining to appointment of Noticee no. 6 by Noticee no. 1 and exchange of confidential information by Noticee no. 1 with unknown person, with the exception being Noticee no. 3 who was the Vice Chairman and the sole board member that was present during all the aforesaid board meetings. Given Noticee no. 3's long standing association with NSE as an employee and also as a Board member, it is expected that the other Board members would have looked to him for his wisdom and experience in such matters and it is expected that he should have given the same. As an ex-MD and CEO of NSE for 13 years, Noticee no. 3 should be well aware of who is qualified as a KMP and how the substantial powers delegated to Noticee no. 6 would have made him a KMP, especially given the fact that Noticee no. 6 attended all Board meeting after being delegated such powers. It is evident that Noticee no. 3 has chosen to ignore all these factors and has also been instrumental in concealing these issues in the minutes of the Board meetings. This is further conspicuous from the fact that Noticee no. 3 was also an NRC member that had discussed the appointment issue of Noticee no. 6 in its meeting on October 04, 2016 and had reached a finding. Therefore, as a fact finding member of the NRC, Noticee no. 3 was aware of all the facts and irregularities, and yet chose to conceal these matters in the Board minutes held on October 21, 2016. As a former MD and CEO of NSE, the exchange of confidential email of the organisation by Noticee no. 1 with an unknown person is a serious governance lapse and should have been a complete red flag for him. However, as noted above, Noticee no. 3 has chosen to remain silent and conceal the irregularities from SEBI.

- 34.1.9 Further, as the sole director that has been on the Board of NSE and also the NRC since the appointment of Noticee no. 6, till the resignation of Noticee no. 6 and Noticee no. 1, there is an inherent obligation on Noticee no. 3 to have acted more responsibly in guiding the Board and NSE in taking appropriate and timely action against Noticee no. 1. Contrary to the contention of the Noticee no. 3 that he was only a non-executive director and Vice Chairman on the Board and therefore, he alone cannot be held responsible for anything, I find that Noticee no. 3 is undeniably not on the same footing as the other board members who were either not there when Noticee no. 6 was delegated substantial powers



or when the NRC findings on the appointment of Noticee no. 6 or exchange of confidential emails by Noticee no. 1 was brought to their notice. Therefore, whether or not show cause notice has been issued to other directors is immaterial as the allegations against the Noticee and his role has been clearly brought out in the SCN-III issued to him. As a quasi-judicial authority, my role is limited to adjudicating the allegations in the SCN against the Noticee no. 3. The Noticee has also submitted that it was not his job or duty to prepare the minutes of the NRC or the Board. However, I find that the Noticee no. 3 clearly had the responsibility to object to the minutes of the board meeting dated October 21, 2016 and November 29, 2016, not reflecting the discussions pertaining to the irregularities and complaints against Noticee no. 6 and 2, which he failed to do.

34.1.10 Further, the Noticee no. 3 has contended that as per Clause (viii) of the Code of Ethics in the SECC Regulations, 2012, it stipulates that the directors of a stock exchange shall not interfere with the day to day functioning of the stock exchange. In this regard, I note that the provisions stipulate that the directors shall not interfere in the day to day functioning, abstain from influencing the employees and shall not be directly involved in the function of appointment and promotion of employees. However, the provisions do not envisage to completely turn a blind eye even if there is non-compliance of the regulations or irregularities in the day to day functioning of the stock exchange or in appointment/promotion of key employees with a function of a KMP. It amounts to contending that even though Noticee no. 1 was sharing confidential information with unknown persons, Noticee no. 3 as a director of the Board or NRC member should not raise any objection or take action given that it was part of the day to day functioning of Noticee no. 1. That would be a completely erroneous and misconstrued understanding of the said provisions of the SECC Regulations, especially from an ex-MD & CEO and long standing employee of NSE. The allegation in the SCN-III is not that Noticee no. 3 has interfered or failed to interfere in the day to day functions or appointment of employees by Noticee no. 1, but that Noticee no. 3 has failed to report the serious governance lapses and irregularities committed by Noticee no. 1 to the Board or to SEBI

and to enable the Board or SEBI to take action against Noticee no. 1 for the same, upon being made aware of the same. Therefore, the contention of the Noticee is untenable. Hence, I find the actions of Noticee no. 3, as a long standing employee and former MD and CEO of NSE, to be most appalling and disturbing and is detrimental to the securities market and the Noticee's contention that he was merely a non-executive director after April 2013 is therefore untenable.

34.1.11 I note that the Noticee has submitted that the very fact that he was part of the NRC which undertook the said investigation and made the said report, and the fact that he was also a member of the Board which took the said decision, belies and contradicts the allegations in the SCN against him. However, to the contrary, as discussed in the foregoing paras, the fact that he was part of the NRC that undertook the investigation and made the report and the fact that he was also a member of the Board which took the decision that Noticee no. 6 should leave and yet, remained silent and tried to conceal the discussions pertaining to irregularities of Noticees no. 1 and 6 from the minutes of the Board and allowed Noticee no. 1 to resign without taking any action against her, confirms the allegations in the SCN against Noticee no. 3. I also note that the Noticee no. 3 has submitted in his reply to the SCN that "*Therefore there was nothing wrong in accepting her resignation and appreciating her many prior years of service for which there were no allegations.*" From the same, it is clear that the Noticee no. 3 had chosen to ignore all the allegations and complaints made against the Noticee no. 1, even after being part of the NRC that investigated the issue and filed the report on the misconduct of Noticee no. 1.

34.1.12 In view of the above, I find that the Noticee no. 3 has:

- a) failed to act with professional competence, fairness, impartiality, efficiency and effectiveness; failed to maintain the highest standards of personal integrity, truthfulness, honesty and fortitude in discharging his duties and has engaged in acts discreditable to his responsibilities; failed to perform his duties in an independent and objective manner,

failed to support open communication; engaged in acts prejudicial to the administration of the stock exchange, by ignoring the various irregularities of Noticee no. 1 in the appointment of Noticee no. 6 as GOO without being designated as KMP and sharing internal confidential information with an unknown person, as discussed in detail above, in violation of *Clause v. (b), (e), (f), (g) and (h) of the Code of Conduct as specified under Part– A of Schedule– II read with Regulation 26(1) of the SECC Regulations, 2012.*

- b) not complied with the Code of Ethics by failing to act in fairness and transparency, failing to comply with the policies laid down by the stock exchange and failing to exercise due diligence in the performance of his duties by ignoring the various irregularities of Noticee no. 1 and failing to record the same in the minutes of the board meetings wherein it was discussed and thereafter informing SEBI only after repeated reminders, in violation of *Clause (i) of the Code of Ethics under Part– B of Schedule– II read with Regulation 26(2) of the SECC Regulations, 2012.*
- c) failed to maintain an appropriate conduct and putting the reputation of the stock exchange in jeopardy by ignoring the various irregularities of Noticee no. 1 and failing to record the same in the minutes of the board meetings wherein it was discussed and thereafter informing SEBI only after repeated reminders, in violation of *Clause iii. (c), (e) and (f) of the Code of Ethics as specified under Part– B of Schedule– II read with Regulation 26(2) of the SECC Regulations, 2012.*
- d) failed to ensure that the stock exchange abides by all the provisions of the SECC Regulations, 2012 in violation of *Clause iv (a) and (b) of the Code of Conduct as specified under Part– A of Schedule– II read with Regulation 26(1) of the SECC Regulations, 2012.*

**34.2 Noticee no. 3 has made incorrect and misleading submission before SEBI on appointment and selection of Noticee no. 6.**

- 34.2.1 It is alleged in SCN-III that with regard to any role in appointment of Noticee no. 6 at NSE and joining of Noticee no. 6 during his tenure as the MD, the noticee in his statement dated April 13, 2018 before SEBI has, inter alia, stated that *he did not have any role in his appointment and he was not appointed during his tenure as the MD*. I note that Mr. Chandrasekhar Mukherjee in his statement dated June 10, 2019 before SEBI has, inter alia, stated that *process followed for selection of Mr. Anand Subramanian was different from the normal process. No external consultant/head hunters was hired for the same, instead the CV was directly handed over by the joint MD/deemed MD Ms. Chitra Ramkrishna to him. The draft contract covering role and responsibility, compensation, tenure, notice period etc was dictated and vetted by Ms. Chitra Ramkrishna. The note for approval for engagement of Anand Subramanian was also dictated and finalized by Chitra Ramkrishna. Anand Subramanian was not interviewed by anybody but Chitra Ramkrishna did mention to him in January 2013 that Mr. Ravi Narayan (MD) has been kept in the loop. HR did not receive any documents relating to the interview of Mr. Anand Subramanian. HR head had no role to play for salary fixation of Anand Subramanian as CSA as the same was decided by Ms. Chitra Ramkrishna. For other cases, HR had a role in discussion and recommendation of compensation of consultants/employment.*
- 34.2.2 Further, it is alleged that Noticee no. 1 in her statement dated April 12, 2018 before SEBI has, inter alia, stated that *a requirement was identified for the advisory and support function to the MD's office and accordingly, a known HR consultant has recommended the candidate to HR department. Interviews were done by HR and herself and subsequently Anand Subramanian also met Ravi Narain and S.B. Mathur (Chairman of the NSE Board at that time). The compensation benchmarking for Mr. Anand Subramanian was done by HR based on his role and bandwidth available with them as governed by HR policy.*
- 34.2.3 In view of the above, it is alleged in the SCN-III that the statement of the Noticee no. 3 that he did not have any role in appointment of Noticee no. 6 and Noticee no. 6 was not appointed in NSE during his tenure as the MD is incorrect and misleading as it is observed that that Noticee no. 3 was kept in loop for

appointment of Noticee no. 6 in NSE in January 2013. Noticee no. 1 has also indicated that the same in her statement before SEBI as mentioned above. Subsequently, when SEBI sought clarification from NSE on appointment of Noticee no. 6 and submit a report to SEBI, the Noticee no. 3 as one of the NRC member and Board member of NSE admitted the lapses in not identifying Noticee no. 6 as a KMP and without approval of NRC through the report dated November 22, 2017 submitted to SEBI.

34.2.4 In this regard, as contended by the Noticee no. 3, I note that cross examination of Noticee no. 1 and Mr. Chandrasekhar Mukherjee was not granted to Noticee no. 3 and therefore, the statements made by Noticee no. 1 and Mr. Chandrasekhar Mukherjee may not be relied upon. However, as per the facts before me, I note that Noticee no. 3 was MD & CEO of NSE when Noticee no. 6 was offered to join NSE in the role of Chief Strategic Advisor vide NSE letter dated January 18, 2013 and therefore, it is evident that Noticee no. 6 was appointed in NSE during the tenure of Noticee no. 3. The appointment only came into effect on April 01, 2013, however, the appointment was made on January 18, 2013 which is during the tenure of Noticee no. 3 as the MD & CEO of NSE. Therefore, the statement made by Noticee no. 3 that Noticee no. 6 was not appointed during his tenure at NSE is incorrect and hence, I find that Noticee no. 3 has made incorrect and misleading submission before SEBI on appointment and selection of Noticee no. 6. Hence, I find that Noticee no. 3 has violated Section 6(4) of SCRA, 1956 for furnishing incorrect and misleading statement before SEBI that he did not have any role in appointment of Noticee no. 6 and that Noticee no. 6 was not appointed during his tenure as the MD of Noticee no. 2.

**34.3 Noticee no. 3, in spite of being aware, didn't raise any concern with respect to delegation of substantial power almost akin to MD & CEO to Noticee no. 6, merely a consultant, in the NSE Board meeting held on August 11, 2015.**

34.3.1 It is alleged in the SCN-III that the Board of NSE, in its meeting held on August 11, 2015 delegated substantial power of management akin to the powers granted to the Noticee no. 1 in NSE Board meeting dated February 23, 2005 including the following to Noticee no. 6 in order to further smoothen the day to day conduct of business operations of the exchange. Such power included the following :-

- a) to make all such arrangements and to do all such acts, deeds, matters and things on behalf of the company as may be usually necessary or expedient in the conduct of day to day activities of the company.
- b) to apply for, obtain and renew licenses, permits etc. from Central Government, State Government, Municipal or other statutory authority as may be necessary or requisite for the purpose of carrying on or developing the business of the Company.
- c) to appoint, employ, remove, dismiss, discharge, suspend, reappoint, re-employ, or replace bankers, solicitors, advocates, accountants, advisers in the areas of systems & software, security, taxation, law, accounts etc. technicians, medical practitioners and with such powers and duties and upon such terms as he may think fit.

34.3.2 It is alleged that the Noticee no. 3 was present on the Board on August 11, 2015 which approved the delegation of such power to Noticee no. 6 on August 11, 2015. The Noticee no. 3, in whose tenure as MD & CEO of NSE, Noticee no. 3 was appointed for the position of 'Chief Strategic Advisor' to the office of MD & CEO and who was aware of the appointment, didn't raise any concern with respect to such delegation of substantial power to Noticee no. 6, merely a consultant.

