WTM/AS/CFID/CFID-CORD/32677/2026-27

SECURITIES AND EXCHANGE BOARD OF INDIA

FINAL ORDER

Under Sections 11(1), 11(4), 11(4A),11B(1) and 11B(2) of the Securities and Exchange Board of India Act, 1992

In Respect of:

Sl. No.	Name of Noticees	PAN
1.	Max Financial Services Limited	AABCM1204G
2.	Max Life Insurance Company Limited	AACCM3201E
3.	Axis Bank Ltd	AAACU2414K
4.	Axis Capital Ltd	AAACU8367M
5.	Axis Securities Ltd	AABCE6263F
6.	Mr. Analjit Singh	ABLPS7514D
7.	Mr. Mohit Talwar	AABPT6752H
8.	Mr. Rahul Khosla	AAAPK1251F
9.	Ms. Sujatha Ratnam	AACPR8333H
10.	Mr. Rahul Ahuja	AAPPA7817E
11.	Mr. Jatin Khanna	AKXPK9994Q
12.	Mr. V Krishnan	AIOPK9417F

(The entities mentioned above are individually referred to by their respective names or Noticee No. and collectively referred to as “Noticees”, unless the context specifies otherwise)

In the matter of Max Financial Services Limited

Background

1. The present proceedings emanate from a Show Cause Notice dated October 24, 2024 (hereinafter referred to as '**SCN**'), issued pursuant to an investigation carried out by Securities and Exchange Board of India (hereinafter referred to as '**SEBI**').

2. Max Life Insurance Company (hereinafter referred to as '**MLIC'/Noticee No. 2**) was incorporated in the year 2000 as Max New York Life Insurance Company Limited **('MNYL')**, a joint venture between Max India Ltd **('MIL')** and New York Life Enterprise LLC **('NYLE / NYLI').** Subsequently, on June 27, 2012, the equity stake of NYLE (in MNYL) was transferred to Mitsui Sumitomo Insurance Company Limited **('MSI'),** pursuant to which MNYL became MLIC. Max Financial Services Limited (hereinafter referred to as **'MFSL'/Noticee No. 1**) came into existence in January 2016 pursuant to the demerger of Max India ('Max India') into Max India Limited (Health care and Allied businesses), MFSL (Life insurance business) and Max Ventures and Industries Limited (Manufacturing industries and new entrepreneurial ventures).

   [At this juncture, it is highlighted that the above mentioned companies have undergone notable restructurings/demergers and name changes. Thus, for the sake of clarity and brevity, in the ensuing paragraphs of this Order, any reference to MFSL or MLIC shall be, wherever applicable, read as their earlier persona and vice versa.]

3. Thereafter, on March 26, 2021 and April 06, 2021, MFSL sold its 9.002%, 2% and 1 % equity stakes in MLIC to Axis Bank Limited (hereinafter referred to as **'ABL'/Noticee No. 3),** Axis Capital Limited (hereinafter referred to as **'ACL'/Noticee No. 4**) and Axis Securities Limited (hereinafter referred to as **'ASL'/Noticee No. 5**) respectively. Subsequently, MLIC became Axis Max Life Insurance (hereinafter referred to as **''AMLI'**).

4. Based on certain media articles relating to the Max-Axis deal i.e. the transactions between MFSL and ABL concerning the shares of MLIC, SEBI commenced its preliminary examination. During the examination, SEBI was also in receipt of a letter dated November 01, 2022 from the Insurance Regulatory and Development Authority of India ('**IRDAI**'), *inter alia* informing that MFSL, a listed entity, was involved in series of buy and sell transactions in unlisted equity shares of MLIC with ABL, another listed entity. IRDAI while enclosing the copy of its Order(s) passed by it, informed SEBI that it had levied a penalty of ₹ 2 Crores on ABL and ₹ 3 Crores on MLIC for violations of its directions. The said letter was forwarded to SEBI for information and further examination.

5. IRDAI, vide its Order(s), *inter-alia* observed that by undertaking and facilitating the transfer of shares of MLIC, in violation of IRDAI directions, MLIC and ABL had circumvented the maximum limits of commission, remuneration or reward as stipulated in the IRDAI (Payment of Commission or remuneration or reward to Insurance Agents and Insurance Intermediaries) Regulations, 2016 read with Regulation 18(1) of IRDAI (Registration of Corporate Agents) Regulations, 2015.

6. Thereafter, the matter was taken up by SEBI for detailed investigation into the transactions undertaken between MFSL/ MLIC and ABL between FY 2009-10 to FY 2021-22 (hereinafter referred to as **'Investigation Period/IP'**). The focus of examination was to examine possible violation of the provisions of the Securities and Exchange Board of India Act, 1992 ('**SEBI Act'**), Securities Contracts (Regulation) Act, 1956 ('**SCRA'**), SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to the Securities Market) Regulations, 2003 ('**PFUTP Regulations**'), SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ('**LODR Regulations**') and provisions of erstwhile listing agreement (for the period before notification of LODR Regulations).

Summary of SCN

7. Pursuant to SEBI's investigation, the above mentioned SCN was issued to the Noticees which, *inter alia*, contained the following observations and allegations:

7.1. On April 09, 2010, MNYL (which later became MLIC) entered into a corporate Agency agreement with ABL for a period of 10 years, *inter alia,* for soliciting ABL's clients for life insurance products of MNYL.

7.2. Subsequently, certain agreements involving the equity shares of MNYL (which later became MLIC) were entered into by ABL, with Max India (which later became MFSL), MNYL/MLIC, ACL and ASL. These 3 Noticees i.e., ABL, ACL and ASL are collectively referred to as '**Axis Entities**'. These agreements have been classified in the SCN into three arrangements: 2010 Arrangement, 2015 Arrangement and 2020 Arrangement, details whereof are as under:

A) 2010 Arrangement

7.3. On 13 December 2011, an option agreement was entered into between NYLE, Max India Ltd (now MFSL), MNYL (now MLIC) and ABL whereby ABL had a put option requiring Max India to acquire the shares held by ABL in MNYL in one or more tranches at the option price. Similarly, Max India had a call option requiring ABL to sell the shares by it in MNYL. On 23 December 2011, MNYL issued 7,66,00,000 shares (3.94% of post-issue capital) to ABL on a preferential basis at face value i.e. ₹ 10 per share.

7.4. Subsequent to the aforesaid option agreement, Max India (now MFSL) along with MNYL (now MLIC) acquired back the 3.94% shares from ABL in 4 equal tranches starting from June 29, 2012 to November 11, 2016. Details are tabulated as under:

Table No. 1. 2010 Arrangement

Event	Date of transfer	Seller	Buyer	Shareholding in MLIC (%)	No. of shares	Price per share(₹)
Primary issuance of shares	23/12/2011	MLIC(Issuer)	ABL	3.94	7,66,00,000	10
Tranche I	29/06/2012	ABL	MFSL	0.998	1.91,50,000	54
Tranche II	11/12/2014	ABL	MLIC	0.998	1,91,50,000	54.1
Tranche III	30/12/2015	ABL	IDFC*	0.998	1,91,50,000	71.9
Tranche III	20/06/2016	IDFC*	MFSL	0.998	1,91,50,000	76.5
Tranche IV	11/11/2016	ABL	MFSL	0.998	1,91,50,000	111

* Due to restructuring and demerger, MFSL could not enter into the transaction and IDFC had purchased the shares from ABL and sold to MFSL.

B) 2015 Arrangement

7.5. On October 23, 2015, MFSL along with MSI entered into a similar arrangement, with ABL, whereby both MFSL and MSI agreed to sell 7,65,60,635 (3.99%) and 1,91,88,127(1.00%) equity shares of MLIC, held by them to ABL respectively, at ₹ 10 per share.

7.6. Subsequently, MFSL along with MSI acquired back 7,65,99,008 (3.99%) equity shares of MLIC from ABL in 4 equal tranches starting from March 22, 2018 to March 16, 2021. MFSL and MSI did not acquire back the remaining (1,91,49,752 equity shares), as by then, ABL had decided to become the co-promoter of MLIC and hence retained the 0.998% shares. The details of the options exercised by ABL are as per the details below.

Table No. 2. 2015 Arrangement

Event	Date of transfer	Seller	Buyer	Shareholding in MLIC (%)	No. of shares	Price per share (₹)
Transfer of Equity Shares	29/02/2016	MFSL (3.99%) MSI (1.00%)	ABL	4.99	9,57,48,762	10
Tranche I	22/03/2018	ABL	MFSL (0.74%) MSI (0.26%)	0.998	1,91,49,752	108.2
Tranche II	18/12/2018 and 19/12/2018	ABL	MFSL (0.74%) MSI (0.26%)	0.998	1,91,49,752	115
Tranche III	5/12/2019 and 6/12/2019	ABL	MFSL (0.74%) MSI (0.26%)	0.998	1,91,49,752	134
Tranche IV	15/03/2021 and 16/03/2021	ABL	MFSL (0.74%) MSI (0.26%)	0.998	1,91,49,752	166

C) 2020 Arrangement

7.7. MFSL and ABL entered into a confidentiality and exclusivity arrangement to explore a long-term strategic partnership. The Board of Directors of MFSL approved entering into definitive agreements with ABL for the sale of 29.002% equity stake in MLIC, to ABL subject to receipt of shareholders' approval and other requisite regulatory approval. The shareholders of MFSL approved the transaction on June 16, 2020. ABL sought Reserve Bank of India's (RBI) approval who advised ABL to comply with RBI's Master Direction dated May 26, 2016. Pursuant thereto, ABL, ACL and ASL, entered into revised agreements with MFSL for acquisition upto 19.002% equity share capital of MLIC. Subsequently, MFSL transferred 2% of the equity share capital of MLIC to ACL, 1% to ASL and 9.002% of the equity share capital of MLIC to ABL. Details are tabulated as under:

Table No. 3. 2020 Arrangement

Event	Date of transfer	Seller	Buyer	Shareholding in MLIC (%)	No. of shares	Price per share (₹)
Tranche I	26/03/2021	MFSL	ACL	2	3,83,76,257	31.5
Tranche I	26/03/2021	MFSL	ASL	1	1,91,88,128	31.5
Tranche II	06/04/2021	MFSL	ABL	9	17,27,31,531	32.1

8. Pursuant to SEBI's investigation, the following has been alleged against the entities in the SCN.

Noticee No. 1 (MFSL)

8.1. Incomplete disclosures were made by MFSL regarding the bancassurance deal with ABL and issuance of shares to it pursuant to the board meeting dated March 30, 2010.

8.2. MFSL made inadequate or no disclosure of material information with respect to the agreements and arrangement entered into in the years 2010 and 2015 in its annual reports (till FY 2015-16). MFSL also failed to disclose various other agreements to the stock exchanges.

8.3. MFSL did not provide a true and accurate picture of the approvals received from IRDAI. IRDAI, vide its order dated October 13, 2022, observed that MLIC did not comply with IRDAI's directions relating to valuation of its shares. This information would have impacted the decision of MFSL's shareholders while dealing in MFSL's securities.

8.4. Valuation methods adopted were as per convenience of the parties and not carried out by investment bankers as stipulated in the options agreement. The transactions entered into by MFSL, MLIC and ABL were part of a consolidated arrangement to compensate ABL over and above the permissible commission limits prescribed by IRDAI for its role as a corporate agent. These structured transactions resulted in undue benefits to ABL at the expense of MFSL and its shareholders, causing an alleged loss of ₹3,911.95 Crores to MFSL and corresponding benefit to Axis Group entities.

8.5. Although these matters were discussed at Board meetings, MFSL deliberately failed to inform the stock exchanges. While the bancassurance tie-up was discussed in annual reports till FY 2015–16, details regarding subscription, sale and buy-back of shares were not disclosed, rendering the disclosures incomplete and misleading.

8.6. In view of the above, the SCN alleged that MFSL violated Sections 12A(b), 12A(c) of the SEBI Act and Regulations 3(c), 3(d) 4(2) (k) and (r) of the PFUTP Regulations. Further, MFSL allegedly violated **(i)** clauses 22(d), 36(1) and (7), 41(IV)(k)(m) of the erstwhile Listing agreement read with Section 21 of SCRA, **(ii)** Regulation 4 (1) (c), (d), (e), (g), (h), (i), (j), 4 (2)(d)(iii), 4(2)(e)(i), 4 (f)(ii)(8), 4(f)(iii)(3),(6), Regulation (5), 30(2) read with (A) (1) of Part A of Schedule III, 30(7), 33(1)(e) read with Part A (K) of Schedule IV of LODR Regulations and **(iii)** Clause A (10) of Part C as specified in Regulation 18(3) of LODR Regulations on account of misrepresentation, non-disclosure and delayed disclosures.

Notice No. 2 (MLIC)

8.7. The transactions carried out by MFSL with ABL and its group entities were part of agreements devised to provide additional benefits to ABL over and above permissible commissions. Due to regulatory restrictions, MLIC could not have directly entered into such arrangements and therefore MFSL executed the transactions. MLIC is alleged to have acted in connivance with MFSL and ABL.

8.8. Accordingly, the SCN alleged that MLIC violated Section 12A (b), (c) of the SEBI Act, 1992 and Regulations 3 (c), (d) and 4 (1) of the PFUTP Regulations.

Noticee No. 3–5 (ABL, ASL and ACL)

9.1 It is alleged that ABL, in connivance with MFSL and MLIC, devised a scheme whereby shares were issued and sold at par and later bought back at higher prices, resulting in undue benefits to ABL.

9.2 These transactions were allegedly structured to circumvent restrictions on commission payments under the Insurance Act, 1938 and IRDAI regulations, thereby enriching ABL at the cost of MFSL, MLIC and their shareholders.

9.3 ASL and ACL were part of the 2020 arrangement, through which ABL, acquired indirect stake in MLIC, as ABL by itself could not acquire the stake of more than 10% in MLIC as per RBI Directions.

9.4 ABL, ASL and ACL continue to hold the shares acquired under 2020 arrangement at discounted valuation, allegedly resulting in loss to MFSL's shareholders and undue benefit of ₹ 3911.95 Crores to Axis Group Entities.

9.5 Accordingly, being the direct beneficiaries of the alleged scheme, the SCN alleged that ABL, ASL and ACL have violated Sections 12A (b), (c) of the SEBI Act and Regulation 3 (c), (d) and 4 (1) of the PFUTP Regulations.

Noticee No. 6–8 (Mr. Analjit Singh, Mr. Mohit Talwar and Mr. Rahul Khosla)

10.1 Their designations in MFSL during the FYs 2009-10 to 2020-21 were as under:

Table No. 4.

Name of the entity	Designation and Period
Mr. Analjit Singh	Chairman and Managing Director – FY 2009 to 2011 Founder Chairman – FY 2011-12 till 2017-18
Mr. Mohit Talwar	Deputy Managing Director Since February 2012 Managing Director – FY 2015 – 2022
Mr. Rahul Khosla	Managing Director - February 2012 till 2014-15 Permanent Invitee to Board – Since 2015-16

**Mr. Rahul Khosla was also disclosed as President, Max Group and Executive President, MFSL in the annual report of FY 2017-18.*

10.2 Mr. Analjit Singh (FY 2009-10 till 2014-15 and from FY 2018-19 till 2022-23) and Mr. Rahul Khosla (FY 2015-16 till FY 2017-18) were also the Chairperson(s) of MLIC. Further, these three entities were also the signatories to the financial statements of MFSL and had signed the Chief Executive Officer(CEO)/Chief Financial Officer(CFO) certification during the relevant years.

Table No. 5.

Name of the Entities	Period
Mr. Analjit Singh	FY 2009-10 and FY 2010-11
Mr. Rahul Khosla	FY 2011-12 to 2014 -15
Mr. Mohit Talwar	FY 2015-16 to 2021-22

10.3 These three entities were present in the Board meetings held on January 29, 2010 and March 30, 2010, where the initial arrangements were discussed and approved. Mr. Analjit Singh chaired the meetings and Mr. Mohit Talwar gave a detailed presentation regarding the deal and issuance of shares. These entities were at the helm of affairs of the company, during the relevant period and were aware of and approved the subject transactions, and are therefore, alleged to have violated Sections 12A (b), (c) of the SEBI Act and Regulations 3 (c), (d) and 4 (1) of the PFUTP Regulations.

10.4 The SCN further alleged that Mr. Analjit Singh, Mr. Mohit Talwar, and Mr. Rahul Khosla have violated the following provisions of law:

i. Regulation 4(2)(d)(iii), 4(2)(e)(i), 4(2)(f)(ii) (7), (8), 4(2)(f)(iii) (1), (3), (6), (12), 30(7), 33(1)(e) read with Part K of Part A of Schedule IV of LODR Regulations and Regulation 17(8) read with Part B of Schedule II of LODR Regulations and Regulation 33(2)(a) of the LODR Regulations thereof read with Section 27 of SEBI Act and Section 21 and Section 24 of SCRA. (from December 02, 2015).

ii. For the period until 02 December 2015, Clauses 22(d), 36(1) and (7), 41(II)(a), 41(IV)(k), (m), 49 (v) (a) of the erstwhile listing agreement read with Section 21 and 24 of SCRA and Section 27 of SEBI Act.

iii. Mr. Analjit Singh and Mr. Rahul Khosla did not comply with clause 49(V)(b) of erstwhile listing agreement and Mr. Mohit Talwar did not comply with Regulation 17(5)(a), 17(8) and 26(3) of LODR Regulations by giving incorrect declaration.

iv. Mr. Rahul Khosla, as a member of Audit Committee of MFSL, during FY 2012-13, violated Clause 49 (II) (D) (1), (4) (e), (5) of the listing agreement read with Section 21 and 24 of SCRA.

v. Mr. Mohit Talwar as member of Audit Committee of MFSL during FY 2015-16 to FY 2017-18 and FY 2019-20 to FY 2020-21 violated Regulation 18(3) read with Part C of Schedule II, Regulation 33(1)(e) read with Part K of Part A of Schedule IV of LODR Regulations read with Section 27 of SEBI Act.

Noticee No. 9 – 11 (Ms. Sujatha Ratnam, Mr. Rahul Ahuja and Mr. Jatin Khanna)

11.1 The tenure of these Noticees in MFSL during the relevant period is as set out in below Table:

Table No. 6.

Name of the entity	Designation and Period
Ms. Sujatha Ratnam	CFO - FY 2009-10,FY 2010-11, FY 2015-16 to 2018-19
Mr. Rahul Ahuja	Group Financial Controller (Group FC)/CFO - FY 2011-12 to FY 2014-15
Mr. Jatin Khanna	CFO- FY 2019-20 and FY 2020-21

11.2 These Noticees, by virtue of their designation as Chief Financial Officer / Group Financial Controller, were Key Managerial Personnel of MFSL under the Companies Act, 2013.

11.3 Ms. Sujatha Ratnam allegedly violated Clause 41 II (a) and 49 V (a) of the erstwhile Listing agreement read with Section 21 of SCRA.

11.4 Mr. Rahul Ahuja being the CFO, during FY 2011-12 to 2014-15, allegedly violated Clause 41 II (a) and 49 V (a) of the erstwhile Listing agreement and Regulation 33(2)(a) of LODR Regulations.

11.5 The SCN alleged that these Noticees certified financial statements which did not present a true and fair view and omitted material information, thereby failing to discharge their fiduciary duties.

11.6 Accordingly, the SCN alleged that these entities violated Sections 12A(a), (b), (c) of SEBI Act, 1992 and Regulations 3(c), 3(d), 4(1), 4(2) (k), (r) of SEBI PFUTP Regulations and clause 41 II (a) and 49 V (a) of the erstwhile listing agreement read with Section 21 of SCRA. Also, Ms. Sujatha Ratnam and Mr. Jatin Khanna allegedly violated Regulation 17(8) read with Part B of Schedule II, Regulations 33(1)(e) and 33(2)(a) of LODR Regulations read with section 27 of SEBI Act, 1992.

<u>Noticee No. 12 (Mr. V. Krishnan)</u>

12.1 Mr. V Krishnan was the Company Secretary and the Compliance Officer of MFSL from FY 2009-10 to 2014-15 and FY 2019-20 to FY 2022-23. It is alleged that Mr. V Krishnan failed in his duties as a Compliance Officer of MFSL and his actions of non-disclosure / partial disclosure have been detrimental to the interest of the shareholders of MFSL. Mr. V Krishnan also played a significant role in devising the scheme and thus it is alleged that he has violated Section 12A(a), (b), (c) of SEBI Act, 1992 and Regulations 3(c), 3(d), 4(1), 4(2)(k), 4(2)(r) of SEBI PFUTP Regulations.

12.2 It is also alleged that by failing to perform his duties and obligations, he violated Clause 47(a) and 52(1)(b) of the erstwhile Listing agreement read with Section 21 of SCRA and Regulations 6(2) (a), (c) and 27(2) of LODR Regulations read with Section 27 of SEBI Act, 1992.

13 In view of the above allegations, Noticee no. 1 was called upon to show cause as to why suitable directions be not issued and/or penalty be not imposed upon it as deemed fit under Sections 11(1), 11(4), 11(4A), 11B(1), 11B(2) of SEBI Act read with Sections 15A(b), 15HA, 15HB of SEBI Act and under Section 12A read with Section 23 A(a) and 23H of SCRA.

14 Noticee 2 to 5 were called upon to show cause as to why suitable directions be not issued and/or penalty be not imposed upon them as deemed fit under Sections 11(1), 11(4), 11(4A), 11B (1), 11B (2) of SEBI Act read with section 15HA of SEBI Act.

15 Noticee 6 to 12 were called upon to show cause as to why suitable directions be not issued and/or penalty be not imposed upon them as deemed fit under Sections 11(1), 11(4), 11(4A), 11B(1), 11B(2) of SEBI Act 1992 read with 15A(b), 15HA, 15 HB read with Section 27 of SEBI Act and under Sections 12A read with Sections 23 A(a), 24 and 23H of SCRA.

16 Noticee 13 to 25 were called upon to show cause as to why suitable directions be not issued and/or penalty as deemed fit be not imposed upon them under sections 11(1), 11(4A), 11B(2) of SEBI Act read with 15 HB and Section 27 of SEBI Act and Section 23H read with Section 24 of SCRA.

Submission of Replies, Settlement proceedings and hearing.

17 The SCN was served upon all the Noticees. Pursuant thereto, the authorized representative (AR) of the Noticees No. 1, 2, 6-25, inspected the documents on their behalf on December 05, 2024 and February 11, 2025. The AR of Noticee No.

3, 4 and 5, inspected the documents on their behalf on December 19, 2024, February 07, 2025, and March 19, 2025.

18 Subsequent to the inspection of the documents, all the Noticees filed their replies to the SCN through their ARs. Pursuant to consideration of the replies filed by the Noticees, an opportunity of personal hearing was provided to the Noticees. The details of the hearing scheduled and concluded are as under:

Table No. 7.

Sr. No.	Noticee(s) No.	Hearing scheduled date	Hearing held on
1.	1, 2 and 6	June 03, 2025 adjourned to July 08, 2025 at the request of the Noticees	July 08-10, 2025
2.	7–8	June 04, 2025 adjourned to July 09, 2025 at the request of the Noticees	July 08-10, 2025
3.	9	June 04, 2025	June 04, 2025
4.	10,11 and 12	June 05, 2025 adjourned to July 10, 2025 at the request of the Noticees	July 08-10, 2025
5.	3,4 and 5	June 23, 2025 deferred to July 15, 2025 then July 29, 2025 and finally to September 08, 2025	September 08, 2025

19 Noticee No. 9 (Ms. Sujatha Ratnam) appeared in-person on June 04, 2025 and reiterated the submissions made by her vide letters dated April 08, 2025 and May 30, 2025. 10 days' time was granted to her to file additional submissions, if any, in the matter, which were filed vide letter dated June 14, 2025.

20 The ARs of the Noticees No. 1, 6, 7, 8, 10, 11 and 12 appeared {on the date(s) mentioned in the Table above} and made submissions in line with their written replies dated April 07 and April 08, 2025 filed earlier in the matter. The AR of the Noticee No. 2 appeared {on the date(s) mentioned in the Table above} and made submissions in line with the written reply dated April 08, 2025 filed by the said Noticee. As requested by the ARs of the said Noticees, four weeks' time was

granted to file additional written submissions. Pursuant to the request made by the ARs, further extension was given to file written submissions which were filed vide letter dated September 15, 2025.

21 The AR of Noticee No. 3 appeared {on the date(s) mentioned in the Table above} and made submissions in line with the written replies dated May 08, 2025 filed in the matter by the said Noticee. The AR on behalf of Noticee No. 4 and 5 appeared {on the date(s) mentioned in the Table above} and adopted the submissions made by Noticee No. 3. The submissions were in line with the written replies dated May 08, 2025 filed in the matter by the said Noticees. As requested, four weeks' time was granted to file written submissions which were filed vide letter dated October 06, 2025.

Settlement Proceedings

22 The SCN was issued to 25 entities, out of which 13 entities (who were Non-Executive / Independent Directors of MFSL), have filed settlement application(s) which are, at present, under process. In terms of Regulation 8(1) of the SEBI (Settlement Proceedings) Regulations, 2018, the filing of settlement application for any specified proceedings shall not affect the continuance of the proceedings except that the passing of the final order is required to be kept in abeyance till the application is disposed of. Since the settlement applications of 13 entities have not been disposed of, passing of final order against such entities is being kept in abeyance.

ISSUES FOR CONSIDERATION AND SUBMISSIONS OF THE NOTICEES

23 The SCN has *inter alia* alleged that MFSL (Noticee No. 1), being a listed entity, made inadequate and delayed disclosures and/or did not disclose the material information with respect to the agreement(s) and arrangement(s) made in the years 2010, 2015 and 2020 regarding the bancassurance (an arrangement

between a bank and an insurance company aimed at offering insurance products or benefits to the bank's customers) deal with ABL. Further, the SCN has alleged that MFSL, MLIC along with Axis entities (ABL, ASL and ACL) devised a fraudulent scheme which enabled ABL to enrich at the cost of MFSL, MLIC and its shareholders. Noticee No. 6–25 are the Promoters, Directors (Executive and Non-Executive) and other Key Managerial Personnel ("KMPs") of MFSL. They have been *inter alia* alleged to have connived with MFSL in the fraudulent scheme and alleged to have not acted in good faith with due diligence and care and in the best interest of MFSL and its shareholders. In light of the facts stated and the allegations levelled in the SCN, I find that the following issues arise for my consideration.

I. **Whether MFSL failed to make adequate and timely disclosures in connection with the agreement(s) and arrangement(s) made by it with Axis entities?**

II. **Whether MFSL, MLIC and ABL along with ASL and ACL and other Noticees are liable for devising a fraudulent scheme to defraud the shareholders of MFSL?**

III. **If the answer to issue II is in affirmative, what are the roles and liabilities of Noticee No. 6 to 12.**

24 In response to the allegations relating to failure to make adequate and timely disclosures in connection with the agreement(s) and arrangement(s) made with ABL, MFSL, vide its reply dated April 08, 2025, written submissions dated September 15, 2025, and during the oral arguments, has submitted the following:

24.1 The SCN, while making allegations that "*no or inadequate information*" was disclosed in the annual reports, did not specify which provisions of the applicable laws required MFSL to make any additional disclosures as part of the annual reports.

24.2 MFSL adequately and appropriately made all disclosures in accordance with the requirements of the then-applicable laws. *A list of the transactions undertaken in each of the relevant Financial Years and the corresponding disclosures made to the stock exchanges and in the financial statements of the relevant periods has been furnished.*

24.3 The SCN alleges that MFSL failed to make timely disclosures of 'material' or significant developments, under the Listing Agreement and LODR Regulations. Under both the erstwhile Listing Agreement and LODR Regulations, the requirement to make disclosures is triggered only if the transaction is 'material'. Reliance has been placed on SEBI's Orders in the matter of *Piramal Pharma Limited*[1] and *New Delhi Television Ltd*[2] to explain what constitute a 'material' transaction. Further, reliance has been placed on the Orders of Hon'ble SAT in *DLF Limited v. SEBI*[3] and *Suzlon Energy Ltd. v. SEBI*[4].

24.4 MFSL has complied with the requirements of applicable law while making its disclosures. *A table showcasing disclosure of all relevant and material information in compliance with the applicable requirements has been furnished.*

24.5 MFSL is in compliance with applicable laws, made the requisite disclosures in a timely manner, and not prematurely, once all necessary regulatory approvals for the transactions in question were secured and the transactions were materialized.

[1] WTM/AS/CFD/CFD-SEC-4/30959/2024-25, dated November 8, 2024
[2] 2020 SCC OnLine SEBI 761
[3] DLF Limited v. SEBI
[4] 2021 SCC OnLine SAT 953

24.6 It is a well-established principle of law that, for an event to be considered "material", it must be shown that an event or information already available in the public domain would have ceased to exist if disclosures had been made, or that failure to make such disclosures would have led to a significant market reaction if made public at a later date. In the present case, SEBI has not provided any evidence to show whether any event or information already in the public domain would have ceased had MFSL made the disclosures it allegedly failed to make. Likewise, SEBI has also not demonstrated that there would have been a significant market reaction if MFSL had made such disclosures at a later date. Instead, after more than 15 years, SEBI now claims that a particular past event or information was material and should have been separately disclosed. Disclosure could not have been considered material based on future speculation.

24.7 A contract for the purchase or sale of the shares would come into existence only at a future point in time upon exercise of the option by the party to whom such option is granted. Once the option is exercised, the contract stands completed. Therefore, the duty to disclose arises only when the option is exercised. In this regard, reliance has been placed on Judgments of Hon'ble Bombay High Court in the matters of *MCX Stock Exchange Ltd. vs SEBI*[5] and *Percept Finserve Pvt Ltd vs Edelweiss Financial Services*[6].

For the transactions undertaken by MFSL during the FYs 2010-11 till 2014-15

24.8 MFSL's transactions under the *2010 Arrangement* are as under:

[5] 2012 SCC OnLine Bom 397
[6] 2023 SCC OnLine Bom 319

Table No. 8.