34.3.3 As already discussed in the aforesaid paras, Noticee no. 3 was a former MD and CEO of NSE for 13 years, and therefore, Noticee no. 3 should be well aware of who is qualified as a KMP and how the substantial powers delegated to Noticee no. 6 would have made him a KMP, especially given the fact that Noticee no. 6 attended all Board meeting after being delegated such powers.

Noticee no. 6 was delegated substantial powers of management, akin to the powers granted to MD & CEO, by the Board of NSE on August 11, 2015, wherein, Noticee no. 6 was present for the said meeting. As a former MD and CEO of NSE, Noticee no. 3 would have definitely known that the powers delegated were akin to the powers granted to MD & CEO. However, I note that Noticee no. 3 did not raise any concern with respect to such delegation of substantial power to Noticee no. 6, who was merely a consultant. It is appalling that Noticee no. 3, as former MD & CEO of NSE, did not find it alarming that a consultant was given substantial powers that were akin to the powers granted to MD & CEO, and then attended all Board meetings thereafter. Further, re-designation of Noticee no. 6 as GOO and Advisor to MD & CEO with the delegation of substantial powers would have made Noticee no. 6 a KMP and his re-designation would have needed approval from the NRC, and this should have raised the concerns of Noticee no. 3 as an NRC member, however, Noticee no. 3 has chosen to completely ignore it. Therefore, it is evident that Noticee no. 3 has chosen to remain silent and played along with the whims and fancies of Noticee no. 1 by delegating such substantial powers to a consultant, who had been appointed less than 2 years back in the organization, with no relevant experience.

34.3.4 In view of the above, I find that Noticee no. 3, in spite of being aware, didn't raise any concern with respect to delegation of substantial power almost akin to MD & CEO to Noticee no. 6, merely a consultant, in the NSE Board meeting held on August 11, 2015. Hence, I find that Noticee no. 3 has:

- a) failed to act with professional competence, fairness, impartiality, efficiency and effectiveness; failed to maintain the highest standards of personal integrity, truthfulness, honesty and fortitude in discharging his duties and has engaged in acts discreditable to his responsibilities; failed to perform his duties in an independent and objective manner, failed to support open communication; engaged in acts prejudicial to the administration of the stock exchange, by failing to raise any concern with respect to delegation of substantial power almost akin to MD & CEO to

Noticee no. 6, merely a consultant, as discussed in detail above, in violation of *Clause v. (b), (e), (f), (g) and (h) of the Code of Conduct as specified under Part– A of Schedule– II read with Regulation 26(1) of the SECC Regulations, 2012.*

- b) not complied with the Code of Ethics by failing to act in fairness and transparency, failing to comply with the policies laid down by the stock exchange and failing to exercise due diligence in the performance of his duties by failing to raise any concern with respect to delegation of substantial power almost akin to MD & CEO to Noticee no. 6, merely a consultant, in violation of *Clause (i) of the Code of Ethics under Part– B of Schedule– II read with Regulation 26(2) of the SECC Regulations, 2012.*
- c) failed to maintain an appropriate conduct and putting the reputation of the stock exchange in jeopardy by failing to raise any concern with respect to delegation of substantial power almost akin to MD & CEO to Noticee no. 6, merely a consultant, in violation of *Clause iii. (c), (e) and (f) of the Code of Ethics as specified under Part– B of Schedule– II read with Regulation 26(2) of the SECC Regulations, 2012.*
- d) failed to ensure that the stock exchange abides by all the provisions of the SECC Regulations, 2012 in violation of *Clause iv (a) and (b) of the Code of Conduct as specified under Part– A of Schedule– II read with Regulation 26(1) of the SECC Regulations, 2012.*

**34.4 Noticee no. 3, in spite of, having knowledge of such grave irregularities and misconduct on the part of Noticee no. 1 and even after knowing that Noticee no. 1 has not applied her independent judgment and was dependent on the guidance of an unknown person while taking important decisions, permitted Noticee no. 1 to exit through resignation and also recorded the appreciation in the Board meeting held on December 02, 2016 and subsequently, in the Board meeting held on December 19, 2016, allowed excess leave encashment of Rs 1.54 crore to Noticee no. 1 over the existing policy without**



**SEBI's approval citing her sterling contribution to the growth of organization.**

- 34.4.1 It is alleged in SCN-III that Noticee no. 1 had been communicating confidential information through emails with an unknown person having email id rigyajursama@outlook.com, the details of the emails which have been brought out in foregoing paras. The said exchange of confidential information by Noticee no. 1 with an unknown person having email id rigyajursama@outlook.com was brought to the notice of the Chairman of the Board and the Chairman of the NRC and the same were shared with the NSE Board by the Chairman in a closed door meeting held on November 29, 2016. It has been submitted by Noticee no. 2, that Noticee no. 3 as Vice Chairman and member of NRC was present in the said meeting held on November 29, 2016.
- 34.4.2 It is alleged that Noticee no. 3 was aware of the exchange of confidential information by Noticee no. 1 with an unknown person having email id rigyajursama@outlook.com in the NRC and Board meeting of NSE held on November 29, 2016. However the Noticee no. 3 had taken a conscious decision to not report the matter to SEBI and kept the matter under wraps. Noticee no. 1 had resigned w.e.f December 02, 2016. On perusal of the minutes of Board meeting dated December 02, 2016 and considering the aforesaid findings it is alleged that in spite of having knowledge of such grave irregularities and misconduct on the part of Noticee no. 1 on appointment of Noticee no. 6 in the NRC and NSE Board meeting held on October 21, 2016 and knowledge of exchange of confidential information by Noticee no. 1 with unknown person in the NSE Board meeting held on November 29, 2016, the Noticee no. 3 in the Board meeting held on December 02, 2016, enabled Noticee no. 1 to exit through resignation despite having committed such irregularities as reflected from her email correspondence with an unknown person.
- 34.4.3 The Noticee no. 3 is alleged to be involved along with Noticee no. 1 and Noticee no. 6 on every aspect of serious breach of Governance at NSE during the period 2013 to 2016 beginning with the appointment of Noticee no. 6 as consultant,

granting substantial power of management to Noticee no. 6 in August 2015 in spite of him being a consultant only, covering the irregularities conducted by Noticee no. 1 in NRC and Board meeting on October 21, 2016 and November 29, 2016 by not recording the matter in the minutes and not reporting to SEBI and enabled Noticee no. 1 to exit by mere resignation and later on even enabled excess leave encashment to Noticee no. 1 without SEBI approval.

34.4.4 In view of the above it is alleged that the Noticee no. 3 in spite of being aware of the irregularities on appointment of Noticee no. 6 as GOO without being designated as KMP and correspondences of confidential information by Noticee no. 1 with unknown person in its meeting on October 21, 2016 and November 29, 2016, neither opposed the serious governance lapses in NSE nor recorded the aforesaid matter in the minutes of said meeting in the name of confidentiality and sensitive information. Further, the report on above irregularities was submitted to SEBI only after repeated reminders. The Noticee no. 3, in spite of, having knowledge of such grave irregularities and misconduct on the part of Noticee no. 1 and even after knowing that Noticee no. 1 has not applied her independent judgment and was dependent on the guidance of an unknown person while taking important decisions, enabled Noticee no. 1 to exit through resignation and enabled excess leave encashment to Noticee no. 1 over the existing policy of NSE without approval of SEBI.

34.4.5 In this regard, I note that Noticee no. 3 has submitted that with regard to the alleged misconduct of Noticee no. 1, no SCN was issued to her and she was not given any opportunity to answer the allegations since she had resigned. Noticee no. 3 has submitted that removal from service is the highest punishment for any employee's misconduct once the same is adjudicated and proved. Further, that Noticee no. 1 resigned before any SCN was issued to her and there had been no final adjudication of her culpability and therefore, there was nothing wrong in accepting her resignation and appreciating her many prior years of service for which there were no allegations.

34.4.6 From the above submissions, it appears that Noticee no. 3 is suggesting that once resignation is tendered by an employee, there is nothing NSE can do against the employee for any misconduct or violation of the Securities laws. It is a very convenient approach to have taken to simply close the chapter since Noticee no. 1 had given her resignation. Given that Noticee no. 6 was paid substantially high fees for someone who had no experience in securities market and then have his fees increase substantially each year, what complete assurance does the Board or NSE have that further investigation may have not revealed further breach of conduct with the unknown person with whom Noticee no. 1 was sharing confidential information. Such a practice to close any investigation against an MD/KMP/employee upon his resignation when there are substantial allegations against that person, would enable any employee, especially MD/KMPs to misuse its power given their position and simply resign before any investigation or proceedings can be initiated against them. The contention is therefore erroneous. Under Regulation 25 of the SECC Regulations, 2012 the appointment, renewal of appointment and termination of service of the managing director of stock exchange shall be subject to prior approval of SEBI. Therefore, the resignation of Noticee no. 1, which does not require the approval of SEBI, has been the convenient option taken by the Board of NSE to acquit Noticee no. 1 of any allegations against her. Therefore, the submission of Noticee no. 3 that there was nothing wrong in accepting her resignation is untenable and reeks of collaboration of Noticee no. 3 with Noticee no. 1 in letting her go scot free without any trace of any irregularity or misconduct on her part by concealing the minutes of the Board meetings that discussed the NRC findings. I note that the Noticee have not just given her a clean slate but taken it one step ahead by also appreciating her years of service in the minutes of the Board meeting on December 02, 2016.

34.4.7 Further, in terms of Regulation 27(4) of the SECC Regulations, 2012 the terms and conditions of the compensation of the managing director shall not be changed without prior approval of SEBI. I note that the Noticee no. 3, in spite of having knowledge of such grave irregularities and misconduct on the part of Noticee no. 1, in the earlier meeting of Board/NRC held on October 21, 2016

and November 29, 2016, allowed excess leave encashment of Rs 1.54 crore to Noticee no. 1 in the NRC/Board meeting held on December 19, 2016 over the existing policy of NSE citing her sterling contribution to the growth of organization without approval of SEBI in violation of Regulation 27(4) of SECC Regulations, 2012. In this regard, Noticee no. 3 has submitted that the payment approved by the Board was apparently only for the additional days actually worked by Noticee no. 1 instead of taking leave. Further, the Noticee no. 3 has submitted that this would be within the purview of the compliance officer and/or Chief Regulatory Officer and that no SCN has been issued to the other directors of the Board. In this regard, I note that as per NSE policy, leave encashment of up to 360 days is permitted for an employee. However, I note that for the financial year 2016-17, NSE based on the recommendation of the NRC permitted an additional encashment of 168 days i.e. a total of 528 days for Noticee no. 1 her resignation from NSE. I note that the extra remuneration paid to Noticee no. 1 on account of encashment of this additional 168 days of leave was Rs. 1,54,23,781/-. I note that Noticee no. 3 was part of the board meeting held on December 19, 2016, which allowed excess leave encashment of Rs. 1.54 crores to Noticee no. 1 over the existing policy citing her sterling contribution to the growth of the organization. However, I note that Noticee no. 3 did not raise any concern with respect to allowing excess leave encashment of Rs. 1.54 crores to Noticee no. 1. In this regard, I note that adjudication order dated August 25, 2020 was passed against Noticee no. 2 for *inter alia* encashment of accumulated Ordinary Leave by Noticee no. 3 and Noticee no. 1 over and above the limit of 360 days which was granted by NSE without taking prior approval of SEBI in violation of Regulation 27(4) of the SECC Regulations, 2012. Therefore, it is evident that Noticee no. 3 had chosen to remain silent and not raise any objection to the excess leave encashment granted to Noticee no. 1 during the board meeting on December 19, 2016 as Noticee no. 3 had also been a recipient of excess leave encashment when he retired as MD&CEO of NSE in 2013.