2010 Arrangement							
Sl. No	**Event**	**Date of the transaction**	**Seller**	**Buyer**	**Shareholding in MLIC**	**No. of Shares**	**Price per share (₹)**
1.	Tranche I	June 29, 2012	ABL	MFSL	0.998%	1,91,50,000	54
2.	Tranche III	June 20, 2016	IDFC	MFSL	0.998%	1,91,50,000	76.5
3.	Tranche IV	November 11, 2016	ABL	MFSL	0.998%	1,91,50,000	111

24.9 The summary of sequence of events is as follows:

Table No. 9.

Sl. No.	Event	Date/ Month
(i)	Application filed with IRDAI by MLIC for primary issuance of shares to ABL	July 2010
(ii)	Receipt of IRDAI approval for issuance of MLIC shares to ABL	May 2011
(iii)	Receipt of valuation certificate from M/s KK Mankeshwar & Co (MLIC's equity shares were fair valued at ₹ 22.2 basis DCF methodology)	August 2011
(iv)	Finalization and execution of transaction documents with all parties	December 13, 2011
(v)	Approval of Investment Committee of ABL for subscription to fully paid up shares of MLIC	December 16, 2011
(vi)	Approval of the Board of MLIC for issuance of shares to Axis and NYLI	December 23, 2011
(vii)	Approval of the shareholders of MLIC (which included MIL as the Indian Promoter and shareholder) for issuance of shares to Axis and NYLI	December 26, 2011
(viii)	Allotment of shares by MLIC	December 26, 2011

24.10 On March 30, 2010, during the Board Meeting of MIL, consent was accorded to MNYL (now known as MLIC) to issue 7.66 crores (4% of equity share capital) at par (₹ 10) to ABL, along with opportunity to ABL for exit through a put option on MFSL/ NYLI, and a corresponding call option for MFSL/NYLI to acquire the said shares at the higher of ₹ 35.60/- per share or fair market value determined by a mutually acceptable independent merchant bank. At this stage, MFSL did not disclose the call/ put option arrangement or price, as there was no definitive agreement with ABL, the issuance of shares had not been completed, and the entire transaction was subject to the IRDAI approval, which had not even been applied for, in FY 2009-10.

24.11 Any premature disclosure of a fact which was not material at the relevant time would have been contrary to the letter and spirit of the erstwhile Listing Agreement and the LODR Regulations. While MFSL's Board provided approval on March 30, 2010, execution of the option agreement with Axis Bank took time as the parties were required to await IRDAI approval. The put option arrangement with Axis Bank was finalised only on June 27, 2012. Even from Axis Bank's perspective, its Investment Committee proposed subscription to fully paid-up shares only on December 16, 2011. Accordingly, the transaction was undertaken only on June 27, 2012, i.e., more than two years after MFSL Board approval.

24.12 Any premature disclosure, without execution of a definitive agreement with ABL, would have fuelled undesirable speculation in the securities market and created a false market. Accordingly, MFSL did not prematurely make such disclosures.

24.13 The SCN has failed to demonstrate how the disclosures were inadequate or how they induced any investor to deal in securities. While alleging multiple violations, the SCN does not clearly identify (i) which material facts MFSL failed to disclose, and (ii) which specific legal provisions were thereby contravened.

24.14 MFSL held investments in its various operating businesses. In one such investment in MLIC, there was a minor dilution arising from primary issuance of a 4% equity stake by MLIC to ABL, which did not require shareholder approval as (i) the investment did not constitute an “undertaking” under Section 293(1)(a) of the Companies Act, 1956, and (ii) there was no sale or disposal of the whole or substantially the whole of MFSL’s investment in MLIC.

24.15 Disclosures relating to arrangements for purchase or sale of 1% of MLIC’s equity share capital were not material under the then applicable provisions of Clauses 29 and 36 of the Listing Agreement. Regulation 30 of the LODR Regulations, effective from December 1, 2015, requires disclosure only where change in shareholding exceeds 2% voting rights.

24.16 MFSL consistently disclosed the tripartite agreement and the grant of put options to ABL in its Annual Reports as per applicable laws, details of which have been furnished.

For the transactions undertaken by MFSL during the FYs 2015-16 till 2019-20:

24.17 Transactions undertaken by MFSL during the FYs 2015-16 till 2019-20 have been captured below:

Table No. 10.

2015 Arrangement							
Sl. No	**Event**	**Date of the transaction**	**Seller**	**Buyer**	**Shareholding in MLIC**	**No. of Shares**	**Price per share(₹)**
1.	Transfer of equity shares	February 29, 2016	MFSL	ABL	3.99%	7,65,60,635	10
2.	Tranche I	March 22, 2018	ABL	MFSL(0.74%)	0.998%	1,91,49,752	108.2

				MSI (0.26%)			
3.	Tranche II	December 18-19, 2018	ABL	MFSL (0.74%) MSI (0.26%)	0.998%	1,91,49,752	115
4.	Tranche III	December 5-6, 2019	ABL	MFSL (0.74%) MSI (0.26%)	0.998%	1,91,49,752	134
5	Tranche IV	March 15-16, 2021	ABL	MFSL (0.74%) MSI (0.26%)	0.998%	1,91,49,752	166

24.18 For the event dated February 29, 2016, the Board of MFSL approved execution of the Share Purchase Agreement and a separate Option Agreement with ABL in its meeting held on October 23, 2015. On the same day: (i) the Share Purchase Agreement was executed between MIL, MSI, ABL, and MLIC; and (ii) the Option Agreement was executed between MFSL, MSI, ABL, and MLIC. A corresponding disclosure was made by MFSL on October 23, 2015 *(not reproduced for brevity),* which *inter alia* stated that the increased equity participation of Axis Bank in MLIC was subject to receipt of appropriate regulatory approvals from IRDAI and that further details of the transaction would be shared thereafter.

24.19 No approval from the shareholders was required either under Section 180(1) of the Companies Act, 2013, or under Regulation 24 of the LODR Regulations as applicable in October 2015, for the aforesaid transaction. Further, no disclosure regarding the call/put option arrangement was made as (i) the entire transaction was subject to IRDAI approval, which was applied for only subsequent to the Board meeting at which the proposal was considered; and (ii) the transfer of shares itself had not been completed.

24.20 The IRDAI approval was finally obtained on February 5, 2016 and the shares were transferred to ABL on February 29, 2016. Once the transaction was completed, MFSL made the requisite disclosure on the very same day, in compliance with the LODR Regulations. In any case, the disclosure provided that further details of the transaction would be disclosed subsequently. Therefore, in no way, did the disclosure mislead the public to believe that the disclosure was complete.

24.21 The details of events and the disclosures made, which clearly demonstrate compliance with the applicable disclosure requirements are as below.

Table No. 11.

Date	**From - To**	**Particulars**
October 23, 2015	MLIC to IRDAI	MLIC filed an Application under Section 6A to IRDAI seeking transfer of 4.99 % shares of MLIC to ABL.
November 9, 2015	IRDAI to MLIC	IRDAI granted its in-Principle approval for transfer of shares *inter-alia* subject to a lock in period of five years.
November 16, 2015	MLIC to IRDAI	MLIC wrote to IRDAI requesting IRDAI to grant a limited exception to the lock in period and permit transfer to the existing shareholders.
November 20, 2015	IRDAI to MLIC	IRDAI issued its revised approval with *inter-alia* the condition that the price/ value at which the shares are sold/ transferred by ABL in future shall be on the basis of a valuation made by a CA or Merchant Banker approved by the Authority.
December 2, 2015	MLIC to IRDAI	MLIC wrote to IRDAI requesting to allow a repurchase price between MLIC and IRDAI to be contractually agreed as per law instead on FMV as stipulated in the letter dated November 09, 2015.
February 5, 2016	IRDAI to MLIC	IRDAI granted its final approval which superseded all the earlier correspondences, which did not have a restriction on the price/ value at which transfer could take place

February 29, 2016	MFSL	MFSL made the disclosures to the relevant Stock Exchanges on transfer of subject shares to ABL.

24.22 Further disclosures were made at various places in the financial statements for FY 2015-16, copies of which have been furnished by MFSL. Even the put option liability under the Option Agreement dated October 23, 2015 was disclosed in the financial statements under "Notes to Accounts" relating to capital and other commitments, as under:

"The Company has entered into a tripartite agreement between Axis Bank Limited, Mitsui Sumitomo Insurance Company Limited, and the Company, whereby the Company will buyback the stake held by Axis Bank in Max Life."

24.23 With effect from April 1, 2018, MFSL adopted Ind AS for the first time, with a transition date of April 1, 2017. Under the previous GAAP, there was no accounting treatment for derivative financial instruments. Under Ind AS, put and call options are treated as derivative financial instruments and are initially recognised at fair value on the date the derivative contracts are entered into and subsequently re-measured at fair value at the end of each reporting period. For the put option liability under the Option Agreement dated October 23, 2015, MFSL disclosed the same in its financial statements from FY 2018-19 onwards under "Notes to Accounts" relating to derivative financial instruments, as under:

"*Gain/ (loss) on fair value changes on derivative financial instruments represents gain/(loss) arising out of Option arrangements relating to equity shares of Max Life Insurance Company Limited (MLIC), executed during the year ended March 31, 2016, amongst the Company, Axis Bank Limited and Mitsui Sumitomo Insurance Company Limited and accounted for Fair Value Through Profit or Loss Account (FVTPL) in standalone Ind AS financial results of the Company as per Ind AS 109.*"

24.24 It is pertinent to note that MLIC filed an application before IRDAI on October 23, 2015 seeking prior approval for the 2015 Transaction, which was granted on February 5, 2016. The transaction was concluded on February 29, 2016. In this regard, MFSL made two disclosures: the first on October 23, 2015 under the then-applicable Listing Agreement, and the second on February 29, 2016 under the LODR Regulations, which came into effect on December 1, 2015.

24.25 In the financial statement for the period ending March 31, 2018, it was specifically disclosed that "*the Company has entered into tripartite agreement between Axis Bank Limited, Mitsui Sumitomo Insurance Company Limited and the Company, whereby the Company is required to buy back the stake held by Axis Bank Limited in Max Life Insurance Company Limited, upon exercise of put option by Axis Bank Limited* ***in 5 equal tranches at a price linked to fair market value.***"

24.26 For the transactions dated December 18-19, 2018, December 5-6, 2019, March 15-16, 2021, ABL sold equity shares of MLIC to MFSL/MSI. MFSL acquired less than 1% stake in each tranche, which did not trigger disclosure requirement under the LODR Regulations. Nevertheless, in the interest of good governance, these transactions were disclosed to shareholders and the public through quarterly results and subsequent annual reports.

For the transactions undertaken by MFSL during the FY 2020-21 and 2021-22:

24.27 The Transactions undertaken by MFSL during the FY 2020-21 and 2021-22 for the *2020 Arrangement* are set out below.

Table No. 12.

2020 Arrangement							
Sl. No	**Event**	**Date of the transaction**	**Seller**	**Buyer**	**Shareholding in MLIC**	**No. of Shares**	**Price per share (INR)**
1.	Tranche I	March 26, 2021	MFSL	ACL	2%	3,83,76,257	31.5
2.	Tranche II	March 26, 2021	MFSL	ASL	1%	1,91,88,128	31.5
3.	Tranche III	April 6, 2021	MFSL	ABL	9.002%	17,27,31,531	32.1

24.28 A Share Purchase Agreement was entered into between MFSL, MLIC, and ABL on April 27, 2020 and was approved by the Board of MFSL on the same date. The proposal relating to the aforesaid transaction was placed before the shareholders of MFSL, who approved the transaction on June 16, 2020 with 99.9% of votes cast in favour.

24.29 During the investor call held on April 28, 2020, in response to a query regarding the estimated share value at which the shares of MLIC were expected to be sold by MFSL to ABL and its subsidiaries, the management of MFSL informed that the shares were expected to be sold in the price range of ₹28 to ₹29 per share. *The transcript of the said investor call has been enclosed with the reply.* The actual transactions took place in March and April 2021, after receipt of all regulatory approvals, including from IRDAI, at a price higher than the guidance price.

24.30 Since the disclosure of the transaction constituted a material event for MFSL, the requisite disclosure was made on April 28, 2020. Further, disclosures were made in the Annual reports of MFSL and in its financial statements. *The details of all such disclosures have been provided along with the reply.*

24.31 MFSL made disclosures to the stock exchanges and also disclosed the details of the aforesaid transactions in its financial statements. Even otherwise, assuming without admitting that MFSL did not comply with its disclosure obligations, the SCN does not establish how such alleged non-disclosure *"resulted in discontinuity or alteration of event/ information already available publicly or, the omission of event/information should have likely resulted in significant market reaction, if made public at a later date".*

24.32 SEBI has painted all stages of the three arrangements (i.e. 2010, 2015 and 2020) with the same brush and has erroneously applied a uniform yardstick for identifying disclosure requirements, without assessing each transaction on scale of materiality available at the relevant time. In the present case, the transactions executed prior to December 2015 were governed by the Listing Agreement, while transactions executed thereafter were governed by the LODR Regulations.

CONSIDERATION AND FINDINGS

ISSUE-I

25 Before dealing with the issue under consideration, it would be appropriate to discuss the purpose and framework of disclosures as mandated by SEBI. One of SEBI's primary duties is to protect the interests of investors, towards which a disclosure based regime is followed. Regulation 30 of the LODR Regulations, embodies the disclosure based regime by requiring listed entities to make disclosures of any event or information which, in the opinion of the board of directors of the listed company, is material. Further, events specified in Para A of Part A of Schedule III, are deemed to be material and listed entities are required to mandatorily disclose them. For the events specified in Para B of Part A of Schedule III, disclosures are based on application of the guidelines for materiality, as specified in the regulations. Prior to the coming into force of the LODR

Regulations, clause 36 of the erstwhile listing agreement governed the disclosure requirements for listed entities.

26 Timely and accurate disclosures of events/information to the public serves to reduce information asymmetry and enables investors/shareholders to make informed decisions. The disclosure regime thus promotes transparency, efficient price discovery and market integrity; thereby strengthening confidence in the securities markets.

27 With this background, I now proceed to examine the issues under consideration. As the allegations contained in the SCN pertain to three arrangements (i.e., the 2010, 2015 and 2020 arrangements) amongst the MFSL and connected entities on one side and ABL and connected entities on the other, I shall deal with each of these arrangements separately and examine the alleged violation of the provisions of law applicable to them at the relevant point of time.

ALLEGATION W.R.T. INCOMPLETE DISCLOSURE / NON-DISCLOSURE OF THE EVENTS/TRANSACTIONS UNDER THE *2010 ARRANGEMENT*

28 The SCN alleges that MFSL made incomplete, inadequate, and untimely disclosures in violation of clauses 22(d), 36(1) & (7), 41(IV)(k)(m) of the erstwhile Listing agreement read with Section 21 of SCRA and Regulation 4 (1) (c), (d), (e), (g), (h), (i), (j), 4 (2)(d)(iii), 4(2)(e)(i), 4 (f)(ii)(8), 4(f)(iii)(3),(6), Regulation (5), Regulation 30(2) read with Para (A) (1) of Part A of Schedule III, 30(7), 33(1)(e) read with Part A (K) of Schedule IV of LODR Regulations. The SCN contains the instances where MFSL allegedly failed to disclose the events or information, as discussed in the following paragraphs.

29 With regard to the MFSL Board Meeting held on March 30, 2010, the SCN alleges that the associated disclosure of the same date, did not mention that the allotment

of shares formed part of a corporate agency deal with ABL, that the issuance of shares to ABL would be at par value, and that a buy-back option would be available in respect of the shares issued to Axis Bank. It is further alleged that MFSL did not disclose that the shareholding of NYLI would remain at 26% post issuance of shares to ABL, as additional shares would be issued to NYLI to maintain its 26% shareholding, with a corresponding reduction in MFSL's shareholding. It is also alleged that although the MFSL-ABL deal was discussed in the Board Meeting dated January 29, 2010, disclosure was made only after the Board Meeting dated March 30, 2010. The details of board resolution and the corresponding disclosure as given in the SCN are as follows.

Table No. 13.

Board approval at the meeting held on March 30, 2010	**The disclosure to stock exchanges dated March 30, 2010**
RESOLVED THAT approval of the Board be and is hereby accorded to permit Max New York Life Insurance Company Limited (MNYL) to issue approx. 7.66 crore equity shares of Rs. 10/- each for cash at par representing 4% of its equity share capital with simultaneous issue of Equity Shares to NYLI at AEV so as to maintain a shareholding at MNYL of not exceeding 26% of its paid up capital and that Axis Bank be and is hereby accorded an exit through a put option on Max India/NYLI post three years and that Max India/NYLI shall have call option post three years to acquire said shares to Axis Bank at the higher of Rs.35.60 per share or Fair Market Value to be determined by a mutually acceptable independent internationally recognized Merchant Bank. *…and all actions contemplated thereunder be and are hereby approved…*	*Max India Ltd. vide its disclosure dated March 30, 2010 informed exchanges that Board of the company had approved 4% of Max New York Life Insurance Co. Ltd. (MNYL) (now MLIC) to Axis Bank, the terms of which are under finalization.* *Last week, the Board of Directors of MNYL approved the proposal for a proposed corporate agency tie-up between MNYL and Axis Bank for a term of ten years whereby Axis Bank would be distributing life insurance products of MNYL pan India effective May 01, 2010.*

30 The SCN has also alleged that the execution of option agreement and share subscription agreement dated December 13, 2011 and pursuant thereto, the transaction dated December 23, 2011 i.e., allotment of shares to ABL were not disclosed.

31 With regard to disclosures in the annual reports of MFSL, the SCN alleged that incomplete and misleading disclosures were made. While the corporate agency tie-up and certain individual share transactions were mentioned, the fact that these formed part of the broader 2010 arrangement involving options and buy-back rights at higher prices was not disclosed.

MFSL's submissions

32 MFSL in its defense to the above allegation has submitted that the exact details were not disclosed at that stage because:

(i) there was no definitive agreement with ABL and the issuance of shares had not been completed,

(ii) the entire transaction was subject to the IRDAI approval which had not been applied by then,

(iii) any premature disclosure would have been contrary to the letter and spirit of the erstwhile Listing Agreement,

(iv) ABL Investment Committee proposed the subscription of shares on December 16, 2011. Thus, it was only on June 27, 2012, i.e., two years after MFSL's Board approval, that the transaction was undertaken, pursuant to which disclosure was made.

MFSL has also provided a summary of sequence of events which is mentioned at Table No. 10.

33 For the non-disclosure of the execution of option agreements, MFSL has submitted that any contract for the purchase or sale of shares would come into existence only at a future point in time, upon the party exercising the option. Once such an option is exercised, the contract stands completed.

34 In support of its contention, MFSL has relied upon judicial precedents. In *MCX Stock Exchange Ltd. vs Securities Exchange Board of India*[7]*,* Hon'ble Bombay High Court has, *inter alia,* held as follows.

"75. In a buy-back agreement of the nature involved in the present case, the promissor who makes an offer to buy-back shares cannot compel the exercise of the option by the promisee to sell the shares at a future point in time. If the promisee declines to exercise the option, the promissor cannot compel performance. <u>A concluded contract for the sale and purchase of shares comes into existence only when the promisee upon whom an option is conferred, exercises the option to sell the shares</u>. Hence, an option to purchase or repurchase is regarded as being in the nature of a privilege.

80. In the present case, there is no contract for the sale and purchase of shares. <u>A contract for the purchase or sale of the shares would come into being only at a future point of time in the eventuality of the party which is granted an option exercising the option in future. Once such an option is exercised, the contract would be completed only by means of spot delivery or by a mode which is considered lawful.</u> Hence, the basis and foundation of the order which is that there was a forward contract which is unlawful at its inception is lacking in substance."

35 Similarly, in the matter of *Percept Finserve Pvt Ltd v. Edelweiss Financial Services*[8]*,* the Hon'ble Bombay High Court has held that:

"18. … The judgment in MCX (Supra) squarely deals with a purchase option, such as the present, where the purchaser of securities requires the vendor to repurchase on the occurrence of a contingency. As held in MCX (Supra), a contract giving an option to a purchaser to require repurchase of securities by his

[7] supra
[8] supra

vendor on some contingency occurring would only mean that there was no present obligation at all but the obligation arose by reason of some contingency occurring. On the date when the SPA was entered into, there was no contract for sale or purchase of shares under clauses 8.5 and 8.5.1. A contract for sale or purchase of shares would come into being only at a future point of time in the eventuality of Edelweiss, which was granted such option, exercising it in future on the occurrence of a stipulated contingency.…"

36 For the non-disclosure of the transaction dated December 23, 2011 i.e., the approval for the primary issuance of shares to ABL *at par* by MNYL (now MLIC), it has been submitted that the said transaction was done by its subsidiary, and thus at the relevant point of time, there was no obligation upon MFSL to disclose the same.

Findings regarding the Board Meeting dated March 30, 2010, the option agreement dated December 13, 2011 and transaction / event dated December 23, 2011

37 At the outset, I find it pertinent to note that in the aforesaid Table No. 14, the SCN had not captured the complete disclosure made by MFSL, which also stated that *"the aforesaid proposal for the corporate agency tie-up and issuance of shares of MNYL are subject to all regulatory approvals*."

38 Regarding the Board Meeting dated January 29, 2010, the SCN mentions that the minutes of the Meeting, *inter alia* record that "*the members desired to know about the proposed bancassurance tie-up proposed between MNYL and Axis Bank"*. Thus, as per the SCN, in January itself, the Board knew that such a bancassurance tie up was being proposed including issuance of shares and buy back arrangement. It was decided in the said meeting that the matter may be referred to audit committee to discuss the accounting, financial and legal requirements concerning the arrangement. Thus, referring to the aforesaid

meeting dated January 29, 2010 and knowledge of MFSL about the proposed arrangement, the SCN alleges that incomplete disclosure was made pursuant to the Board meeting dated March 30, 2010.

39 In relation to MFSL's Board Meeting dated March 30, 2010, I note that as per the disclosure by MFSL, an in-principle approval was accorded and it was proposed that MNYL (now MLIC) would issue 4% of shares to ABL, subject to the finalization of the terms of agreement between MFSL and ABL. It is not in dispute that *no* definitive agreement had been executed between ABL and MFSL by then. ABL's Investment Committee had approved the proposal for the subscription only on December 16, 2011. Also, MNYL (now MLIC) had applied to IRDAI for approval for primary issuance of shares to ABL *at par* only on July 10, 2010, and consequently, IRDAI granted its approval only on May 10, 2011. Thus, it is abundantly clear that as on March 30, 2010, neither had a definitive agreement been executed nor had the regulatory approval been granted.

40 However, the aforesaid Board Meeting minutes indicate that there were three inter-linked proposals i.e., (i) issuance of 4% shares to ABL, (ii) simultaneous *issue* of shares to NYLI and (iii) grant of put option to ABL and assuming call option upon itself. These were not independent proposals, but formed part of the same arrangement. Nevertheless, MFSL chose to only disclose the fact of issuance of 4% MNYL (now MLIC) shares to ABL and did not disclose about the other aspects of the arrangement referred to at points (ii) and (iii) above. The submission that complete details could not be disclosed in the absence of a definitive agreement and pending regulatory approval does not adequately address the concern arising from selective disclosure by MFSL. At that stage, all the three proposals were related to future events, and nothing would have prevented MFSL from disclosing the full details of the arrangement albeit with suitable qualifications. An investor reading the disclosure dated March 30, 2010, would have reasonably understood the transaction to be a strategic increase in equity participation, whereas the arrangement was to simultaneously create a structured exit mechanism for ABL

resulting in corresponding future obligations on MFSL. Disclosure of the proposed investment by ABL, while omitting the simultaneous issuance of shares to NYLI and the associated put/call option arrangement, therefore presented only an incomplete picture of the composite transaction. In such circumstances, an appropriately qualified but complete disclosure would have more fairly conveyed the proposed arrangement, rather than disclosure of only selected components thereof. Thus, in the above perspective, it appears that the disclosure dated March 30, 2010 was incomplete and could have been more comprehensive. It is also a matter of fact that MFSL did not disclose the transactions / approvals dated December 13, 2011 and December 23, 2011.

41 Having observed as above, I note that to ascribe any liability upon MFSL for the aforesaid incomplete disclosure, the acts of MFSL are required to be examined in light of the then-existing legal provisions, the violation of which has been alleged in the SCN. The SCN has alleged violation of Clause 22(d), 36(1), 36(7), Clause 41(IV)(k) and Clause 41(IV)(m) of the erstwhile listing agreement which read as follows

" 22(d). Company within 15 mins from the closure of the Board meeting, intimate the exchange of any information necessary for the shareholders to appraise their position and to avoid establishment of false market for such listed securities.

(36)…

(1) Change in the general character or nature of business:

Without prejudice to the generality of Clause 29 of the Listing Agreement, the Company will promptly notify the Exchange of any material change in the general character or nature of its business where such change is brought about by the Company entering into or proposing to enter into any arrangement for technical, manufacturing, marketing or financial tie-up or by reason of the Company, ***<u>selling or disposing of or agreeing to sell or dispose of any unit or division or by the Company</u>****, enlarging, restricting or closing the operations of any unit or division or proposing to enlarge, restrictor close the operations of any unit or division or otherwise.*

(7) Any other information having bearing on the operation/performance of the company as well as price sensitive information which includes but not restricted to; (i) issue of any class of securities; acquisition, merger, de-merger, amalgamation, restructuring, scheme of arrangement, spin off or selling divisions of the company, etc.; (iii) change in market lot of the company's shares, sub-division of equity shares of company; (iv) voluntary delisting by the company from the stock exchange(s); (v) forfeiture of shares; (vi) any action, which will result in alteration in, the terms regarding redemption/cancellation/retirement in whole or in part of any securities issued by the company; (vii) information regarding opening, closing of status of ADR, GDR, or any other class of securities to be issued abroad; (viii) cancellation of dividend/rights/bonus, etc.

Financial Result & its Format under Listing

(41) The company agrees to comply with the following provisions:

…

IV) Other requirements as to financial results

k) The company shall disclose any event or transaction which occurred during or before the quarter that is material to an understanding of the results for the quarter including but not limited to completion of expansion and diversification programmes, strikes and lock-outs, change in management and change in capital structure. The company shall also disclose similar material events or transactions that take place subsequent to the end of the quarter.

m) The company shall disclose the effect on the financial results of material changes in the composition of the company, if any, including but not limited to business combinations, acquisitions or disposal of subsidiaries and long term investments, any other form of restructuring and discontinuance of operations."

42 Before, interpreting the aforesaid provisions, I deem it important to note that the erstwhile listing agreement and the requirements and obligations it entailed were substantially different than the extant provisions of the LODR Regulations. The LODR Regulations are nuanced and provides for specific obligations and requirements as compared to the erstwhile listing agreement. Specific quantitative thresholds have also been introduced for determining materiality w.r.t. relevant disclosures thereunder.

43 At this stage, I also refer to SEBI Circular dated January 3, 2013 which acknowledged *that certain listed companies have been giving monthly disclosure of their sales/turnover/production figures to their respective trade bodies/industry associations and the same is not disclosed to the stock exchanges.* Thus, vide the aforesaid Circular, it was reiterated that all the events or material information which will have a bearing on the performance / operations of the company as well as price sensitive information shall be first disseminated to the stock exchanges as required under Clause 36 of the Listing Agreement.

44 Further, SEBI came up with a Discussion Paper dated August 19, 2014 on review of Clause 36 and related clauses of Equity Listing Agreement wherein it was acknowledged that there had been disparities in disclosures across listed entities and Stock Exchange(s), and one of the reason for such disparity could be lack of sufficient clarity on 'materiality' and ‘price sensitive information'. The then-existing Clause 36 left it to the discretion of the listed entity to determine whether a particular event would have a material bearing on the performance of such listed entity or whether a particular information is price sensitive. BSE and NSE also issued Guidance Note(s) dated September 30, 2014 in relation to Clause 36 of the Listing Agreement, which, *inter alia,* provided for comprehensive guidance to help companies to make disclosures relating to indicative list of material events given in Clause 36.

45 I am mindful of the fact that the issues of non-disclosure of specific event/information as enumerated in the SCN date back to the year 2010-2011. Therefore, I find it appropriate to record here that for the purpose of the present proceedings, the applicability of the legal provisions and obligations of the listed entities need to be determined in the specific context and understanding of the provisions which existed at the relevant point of time.

Applicability of Clause 36(1) of the erstwhile Listing Agreement

46 Clause 36(1) of the Listing Agreement, as applicable at the relevant time, required *prompt disclosure of any material change in the general character or nature of the business of the Company where such change was brought about, inter alia, by the Company entering into or proposing to enter into an arrangement for technical, manufacturing, marketing or financial tie-up, or by reason of the Company, selling or disposing of or agreeing to sell or dispose of any unit or division or by the Company,* or by other events specified therein.

47 In the present case, it would be unduly expansive to treat MFSL's tie-up with ABL, together with the related investment and exit arrangements, as having resulted in a material change in the general character or nature of MFSL's business. The SCN also does not identify or explain how the arrangement altered, or was capable of altering, the general character or nature of MFSL's business. Even assuming that the arrangement constituted a marketing or financial tie-up, that fact alone would not satisfy the requirements under Clause 36(1) in the absence of a consequential material change in the nature of the business. Further, a literal interpretation of the sale/disposal of unit or division would entail hiving off of any unit/division by the company. The impugned transaction/arrangement was for primary issuance of up to 4% shares of MNYL (now MLIC) to ABL, which in my view, cannot be treated as sale/disposal of any unit or division by the listed entity.

48 I therefore find that the material on record does not establish that the arrangement approved by the Board at its meeting held on March 30, 2010 resulted in any material change in the general character or nature of the Company's business. The subsequent approvals and transactions in December 2011 merely gave effect to an arrangement that had already been contemplated and did not, in themselves, bring about any such change. Accordingly, I find that the allegation of violation of the then-applicable Clause 36(1), whether on account of the alleged incomplete disclosure made in March 2010 or the alleged non-disclosure of the approvals/transactions in December 2011, is not established.