- 34.4.8 In view of the above, I find that Noticee no. 3, in spite of, having knowledge of such grave irregularities and misconduct on the part of Noticee no. 1 and even

after knowing that Noticee no. 1 has not applied her independent judgment and was dependent on the guidance of an unknown person while taking important decisions, enabled Noticee no. 1 to exit through resignation in the Board meeting held on December 02, 2016 and subsequently, in the Board meeting held on December 19, 2016, enabled excess leave encashment of Rs 1.54 crore to Noticee no. 1 over the existing policy without SEBI's approval citing her sterling contribution to the growth of organization. Hence, I find that Noticee no. 3 has:

- a) failed to act with professional competence, fairness, impartiality, efficiency and effectiveness; failed to maintain the highest standards of personal integrity, truthfulness, honesty and fortitude in discharging his duties and has engaged in acts discreditable to his responsibilities; failed to perform his duties in an independent and objective manner, failed to support open communication; engaged in acts prejudicial to the administration of the stock exchange, by permitting Noticee no. 1 to resign inspite of the various irregularities of Noticee no. 1, as discussed in detail above, in violation of *Clause v. (b), (e), (f), (g) and (h) of the Code of Conduct as specified under Part– A of Schedule– II read with Regulation 26(1) of the SECC Regulations, 2012.*
- b) not complied with the Code of Ethics by failing to act in fairness and transparency, failing to comply with the policies laid down by the stock exchange and failing to exercise due diligence in the performance of his duties by permitting Noticee no. 1 to resign inspite of the various irregularities of Noticee no. 1, in violation of *Clause (i) of the Code of Ethics under Part– B of Schedule– II read with Regulation 26(2) of the SECC Regulations, 2012.*
- c) failed to maintain an appropriate conduct and putting the reputation of the stock exchange in jeopardy by permitting Noticee no. 1 to resign inspite of the various irregularities of Noticee no. 1, in violation of *Clause iii. (c), (e) and (f) of the Code of Ethics as specified under Part– B of Schedule– II read with Regulation 26(2) of the SECC Regulations, 2012.*

- d) violated Regulation 27(4) of SECC Regulations, 2012 for allowing excess leave encashment to Noticee no. 2 without SEBI's approval.
- e) failed to ensure that the stock exchange abides by all the provisions of the SECC Regulations, 2012 in violation of *Clause iv (a) and (b) of the Code of Conduct as specified under Part– A of Schedule– II read with Regulation 26(1) of the SECC Regulations, 2012.*

34.4.9 Before parting with the allegations against the Noticee no. 3, it would be appropriate to deal with another contention raised by the Noticee no. 3, wherein he has contended that he has been roped in only because he was a member of the Board of NSE, however, that no action has been initiated against the other Board members and the Board would have to be held jointly and severally liable, failing which the entire allegations must fail. In this regard, I note that Noticees no. 3 has been with NSE since its inception. He was initially appointed as Deputy Managing Director of NSE and thereafter, he was appointed as the MD & CEO of NSE in the year 2000 and remained so till March, 2013. I note that Noticee no. 3 has along with Noticee no. 1 been with NSE since its inception. I note that Noticee no. 1 took over as MD & CEO of NSE from Noticee No. 3 on April 01, 2013 and thereafter, Noticee no. 3 was immediately appointed as the Vice Chairman of the Board of NSE. As discussed in detail in paras 34.1.7 above, I note that Noticee no. 3 is the sole director that has been on the Board of NSE and also the NRC since the appointment of Noticee no. 6, till the resignation of Noticee no. 6 and Noticee no. 1. Therefore, I note that Noticee no. 3 has a long standing relationship with NSE and has also been the MD&CEO of NSE for 13 years which places him in a position where he was having knowledge of day to day functioning of Noticee no. 2 than any other person on the Board of NSE or in the management or staff of NSE. As someone who has been with NSE since its inception and a MD & CEO of NSE for 13 years, it is not incorrect to assume that Noticee no. 3 should be well versed with the provisions of law that govern the stock exchange and the working of the Board of NSE. It is with that very reason that Noticee no. 3 has been placed on the Board even after his retirement as MD & CEO of NSE. The intricate knowledge of functioning of Noticee no. 2 and his incessant presence before,

during and after the resignation of Noticee no. 1 and 6, puts Noticee no. 3 in a position where it is a reasonable to draw an inference that Noticee no. 3 was aware of all the wrongdoings and actively facilitated the same with his silence. Therefore, I find that the Noticee no. 3 cannot be said to have discharged his duties and responsibilities and acted with professional competence and maintained the highest standards of personal integrity by being a silent spectator to the disturbing and repeated irregularities of Noticee no. 1 who had *inter alia* shared internal confidential information including financial and business plans of NSE to an unknown person/outsider, as discussed in details in the foregoing paras. In view of the above, I find that Noticee no. 3 is undeniably not on the same footing as any of the other board members. Hence, the contention of the Noticee that action initiated against him vis-à-vis the other Board members of NSE is misconceived, is untenable.

#### **PART – V - In respect of Noticee no. 4 (Mr. J. Ravichandaran)**

##### **D. Allegations against Noticee no. 4 in SCN-IV, submissions of Noticee no. 4 and findings thereon:**

35. In view of the facts narrated in para 9 above, SCN-IV makes following allegations against Noticee no. 4:
- (i) Mr. J. Ravichandran, Group President and Company Secretary at that time, and also key management personnel under SECC Regulations, 2012 has ignored the repetitive concern raised by the secretarial auditor on appointment of Noticee no. 6 as 'Group Operating Officer and advisor to MD' w.e.f April 01, 2015 without approval of NRC and noting thereof the Board of NSE. As observed, Mr. J Ravichandran, on the above issue, has just forwarded the replies of HR head of NSE to the secretarial auditor without applying his judgment and hence acted in a manner resulting in suppression of the irregularities on appointment of Noticee no. 6.

36. SCN-IV alleges following violations by Noticee no. 4:
- (a) Provisions relating to Fairness and transparency, Compliance with all laws/ rules/ regulations, Exercising due diligence as specified in clause (i) of the Code of Ethics under Part– B of Schedule– II read with Regulation 26(2) of the SECC Regulations, 2012.
  - (b) General Standards as specified under Clause iii. (c) and (e) of the Code of Ethics as specified under Part– B of Schedule– II read with Regulation 26(2) of the SECC Regulations, 2012.
37. My observations and findings on the aforesaid allegations and the submissions made by Noticee no. 4 are as under:

**37.1 Mr. J. Ravichandran, Group President and Company Secretary at that time, and also key management personnel under SECC Regulations, 2012 has ignored the repetitive concern raised by the secretarial auditor on appointment of Noticee no. 6 as ‘Group Operating Officer and advisor to MD’ w.e.f April 01, 2015 without approval of NRC and noting thereof the Board of NSE. As observed, Mr. J Ravichandran, on the above issue, has just forwarded the replies of HR head of NSE to the secretarial auditor without applying his judgment and hence acted in a manner resulting in suppression of the irregularities on appointment of Noticee no. 6.**

37.1.1 It is alleged in the SCN-IV that SNACO who carried out the secretarial audit of NSE had raised the issues with regard to the re-designation of Noticee no. 6 as ‘Group Operating Officer and Advisor to MD’ without the approval of NRC and without noting thereof by NSE Board. In this regard following correspondence between SNACO and NSE may be noted:-

- (a) In its letter dated October 14, 2015 addressed to Company Secretary, NSE (i.e. the noticee), SNACO noted that *it did not find any reference to the appointment of Mr. Anand Subramanian as ‘GOO’ in any of the previous Board/committee meetings. In the Board meeting held on August 11, 2015, Mr. Anand Subramanian has been delegated with*



*substantial powers of management as that of MD and his appointment requires approval of the NRC under Section 178(2) of the Companies Act, 2013 and noting thereof by the Board of Directors.*

Section 178(2) of the Companies Act, 2013 prescribes that:-

*“The Nomination and Remuneration Committee shall identify persons who are qualified to become directors and who may be appointed in senior management in accordance with the criteria laid down, recommend to the Board their appointment and removal and shall carry out evaluation of every director’s performance.”*

The expression “senior management” as defined in the explanation to Section 178:

*“senior management” means personnel of the company who are members of its core management team excluding Board of Directors comprising all members of management one level below the executive directors, including the functional heads.”*

(b) On March 15, 2016, SNACO through its letter addressed to the Noticee no. 4 noted that *Mr. Anand Subramanian as GOO is a functionary of the Company and has direct reporting relationship with MD & CEO hence, NRC should have considered his appointment. Given that GOO has already been appointed and is functioning, it would be in fitness of things that the details of his appointment be brought to the notice of NRC at next meeting and also be noted by the Board of Directors. In terms of NRC meeting dated April 08, 2015, GOO’s remuneration, increments as decided by MD & CEO also need to be reported to NRC.*

(c) On May 10, 2016, Mr. Chandrasekhar Mukherjee (then Chief People officer, NSE) replied to the secretarial department of NSE on query of SNACO with copy marked to the Noticee no. 4 that *Mr. Anand Subramanian is a consultant and not on the roles of NSE and is not handling any KMP function. All KMPs directly report to the MD & CEO of NSE. Hence, the role does not require approval of NRC/Board as is*

*within the administrative powers of the MD & CEO.* The Secretarial department of NSE then forwarded the reply of Mr. Chandrasekhar Mukherjee to SNACO on same day.

(d) On October 12, 2016, SNACO in its letter addressed to Company Secretary, NSE (i.e. the Noticee no. 4) submitted its views that engagement of Noticee no. 6 is an employment in substance and as already communicated, this should have been placed before NRC as required under Section 178 of the Companies Act, 2013, considering the following:

- Mr. Anand Subramanian has been delegated substantial powers of management akin to the powers conferred on the MD,
- the nature of consultancy is not on any specific assignment but on a continuing basis; is on a long term basis, i.e. for more than a year with no terminable event; and
- Mr. Anand Subramanian is shown as part of the management team in the annual report for the year 2014-15 and 2015-16.

37.1.2 With regard to the action taken on the aforesaid views of SNACO, NSE vide email dated December 18, 2018 has stated that the matter was not pursued further as Noticee no. 6 foreclosed his consultancy contract w.e.f. October 21, 2016. With regard to the email May 10, 2016, Mr. Chandrasekhar Mukherjee in his statement dated June 10, 2019 before SEBI, has stated that *in the first place this query of SNACO should not have been raised to HR, nevertheless, reply was given based on discussion between secretarial department, Anand Subramanian and Chitra Ramkrishna. Finally, the communication was dictated by Chitra Ramkrishna and the aforesaid team at NSE.*

37.1.3 It is noted that the Noticee no. 4, was also present in the NSE Board meeting held on August 11, 2015 wherein Noticee no. 6 was granted substantial power of management akin to MD & CEO by the Board of NSE. Being Group President and Company Secretary of NSE it is very unlikely that the noticee was unaware that the position of GOO which was equivalent to his own position and just below

the MD & CEO and to whom various functional heads were reporting would not require approval of NRC and designation as KMP.

- 37.1.4 SNACO carrying out the secretarial audit of NSE in its letter/email dated October 14, 2015, March 15, 2016, October 12, 2016 to the Noticee no. 4 has repeatedly raised the issue of Noticee no. 6 being granted substantial power of management in NSE Board meeting held on August 11, 2015 without the approval of NRC and without noting thereof by NSE Board as required under Section 178(2) of the Companies Act, 2013, to the Noticee.
- 37.1.5 NSE email dated January 24, 2019 has submitted the defined role and responsibility of the Noticee no. 4 as Company Secretary of NSE. It is alleged in the SCN-IV that Noticee no. 4, the then Group President & Company Secretary and also key management personnel, who had the responsibility to observe the compliance with Companies Act and assist and advise the Board in ensuring good corporate governance and best practices in NSE, has ignored the repetitive concern raised by the secretarial auditor on Noticee no. 6 being granted substantial power of management without the approval of NRC and without noting thereof by NSE Board. It is further alleged that the Noticee just forwarded the replies of HR head of NSE to the secretarial auditor without applying his mind, which was later on rejected by the secretarial auditor. Thus, it is alleged that the Noticee no. 4 has failed to address the issue properly in compliance with law and his defined role and responsibility by NSE and acted in a manner resulting in suppression of the irregularities on appointment of Noticee no. 6.
- 37.1.6 In this regard, the Noticee no. 4 vide his reply dated November 06, 2020 has submitted that the MD & CEO, on March 02, 2015, issued an e-mail communication to NSE employees stating, *inter alia*, that with effect from April 1, 2015, Noticee no. 6 would be re-designated as GOO and would handle People Management, New Business, Corporate Communication, Marketing, Business Excellence, Research and Development, Pricing, Strategic Planning and Subsidiaries and would continue assisting the MD's office, from time to time, on various initiatives. That as an employee of NSE, the Noticee became aware of

the re-designation and allocation of functions to GOO upon receipt of the email. The Noticee no. 4 has submitted that this email did not contain any information on the position of GOO, the persons reporting to him, or any information as to whether Noticee no. 6 would handle those functions in his advisory consultant capacity or in administrative or executive capacity. Further, that the email also did not state if Noticee no. 6 would continue to be a part time consultant or become full time or an employee after the re-designation. That for these reasons, the position or level etc. of a person in NSE were not always obvious unless formally informed and the Noticee no. 4 was not informed of the same in respect of GOO and knowledge as to the position/ level of every employee or consultant in NSE etc. cannot be attributed to the Noticee, merely and solely on the basis of the Noticee's position or him attending Board meetings.

37.1.7 Further, the Noticee no. 4 has submitted that it was the MD&CEO, who was responsible for all matters pertaining to Noticee no. 6, and in doing so, she was assisted by the HR department. That the Noticee was not responsible for the appointment of KMPs, employees (including senior management), advisors, consultants, etc., and accordingly, the Noticee was entirely uninvolved in any matter pertaining to Noticee no. 6. Furthermore, it was the bona fide belief of the Noticee that the Board and in turn the NRC, a sub- committee of the Board, were aware and taken into confidence about appointment, role, designation, position etc., of Noticee no. 6 in NSE and that in NSE, it was not possible to recognise one's exact level/ position by looking at his/her designation in view of the HR practices followed, and the knowledge thereon only rested with the MD&CEO, HR department and the person concerned.