Applicability of Clause 36(7) of the erstwhile Listing Agreement

49 Clause 36(7), *inter alia*, required disclosure of "*any other information having bearing on the operation/performance of the company as well as price sensitive information*" and thereafter set out an illustrative list of events, expressly stating that the same was not restrictive. While the scope of Clause 36(7) was broad, the language of the provision did not make every agreement entered into by a listed company *ipso facto* disclosable. For information concerning a particular agreement to attract Clause 36(7), it would be necessary to establish that such information had the requisite bearing on the operations or performance of the company.

50 As regards the disclosure made in March 2010, the allegation essentially concerns the omission of two components of the proposed arrangement, namely, the proposed issuance of shares to NYLI to maintain its 26% shareholding and the proposed put/call option arrangement. In this context, I note the submission of MFSL that at that stage, no definitive option agreement had been executed and the proposal had not yet received ABL's approval. In these circumstances, the material on record does not establish how the proposed option arrangement, as it then stood, had a bearing on MFSL's operations or performance or constituted

price sensitive information. Similarly, although the proposed issuance of shares to NYLI would have resulted in a corresponding dilution of MFSL's shareholding in MNYL, there is no material on record demonstrating the extent to which such dilution was expected to affect MFSL's operations or performance. Thus, while the disclosure made in March 2010 may, as noted above, have presented an incomplete picture of the composite arrangement, incompleteness by itself would not establish a violation of Clause 36(7) unless the statutory requirement under that provision is independently satisfied.

51 With respect to the non-disclosure of the Option Agreement dated December 13, 2011, MFSL has made reference to the judgments of Hon'ble Bombay High Court in MCX Stock Exchange Ltd[9] and Percept Finserve Pvt Ltd to contend that an option agreement for purchase or sale of shares comes into existence only upon exercise of the option and at the time of execution of the option agreement, there was no obligation to disclose it. As submitted, the obligation arises only upon occurrence of the stipulated contingency and exercise of the option by the option-holder.

52 Having perused both the aforesaid judgements, I note that in the MCX case, while examining the execution of buy back arrangement containing put/call options, the Hon'ble High Court distinguished the grant of an option from the underlying contract of purchase or sale and held that a concluded contract for purchase or sale comes into existence only upon exercise of the option. The legal character of an option was subsequently reiterated by the Hon'ble Court in Percept Finserve matter, wherein, following the MCX judgment, it was held that the option clause did not itself constitute a contract for sale or purchase and that the obligation to undertake the underlying transaction arose upon occurrence of the stipulated contingency and exercise of the option.

[9] supra

53 I note that the above decisions concern the legal character and enforceability of an option and do not, in my view, determine whether the signing of an option agreement may itself constitute material or price sensitive information for the purposes of the disclosure obligations applicable to a listed company. I am therefore unable to accept that the aforesaid judgements are applicable in the facts and circumstances of the present case.

54 By December 2011, the arrangement with ABL had progressed beyond the stage of an in-principle proposal, subject to regulatory approvals. With the Option Agreement being executed on December 13, 2011, MFSL was obligated to acquire ABL's shareholding in MLIC, upon exercise of the put option. The potential financial significance of the arrangement is reflected in MFSL's disclosure dated June 29, 2012, which referred to an estimated cash outflow of approximately ₹4,140 million for acquisition of ABL's 4% equity stake in MNYL. This lends support to the view that disclosure of the Option Agreement in December 2011 would have been appropriate, in the interest of transparency, in hindsight.

55 At the same time, I note that the erstwhile Listing Agreement did not prescribe quantitative thresholds or specific parameters for determining when information had a material bearing on operations/performance or was price sensitive. The subsequent discussion papers and guidance issued by SEBI and the stock exchanges themselves acknowledged the lack of clarity in this regard. More importantly, I note that the SCN does not undertake any specific analysis of the obligations arising from the Option Agreement, their likely impact on MFSL's operations or performance, or the basis on which the information was considered price sensitive. In the absence of such material, it would not be appropriate, particularly with the benefit of hindsight and by reference to standards developed subsequently, to infer the requisite materiality solely from the magnitude of the amount subsequently disclosed.

56 While I am of the view that, in the interest of transparency and completeness of disclosure, the Option Agreement and the related developments in December 2011 ought to have been disclosed, the issue before me is whether the material on record is sufficient to establish a violation of Clause 36(7) as it stood at the relevant time. Having regard to the absence of a specific assessment in the SCN as to how the undisclosed information had a bearing on MFSL's operations or performance or was price sensitive, coupled with the lack of definite materiality standards under the then-existing regulatory framework, I find that the allegation of violation of Clause 36(7) has not been established.

Applicability of Clauses 22(d)

57 The SCN has also alleged violation of Clauses 22(d) of the erstwhile Listing Agreement which, *inter alia*, required intimation to the stock exchange, within fifteen minutes of the conclusion of the *Board Meeting*, of any information necessary for shareholders to appraise their position and to avoid the creation of a false market.

58 Clause 22(d), however, did not specifically prescribe the nature or scope of information that would be regarded as necessary for shareholders to appraise their position. In relation to the Board Meeting dated March 30, 2010, while the disclosure did not refer to the proposed put/call option arrangement or the proposed issuance of shares to NYLI, I do not find sufficient material on record to establish that omission of these aspects impaired the ability of shareholders to appraise their position or resulted in the establishment of a false market in MFSL's securities.

59 I note that Clause 22(d) is specifically linked to disclosures required upon conclusion of a Board Meeting. As regards the events of December 2011, namely, execution of the transaction documents, approval of Investment Committee of ABL

and the subsequent allotment of shares by MNYL to ABL, the material on record does not indicate that these events arose pursuant to a Board Meeting of MFSL.

60 Accordingly, I find that the allegation of violation of Clause 22(d), whether in relation to the disclosure made pursuant to the Board Meeting dated March 30, 2010 or the alleged non-disclosures in December 2011, is not established.

Applicability of the Clause 41(IV)(k) and 41(IV)(m)

61 In addition to the provisions discussed above, the SCN has alleged violation of Clause 41(IV)(k) and 41(IV)(m) of the erstwhile listing agreement. In this regard, I note that both these provisions formed part of Clause 41 governing disclosures to be made in quarterly, year-to-date and annual financial results.

62 While the SCN contains allegations regarding inadequate disclosures in MFSL's Annual Reports, it does not identify any particular financial result published under Clause 41 that was deficient, nor does it explain how the non-disclosure of the option arrangement, the proposed buy-back or the related transactions was material to an understanding of the financial results for any particular quarter or for the year, as contemplated under Clause 41(IV)(k). Similarly, insofar as Clause 41(IV)(m) is concerned, the SCN does not identify what material change in the composition of MFSL is alleged to have occurred as a result of the 2010 arrangement. In the absence of such particulars, the mere invocation of Clauses 41(IV)(k) and 41(IV)(m), without identifying the relevant financial result, the material event or change, and the effect allegedly omitted, is insufficient to establish a violation.

Without prejudice to the above, the allegations concerning incomplete or inadequate disclosures in the Annual Reports, per se, cannot establish non-compliance with Clause 41, which operated in the context of disclosures forming part of the financial results.

Findings regarding the corporate agency agreement

63 The SCN has also alleged that subsequent to disclosure dated March 30, 2010, a corporate agency agreement was executed between MFSL and ABL on April 09, 2010, however, the same was not disclosed.

64 In relation to the above, I note that contrary to the observation in the SCN, the corporate agency agreement was executed between MNYL (now MLIC) and ABL and not between MFSL and ABL, on April 09, 2010. It is understood that corporate agency agreement is an agreement between a corporate entity and insurer whereby the corporate entity agrees to act as an intermediary to solicit, procure, and service insurance policies of insurers. It is a commercial agreement between two parties, executed and governed under the IRDAI Regulations.

65 I further note that vide disclosure dated March 30, 2010, MFSL's Board approval for the proposal for a proposed corporate agency tie-up between MNYL and Axis Bank was disclosed. Therefore, the nature and existence of the proposed commercial relationship had already been disclosed. What was not separately disclosed was the subsequent execution of the corporate agency agreement on April 09, 2010, which, as noted above, was executed by MNYL, a subsidiary of MFSL.

66 In my view, the non-disclosure of the execution of the corporate agency agreement does not, on the material available, establish violation of the provisions of the erstwhile Listing Agreement alleged in the SCN. Clause 36(1) would not be attracted in the absence of material demonstrating that execution of the agreement brought about any material change in the general character or nature of MFSL's

business. Clause 22(d), being linked to disclosure upon conclusion of a Board Meeting, is also not attracted. As regards Clause 36(7), although the corporate agency relationship subsequently assumed commercial significance, particularly having regard to the business generated through ABL, its materiality cannot be assessed solely with the benefit of hindsight. At the relevant time, the proposed tie-up had already been disclosed and there is insufficient material to establish that the subsequent execution of the agreement, by itself, had such a bearing on MFSL's operations or performance, or was otherwise price sensitive, so as to independently trigger Clause 36(7). Clauses 41(IV)(k) and 41(IV)(m) concern disclosures in financial results, and are therefore not attracted.

67 In view of the above discussions, the allegations in the SCN regarding non-disclosure of the corporate agency agreement are not sustained. I further note that MFSL has referred to the corporate agency agreement in its Annual Reports for FY 2009-10 and FY 2010-11.

Findings regarding the Buy-back Transactions

68 It is noted that MFSL was involved in the acquisition of ABL's shareholding in MLIC, through three tranches, pursuant to the exit arrangement under the 2010 arrangement. The SCN alleges non-disclosure of Tranche I dated June 29, 2012, under which shares were acquired at a price of ₹54 per share. However, MFSL has pointed out that vide disclosure dated June 29, 2012, the outcome of the Board Meeting held on that date was disclosed, which, *inter alia,* stated '*the Board of Directors of the Company has approved, in principle subject to execution of agreements between parties, the purchase of 4% equity stake held by Axis Bank in MNYL, in tranches not exceeding 1% equity stake every year, before October 2020 for a total estimated cash outflow of Rs. 4140 million. Out of this 4% stake, a maximum of 1% stake is due to be purchased in the near future.'*

69 Therefore, MFSL had intimated its shareholders that there would be purchase of 4% equity stake from ABL, in tranches not exceeding 1% equity stake every year, before October 2020. The total estimated cash flow was also disclosed. Further, in the financial statements of FY 2012-13, the following disclosure was made: *"The Company has entered into tripartite agreement between Axis Bank Limited, Max Life and the Company, whereby the Company will buy back the stake held by Axis Bank Limited in Max Life in 4 tranches from 2014 to 2016."* The quarterly results for June 2012, MFSL also referred to purchase of 19,150,000 equity shares of MLIC from ABL for a consideration of ₹103.43 Crores. In these circumstances, I do not find the allegation of non-disclosure of Tranche I to be borne out by the material on record.

70 As regards Tranche II, the SCN alleges non-disclosure of the transaction dated December 11, 2014. I note, however, that the transaction was undertaken by MLIC and ABL, and MFSL was not a party. In the absence of material establishing an independent disclosure obligation upon MFSL in respect of a transaction undertaken by its subsidiary, the alleged non-disclosure of Tranche II cannot sustain.

71 In Tranche III dated June 20, 2016, MFSL acquired 0.998% of equity share capital of MLIC from IDFC at ₹76.5 per share. The SCN does not appear to contain any specific allegation of non-disclosure in respect of this tranche. I further note that, even if Tranche III were examined under Regulation 30 read with Schedule III of the LODR Regulations, the relevant provision contemplated disclosure of an acquisition where the change in shareholding from the last disclosure exceeded 2%. Since Tranche III involved acquisition of only approximately 0.998% of MLIC's equity share capital, it did not, cross the prescribed threshold.

72 In respect of the final tranche dated November 11, 2016, MFSL disclosed the acquisition of 1% additional stake in MLIC from ABL for a consideration of ₹212.57 crores and also reflected the same in the financial statements for FY 2016-17.

73 Viewed holistically, the proposed acquisition of the entire ~4% stake, the manner in which such acquisition was to be undertaken in tranches, and the estimated aggregate cash outflow had already been disclosed by MFSL in June 2012 and was thereafter referred to in its relevant Annual Reports. Further, as per the above discussion, even when each individual tranche is separately viewed, the allegation concerning non-disclosure does not sustain.

74 In view of the above discussions, the material on record does not establish that the disclosures made by MFSL with regard to the buy-back transactions were inadequate and in non-compliance with the then-applicable law.

Findings regarding disclosures in the Annual Reports

75 The SCN has further observed that in the Annual Report of the FY 2012-13, 2013-14 and 2014-15, information regarding renegotiation of the arrangement was given under Management Discussion and Analysis and under Schedule 39 of the Consolidated Financial Statement. According to the SCN, these disclosures conveyed that MFSL was increasing its stake in MLIC by purchasing ABL's shares in tranches and portrayed the purchases as individual transactions to be undertaken periodically. However, it was not disclosed that these transactions were part of a five-year arrangement where shares were issued/sold at par and were to be purchased back at higher prices and resultantly would benefit ABL at the cost of MFSL/MLIC. On this basis, the SCN alleges that the disclosures were incomplete and misleading.

76 In this regard, I note that the SCN does not identify any provision in the erstwhile Listing Agreement governing Annual Report disclosures that was allegedly violated. Therefore, even if the disclosures in the Annual Reports are considered inadequate or incomplete, in the absence of an identified legal provision governing such disclosures, the allegation cannot be sustained.

77 Without prejudice to the above discussions, I note that the allegation in the SCN is not one of a complete absence of disclosure concerning the 2010 arrangement throughout the relevant period; rather, the SCN principally alleges that the disclosures made were incomplete or delayed. The SCN itself records that the proposal approved in March 2010, including the proposed issuance of shares to ABL, was referred to in MFSL's Annual Reports for FY 2009-10 and FY 2010-11; the subsequent acquisition/buy-back transaction of June 2012 was reflected in the Annual Report and financial statements for FY 2011-12; and the proposed acquisition of ABL's remaining stake in tranches was thereafter disclosed in subsequent annual reports and financial statements.

78 While, in the interest of transparency and completeness, the disclosures could have presented the various components of the arrangement in a more consolidated and comprehensive manner, the issue before me is whether the disclosures, as made, resulted in violation of the specific legal provisions alleged in the SCN. In view of the foregoing discussions, I find that the allegations of incomplete or delayed disclosure of the events/transactions under the *2010 arrangement* levelled in the SCN do not stand established.

ALLEGATION W.R.T. INCOMPLETE DISCLOSURE / NON-DISCLOSURE OF THE EVENTS/TRANSACTIONS UNDER THE *2015 ARRANGEMENT*

79 The company had entered into another Option agreement on October 23, 2015 which included both call and put options. In this regard, the SCN has alleged that MFSL failed to disclose the said Option Agreement, since the disclosure to the stock exchange was only limited to the approval regarding the increase of the equity participation of ABL in MLIC. The said Board approval and the corresponding disclosure dated October 23, 2015 as mentioned in the SCN are reproduced below:

Table No. 14.

Board approval at the meeting held on October 23, 2015	On 23 October 2015, MFSL made following announcement on "Outcome of Board meeting"
1. Approval for execution of Share Purchase Agreement: "RESOLVED THAT the approval of the Board of Directors of the Company be and is hereby accorded, subject to the approval of Insurance Regulatory and Development Authority of India (IRDAI) and other regulatory authorities as may be required, for the inter-se arrangement amongst the Company, Mitsui Sumitomo Insurance Company Limited (MSI), Axis Bank Limited (Axis) and Max Life Insurance Company Limited (MLIC) for a transfer of certain equity shares of MLIC held by the Company to Axis, as may be permitted by the IRDAI, in accordance with the terms of the Share Purchase Agreement ("SPA") proposed to be executed amongst the Company, MSI, Axis and MLIC." "RESOLVED FURTHER THAT the draft of the SPA to be entered into amongst the Company, MSI, Axis Bank Limited and MLIC and all actions contemplated thereunder be and are hereby approved …" (ii) Approval for execution of Option Agreement with Axis Bank Limited: "RESOLVED THAT the Option Agreement ("Axis Option Agreement") proposed to be entered into amongst the Company, Mitsui Sumitomo Insurance Company Limited (MSI), Axis Bank Limited and Max Life Insurance Company Limited (MLIC) and all actions contemplated thereunder be and are hereby approved …"	"*Further to our notice dated October 21, 2015, we would like to inform that, the Board of Directors of the Company in its meeting held earlier in the day considered the proposal for increasing the equity participation of Axis Bank Limited (Axis Bank) in Max Life Insurance Company Limited (MLIC), a joint-venture between Max India Limited (Max India) and Mitsui Sumitomo Insurance Company Limited (MSI) to further strengthen Max India's partnership with Axis Bank. Currently, the equity stake of Max India, MSI and Axis in MLIC is 72%, 26% and 2% respectively.* *The Board of Directors of the Company authorized the executive directors, Mr. Rahul Khosla and Mr. Mohit Talwar, to finalize and execute agreements with MLIC, Axis Bank and MSI setting out the mutually agreed terms, within the boundary conditions, prescribed by the Board of Directors. The transactions contemplated by the agreements which inter alia provide for increased equity participation of Axis Bank in MLIC are <u>subject to receipt of appropriate regulatory approvals, including the Insurance Regulatory and Development Authority of India and further details of the transaction will be shared thereafter."</u>*

(iii) Approval for execution of the Option Agreement with Mitsui Sumitomo Insurance Company Limited: "RESOLVED THAT the Option Agreement ("MSI Option Agreement") proposed to be entered into amongst the Company, Mitsui Sumitomo Insurance Company Limited (MSI) and Max Life Insurance Company Limited (MLIC) for acquisition of certain equity shares in MLIC at a future date, and all actions contemplated thereunder be and are hereby approved …"	

80 The information relating to the option agreement as discussed in the Board Meeting dated October 23, 2015 was subsequently disclosed in the Annual Report of the Company for FY 2015-16 when the annual results for FY 2015-16 were declared on May 30, 2016. The said Annual Report, *inter alia,* disclosed the issuance of shares to ABL at face value and the execution of the option arrangement (by MFSL and MSI with ABL) at a price linked to fair market value. The following was disclosed in the said Annual Report:

> *"The Board of Directors of the Company in its meeting held on October 23, 2015 had approved the proposal to transfer certain equity shares of Max Life Insurance Company Limited ('MLIC') held by the Company to Axis Bank Limited ('Axis') (along with Mitsui Sumitomo Insurance Company Limited ('MSI')), subject to approval from Insurance Regulatory and Development Authority of India ('IRDAI'). On February 29, 2016 (pursuant to receipt of approval from IRDAI), <u>the Company and Mitsui Sumitomo Insurance Company Limited (MSI) have transferred 76,560,635 equity shares (3.99% of equity stake in MLIC) and 19,188,127 equity shares (1% of equity stake in MLIC) respectively of MLIC to Axis Bank **at face value of Rs. 10 per equity share**</u>. Consequent to this transaction, the equity stake of the Company in MLIC has reduced to 68.01%. Further, the <u>Company along with MSI had entered into an Option agreement with Axis on October 23, 2015, whereby the Company and MSI have agreed to offer a 'put option' to Axis and Axis has agreed to grant 'call option' to</u>*

repurchase / sell the aforesaid equity shares in the ratio as mutually agreed upon between MSI and the Company in 5 equal tranches at a price linked ***to fair market value****."*

81 The SCN has alleged that even the aforesaid information as disclosed in the Annual Report for the FY 2015-16 did not give true and complete information as it was not disclosed that these options shall be exercised on a yearly basis at a higher price. Thus, it is alleged that by not making adequate disclosure regarding the material information, MFSL has violated Clause 36 (1) and (7) of the erstwhile listing Agreement as well as Regulation 4(1) (e) of LODR Regulations.

82 Subsequent to the execution of the option agreement, the buyback of March 22, 2018 of MLIC shares from ABL was duly disclosed by MFSL. However, the subsequent buybacks from ABL dated December 18, 2018, December 05, 2019 and March 15, 2021 were not disclosed by MFSL. Thus, the SCN has alleged that there was non-compliance with Regulation 4(1) (c), (d), (e), (g), (h), (i), (j) and 30(7) of LODR Regulations by the company.

MFSL's Submissions

83 In this connection, MFSL has provided a detailed summary of the events pertaining to the 2015 arrangement and the same is mentioned above at Table No. 11. It is submitted that no disclosure regarding the call/ put option arrangement was made as (i) the entire transaction was subject to IRDAI approval which was applied for only subsequent to the board meeting at which the proposal was considered; and (ii) the transfer of shares itself was not completed. The disclosure dated October 23, 2015 itself mentioned that further details of the transaction would be disclosed subsequently. Therefore, as per MFSL, the said disclosure did not mislead the public to believe that the disclosure was complete.

84 All the necessary approvals were obtained from IRDAI which gave its final approval on February 5, 2016. Before, the final approval, IRDAI had, vide a letter dated November 9, 2015, granted its in-principle approval for the transfer of 4.99% shares of MLIC/AMLI to ABL, subject to a lock-in period of 5 years. However, upon the request of MLIC/AMLI for an exception to the lock-in period for transfer of the subject shares to the shareholders, IRDAI, vide its letter dated November 20, 2015, approved the transfer of 4.99% shares of MLIC/AMLI to ABL with the condition that the subsequent transfers by ABL were to be made basis a valuation undertaken by a chartered accountant or merchant banker approved by the IRDAI and implicitly withdrew the imposition of the lock-in period. Subsequently, MLIC/AMLI had made a submission to the IRDAI under letter dated December 2, 2015 seeking its permission to allow transfer of shares by ABL at any price permissible under law. Pursuant thereto, the IRDAI had vide letter dated February 5, 2016 granted its final approval which superseded all the earlier correspondences. This approval did not have a restriction on the price/ value at which transfer could take place. Pursuant to the IRDAI approval, the shares were transferred to ABL on February 29, 2016. Once the transaction was completed, MFSL made the requisite disclosure on the very same day, in compliance with the LODR Regulations. In any case, the disclosure dated October 23, 2015 had provided that further details of the transaction would be shared subsequently. Therefore, as submitted by MFSL, in no way, did the disclosure mislead the public to believe that the disclosure was complete.

85 The market capitalisation of MFSL in October 2015 was approximately ₹ 14,500 Crores. An options agreement having an impact of approx. ₹ 475 crores (assumed at Fair Value of ₹72/- per share of MLIC) was only 3.3 % of the total value of MFSL at the relevant time. Accordingly, the said options agreement would not have materially impacted the value of MFSL as a whole.

86 For the transactions dated December 18, 2018, December 05, 2019 and March 15, 2021, MFSL has submitted that in each of these transaction, MFSL acquired

only 1% of stake in each of its tranches which did not require any disclosures under LODR Regulations. For good governance, these have been notified to the shareholder/ public as part of quarterly results and subsequent annual reports.

87 The decision that the valuation will be undertaken by SPA Capital Advisors Ltd (and not the merchant bankers agreed as part of the agreement) was a commercial decision which was mutually made by the Parties in writing.

88 In connection with the 2015 arrangement, the details of all the disclosures made by MFSL for the relevant periods have been submitted.

Findings:

89 I note that since the events/information in question span different regulatory regimes, it is necessary to examine each alleged non-disclosure with reference to the legal framework prevailing on the date on which the disclosure is alleged to have been required. Accordingly, the events prior to the coming into force of the LODR Regulations (December 01, 2015) are required to be examined under the then applicable Listing Agreement.

90 For the disclosure in connection with the Board Meeting dated October 23, 2015, on a plain reading of the disclosure made by MFSL, it is apparent that only the proposal for increasing the equity participation of ABL in MLIC was disclosed and the other proposal which was approved in the same Board Meeting i.e., the proposal for execution of Option Agreement by MFSL/MSI with ABL was not disclosed. It is also not in dispute that the requisite approval was not obtained from IRDAI by then and only after multiple correspondences, IRDAI granted its final approval on February 05, 2016. The details of the correspondence have been given earlier in Table No. 12. With a benefit of hindsight, nothing would have prevented MFSL to make a complete disclosure on October 23, 2015 with the

necessary qualifications that the transactions were subject to regulatory approvals. However, any obligation can be fastened upon MFSL for the said incomplete disclosure only if the then existing law required it to disclose the full extent of the proposal.

91 The SCN has alleged violation of Clause 36(1) and 36(7) of the erstwhile listing agreement for the said alleged incomplete disclosure. In this connection, reference is drawn to the discussion and the reasoning adopted in the earlier paragraphs on the essential ingredients and requirements of the aforesaid Clause(s) of the listing agreement. With that background, I note that the SCN has not specifically identified as to how the non-disclosure of the proposal to enter into option agreement or the execution of option agreement was capable of bringing about a material change in the general character or nature of business of MFSL as warranted under Clause 36(1). A generic allegation would not be sufficient to establish the charge of violation of Clause 36(1) of the erstwhile listing agreement.

92 As far as Clause 36(7) is concerned, as has been already discussed above, for attracting the rigors of Clause 36(7), it was necessary for the SCN to establish that the non-disclosure of the proposal to enter into option agreement or the execution of option agreement had the requisite bearing on the operations or performance of the company, or was price sensitive. In the present case, the SCN does not demonstrate, with the necessary factual correlation, how the non-disclosure of the proposal to enter into the Option Agreement, or its subsequent execution, satisfied these requirements. I also note that, at the relevant time, the erstwhile Listing Agreement did not prescribe any quantified materiality threshold for disclosures under Clause 36(7). In the absence of material establishing the essential ingredients of the provision, I find that the allegation of violation of Clause 36(7) against MFSL is not established.

93 In any case, it is undisputed that pursuant to the IRDAI's approval, the first transaction under the 2015 arrangement was undertaken on February 29, 2016

and shares of MLIC were transferred to ABL. In this connection, disclosure was made on February 29, 2016 which, *inter alia*, stated that MFSL and MSI have collectively sold 95,748,762 shares or 4.99% equity stake in MLIC to ABL for a cash consideration of ₹ 10 per share. Thus, on the date of transaction, disclosure was made to stock exchange including the price at which the shares were transferred. Subsequent to the said disclosure, MFSL in its financial statements for the FY 2015-16 dated May 30, 2016 and the Annual Report for the FY 2015-16 had disclosed the execution of option agreement. The SCN has also acknowledged the said fact.

94 Although the SCN has acknowledged that in the Annual Report for the FY 2015-16, the fact of execution of option agreement was disclosed, it is alleged that the information that the buy-back of shares would be done on a yearly basis at a higher price was not disclosed even in the Annual Report. In this regard, on perusal of the said disclosure made in the Annual Report, referred above under para 80, it is clear that the said disclosure contained the details on the transfer of shares by MFSL and MSI to ABL at par value of ₹10, together with the grant of call/put options and proposed repurchase in five equal tranches at a mutually agreed price, linked to fair market value. Thus, the essential terms of the arrangement, namely, the transfer at ₹10 per share and the subsequent repurchase at a price linked to fair market value, had been adequately disclosed by MFSL.

95 As regards the non-disclosure of the buy-back transactions dated December 18, 2018, December 05, 2019 and March 15, 2021, MFSL has submitted that the buy-back was for less than 1% stake in each of these transactions which was not meeting the regulatory threshold under the LODR Regulations.

96 In this regard, I note that the broader framework of the transaction had already been disclosed. The SCN has inter-alia alleged violation of Regulation 30 (7) of the LODR Regulations which requires disclosures updating material developments on a regular basis, till such time the event is resolved/closed. The

issue, therefore, is whether each subsequent tranche constituted a material development requiring a separate disclosure when undertaken.

97 At this stage, I note that the tranche undertaken in March 2018 was disclosed. Therefore, in the interest of consistency and transparency, it would have been appropriate for MFSL to disclose the subsequent tranches as well, rather than make disclosures selectively. However, for establishing a violation of Regulation 30(7) of LODR Regulations, it was necessary to demonstrate why each subsequent tranche constituted a material development requiring disclosure. I also note MFSL's contention that, insofar as acquisitions were concerned, the LODR Regulations then in force prescribed thresholds, including acquisition of 5% or more, or a subsequent change exceeding 2% from the last disclosure. In the absence of a specific assessment establishing the materiality of each subsequent tranche, I find that the charge under Regulation 30(7) of LODR Regulations is not established.

98 The SCN has also alleged that MFSL has violated Regulation 30(2) read with Para A(I) of Part A of Schedule III of the LODR Regulations. In this regard, I note that the LODR Regulations came into force in December 2015. Para A(1), as it stood at the relevant time, *inter alia*, required disclosure of acquisitions and defined "acquisition" to include acquiring, or agreeing to acquire, shares or voting rights in a company such that: (a) the listed entity holds shares or voting rights aggregating to 5% or more in such company; or (b) there is a change in its holding from the last disclosure made under clause (a), and such change exceeds 2% of the total shareholding or voting rights in such company. In the present case, the Option Agreement was entered into on October 23, 2015, prior to the LODR Regulations coming into force, and therefore cannot be tested against the disclosure requirements that were introduced subsequently. As regards the acquisitions undertaken in terms of the Option Agreement after the LODR Regulations became applicable, MFSL has contended that each individual tranche was below the 2% threshold. In this context, I note that clause (b) does not contemplate examining

each acquisition in isolation; the change in holding is required to be assessed cumulatively from the last disclosure made under clause (a). However, in the absence of clear identification in the SCN for how the arrangement involving transfer of shares of MLIC to ABL with subsequent buy-back transactions, breached the aforementioned thresholds, the allegation of non-disclosure cannot be sustained.

99 I also note that the subsequent transactions were not entirely absent from the public domain. Reference may be made to the financial statements for the period ended March 31, 2019, quarterly results for FY 2018-19, the report of the Secretarial Auditors forming part of annual report for FY 2019-20, and the quarterly results for FY 2019-20 and FY 2020-21, through which the shareholders were informed about these transactions as part of the financial statements, quarterly reports and the annual reports.

100 In view of the above, the allegation levelled in the SCN related to the transactions in the *2015 arrangements* are not established.

ALLEGATION W.R.T. INCOMPLETE DISCLOSURE / NON-DISCLOSURE OF THE EVENTS/TRANSACTIONS UNDER THE *2020 ARRANGEMENT*

101 For the 2020 arrangement and the agreement executed between MFSL and ABL, the following is alleged in the SCN.

101.1 The valuation report was not provided to shareholders and it was only made available for inspection at registered office of MFSL due to COVID lockdown and because of that the proxy advisors had indicated that MFSL's proposal lacked transparency and shareholders would not be able to take informed decision.