37.1.8 Further, the Noticee no. 4 has submitted that upon receipt of the letters dated October 14, 2015 and March 15, 2016 from SNACO, they were promptly submitted to the MD&CEO, as well as the HR department. The Noticee no. 4 has submitted that by way of abundant caution and having regard to the observations raised by SNACO, he also suggested to the MD&CEO to consider discussing the matter with the NRC which had approved the Nomination Policy for senior management and KMPs and to which, reporting of compliances of the same was

being done. Further, that SNACO was also requested to take up the matter directly with the MD&CEO who was duly empowered to appoint senior management and KMPs under the policy. The Noticee has submitted that he was given to understand that the matter was discussed in confidence among the directors, at the NRC meeting held on February 02, 2016, and the Board meeting held on February 08, 2016, during the course of the discussion relating to proposed reorganization of NSE's departments, reporting structure and succession planning. That the item relating to the reorganisation being a confidential HR matter, the Noticee was not invited to the above NRC meeting and when it was discussed by the Board at the above Board meeting. That as per the Noticee's understanding the MD&CEO and SNACO had discussed this matter. Subsequently, the HR department, vide its email dated May 10, 2016, replied to the letters to SNACO, through the secretarial department, which was coordinating the secretarial audit in NSE.

37.1.9 The Noticee no. 4 has submitted that in terms of the email dated May 10, 2016, the HR department clarified to SNACO that:

- (a) Noticee no. 6 was a consultant and not on the rolls of NSE, and was not handling any KMP function;
- (b) Noticee no. 6 was advising non- core functions and was given certain administrative powers in order to effectively carry out the same;
- (c) All KMPs, including, the Chief Operating Officer - Trading, were directly reporting to the MD&CEO of NSE; and
- (d) Noticee no. 6's role did not require approval of the NRC/ Board and his engagement was within the administrative powers of the MD&CEO.

Further, that the above view was also consistent with the view already communicated by the regulatory department of NSE to SEBI through its email dated March 14, 2016.

37.1.10 The Noticee no. 4 has submitted that SNACO, who was appointed by the Board to conduct the secretarial audit, closed the preliminary observation made in its letters dated October 14, 2015 and March 15, 2016 and provided a secretarial audit report (hereinafter referred to as "**SA Report**") without any such

observation for the financial year ended March 31, 2016 and the Corporate Governance Compliance Certificate for the same period. That in terms of the SA Report for FY 2015-16, SNACO *inter alia* certified, on the basis of examination of the books, papers, minute books, forms and returns filed, and other records maintained by NSE, (a) NSE had complied with the provisions of the Acts including SEBI Act and SCRA, regulations including SECC Regulations, guidelines, standards etc.; (b) there were adequate systems and processes in NSE commensurate with the size and operations of NSE to monitor and ensure compliance with applicable laws, rules, regulations and guidelines; and (c) no specific event/ action having a major bearing on NSE's affairs in pursuance of the applicable laws, rules, regulations, guidelines, standards etc. had taken place. SNACO, *inter alia*, also confirmed that it believed that the audit evidence and information obtained from the company's management was adequate and appropriate for it to provide a basis for its opinion. Further, SNACO, under the Corporate Governance Compliance Certificate, certified that on the basis of information and explanation required by and given to it, NSE had complied with disclosure requirements and corporate governance norms as specified for listed companies. That the above confirmations were also reiterated in terms of the SA Report issued by SNACO on July 18, 2016, for the quarter entered June 30, 2016.

37.1.11 Noticee no. 4 has submitted that SEBI had sent a letter dated September 15, 2016, to NSE, directing it to place the anonymous complaint(s) relating to the engagement of Noticee no. 6 before the Board and submit a report to SEBI. The NRC discussed the letter and the complaints at its meeting held on October 04, 2016, along with the correspondence with SNACO. That in terms of the discussions, all relevant documents with respect to the appointment, designation, remuneration, travel details etc., of Noticee no. 6 and also the above mentioned correspondence with SNACO etc., were submitted to the Chairman of NRC soon after the meeting. After more than a week thereof, SNACO on October 12, 2016 issued an email to NSE reviving the earlier issue (which had satisfactorily been closed by them earlier), though no new fact or legal position had emerged. The Noticee no. 4 has submitted that he could not have had any inkling in May 2016,

that SNACO would revive an issue 5 months after it was closed. That in any case, the secretarial auditors being direct appointees of the Board and independent of the management, could have directly approached the Board or its committee(s) if they felt that their observation had not been satisfactorily addressed earlier.

37.1.12 From the submissions made by Noticee no. 4, I note that Noticee no. 4 has not ignored the repetitive concerns raised by SNACO as alleged, but has forwarded the concerns of SNACO to the concerned person, i.e. the MD & CEO and the HR department as Noticee no. 6 was appointed directly by the MD & CEO i.e. Noticee no. 1 and reporting directly to Noticee no. 1. Since the concerns raised by SNACO pertain to the delegation of powers to Noticee no. 6 for which NRC should have considered his appointment and given that it was Noticee no. 1 who appointed Noticee no. 6 purportedly with the HR department, it would not be incorrect for Noticee no. 4 to first raise the concerns of the SNACO with Noticee no. 1 and the HR department. Thereafter, I note that HR had vide email dated May 10, 2016 informed SNACO that Noticee no. 6 was not a KMP and the appointment of Noticee no. 6 did not require the approval of the NRC and the engagement was within the administrative powers of the MD&CEO. Further, I note that the view of HR to SNACO was also consistent with the view already communicated by the regulatory department of NSE to SEBI through its email dated March 14, 2016. I note that after the email dated May 10, 2016 by HR of NSE to SNACO, there was no other intimation/concern raised by SNACO to NSE. It is only on October 12, 2016 that SNACO again raised the same issue with NSE. However, as submitted by Noticee no. 4, I note that the NRC discussed the various complaints submitted by SEBI with regard to the appointment of Noticee no. 6 at its meeting held on October 04, 2016. Therefore, by then the NRC was already aware and discussing the complaints, including the concerns raised by SNACO. Hence, the concerned committee i.e. the NRC was already informed of the issues by the time the letter dated October 12, 2016 of SNACO had reached the Noticee no. 4. In view of the above and the records available before me, I do not find that Noticee no. 4 acted in a manner resulting in suppression of the irregularities on appointment of Noticee no. 6, as Noticee no. 4 has informed the concerns of SNACO to the concerned person i.e. the

MD&CEO and also HR department and thereafter, SNACO had received a reply from the HR Department with regard to the same.

37.1.13 Further, I note that after HR letter dated May 10, 2016 was issued to SNACO, an SA Report for the financial year ended March 31, 2016 and the Corporate Governance Compliance Certificate for the same period was submitted by SNACO, wherein, SNACO *inter alia* certified that NSE had complied with the provisions of the Acts including SEBI Act and SCRA, regulations including SECC Regulations, guidelines, standards etc. and that on the basis of information and explanation required by and given to it, NSE had complied with disclosure requirements and corporate governance norms as specified for listed companies. In view of the above facts and circumstances, I find the allegation that the Noticee no. 4 has ignored the repetitive concern raised by the secretarial auditor on Noticee no. 6 being granted substantial power of management without the approval of NRC, does not hold, as I find that Noticee no. 4 as the then Group President and Company Secretary had taken steps to report the same to the concerned authority who had appointed Noticee no. 6 and pursuant to the same, the HR had written to the secretarial auditor following which the secretarial auditor had filed its report that NSE had *inter alia* complied with provisions of the SECC Regulations. Therefore, it would appear that the concerns raised by the secretarial auditor were addressed. By the time the secretarial auditor had rejected the reply of the HR vide its letter dated October 12, 2016, the issue was already placed and discussed by the NRC in its meeting dated October 04, 2016, which is the concerned committee that SNACO had advised that the appointment of Noticee no. 6 should be placed before. In view of the above facts and circumstances and records available before me, I find that the allegations made in the SCN-IV against Noticee no. 4 do not hold.

#### **PART – VI – In respect of Noticee no. 5 (Mr. V. R. Narasimhan)**

#### **E. Allegations against Noticee no. 5 in SCN-V, submissions of Noticee no. 5 and findings thereon:**



38. In view of the facts narrated in para 9 above, SCN-V makes following allegations against Noticee no. 5:

(i) Mr. V. R. Narasimhan (Noticee no. 5), erstwhile Chief Regulatory Officer, Compliance officer and key management personnel under SECC Regulations, 2012 of NSE has made misleading and incorrect statement to SEBI vide his email dated March 14, 2016 and June 30, 2016 that there is no violation of SECC Regulations, 2012 in the appointment of Noticee no. 6 as 'Group Operating Officer and Advisor to MD. As a matter of duty, Noticee no. 5 as compliance officer under the SECC Regulations, 2012 was required to report to SEBI independently about non-compliance of SECC Regulations, 2012 if any with respect of the re-designation of Noticee no. 6 as 'Group Operating Officer and Advisor to MD' which was not done and hence acted in manner resulting in suppression of the irregularities on appointment of Noticee no. 6.

39. SCN-V alleges following violations by Noticee no. 5:

(a) Regulation 32(2) of SECC Regulations, 2012.

(b) Violation of Section 6(4) of SCRA, 1956.

(c) Provisions relating to Fairness and transparency, Compliance with all laws/ rules/ regulations, Exercising due diligence as specified in clause (i) of the Code of Ethics under Part– B of Schedule– II read with Regulation 26(2) of the SECC Regulations, 2012.

(d) General Standards as specified under Clause iii. (c), (e) and (f) of the Code of Ethics as specified under Part– B of Schedule– II read with Regulation 26(2) of the SECC Regulations, 2012.

40. My observations and findings on the aforesaid allegations and the submissions made by Noticee no. 5 are as under:

**40.1 Mr. V. R. Narasimhan (Noticee no. 5), erstwhile Chief Regulatory Officer, Compliance officer and key management personnel under SECC Regulations, 2012 of NSE has made misleading and incorrect statement to SEBI vide his**

**email dated March 14, 2016 and June 30, 2016 that there is no violation of SECC Regulations, 2012 in the appointment of Noticee no. 6 as 'Group Operating Officer and Advisor to MD. As a matter of duty, Noticee no. 5 as compliance officer under the SECC Regulations, 2012 was required to report to SEBI independently about non-compliance of SECC Regulations, 2012 if any with respect of the re-designation of Noticee no. 6 as 'Group Operating Officer and Advisor to MD' which was not done and hence acted in manner resulting in suppression of the irregularities on appointment of Noticee no. 6.**

40.1.1 NSE vide email dated January 24, 2019 has submitted the defined role and responsibility of the Noticee no. 5 as CRO and compliance officer of NSE and the Noticee no. 5 as CRO and compliance officer of NSE was responsible for supervision of the regulatory functions of the exchange, monitoring of compliance of SEBI Act, rules and regulations, report to SEBI on non-compliance observed by him etc.

40.1.2 As noted from email dated March 02, 2015 by Noticee no. 1 and email dated April 10, 2018 by Noticee no. 2, Noticee no. 6 was re-designated as 'Group Operating Officer and Advisor to MD' (GOO) w.e.f April 01, 2015 and various functional head were reporting to Noticee no. 6 as GOO. In the NSE Board meeting held on February 08, 2016, April 25, 2016 and September 14, 2016 the Noticee no. 5 was also present wherein Noticee no. 6 had attended the Board meeting as GOO. Being CRO of NSE the Noticee no. 5 is certainly expected to know that the position of GOO which was equivalent to Group President and just below the MD & CEO and to whom various functional heads were reporting, would require to be designated as key management personnel in terms of SECC Regulations, 2012.

40.1.3 Upon receipt of complaint dated December 15, 2015 on Governance issues on appointment of Noticee no. 6 by NSE, when SEBI raised query vide email dated February 19, 2016 to NSE to clarify whether Noticee no. 6 has been appointed as Key Management Personal (KMP) and SECC Regulations, 2012 have been complied with, the Noticee no. 5 then CRO, vide his email dated March 14, 2016

and June 30, 2016 has made misleading submissions to SEBI that there is no violation of SECC Regulations, 2012 in the appointment of Noticee no. 6 as 'Group Operating Officer and Advisor to MD'. NSE, vide email dated January 29, 2019, has further submitted the response of the Noticee no. 5 clarifying that the email dated March 14, 2016 was issued at the instruction of Noticee no. 1 and on the approval of Chandrasekhar Mukherjee and email dated June 30, 2016 was prepared based upon inputs from various departments of NSE and shown to Noticee no. 1, Noticee no. 4 and Mr. Ravi Varanasi before filing with SEBI. Further, NSE vide its email dated June 03, 2019 has submitted an email correspondence dated June 27, 2016 between the Noticee no. 5 and Mr. Chandrasekhar Mukherjee indicating draft response to SEBI. However it is noted that Mr. Chandrasekhar Mukherjee in his statement dated June 10, 2019 before SEBI has submitted that *he was not competent to approve to the reply of Mr. V R Narasimhan as the query in this regard was raised by SEBI and had seen the reply of Mr. V R Narasimhan in the context of verifying factual statement relating to the appointment of Anand Subramanian only.*

- 40.1.4 It is alleged that the Noticee no. 5 as a Chief Regulatory Officer and compliance officer of NSE, while replying to SEBI, should have applied his own judgment and knowledge which was not done. As a matter of duty, the Noticee no. 5 as compliance officer under the SECC Regulations, 2012 was required to report to SEBI independently about non-compliance of SECC Regulations, 2012 with respect of the re-designation of Noticee no. 6 as 'Group Operating Officer and Advisor to MD' which was also not done. In view of the above, it is alleged that the Noticee no. 5 has failed to address the issue properly in line with his defined role and responsibility and made misleading and incorrect statement to SEBI on compliance with the SECC Regulations, 2012 resulting in suppression of the irregularities on appointment of Noticee no. 6.
- 40.1.5 With regard to the said allegations, Noticee no. 5 vide his reply dated November 23, 2020 and May 10, 2021 has submitted that Noticee no. 6's designation and role could never have fallen within the definition of a KMP as applicable at the

relevant time and therefore, he was correctly not classified as a KMP. In this regard, the Noticee has *inter alia* made the following submissions:

- a) The concept of a KMP was introduced by a Regulation 2(1)(i) of the SECC Regulations, 2012 which defined KMP as:

*“...key management personnel means a person serving as head of any department or in such senior executive position that stands higher in hierarchy to the head(s) of department(s) in the recognised stock exchange or the recognised clearing corporation or in any other position as declared so by such stock exchange or clearing corporation...”*

That this definition however caused confusion since there was no definition of “department” or “head”. SEBI’s Circular no. CIR/MRD/DSA/33/2012 dated December 13, 2012 inter-alia provided that:

“ ....

**1.3** *Before grant of final approval, in addition to the above, the applicant should satisfy the Board with regard to compliance of the following :*

- a) *Appointment of heads of key departments such as legal, listing, member registration, trading and surveillance in case of a stock exchange, .....*”

Therefore, the stock exchange (viz., NSE in the present case) and Noticee assumed and understood that heads of these said functions are the only KMPs - i.e. - Heads of legal, listing, member registration, trading and surveillance. Noticee no. 6 was not the ‘head’ of any of these key departments, and therefore, he was never a KMP and was correctly never classified or disclosed as one.

- b) That Noticee no. 6 never fell within the definition of KMP under Section 2(51) of the Companies Act, 2013.
- c) That Noticee no. 6 was not originally appointed by any resolution of the Board of NSE, as under Section 203 of the Companies Act, 2013.

- d) That Noticee no. 6 was not appointed by the independent directors of NSE nor did they decide his remuneration.
- e) That Noticee no. 6 was not selected, compensated or monitored by the Board of NSE.
- f) That Noticee no. 6's remuneration was not as per any policy of NSE's NRC.
- g) That Noticee no. 6's compensation was not decided by any 'compensation committee'.
- h) The Noticee no. 6 was only a consultant and a consultant who is not a full time employee can never be a KMP.

40.1.6 With regard to the aforesaid submissions of the Noticee no. 5, I note that Regulation 2(1)(i) of the SECC Regulations defines KMP as a person serving as head of any department or in such senior executive position that stands higher in hierarchy to the heads of departments in the recognised stock exchange. In this regard, I note that as GOO, Noticee no. 6 was as per the organizational chart depicting the reportees of Noticees no. 6, as submitted by NSE vide email dated April 10, 2018, various functional heads viz. Chief People Officer, Chief Marketing Officer & CSR, Strategic Business Head-C&D, CBO-Curr & Derivatives, CTO-Projects, CTO-Operations, CEOs-subsidaries, Business Head-Int. & FII Interface, etc. were reporting to Noticee no. 6. This made it clear that the position of Noticee no. 6 was a senior executive position standing higher in hierarchy to the heads of departments and also just one level below the MD & CEO. I also note that in the annual report of NSE for the years 2014-15 and 2015-16, the name of Noticee no. 6 has been indicated amongst the 'Management Team' as Group Operating Officer just next to Mr. J Ravichandran (Noticee no. 4), Group President (F&L) & Company Secretary, who was also a KMP. Further, from the statements given by Noticee no. 6 to SEBI on April 11, 2018 I note that upon being asked "*who were the direct reportees during your tenure in NSE and whom were you reporting in NSE during your tenure*", the Noticee no. 6 stated that there were various heads of departments that were directly reporting to him, which include the IISL Detox, Business Head International, Head premises and administration, Head Business excellence, Communication Head, Chief

Marketing Officer, CTO Projects and CEO NSE IT. Further, that he was reporting to the MD & CEO of NSE during his entire tenure. Therefore, from the above, it is clear that Noticee no. 6 fell within the definition of KMP under Regulation 2(1)(i) of the SECC Regulations as a senior executive position that stands higher in hierarchy to the heads of departments in the recognised stock exchange.

40.1.7 Further, the contention of the Noticee no. 5 is that Noticee no. 6 was never appointed or his compensation decided by the Board or NRC and therefore he cannot be a KMP. However, I note that the Noticee no. 5 was aware of the powers delegated to Noticee no. 6 by the Board, which were akin to the powers of the MD&CEO and that Noticee no. 6 attended the Board meetings and reported only to the MD&CEO. Therefore, it was evidently clear that Noticee no. 6 performed all functions of a KMP but Noticee no. 5 chose to ignore it simply on the basis that Noticee no. 6 was not officially appointed as a KMP by the Board or NRC. Furthermore, the contention that Noticee no. 6 was a consultant and a consultant who is not a full time employee can never be a KMP is even more preposterous in light of the facts narrated above. From the power delegated to Noticee no. 6, his attendance of board meetings and the various heads of departments reporting to him, it would have been apparent that Noticee no. 6 was not merely a consultant. Further, as noted above, in the annual report of NSE for the years 2014-15 and 2015-16, the name of Noticee no. 6 has been indicated amongst the 'Management Team' as Group Operating Officer just next to Mr. J Ravichandran (Noticee no. 4), Group President (F&L) & Company Secretary, who was also a KMP. Therefore, I find the various contentions raised by Noticee no. 5 are untenable. In view of the above, I find that Noticee no. 5, as the erstwhile Chief Regulatory Officer, Compliance officer and key management personnel under SECC Regulations, 2012 of NSE has made misleading and incorrect statement to SEBI vide his email dated March 14, 2016 and June 30, 2016 that there is no violation of SECC Regulations, 2012 in the appointment of Noticee no. 6 as GOO and Advisor to MD and has failed to report to SEBI independently about non-compliance of SECC Regulations and hence acted in manner resulting in suppression of the irregularities on appointment of Noticee no. 6.

40.1.8 The Noticee no. 5 has also submitted that various other departments including the HR department and the regulatory department lacked autonomy while dealing with their respective departments. That they were instead compelled to work only as per the direct instructions of the MD & CEO and all emails/clarifications sent by the Noticee were done under the “superior order rule”. In this regard, I note that as the Compliance Officer, Noticee no. 5 was required under Regulation 32(2) of the SECC Regulations to immediately and independently, report to SEBI any non-compliance of the provisions of the SECC Regulations. Therefore, the Noticee no. 5 was required by law to “independently” report to SEBI any non-compliance of the provisions of the SECC Regulations. I note that such provisions are in place for this very purpose to ensure that such “superior order rule” do not conceal the non-compliances of the stock exchanges. Upon being appointed and taking up the role of Compliance Officer of NSE, Noticee no. 5 was to immediately and independently report to SEBI any non-compliance of the provisions of the SECC Regulations. To take refuge in the submissions that they were compelled to work only as per the direct instructions of the MD&CEO is an admission of the failure on the Noticee no. 5 in his duty as a Compliance Officer under the SECC Regulations. I note that under Regulation 32(2), the responsibility lies specifically with the Compliance Officer and the Noticee cannot shirk this responsibility on anyone else or on ignorance of not being informed or on a “need to know basis”, as submitted by Noticee no. 5. Hence, I find the aforesaid submission to be erroneous and untenable. As discussed above, I note that Noticee no. 5 failed to report to SEBI about the non-compliance of SECC Regulations as required under Regulation 32(2) of the SECC Regulations.

40.1.9 In view of the above, I find that Noticee no. 5 has:

- a) failed to immediately and independently report to SEBI about the non-compliance of SECC Regulations, 2012 with respect of the re-designation of Noticee no. 6 as ‘Group Operating Officer and Advisor to MD’, as discussed in detail above, in violation of *Regulation 32(2) of SECC Regulations, 2012*.

- b) violated Section 6(4) of Securities Contracts (Regulation) Act, 1956 for furnishing incorrect and misleading submission before SEBI that there is no violation of SECC Regulations, 2012 in the appointment of Noticee no. 6 as 'Group Operating Officer and Advisor to MD'.
- c) failing to exercise due diligence in the performance of his duties by making incorrect and misleading submissions before SEBI that there is no violation of SECC Regulations, 2012 in the appointment of Noticee no. 6 as 'Group Operating Officer and Advisor to MD', in violation of *Clause (i) of the Code of Ethics under Part- B of Schedule- II read with Regulation 26(2) of the SECC Regulations, 2012.*
- d) failed to maintain an appropriate conduct and put the reputation of the stock exchange in jeopardy by failing to independently report to SEBI and instead made incorrect and misleading submissions before SEBI that there is no violation of SECC Regulations, 2012 in the appointment of Noticee no. 6 as 'Group Operating Officer and Advisor to MD', in violation of *Clause iii. (c), (e) and (f) of the Code of Ethics as specified under Part- B of Schedule- II read with Regulation 26(2) of the SECC Regulations, 2012.*

## **PART – VII - In respect of Noticee no. 6 (Mr. Anand Subramanian)**

### **F. Allegations against Noticee no. 6 in SCN-VI, submissions of Noticee no. 6 and findings thereon:**

41. In view of the facts narrated in para 9 above, SCN-VI makes following allegations against Noticee no. 6:



- (i) Noticee no. 6 has made Incorrect and misleading statement before SEBI on his appointment and selection in NSE. Noticee no. 6 then 'Group Operating Officer and Advisor to MD' ('GOO') on consultancy contract w.e.f. April 01, 2015 was in substance KMP under SECC Regulations, 2012.
- (ii) In terms of E&Y report and report of practitioner dealing with human psychology as submitted by NSE, Noticee no. 6 has exploited Noticee no. 1 by creating another identity before her in the form of Mr. Rigyajursama to guide her perform her duties according to his wish. It is observed that Noticee no. 6 has acted against the interest of NSE and mis-utilised his position as one of senior management of NSE by influencing the decision of MD & CEO including benefitting himself by re-designating as 'Group Operating Officer and Advisor to MD'.

42. SCN-VI alleges following violations by Noticee no. 6:

- (a) Violation of provisions relating to Fairness and transparency, Compliance with all laws/ rules/ regulations, Exercising due diligence as specified in clause (i) of the Code of Ethics under Part– B of Schedule– II read with Regulation 26(2) of the SECC Regulations, 2012.
- (b) Violation of General Standards as specified under Clause iii. (c), (d) and (e) of the Code of Ethics as specified under Part– B of Schedule– II read with Regulation 26(2) of the SECC Regulations, 2012.
- (c) Violation of Section 6(4) of SCRA, 1956.