101.2 On August 24, 2020, MFSL made the following announcement:

"This is with reference to our earlier disclosure letters dated 20th February 2020, 28th April 2020 and 23rd July 2020 on execution of definitive agreements by Max Financial Services Limited ('Company') with Axis Bank Limited ('Axis Bank') for the sale of 29.002% of equity share capital of Max Life Insurance Company Limited ('Max Life'), a material subsidiary of the Company, to Axis Bank. In this regard, we would like to inform you that following recent developments, Axis Bank now proposes to acquire 17.002% of the equity share capital of Max Life, resulting in total ownership of 18.0% post the transaction. The parties have executed the definitive agreements. Axis Bank and Max Life will shortly approach the respective regulatory authorities, with revised applications for their consideration and approval. The transaction is subject to regulatory approvals. You are kindly requested to take note of above and arrange to disseminate the information to all concerned."

101.3 Regarding the aforesaid announcement, it is alleged that MFSL had not provided any reason, while making the above disclosures, for changes in proposed acquisition, as required u/r 4(1)(d) and 4(1)(e) and 30(7) of LODR Regulations. The same was disclosed in the subsequent disclosure dated October 30, 2020.

101.4 MFSL did not disclose about the completion of the transactions dated March 26, 2021 and April 06, 2021.

102 In this regard, I note that pursuant to the Board approval dated April 27, 2020, MFSL entered into definitive agreements for the sale of 29.002% equity stake in MLIC with ABL and/or its affiliates. A share purchase agreement was also entered into the same date. The proposed transaction was placed before shareholders of MFSL who approved the transaction on June 16, 2020 with 99.9% votes polled in favor. The transaction as originally contemplated in April 2020, therefore, involved

the acquisition of 29.002% stake of MLIC by ABL from MFSL. However, based on correspondence with RBI and IRDAI, MFSL, MLIC and ABL made certain changes to the agreements, subject to regulatory approvals and applicable laws.

103 On August 24, 2020, MFSL, MLIC and ABL executed revised agreements under which ABL proposed to acquire 17.002% of the equity share capital of MLIC and submitted a fresh proposal to the regulators. Following RBI's advice that ABL be guided by the applicable Master Directions, ABL and its affiliates, entered into revised agreements with MFSL on October 30, 2020 for acquisition of up to 19.002% of the equity share capital of MLIC. Under the revised Agreements, ABL was to acquire upto 9.002% and its affiliates (i.e., ACL and ASL) were to acquire upto 3% of the share capital of MLIC. In addition, Axis Entities held a right to further acquire upto 7% of the equity share capital of MLIC, in one or more tranches. Pursuant to the revised agreements and receipt of IRDAI approval, on March 26, 2021, ASL acquired 1% shares of MLIC from MFSL and ACL acquired 2% shares of MLIC from MFSL. Further, on April 06, 2021, ABL acquired 9.002% of shares.

104 As regards the allegation that the disclosure dated August 24, 2020 did not set out the reasons for the change in the proposed acquisition by ABL from 29.002% to 17.002%, I note that omission of such reason, by itself, is insufficient to establish a violation of Regulations 4(1)(d), 4(1)(e) or 30(7) of LODR Regulations. The material change in the proposed transaction was itself disclosed, together with the fact that revised agreements had been executed and fresh regulatory approvals were to be sought. In the absence of a specific factual assessment demonstrating how the omitted reason constituted a material development or rendered the disclosure inadequate, inaccurate or misleading, I find that the allegation is not established.

105 I find it pertinent to record that the allegation in the SCN regarding non-disclosure of the transaction dated April 06, 2021 (i.e., acquisition of 9.002% of the equity share capital of MLIC by ABL from MFSL) is factually incorrect. On April 06, 2021,

both ABL and MFSL made disclosures regarding the transactions undertaken by them. The disclosure dated April 06, 2021, *inter alia,* provided that *'the Axis Entities have collectively acquired shares of Max Life by way of transfer of equity shares of Max Life from Max Financial. Axis Entities together hold 12.99% equity stake in Max Life as of date'.* The said disclosure was also accompanied with a detailed note setting out the features of the transaction, including the information that ABL became the co-promoter of MLIC.

106 It is noted that on March 26, 2021, MFSL sold 2% and 1% of the equity share capital of MLIC to ACL and ASL respectively, and these transactions were not specifically disclosed at that relevant time. However, in the absence of reasoning establishing how these events constituted material updates, the charge of violation of Regulation 30(7) cannot sustain. Separately, it is relevant to mention that in the aforesaid disclosure of MFSL and ABL dated April 6, 2021, there was an implied reference to the acquisitions made by ACL and ASL when it was mentioned that "…*Axis Entities together hold 12.99% equity stake in Max Life* …".

107 In consideration of the above, I find that the allegations made in SCN regarding the non-disclosure of the transactions under *2020 arrangement* are not substantiated.

ALLEGATION W.R.T. PRINCIPLES CONTAINED IN THE LODR REGULATIONS

108 I also note that the SCN has alleged violation of various sub-regulations of Regulation 4 of LODR Regulations. Regulation 4 lays down general principles governing disclosures and obligations of the listed entity and responsibilities of the Board of Directors under the LODR Regulations. Specific clauses of Regulation 4(1), 4(2), the violation of which has been alleged in the SCN, are reproduced below:

a. *4(1)(c) - The listed entity shall refrain from misrepresentation and ensure that the information provided to recognized stock exchange(s) and investors is not misleading.*
b. *4(1)(d) - The listed entity shall provide adequate and timely information to recognized stock exchange(s) and investors.*
c. *4(1)(e) - The listed entity shall ensure that disseminations made under provisions of these regulations and circulars made thereunder, are adequate, accurate, explicit, timely and presented in a simple language.*
d. *4(1)(g) - The listed entity shall abide by all the provisions of the applicable laws including the securities laws and also such other guidelines as may be issued from time to time by the Board and the recognized stock exchange(s) in this regard and as may be applicable.*
e. *4(1)(h) - The listed entity shall make the specified disclosures and follow its obligations in letter and spirit taking into consideration the interest of all stakeholders.*
f. *4(1)(i) - Filings, reports, statements, documents and information which are event based or are filed periodically shall contain relevant information.*
g. *4(1)(j) - Periodic filings, reports, statements, documents and information reports shall contain information that shall enable investors to track the performance of a listed entity over regular intervals of time and shall provide sufficient information to enable investors to assess the current status of a listed entity.*
h. *4(2)(d)- The listed entity shall recognise the rights of its stakeholders and encourage co-operation between listed entity and the stakeholders in the following manner.*

   …

   4(2)(d)(iii)Stakeholders shall have access to relevant, sufficient and reliable information on a timely and regular basis to enable them to participate in corporate governance process.

   4(2)(e)(i) - The listed entity shall ensure timely and accurate disclosure on all material matters including the financial situation, performance, *ownership, and governance of the listed entity, in a manner that: Information shall be prepared and disclosed in accordance with the prescribed standards of accounting, financial and non-financial disclosure.*

i. 4(2)(f)(ii)(8), 4(2)(f)(iii)(3) and 4(2)(f)(iii)(6), *inter alia,* provide for responsibilities of the board of directors in overseeing the process of disclosure; to act on a fully informed basis, in good faith, with due diligence and care, and in the best interest of the listed entity and the shareholders; and shall maintain high ethical standards and shall take into account the interests of stakeholders.

109 Insofar as the 2015 arrangement is concerned, the principal allegation under the LODR Regulations is that the subsequent tranches undertaken in December 2018, December 2019 and March 2021 were not separately disclosed and that the disclosures in the Annual Report did not contain the complete terms of the arrangement. Further, with regard to the 2020 arrangement, the primary allegation relates to non-disclosure of the transaction dated March 26, 2021.

110 As discussed in para 93 and 94 above, the transfer of shares, the grant of put/call options and the proposed repurchase in five equal tranches at a price linked to fair market value were disclosed on February 29, 2016 and in the Annual Report for FY 2015-16. I have also found that the SCN does not establish, with the requisite factual assessment, that each subsequent tranche in the 2015 or the 2020 arrangement constituted a material development requiring a separate disclosure under Regulation 30(7).

111 The provisions of Regulations 4(1)(c), 4(1)(d), 4(1)(e), 4(1)(h), 4(2)(d)(iii) and 4(2)(e)(i) of LODR Regulations essentially relate to the adequacy, accuracy and timeliness of disclosures, the availability of material information to investors and stakeholders to enable them to participate in the corporate governance process

as well as preparation of information as per the prescribed standards. In view of the above discussions, the material on record does not establish that the disclosures made by MFSL were misleading, in non-compliance with the prescribed standards or that the non-disclosure of the individual tranches deprived shareholders of material information so as to attract the aforesaid provisions.

112 Regulation 4(1)(g) of LODR Regulations requires the listed entity to comply with the applicable provisions of law, including securities laws. Since, for the reasons recorded above, the underlying violations of the disclosure provisions alleged in relation to the 2015 arrangement have not been established, Regulation 4(1)(g) cannot, in the absence of any independent factual basis, sustain a separate charge against MFSL.

113 Regulations 4(1)(i) and 4(1)(j) require periodic and event-based filings to contain relevant and sufficient information. As discussed above, the Annual Report for FY 2015-16 disclosed the material terms of the option arrangement. In the absence of identification of any specific material information which was required to form part of such periodic filings but was omitted therefrom, I find that the allegations under Regulations 4(1)(i) and 4(1)(j) are not established.

114 As regards Regulations 4(2)(f)(ii)(8), 4(2)(f)(iii)(3) and 4(2)(f)(iii)(6) of LODR Regulations, these provisions concern the responsibilities of the Board of Directors; and the SCN does not identify any specific act or omission attributable to MFSL which independently establishes breach of these provisions.

OTHER ALLEGED VIOLATIONS OF LODR REGULATIONS AGAINST MFSL

115 The SCN has also alleged violation of Regulation 33(1)(e) of the LODR Regulations read with Part A-Para-K of Schedule IV which, *inter alia,* requires disclosure of the effect of material changes in the composition of the listed entity,

(including business combinations, acquisitions or disposal of subsidiaries and long term investments, any other form of restructuring and discontinuance of operations), on the financial results. The said provision is substantially similar to the provision of Clause 41(IV)(m) of the erstwhile listing agreement, which has been discussed above. For the sake of brevity, the discussion set out therein is not repeated. Applying the same reasoning to the 2015 and 2020 arrangement, I find that the alleged violation of Regulation 33(1)(e) of the LODR Regulations is not established.

116 Further, the SCN has alleged violation by MFSL of para A(10) of part C of Schedule II of the LODR Regulations read with Regulation 18(3) thereof, which *inter alia* provides for review of information relating to valuation of undertakings or assets of the listed entity by the Audit Committee (AC). While the obligation to undertake such review is cast upon the Audit Committee, the responsibility to place the relevant information before the Committee rests with the listed entity, and with the Company Secretary who acts as secretary to the AC. However, the SCN has not identified or invoked the specific provision(s) which impose such obligation on MFSL or the Company Secretary. In the absence of a clearly identified charging provision, I find that the allegation against MFSL under Regulation 18(3) read with Para A(10) of Part C of Schedule II of LODR Regulations is not established.

117 To conclude, upon a careful, detailed, and independent examination of the entire material available on record, including the transactions undertaken by MFSL in the three arrangements (2010, 2015 and 2020), the sequence of events, the disclosures made from time to time and the specific provisions alleged to have been violated, I find that the allegations are not established. In particular, in the absence of a reasoned determination as to the materiality of the relevant events or information under the applicable disclosure framework, liability cannot be sustained merely on the basis that certain disclosures could have been more

comprehensive. Accordingly, on the first issue, no violation of the applicable disclosure provisions is made out.

ISSUE II- Whether MFSL, MLIC and ABL along with ASL and ACL are liable for devising a fraudulent scheme to defraud the shareholders of MFSL?

118 With respect to the above issue, all Noticees have filed separate submissions. The submissions of MFSL and MLIC are largely similar, as are those of ABL, ASL and ACL. Accordingly, common submissions have been clubbed wherever possible, and any additional submissions are dealt with separately. The submissions of MFSL and MLIC are summarized below.

MFSL's purported non-disclosure/ incomplete disclosure does not tantamount to fraud under the SEBI Act and the PFUTP Regulations:

119 The SCN alleges that MFSL has violated Sections 12A(b) and 12A(c) of the SEBI Act and Regulations 3(c), 3(d), 4(2)(k) and 4(2)(r) of the PFUTP Regulations, on the purported premise that MFSL **(a)** allegedly employed a device/ scheme with ABL; **(b)** actively concealed facts related to structured transactions; and **(c)** made incorrect and misleading disclosures to the detriment of the interests of shareholders. In this regard, the following is submitted:

119.1 While extracting the definition of 'fraud' under Regulation 2(1)(c) of the PFUTP Regulations, the SCN has incorrectly clubbed multiple sub-regulations. Consequently, it neither identifies nor establishes any specific instance or nature of fraud as contemplated under the said provision.

119.2 Allegations of fraud are serious and must be supported by specific facts and cogent evidence. The SCN fails to meet this threshold and proceeds largely on conjecture, without appreciating the factual matrix, business realities of MFSL, or the regulatory framework applicable at the relevant time. Consequently, the SCN is vague and does not meet the standards laid down by the Hon'ble Supreme Court and the Hon'ble SAT in cases under the PFUTP Regulations.

119.3 The allegations arise primarily from disclosures made by MFSL during the investigation period in relation to transactions with ABL. The SCN appears to proceed on the erroneous assumption that any non-disclosure, incomplete disclosure, or delayed disclosure *ipso facto* constitutes fraud. This ignores the statutory requirement of intent and materiality. Fraud under the SEBI Act and PFUTP Regulations requires proof of intent to deceive, manipulate the market, or gain an unfair advantage. In the absence of such intent, disclosure-related issues fall within the LODR Regulations framework unless shown to be wilfully designed to mislead investors.

119.4 '"Inducement" is a core and indispensable ingredient of fraud under the PFUTP Regulations. There must be a clearly identifiable act or omission resulting in inducement to deal in securities. It is settled law that inducement must occur in the course of dealing in securities and for the purpose of inducing such dealing. The emphasis is on the act of inducement itself. In support, reliance is placed on the decisions of the Hon'ble Supreme Court / SAT/SEBI in *DLF Limited v. Securities and Exchange Board of India*[10], *Price Waterhouse and Co. v. Securities and Exchange Board of India*[11], *Svam Software Ltd*[12], *SEBI v. Kanaiyalal Baldevbhai*[13], and the observations of the Hon'ble SAT in *Ms. Chitra Ramkrishna vs SEBI*[14].

[10] 2015 SCC OnLine SAT 54, Para 106
[11] 2019 SCC OnLine SAT 165, Para 44
[12] In re, 2021 SCC OnLine SEBI 1571, Para 22
[13] (2017) 15 SCC 1
[14] Appeal No. 334 of 2019

119.5 In the present case, the SCN neither identifies any person who was induced nor records any determination of inducement. No material is placed on record to show that any shareholder traded in MFSL securities due to the alleged disclosure lapses. The SCN also does not clarify whether the alleged omission led investors to buy or sell. In the absence of any demonstrated inducement, the allegation of fraud cannot be sustained.