43. My observations and findings on the aforesaid allegations and the submissions made by Noticee no. 6 are as under:

**43.1 Noticee no. 6 has made Incorrect and misleading statement before SEBI on his appointment and selection in NSE. Noticee no. 6 then 'Group Operating Officer and Advisor to MD' ('GOO') on consultancy contract w.e.f. April 01, 2015 was in substance KMP under SECC Regulations, 2012.**

- 43.1.1 The SCN-VI alleges that with regard to the joining at NSE, the Noticee in his statement dated April 11, 2018 before SEBI has, inter alia, stated that he applied directly to HR at NSE after getting leads from headhunter and went through a routine process interview with HR Head Shri Chandrasekhar Mukherjee and Noticee no. 1 the then Joint MD, individually and the offer was received from NSE. Upon examination of the matter it is noted that appointment of the Noticee no. 6 was approved by Noticee no. 1, then Joint MD vide internal note dated January 18, 2013 and accordingly a letter of agreement dated January 18, 2013 was executed between NSE and the Noticee no. 6.
- 43.1.2 Mr. Chandrasekhar Mukherjee, then VP-HR, NSE in his statement dated June 10, 2019 and through his email dated June 12, 2019 and June 26, 2019 before SEBI has, inter alia, stated that *'process followed for selection of Mr. Anand Subramanian was different from the normal process. Normally engagement of consultants used to be for the period of one year which could be renewed every one as per the terms of the contract and notice period maximum three months. But in the Anand Subramanian matter, Chitra Ramkrishna insisted for the contract to be of five years and notice period 6 months. The draft contract covering role and responsibility, compensation, tenure, notice period etc was dictated and vetted by Ms. Chitra Ramkrishna. The note for approval for engagement of Anand Subramanian was also dictated and finalized by Chitra Ramkrishna. While preparing the draft contract or note for approval no pre-employment documents viz educational qualification certificate, experience certificate etc were handed over to HR despite a number of reminders which is a normal practice/pre-requisites in case of employment/selection of candidates. No other candidate was considered for the position, rather the designation of CSA was decided post finalization of the candidate i.e. Anand Subramanian. No external consultant/head hunters was hired for the same, instead the CV was directly handed over by the joint MD/deemed MD Ms. Chitra Ramkrishna to him. The draft contract covering role and responsibility, compensation, tenure, notice period etc was dictated and vetted by Ms. Chitra Ramkrishna. The note for approval for engagement of Anand Subramanian was also dictated and finalized by Chitra Ramkrishna. Anand Subramanian was not interviewed by anybody but*

*Chitra Ramkrishna did mention to him in January 2013 that Mr. Ravi Naraian (MD) has been kept in the loop. HR did not receive any documents relating to the interview of Mr. Anand Subramanian. HR head had no role to play for salary fixation of Anand Subramanian as CSA as the same was decided by Ms. Chitra Ramkrishna. For other cases, HR had a role in discussion and recommendation of compensation of consultants/employment.'*

- 43.1.3 With regard to the announcement within NSE for joining of the Noticee no. 6, it is observed that announcement dated April 03, 2013 at 12:12 pm by Mr. Chandrasekhar Mukherjee, in verbatim, was actually drafted by the Noticee no. 6 and sent to Noticee no. 1 through email dated April 03, 2013 at 11:24 AM which was subsequently issued by Mr. Chandrasekhar Mukherjee, then VP-HR in NSE. It is alleged that the above indicates that the Noticee no. 6 occupied an influential position in NSE since his joining in 2013.
- 43.1.4 NRC of NSE in its report dated November 22, 2017 submitted to SEBI has, *inter alia*, stated that *only Ms. Chitra Ramkrishna interviewed Mr. Anand Subramanian for his appointment, and there are no noting in the personnel file of Mr. Anand Subramanian in relation to his interview and position of Chief Strategic Advisor was neither advertised nor any other person considered for the position.* Further, NSE vide email dated June 11, 2019 has stated that position for the advisory and support function to the MD's office was identified at the time of hiring of Noticee no. 6 in 2013 and no HR consultants/recruitment agencies were engaged by NSE for hiring of Noticee no. 6.
- 43.1.5 Upon consideration of the copy of the email dated January 10, 2013, January 14, 2013 and January 17, 2013 between Noticee no. 1 and Mr. Chandrasekhar Mukherjee, it is observed that there were frequent correspondence between Noticee no. 1 and Mr. Chandrasekhar Mukherjee on the contract letter and note for approval. It is also noted that change in contract period from 3 to 5 years and prospective designation for the Noticee no. 6 were being discussed through email dated January 14, 2013. Extract of the email dated January 14, 2013 is as below:-

Email dated January 14, 2013 from Mr. Chandrasekhar Mukherjee to Noticee no. 1:

*"Please find attached the draft contract letter for the advisor position, for your ready reference.*

*As advised incorporated the following changes:*

- 1. Add CC to the R&R*
- 2. Changes responsible for reporting under Reporting*
- 3. Extended the contract period from 3 to 5*
- 4. Merged point 3.2 to 3.4*
- 5. Did not make changes to communication to the external world as it is the same for all employees & part of 'Trade Secret or Confidentiality'...*

*The designations could be:*

- 1. Chief Advisor*
- 2. Strategic Advisor*
- 3. Chief Strategic Advisor*
- 4. Advisor to MD & CEO*
- 5. Chief Corporate Advisor*
- 6. Chief Advisor & Executive Coach*
- 7. Chief Strategist*
- 8. Strategic Business Advisor*

*Would think of more designations & forward the same."*

43.1.6 As per the details submitted by NSE vide email dated June 14, 2019 and June 18, 2019 it is observed that duration of the consultancy contract as 5 years and notice period as 6 months for the Noticee no. 6 was highest among the consultants engaged by NSE during the period 2013 to 2016. NSE has also communicated vide email dated June 11, 2019 that '*position for the advisory and support function to the MD's office was identified at the time of hiring of Mr. Anand Subramanian in 2013.*

43.1.7 In view of the above, it is alleged that the statement of Noticee no. 6 before SEBI that he applied directly to HR at NSE after getting leads from headhunter and went through a routine process interview with Head (HR)-Shri Chandrasekhar Mukherjee/the then Joint MD (Noticee no. 1) is incorrect and misleading as no head hunter was engaged by NSE for the position of the Noticee and no interview

conducted by Head of HR, NSE as represented by the Noticee no. 6. Further, it is alleged that the above also indicates that the noticee occupied an influential and preferential treatment in NSE since his joining in 2013, as normally not available to other consultants in NSE.

43.1.8 Further, with regard to being a KMP, the SCN-VI alleges that the Noticee no. 6 was re-designated as 'Group Operating Officer and Advisor to MD' w.e.f. April 1, 2015 on consultancy vide letter dated April 01, 2015 by Noticee no. 1 at par with Job grade M 13. NSE vide its email dated January 24, 2019 has submitted that Group President & Company Secretary (Noticee no. 4), was the only employee in the job grade M 13 (Senior Director). The Group President & Company Secretary was one of the key management personnel under SECC Regulations, 2012 during the relevant period. It is noted that Board of NSE, in its meeting held on August 11, 2015 delegated substantial power of management akin to the powers granted to Noticee no. 1 in NSE Board meeting dated February 23, 2005 including the following to the noticee in order to further smoothen the day to day conduct of business operations of the exchange. Such power included the following:-

- (a) to make all such arrangements and to do all such acts, deeds, matters and things on behalf of the company as may be usually necessary or expedient in the conduct of day to day activities of the company.
- (b) to apply for, obtain and renew licenses, permits etc. from Central Government, State Government, Municipal or other statutory authority as may be necessary or requisite for the purpose of carrying on or developing the business of the Company.
- (c) to appoint, employ, remove, dismiss, discharge, suspend, reappoint, re-employ, or replace bankers, solicitors, advocates, accountants, advisers in the areas of systems & software, security, taxation, law, accounts etc. technicians, medical practitioners and with such powers and duties and upon such terms as he may think fit.

43.1.9 Thereafter, having been vested with substantial power, the Noticee no. 6 started attending all the Board meetings of NSE since August 11, 2015 onwards as reflected vide NSE letter dated NSE letter November 26, 2018. It is further noted that the Board of NSE in its meeting held on June 23, 2016, while giving approval for setting up of a Stock Exchange at GIFT IFSC authorized the Noticee no. 6 among others, to do all such things as may be required for the purpose of forming a subsidiary of NSE and for setting up a stock exchange as its IFSC unit in GIFT SEZ.

43.1.10 As per the organizational chart depicting the reportees of the Noticee no. 6, as submitted by NSE vide email dated April 10, 2018, various functional heads viz. Chief People Officer, Chief Marketing Officer & CSR, Strategic Business Head-C&D, CBO-Curr & Derivatives, CTO-Projects, CTO-Operations, CEOs-subsiidiaries, Business Head-Int. & FII Interface, etc. were reporting to the Noticee no. 6. This made it obvious that the position of the Noticee no. 6 was a senior executive position standing higher in hierarchy to the head(s) of department(s) and also just one level below the MD & CEO. As Group Operating Officer and advisor to MD, the Noticee no. 6 was reporting directly to MD & CEO. In the annual report of NSE for the years 2014-15 and 2015-16, the name of the Noticee no. 6 has been indicated amongst the 'Management Team' as Group Operating Officer just next to Mr. J Ravichandran (Noticee no. 4), Group President (F&L) & Company Secretary.

43.1.11 NRC of NSE in its report dated November 22, 2017 to SEBI has, inter alia, stated that re-designation of Noticee no. 6 was not tabled to the then NRC despite the fact that he would have been a KMP and his re-designation would have needed an approval from the NRC. In view of the above, it is alleged that the Noticee no. 6 held a very senior executive position, standing higher in hierarchy to the head(s) of department(s) and was in substance key management personnel under SECC Regulations, 2012.

43.1.12 In this regard, the Noticee no. 6 vide letters dated November 04, 2019 and April 25, 2021, has submitted that he has never mislead or given false statements

during his tenure of work at the exchange and has only worked as a clear contract obligated person and nothing more. Further, he has submitted that he was not a KMP till he resigned and that he was not handling any portfolio under the regulatory departmental control.

43.1.13 I note that Noticee no. 6 in his statements dated April 11, 2018 before SEBI has, inter alia, stated that he applied directly to HR at NSE after getting leads from headhunter. In this regard, I note that Noticee no. 1 in her statements dated April 12, 2018 before SEBI, has inter alia, stated that a known HR consultant had recommended Noticee no. 6 to HR Department. Hence, there is an obvious contradiction in the statements made by Noticee no. 6 and Noticee no. 1 itself, as Noticee no. 1 has stated that Noticee no. 6 was recommended to HR whereas Noticee no. 6 has stated that he applied to HR. Further, I note from the statement dated June 10, 2019 of Mr. Chandrasekhar Mukherjee, then HR Head of NSE, wherein, he *inter alia* stated that “No external consultant/head hunters was hired for the same, instead the CV was directly handed over by the joint MD/deemed MD Ms. Chitra Ramkrishna to him”. I also note that the NRC of NSE in its report dated November 22, 2017 submitted to SEBI has, *inter alia*, stated that *only Ms. Chitra Ramkrishna interviewed Mr. Anand Subramanian for his appointment, and there are no noting in the personnel file of Mr. Anand Subramanian in relation to his interview and position of Chief Strategic Advisor was neither advertised nor any other person considered for the position.* Therefore, I find that Noticee no. 6 has given misleading statements that he applied to HR after getting leads from headhunter as it is clear from the statement of the then HR Head that he did not receive any application from Noticee no. 6 but received the CV directly from Noticee no. 1 and there was no head hunters involved. Further, the NRC in the findings of its report have stated that the position of Chief Strategic Advisor was not advertised.

43.1.14 I also note from the statement dated June 10, 2019 of Mr. Chandrasekhar Mukherjee, then HR Head of NSE, that “Anand Subramanian was not interviewed by anybody”. Further, NRC of NSE in its report dated November 22, 2017 submitted to SEBI has, *inter alia*, stated that “only Ms. Chitra Ramkrishna

*interviewed Mr. Anand Subramanian for his appointment*". Hence, the statement of Noticee no. 6 that he was interviewed by HR of NSE is incorrect and misleading. I also note from the statements made by Noticee no. 6 that when asked if he knew Noticee no. 1 prior to his tenure at NSE, his reply was "*No. I had no interactions with Chitra prior to joining NSE except meeting at some NSE functions*". However, I note that when Noticee no. 1 was asked if she knew Noticee no. 6 prior to him joining NSE, she replied stating "*I know him through his wife, Mrs. Sunitha Anand, who was an employee of NSE and my good friend.*" Hence, I note that Noticee no. 6 has also made misleading statements that he did not know Noticee no. 1 prior to his tenure at NSE. Therefore, I note that Noticee no. 6 was already known to Noticee no. 1 and that the position for the advisory and support function to the MD's office was identified at the time of hiring of Noticee no. 6 in 2013 and no HR consultants/recruitment agencies were engaged by NSE for hiring of Noticee no. 6 nor was there any interview process through the HR. In view of the above, I find that Noticee no. 6 has made Incorrect and misleading statement before SEBI on his appointment and selection in NSE.

43.1.15 Further, with regard to whether Noticee no. 6 was a KMP, I note that Noticee no. 6 was re-designated as 'Group Operating Officer and Advisor to MD' w.e.f. April 01, 2015 on consultancy vide letter dated April 01, 2015 by the Noticee no. 1. I note that Regulation 2(1)(i) of the SECC Regulations defines KMP as a person serving as head of any department or in such senior executive position that stands higher in hierarchy to the heads of departments in the recognised stock exchange. In this regard, I note that as per the organizational chart depicting the reportees of Noticees no. 6, as submitted by NSE vide email dated April 10, 2018, various functional heads viz. Chief People Officer, Chief Marketing Officer & CSR, Strategic Business Head-C&D, CBO-Curr & Derivatives, CTO-Projects, CTO-Operations, CEOs-subsidiaries, Business Head-Int. & FII Interface, etc. were reporting to the GOO i.e. Noticee no. 6. This made it clear that the position of Noticee no. 6 was a senior executive position standing higher in hierarchy to the heads of departments and also just one level below the MD & CEO. I also note that in the annual report of NSE for the years 2014-15 and 2015-16, the name of Noticee no. 6 has been indicated amongst the 'Management Team' as



Group Operating Officer just next to Mr. J Ravichandran (Noticee no. 4), Group President (F&L) & Company Secretary, who was also a KMP. Further, from the statements given by Noticee no. 6 himself to SEBI on April 11, 2018 I note that upon being asked “who were the direct reportees during your tenure in NSE and whom were you reporting in NSE during your tenure”, the Noticee no. 6 stated that there were various heads of departments that were directly reporting to him, which include the IISL Detox, Business Head International, Head premises and administration, Head Business excellence, Communication Head, Chief Marketing Officer, CTO Projects and CEO NSE IT. Further, that he was reporting to the MD & CEO of NSE during his entire tenure. Therefore, from the above, it is clear that Noticee no. 6 fell within the definition of KMP under Regulation 2(1)(i) of the SECC Regulations as a senior executive position that stands higher in hierarchy to the heads of departments in the recognised stock exchange.

43.1.16 As discussed in the foregoing paras with regard to allegations against Noticee no. 1, from the emails dated February 18, 2015 and February 19, 2015 between Noticee no. 1 with the unknown person, it is evident that they were discussing the title/designation to be given to Noticee no. 6 in order to prevent him from being considered as a KMP. From the email dated February 18, 2015, the unknown person has raised the query that “*If on one hand I call JR a President who is a KMP the other person how can he/she be excused, is it subjective?*”. From the aforesaid query it is evident that they wanted to designate Noticee no. 6 at par or higher than “JR” i.e. Noticee no. 4 (who was designated President and KMP) but wanted to avoid designating Noticee no. 6 as President as that would also classify him as a KMP. This query is then resolved by email dated February 19, 2015 from the unknown person to Noticee no. 1, wherein, the Noticee no. 1 advises that “So in order to have a mix of all and not preceptitate the contract entered into and also maintain status on hierarchy, and considering legally the terms of reference in TITLE NOT AS KMP and still get an executive authority I propose with love and abundant blessings that you will be called from April 01, 2015 as “GROUP OPERATING OFFICER & ADVISOR TO MD” at the same level as group president of the company”. From the aforesaid email, it is evident that they decided to designate him as Group Operating Officer & Advisor to MD

so as to avoid him being classified as KMP and still have executive authority. I note that thereafter, Noticee no. 6 was re-designated as 'Group Operating Officer and Advisor to MD' w.e.f. April 01, 2015 on consultancy vide letter dated April 01, 2015 by the Noticee no. 1. Hence, from the above, it is clear that Noticee no. 1 appointed Noticee no. 6 as 'Group Operating Officer and Advisor to MD' with the intention to avoid making Noticee no. 6 a KMP and yet give him extensive executive authority, as advised to her by the unknown person. Further, what is crucial here with regard to Noticee no. 6 is that Noticee no. 6 was also a recipient of the emails dated February 18, 2015 and February 19, 2015 between Noticee no. 1 with the unknown person. Therefore, Noticee no. 6 was also part of the conspiracy of Noticee no. 1 and has in fact been the beneficiary of Noticee no. 1's actions. In view of the above, I find that Noticee no. 6 was very well aware that upon being appointed GOO and Advisor to MD&CEO and being delegated substantial powers by the Board in its meeting on August 11, 2015, he was KMP under the SECC Regulations, 2012. However, I note that Noticee no. 6 has remained silent and enjoyed his exorbitant and disproportionate compensation package and privileges by attending all Board meetings of NSE thereafter, under the protection of the MD&CEO i.e. Noticee no. 1.

43.1.17 Further, I note that Noticee no. 6 has relied upon the report dated February 15, 2021 of the Enquiry Officer, Justice Arvind V. Savant (Retd.) appointed by NSE to initiate disciplinary enquiry under the NSEIL Staff Rules, 1999 against Noticee no. 6. At the outset, I find that the report of the Enquiry Officer has no bearing on the proceedings initiated by SEBI. Be that as it may, I find that the enquiry is only limited to the disciplinary enquiry under the NSEIL Staff Rules, 1999 and not for proceedings initiated under the SEBI Act, 1992, SCRA 1956 or the SECC Regulations, 2012. Further, I note that the Enquiry Officer himself has noted that *"In view of the matter, whatever may be the serious nature of the alleged findings recorded by SEBI against the Noticee, it is neither necessary no permissible for me to go into the merits of the said findings. Accordingly, I express no opinion on the merits of the findings recorded by SEBI in its letter which is at Annexure 1 to this report"*. Accordingly, I find the reference to the report of the Enquiry Officer by Noticee no. 6 to be untenable.

43.1.18 In view of the above, I find that Noticee no. 6 has made incorrect and misleading statement before SEBI on his appointment and selection in NSE. Hence, I find that Noticee no. 6 has violated Section 6(4) of Securities Contracts (Regulation) Act, 1956 for furnishing incorrect and misleading statements before SEBI on his appointment and selection in NSE.

43.1.19 Further, I find that Noticee no. 6 was very well aware that upon being appointed GOO and Advisor to MD&CEO and being delegated substantial powers by the Board in its meeting on August 11, 2015, he was KMP under the SECC Regulations, 2012, however, he remained silent and enjoyed his exorbitant and disproportionate compensation package and privileges by attending all Board meetings of NSE thereafter, under the protection of the MD&CEO i.e. Noticee no. 1. Hence, I find that Noticee no. 6 has:

- a) not complied with the Code of Ethics by failing to act in fairness and transparency, failing to comply with the SECC Regulations, 2012 and failing to exercise due diligence in the performance of his duties in violation of *Clause (i) of the Code of Ethics under Part– B of Schedule– II read with Regulation 26(2) of the SECC Regulations, 2012.*
- b) failed to maintain an appropriate conduct and put the reputation of the stock exchange in jeopardy in violation of *Clause iii. (c), (e) and (f) of the Code of Ethics as specified under Part– B of Schedule– II read with Regulation 26(2) of the SECC Regulations, 2012.*

**43.2 In terms of E&Y report and report of practitioner dealing with human psychology as submitted by NSE, Noticee no. 6 has exploited Noticee no. 1 by creating another identity before her in the form of Mr. Rigyajursama to guide her perform her duties according to his wish. It is observed that Noticee no. 6 has acted against the interest of NSE and mis-utilised his position as one of senior management of NSE by influencing the decision of MD & CEO including benefitting himself by re-designating as ‘Group Operating Officer and Advisor to MD’.**

- 43.2.1 The SCN-VI alleges that during the course of investigation into the issue of co-location facilities at NSE, SEBI has come across certain documentary evidences, which demonstrate that Noticee no. 1, erstwhile MD & CEO of NSE has shared certain internal confidential information of NSE viz Organizational Structure, Dividend scenario, Financial Results, Human Resources Policy and related Issues, Response to Regulator etc. with an unknown person by addressing her correspondence to an email id rigyajursama@outlook.com (referred as 'unknown person' / rigyajursama@outlook.com) during the period 2014 to 2016.
- 43.2.2 SEBI vide its letter May 03, 2018 and August 10, 2018 sought clarification from NSE. NSE vide its letter dated June 01, 2018, July 06, 2018, September 14, 2018 and email dated October 10, 2018 submitted its detailed response along with a report of forensic investigation conducted by E&Y into the matter and also the statements of Noticee no. 1 and the Noticee no. 6. On the issue of identity of the person with whom correspondence was exchanged by Noticee no. 1, NSE in its letter dated July 06, 2018 has drawn reference to the forensic investigation report of E&Y wherein E&Y upon examination of the matter has concluded that the said person was the Noticee no. 6. NSE has also concurred with the same.
- 43.2.3 NSE vide its letter dated November 27, 2018 has submitted that its legal advisors had consulted practitioners dealing with human psychology. As per the opinion of human psychology expert Noticee no. 1 has been exploited by the Noticee no. 6 by creating another identity in the form of Mr. Rigyajursama to guide her to perform her duties according to his wish. Noticee no. 1 was manipulated by the same man in the form of different identities; one as Noticee no. 6 who enjoyed her trust and other as Mr. Rigyajursama who had her devotion and dependence. In view of the above, and as per the E&Y report and also from the submission of NSE vide letter dated July 06, 2018, it is alleged that the said unknown person i.e. the Noticee no. 6 has significantly influenced the decision making in NSE including benefitting himself by re-designating as 'Group Operating Officer and Advisor to MD'.

- 43.2.4 Accordingly, it is alleged in the SCN-VI that the Noticee no. 6 has exploited Noticee no. 1 by creating another identity before her in the form of Mr. Rigyajursama to guide her perform her duties according to his wish. Further, that the Noticee no. 6 has acted against the interest of NSE and mis-utilised his position as one of senior management of NSE by significantly influencing the decisions in NSE on various aspects of the functioning of the stock exchange including benefitting himself by re-designating as Group Operating Officer and Advisor to MD.
- 43.2.5 In this regard, the Noticee no. 6 has submitted that the erstwhile MD and CEO has clearly said that the “unknown person” is clearly known to her for years together and it is only unfair to taint him for mistaken identity and must take her clear answers given in her report to the internal enquiry board committee.
- 43.2.6 With regard to the aforesaid allegation, as discussed in paras 31.2.13 – 31.2.14, I note that it cannot be concluded from the E&Y report submitted by NSE that the unknown person having email id rigyajursama@outlook.com was in fact Noticee no. 6. Accordingly, I find the allegation that Noticee no. 6 has exploited Noticee no. 1 by creating another identity before her in the form of the unknown person having email id rigyajursama@outlook.com to guide her perform her duties according to his wish, is not sustainable. However, as discussed in the foregoing paras in Part II, I find that Noticee no. 6 was also an accomplice with the unknown person who influenced the decision of Noticee no. 1 and thereby benefitting himself by being re-designated as ‘Group Operating Officer and Advisor to MD’ and having the compensation being paid to him increase substantially each year, upon the advice of the unknown person to Noticee no. 1. This is evident from the fact that Noticee no. 6 was also a recipient to most of the emails between Noticee no. 1 and the unknown person. Further, Noticee no. 6, in his statements dated September 12, 2018, has himself also stated that he knew the unknown person for the past 22 years. In this regard, I note that the unknown person in his email dated September 05, 2015 to Noticee no. 1, stated that “SOM, *If I had the opportunity to be a person on Earth then Kanchan is the perfect fit. Ashirvadhams. SIRONMANI.*” (“Kanchan” here referring to Noticee no. 6).

Therefore, I note that the unknown person clearly favored Noticee no. 6, and Noticee no. 1, who greatly relied on the unknown person, would have acted on the same. Therefore, from the record of events of the appointment of Noticee no. 6 and substantial increase in his emoluments every year and the delegation of powers akin to that of MD&CEO, along with the email exchanges between Noticee no. 1 with the unknown person where Noticee no. 6 was also a recipient, it is clear that there has been a conspiracy for the appointment and rise of Noticee no. 6 in NSE. I find that this was being implemented by Noticee no. 1 through the unknown person who greatly favored Noticee no. 6. In view of the above, I find that Noticee no. 6 has:

- a) not complied with the Code of Ethics by failing to act in fairness and transparency, failing to comply with the SECC Regulations, 2012 and failing to exercise due diligence in the performance of his duties by being an accomplice with the unknown person in influencing the decisions of Noticee no. 1 in violation of *Clause (i) of the Code of Ethics under Part– B of Schedule– II read with Regulation 26(2) of the SECC Regulations, 2012.*
- b) failed to maintain an appropriate conduct and put the reputation of the stock exchange in jeopardy by being an accomplice with the unknown person in influencing the decisions of Noticee no. 1 in violation of *Clause iii. (c), (e) and (f) of the Code of Ethics as specified under Part– B of Schedule– II read with Regulation 26(2) of the SECC Regulations, 2012.*

44. In the aforesaid paras, Noticees have been found to be in violation of the provisions of SECC Regulations, 2012 and SEBI Circular dated December 13, 2012. I note that the SECC Regulations, 2012 and SEBI Circular dated December 13, 2012 have been repealed by Regulation 52(1) of SECC Regulations 2018. Regulation 52(2) of SECC Regulations, 2018 provides that “*Notwithstanding such repeal, anything done or any action taken or purported to have been taken or contemplated under the repealed regulations and circulars referred to in sub-regulation (1) before the commencement of these regulations shall be deemed to have been done or taken or commenced or contemplated under the corresponding provisions of these regulations.*” In this regard, it would be appropriate to

refer to the judgment of Hon'ble Supreme Court of India in **Sahara Real Estate Corporation and Others Vs. SEBI (2013) 1 SCC1**, wherein, it was held that:

103. *Repeal and Saving Clause under ICDR 2009 would clearly indicate that the violation under DIP Guidelines was a continuing one. Regulation 111 of ICDR reads as follows:*

*“Repeal and Savings*

*111. (1) On and from the commencement of these regulations, the Securities and Exchange Board of India (Disclosure and Investor Protection) Guidelines, 2000 shall stand rescinded.*

*(2) Notwithstanding such rescission;*

*(a) anything done or any action taken or purported to have been done or taken including observation made in respect of any draft offer document, any enquiry or investigation commenced or show cause notice issued in respect of the said Guidelines shall be deemed to have been done or taken under the corresponding provisions of these regulations;*

*(b) any offer documents, whether draft or otherwise, filed or application made to the Board under the said Guidelines and pending before it shall be deemed to have been filed or made under the corresponding provisions of these regulations.”*

104. *Regulation 111(1) of ICDR 2009 rescinded the DIP Guidelines from 26.8.2009 and clause (2) of Regulation 111 contains the saving clause. The expression “anything done” or “any action taken” under Regulation 111(1) are of wide import and would take anything done by the company omitted to be done which they legally ought to have done. Non-performance of statutory obligations purposely or otherwise may also fall within the above mentioned expressions. Failure to take any action by SEBI under DIP Guidelines, in spite of the fact that Saharas did not discharge their statutory obligation, would not be a ground to contend that 2009 Regulations would not apply as also the saving clause. 2009 Regulations, in my view, will apply to all companies whether listed or unlisted. Further, in the instant case, SEBI was not informed of the issuance of securities by the Saharas while the DIP Guidelines were in force and Saharas continued to mobilize funds from the public which was nothing but continued violation which started when the DIP Guidelines were in force and also when they were replaced by 2009 Regulations. Further, it may also be recalled that any solicitation for subscription from public can be regulated only after complying with the requirements stipulated by SEBI, in fact, an amendment was made to Schedule II of the Companies Act vide notification No. GSR 650(3) dated 17.9.2002 by inserting a declaration which has to be signed by the directors of the company filing the prospectus, which reads as under:*

*“That all the relevant provisions of the Companies Act, 1956, and the guidelines issued by the Government or the guidelines issued by the Securities and Exchange Board of India established under Section 3 of the Securities and Exchange Board of India Act, 1992, as the case may be, have been complied with and no statement made in prospectus is contrary to the provisions of*

*the Companies Act, 1956 or the securities and Exchange Board of India Act, 1992 or rules made there-under or guidelines issued, as the case may be.”*

45. I find that ratio of the aforesaid judgment of Hon’ble Supreme Court in Sahara case (*supra*) with respect to interpretation of repeal and saving clause of ICDR 2009 squarely applies to the facts of the present case. Therefore, violation of SECC Regulation, 2012 and SEBI Circular dated December 13, 2012 can be pursued under the corresponding provisions of Regulations 26, 27 and 30 and Clause (1) of Part I of Schedule – II and Clause 2 of Part A of Schedule – II of the SECC Regulations, 2018.
46. In view of the aforesaid violations committed by the Noticees no. 1, 2, 3 and 6, I find that directions under Sections 11(1), 11(4) and 11B (1) of the SEBI Act, 1992 and Section 12A of SCRA, 1956 read with Regulation 49 of the SECC Regulations 2012 and SECC Regulations, 2018, needs to be issued.
47. SCNs in the matter, also calls upon the Noticees no. 1, 2, 3, 5 and 6 to explain as to why appropriate penalty be not imposed upon them under Sections 15HB of SEBI Act, 1992 and Section 23A of and 23H SCRA, 1956, for the violations alleged in the SCN. Relevant extract of these penalty provisions, as existing at the time of violations, is reproduced, hereunder:

**Relevant extract of Section 15HB of SEBI Act, 1992:**

**Penalty for contravention where no separate penalty has been provided.**

**15HB.** Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.”

**Relevant extract of Sections 23A and 23H of SCRA, 1956:**

**Penalty for failure to furnish information, return, etc.**

23A. Any person, who is required under this Act or any rules made thereunder,—



(a) to furnish any information, document, books, returns or report to a recognised stock exchange, fails to furnish the same within the time specified therefor in the listing agreement or conditions or bye-laws of the recognised stock exchange or who furnishes false, incorrect or incomplete information, document, books, return or report, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees for each such failure;

(b) to maintain books of account or records, as per the listing agreement or conditions, or bye-laws of a recognised stock exchange, fails to maintain the same, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees.

**Penalty for contravention where no separate penalty has been provided.**

**23H.** Whoever fails to comply with any provision of this Act, the rules or articles or bye-laws or the regulations of the recognised stock exchange or directions issued by the Securities and Exchange Board of India for which no separate penalty has been provided, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.

48. I find that for furnishing incorrect and misleading statement/submissions before SEBI, as found above, Noticee no. 1, 3, 5 and 6 are liable for imposition of penalty under Section 23A of the SCRA, 1956, which provides penalty for failure to furnish information, inter alia, sought by SEBI under the provisions of SCRA, 1956. Further, for delay in furnishing the information i.e. report of NRC even after repeated reminders by SEBI, as found above, Noticee no. 2 is liable for imposition of penalty under Section 23A of the SCRA, 1956, which provides penalty for failure to furnish information, inter alia, sought by SEBI under the provisions of SCRA, 1956. For the violation of SECC Regulations, 2012 the Noticees no. 1, 2, 3, 5 and 6 are liable for imposition of penalty under Section 15HB of the SEBI Act, 1992 which provides for penalty for failure to comply with any provision of SEBI Act, 1992, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, and under Section 23H of the SCRA, 1956 which provides for penalty for failure to comply with any provision of SCRA, 1956, the rules or articles or bye-laws or the regulations of the recognised stock exchange or

directions issued by SEBI for which no separate penalty has been provided. Since, SECC Regulations, 2012 are framed under SEBI Act, 1992 also and penalty provisions under SEBI Act, 1992 (i.e. 15A to 15HB) does not separately provide for any penalty for violation of SECC Regulations, therefore, for violation of SECC Regulations, 2012 by Noticees no. 1, 2, 3, 5 and 6, as found in this order, penalty under Section 15HB is attracted against Noticees no. 1, 2, 3, 5 and 6.

49. For imposition of penalty under the provisions of the SEBI Act, 1992, Section 15J of the SEBI Act, 1992 provides as follows:

**“Factors to be taken into account while adjudging quantum of penalty.**

15J. While adjudging quantum of penalty under 15-I or section 11 or section 11B, the Board or the adjudicating officer shall have due regard to the following factors, namely: —

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
- (b) the amount of loss caused to an investor or group of investors as a result of the default;
- (c) the repetitive nature of the default.

Explanation. — For the removal of doubts, it is clarified that the power to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section.”

Further, for imposition of penalty under the provisions of the SCRA, 1956, Section 23J of the SCRA, 1956 provides as follows:

**“Factors to be taken into account while adjudging quantum of penalty.**

**23J.** While adjudging the quantum of penalty under section 12A or section 23-I, the Securities and Exchange Board of India or the adjudicating officer shall have due regard to the following factors, namely:—

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.

Explanation.—For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under sections 23A to 23C shall be and shall always be deemed to have exercised under the provisions of this section.”

50. I find that material available on record does not mention the amount of disproportionate gain or unfair advantage made as a result of the default except payment of excessive fees to Noticee no. 6 and encashment of leave, bonus etc. by Noticee no.1. I find that the material available on record does not indicate the amount of specific loss caused to investors or group of investors as a result of the default by the Noticees. However, I note that there have been repeated defaults as the Noticees had failed to submit the report sought by SEBI even after repeated reminders from SEBI. I also note that Noticee no. 2 vide its reply dated December 18, 2020 has submitted that they have withheld INR 2.83 Crores, which would have otherwise been due to Noticee no. 1. This amount is an aggregate of INR 1.25 Crore as balance deferred bonus for FY 2014-15, and INR 1.58 Crore towards balance deferred bonus for FY 2015-16 and the performance bonus for the FY 2016-17 was not paid at all since Noticee no. 1 had worked only for a part of the financial year. Further, vide email dated January 06, 2022, Noticee no. 2 have confirmed that the withheld amount of Rs. 2.83 crores for Noticee no. 1 is still with NSE in fixed deposits earning interest @6.80% p.a. with the present maturity of April 04, 2022. I also note from the Adjudication Order dated August 25, 2020 that the excess leave encashment amount of Rs. 1.54 crores to Noticee no. 1 has been recovered by Noticee no. 2.

**Directions:**

51. In view of the aforesaid findings and having regard to the facts and circumstances of the case, I, in exercise of the powers conferred upon me under Section 11(1), 11(4), 11(4A), 11A and 11B(1), 11B(2) of SEBI Act, 1992 and Section 12A(1) of SCRA, 1956 read with Section 19 and Section 11(2)(j) of SEBI Act, 1992 and Rule 5 of the

SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995, direct as under:

- a. The Noticee no. 1 is restrained from associating with any Market Infrastructure Institution or any intermediary registered with SEBI for a period of three (03) years from the date of this order.
- b. The Noticee no. 2 shall not launch any new product for a period of six (06) months from the date of this order.
- c. The Noticee no. 3 is restrained from associating with any Market Infrastructure Institution or any intermediary registered with SEBI for a period of two (02) years from the date of this order.
- d. The Noticees no. 6 is restrained from associating with any Market Infrastructure Institution or any intermediary registered with SEBI in any capacity for a period of three (03) years from the date of this order.
- e. Noticee no. 2 is directed to forfeit the excess leave encashment of Rs. 1.54 crore and the deferred bonus of Rs. 2.83 crores, of Noticee no. 1, which was retained by Noticee no. 2, mentioned in para 50 above, and deposit the same to its Investor Protection Fund Trust within a period of six (06) days. An intimation regarding the payment of said amount shall be sent to "The Division Chief, MRD, DSA-1, Securities and Exchange Board of India, SEBI Bhavan, Plot no. C 4A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400 051".
- f. The Noticees no. 1 to 6, are hereby imposed with, the following penalties as specified:

<b>Noticee No.</b>	<b>Name of Noticees</b>	<b>Provisions under which penalty imposed</b>	<b>Penalties</b>
--------------------	-------------------------	---	------------------

1.	Ms. Chitra Ramkrishna	Section 15HB of SEBI Act, 1992 and Section 23A and 23H of SCRA, 1956.	Rs. 3 crore (Rupees three crore)
2.	National Stock Exchange of India Limited	Section 15HB of SEBI Act, 1992 and Section 23A and 23H of SCRA, 1956.	Rs. 2 crore (Rupees two crore)
3.	Mr. Ravi Narain	Section 15HB of SEBI Act, 1992 and Section 23A and 23H of SCRA, 1956.	Rs. 2 crore (Rupees two crore)
5.	Mr. V.R. Narasimhan	Section 15HB of SEBI Act, 1992 and Section 23A and 23H of SCRA, 1956.	Rs. 6 lakh (Rupees six lakh)
6.	Mr. Anand Subramanian	Section 15HB of SEBI Act, 1992 and Section 23A and 23H of SCRA, 1956.	Rs. 2 crore (Rupees two crore)

- g. The aforesaid Noticees are directed to pay their respective penalties within a period of forty-five (45) days, from the date of receipt of this order, by way of Demand Draft in favour of "SEBI -Penalties Remittable to Government of India", payable at Mumbai or through online payment facility available on the website of SEBI, i.e. [www.sebi.gov.in](http://www.sebi.gov.in) on the following path, by clicking on the payment link: ENFORCEMENT -> Orders -> Orders of Chairman/ Members -> PAY NOW. In case of any difficulties in online payment of penalties, the said Noticees may contact the support at [portalhelp@sebi.gov.in](mailto:portalhelp@sebi.gov.in). The demand draft or the details/ confirmation of e-payment should be sent to "The Division Chief, MRD, DSA-1, Securities and Exchange Board of India, SEBI Bhavan, Plot no. C 4A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400

051” and also to e-mail id:- tad@sebi.gov.in in the format as given in table below:

Case Name	
Name of Payee	
Date of Payment	
Amount Paid	
Transaction No.	
Payment is made for: (like penalties/ disgorgement/ recovery/ settlement amount/ legal charges along with order details)	

- h. The proceedings against Noticee no. 4 is disposed of for reasons stated in para 37.1 above.
52. The Demand Draft of penalties, as directed above, shall be sent to “The Division Chief, MRD, DSA-1, Securities and Exchange Board of India, SEBI Bhavan, Plot no. C-4A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai -400 051”.
53. This Order comes into force with immediate effect.
54. This Order shall be served on all the Noticees, Recognized Stock Exchanges, Depositories and Registrar and Share Transfer Agents and Banks to ensure necessary compliance.

**Place: Mumbai**

**Date: February 11, 2022**

**Sd/-**

**ANANTA BARUA**

**WHOLE TIME MEMBER**

**SECURITIES AND EXCHANGE BOARD OF INDIA**