119.6 The SCN observes that approximately 80% of the alleged loss of ₹3,911.96 crores pertains to transactions in 2021. However, the 2020 transactions were approved by 99.9% of shareholder votes cast in favor, and were undertaken in compliance with applicable regulatory and disclosure requirements. The allegation of undisclosed or wrongful loss is therefore without factual basis.

119.7 MFSL and MLIC have demonstrated that their relationship with Axis Group entities yielded substantial benefits, including business growth, dividends, and long-term value creation. The relationship has also resulted in ABL becoming a promoter of MLIC, enhancing stability and growth prospects.

119.8 A reduction in company value is antithetical to inducement. It is not SEBI's case that the transactions inflated MFSL's share price. The SCN does not allege misleading financial reporting or inducement to invest. At best, the allegation is of incomplete or delayed disclosures, which, without more, remains *ipse dixit*.

119.9 There is no restriction under law on the pricing of unlisted shares of MLIC between resident parties. In the absence of regulation, parties were free to determine commercial terms.

119.10 The bancassurance arrangement with ABL was a conscious and well-considered business decision, approved by the Board after detailed deliberation and reassessed at the time of renewal.

119.11 MFSL made disclosures at the relevant time. In any event, any alleged lapse does not amount to inducement. There is no basis to suggest that investors would have acted differently. Notably, subsequent disclosures did not adversely impact MFSL's share price.

SEBI's allegations do not meet the standard of proof for fraud:

119.12 The SCN fails to establish a nexus between the alleged disclosure lapses and fraud. It is settled law that a SCN must contain precise and specific allegations. Reliance is placed on *Canara Bank v. Debasis Das* and *Swaranganga Trading Pvt. Ltd. v. AO, SEBI*.

119.13 No evidence of investor loss attributable to MFSL's disclosures has been produced, nor has any affected investor been identified. Reliance on the IRDAI order is misplaced, as it does not record any impact on the securities market.

119.14 Even on a test of probability, SEBI must lead cogent evidence. The SCN does not demonstrate market impact, investor reaction, or inducement. Allegations based solely on the IRDAI order are untenable.

119.15 The allegation of active concealment is unsustainable. SEBI's own precedents require intent to influence investors. The disclosures made by MFSL do not support such a finding.

119.16 A *bona fide* transaction does not become invalid merely because it yields commercial advantage. Reliance is placed on Judgements in the matter of *VM*

Salim v. Fathima Muhammed[15] and *Standard Chartered Bank v. Andhra Financial Services*[16]

Rationale for the transactions undertaken with ABL:

119.17 The bancassurance model is a key distribution channel. Prior to 2010, MLIC lacked a credible partner. Partnering with ABL was essential for competitiveness. The Board of Directors consistently accorded near-unanimous approval to the said Board Resolutions giving effect to the transactions between MFSL and ABL. Even the sole dissenter, Mr. N. Rangachary, only disagreed on the point of whether the eventual cash outflow from MFSL when the put option would be exercised was viable as a put option arrangement was a new concept to Max. Mr. Rangachary's dissent was not at all with respect to the bancassurance deal.

119.18 The induction of ABL resulted in tangible and intangible benefits, including improved profitability and dividends of ₹ 2,141 crores. MFSL's share price also saw substantial appreciation.

119.19 Consideration for shares is not limited to cash and may include tangible and intangible benefits. Viewed holistically, no undue benefit accrued to ABL. Some of the tangible and intangible benefits such as increase in gross premium, new business sales, etc, that have accrued to MFSL have been summarized by MFSL.

120 The submissions made by MLIC are summarized as below.

---

[15] (2011) 15 SCC 756, Para 8
[16] (2006) 6 SCC 94, Para 54

120.1 MLIC/AMLI is an unlisted company whose shares are not publicly traded. In the absence of any public dealing or jurisdictional fact, SEBI lacks jurisdiction. Reliance is placed on *Srinivasa Rice Mills v. ESI Corporation*[17], *Pan Asia Advisors Ltd.*[18] *v., and Kunnamkulam Paper Mills Ltd. v. SEBI*[19].

120.2 MLIC/AMLI was involved in only two transactions: (i) the primary issuance of 7,66,00,000 shares (3.94% of post-issue capital) to ABL by MNYL at par on December 23, 2011 ("December 23, 2011 Transaction"); and (ii) the buyback of 0.998% of its own shares by MLIC/AMLI from ABL at ₹ 54.1 per share on December 11, 2014. The SCN has noted that December 11, 2014 transaction was in accordance with the valuation reports, and thus not under scrutiny.

120.3 The only transaction under scrutiny is the December 23, 2011 primary issuance at par, which was governed by Section 55A(c) of the Companies Act, 1956 and approved by IRDAI and RBI. MLIC/AMLI played no role in shareholder-level transactions and cannot be held accountable for independent actions of its shareholders.

120.4 It is trite law that MLIC/AMLI, as a 'company' under Section 3(1)(i) of 1956 Companies Act and Section 2(20) of the Companies Act, 2013, is an independent legal identity, distinct from its shareholders. The legal principle that a subsidiary has a separate legal existence regardless of whether it is partly or even wholly owned by the parent company has been affirmed by the Hon'ble Supreme Court in Western Coalfields Ltd. vs Special Area Development Authority, Korba[20] and Rustom Cavasjee Cooper vs Union of India[21]. The relevant test is one of 'persuasive position' i.e., whether the parent

[17] (2007) 1 SCC 705, Paras 18, 19
[18] Appeal No. 126 of 2013, decided on 30 September 2013
[19] 2009 SCC OnLine Ker 6562
[20] (1982) 2 SCR 1, pg. 16
[21] (1970) 3 SCR 530, pg. 555.

company's management has such steering interference with the subsidiary's core activities that the subsidiary can no longer be regarded to perform those activities on the authority of its own executive directors as observed in ***Vodafone International Holdings BV vs Union of India***[22]. The test of "persuasive position" is not met in the present case.

120.5 The SCN alleges that MLIC/AMLI acted in 'connivance' with MFSL and ABL, characterizing the transactions as part of a fraudulent scheme. However, there is not a single instance highlighted in the SCN which demonstrates how these transactions led to any misrepresentation or inducement of any shareholder/ investor or caused any detriment to MLIC/ AMLI, its policyholders, its shareholders, or the broader securities market.

120.6 There is nothing on the record to demonstrate that the private placement of shares with ABL via the December 23, 2011/December 26, 2011 transaction is a "fraudulent or unfair trade practice" within the meaning of the unamended Regulation 4(1). Beyond the said, transaction, MLIC/AMLI did not directly 'deal' in securities for the relevant period, and thus the application of Regulation 4(1) prior to February 1, 2019 is not attracted. As such, MLIC/AMLI's conduct cannot be characterized as fraudulent or an unfair trade practice in securities under these PFUTP Regulations.

Compliance with the directions issued by IRDAI:

120.7 IRDAI has already adjudicated the matter and imposed a penalty of ₹ 3 crores which has been paid and the said Order has attained finality. Any further proceedings by SEBI would result in double jeopardy, contrary to the principle

[22] (2012) 6 SCC 613

of nemo *debet bis vexari pro una et eadem causa*, as affirmed in *Abhilashaa Securities Pvt. Ltd. vs SEBI*[23].

121 ABL made the following submissions which are largely similar to the submissions made by ASL and ACL.

121.1 SEBI lacks jurisdictional fact to proceed against ABL. IRDAI has classified the payments as excess commission and not fraud. SEBI cannot re-characterize the same. Transactions approved by the competent regulator cannot be termed fraudulent, particularly when IRDAI itself has not drawn such a conclusion.

121.2 The SCN fails to establish dealing in securities, inducement, market manipulation, or connivance. Internal notes of ABL merely record investment evaluation and do not evidence fraud or collusion. The arrangements of 2015 and 2020 were distinct and driven by different commercial considerations.

121.3 SEBI has assumed jurisdiction without demonstrating any fact to show how the provisions of securities law were violated or to term the transactions as "fraudulent". Without prejudice, it is emphasized that transactions carried out with the approval of the appropriate regulator, in this case IRDAI, cannot be termed as "fraudulent", when IRDAI itself has refrained from drawing such a conclusion.

121.4 The transactions between ABL and MFSL/ MLIC were carried out pursuant to binding agreements and for valuable consideration. SEBI cannot disregard these transactions as "fraudulent" simply on an inference that the underlying motive of such transactions was to provide benefit to ABL, beyond the limits of commission allowed under the IRDAI Commission Regulations.

[23] Appeal No. 43/2005 decided on June 20, 2005

Reliance has been placed on *Vodafone International Holdings BV v. Union of India*, wherein it was held that, *"The corporate business purpose of' a transaction is evidence of the fact that the impugned transaction is not undertaken as a colourable or artificial device ... ".*

121.5 The SCN has taken the observations/ recordings made in the internal notes of ABL dated December 16, 2011 out of context. The internal note, which was titled as ‘modifications of terms of approval of investment committee dated 20th April 2010 for investment of ₹ 76.60 Crores in Equity Shares of Max New York life via private placement’ *inter alia,* discusses the viability of the investment by ABL in shares of MLIC and does not demonstrate any "fraud" or "collusion".

121.6 The 2015 Arrangement and 2020 Arrangement are distinct and no comparison between the two can be drawn in as much as: (a) the acquisition by ABL of MLIC's shares in 2015 was a financial investment, (b) whereas in 2020, the acquisition by ABL was a strategic arrangement, whereby ABL became a promoter of MLIC, bringing significant long term certainty of continued support to MLIC.

121.7 ABL has not been alleged to have made any incorrect disclosures.

121.8 The SCN alleges that ABL in connivance with MFSL and MLIC devised a "scheme”. The term "connivance" has not been defined under securities law. Rather, it forms a part of the definition of "fraud" under Regulation 2(1)(c) of the PFUTP Regulations. As per Black's Law Dictionary, "connivance" means the secret or indirect consent or permission of one person to the commission of an unlawful or criminal act by another. It further states it to be an act of indulging or ignoring another's wrongdoing. Similarly, the Advanced Law Lexicon defines "connivance" to mean the voluntary blindness to some present act or conduct or an agreement or consent, directly or indirectly given that something unlawful shall be done by another.

121.9 The SCN has failed to bring out any evidence to demonstrate connivance on the part of ABL and MFSL/ MLIC. Reference can be made to meaning of ‘connivance’ as per Black’s Law Dictionary and Advanced Law Lexicon and various case laws *viz. Price Waterhouse & Co v. SEBI*[24] *, Anvar P.V v. P.K Basheer*[25] *and Charan Lal Sahu & Others vs Giani Zail Singh & Another*[26] have been cited to explain connivance.

121.10 There was a rationale behind each transaction and the transaction price(s) adopted by the parties.

121.11 The SCN has also not brought out any material or factual information in the SCN to demonstrate that there was any conspiracy or common objective that would support the allegation that a "scheme" was devised by ABL along with MFSL/ MLIC.

121.12 The scope and applicability of the PFUTP Regulations was interpreted by the Hon'ble Supreme Court in *Kanaiyalal Baldevbhai Patel* case, it is observed that, *“The object and purpose of the 2003 FUTP is to curb "market manipulations ". Market manipulation is normally regarded as an "unwarranted" interference in the operation of ordinary market forces of supply and demand and thus undermines the 'integrity , and efficiency of the market...”*

121.13 Thus, a charge under the PFUTP Regulations would necessarily depend on the occurrence of a "market manipulation" and the SCN has failed to depict

[24] supra
[25] [2014] 11 SCR 399, Pg. 420
[26] (1984) 1 SCC 390, Pr. 30-32

that there was any "market manipulation" or the role that ABL has played in any such "market manipulation".

121.14 "Inducement" is a necessary ingredient of "fraud" as defined under the PFUTP Regulations. Various case laws like *NSE and Ors Vs SEBI*[27] , *Ramswarup Sarda Vs SEBI*[28], have been cited to observe that for an allegation to be sustained under the PFUTP Regulations, SEBI must establish both "dealing in securities" as well as "fraud" in "dealing in securities" i.e., inducement to deal in securities, and further that "fraud" must be proved based on evidence:

Consideration of Preliminary issue:

i. With respect to SEBI's Jurisdiction

122 Before dealing with the issue on merits, it is necessary to address a preliminary contention raised by certain Noticees pertaining to SEBI's jurisdiction in the matter or the lack of it. MLIC has contended that since its inception, it has been an unlisted company and, therefore, the allegations against MLIC/AMLI are legally and jurisdictionally unsustainable, as the transactions pertain only to unlisted securities. Being an unlisted entity, MLIC/AMLI has been governed by and compliant with its sectoral regulator, i.e., IRDAI. It is further submitted that Section 11 of the SEBI Act and Section 55A of the Companies Act, 1956 confine SEBI's mandate to listed entities or entities intending to list, or otherwise engaged in activities impacting the public securities market. Section 55A(c) further provides that matters relating to the issue and transfer of securities of unlisted public companies are to be administered by the Central Government and not SEBI.

[27] Appeal No. 334 of 2019
[28] (2013) SCC Online SAT 51

123 Accordingly, the issue that arises for consideration is whether SEBI has jurisdiction to inquire into alleged fraud involving shares of an unlisted subsidiary, where its holding company is listed and the transaction (issue/transfer of subsidiary shares) is integrally connected with the listed entity and is alleged to affect investors, disclosures and market integrity. MLIC has relied upon the language of Section 55A of the Companies Act, 1956, which delineates SEBI's powers in relation to listed companies and companies intending to list, while providing that, in all other cases, such powers vest with the Central Government.

124 In this regard, it is noted that while SEBI derives certain powers from Section 55A of the Companies Act, 1956 (now under the provisions of Companies Act, 2013); the said provision is not exhaustive or exclusionary. It does not preclude SEBI from exercising its powers under its own statute where the conduct in question impacts the securities market. SEBI has been independently empowered under the SEBI Act, 1992 (the Act) which established SEBI to protect the interests of investors in securities and to promote the development of, and to regulate, the securities market and for matters connected therewith or incidental thereto. SEBI Act is a complete code in itself. Section 11(1) of the said Act casts a duty upon SEBI 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. Section 11B empowers SEBI to issue any such directions, *inter alia,* to any person or class of persons referred to in section 12, or associated with the securities market, if SEBI is satisfied that such directions are 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. Further, Section 12A prohibits any person to directly or indirectly from engaging in fraudulent and unfair trade practices.

125 From these provisions, it is clear that SEBI's powers are extendable to any person, if their conduct has a connection with the securities market, listed entities, or investor protection. These provisions are mainly conduct-based, not based on the status of the company as contended by MLIC. SEBI can issue directions to even unlisted companies, if their conduct is not in the interest of securities market. Thus, the "jurisdictional fact" to check is not "Whether the shares are listed or unlisted", but it is whether the impugned conduct has a bearing on the securities market or the interests of investors/shareholders in the securities market. SEBI's jurisdiction depends on the nature of the transaction and its impact, not merely on where or how it is executed. Hon'ble Supreme Court in the matter of *Sahara India Real Estate Corporation Limited and Ors vs SEBI*[29]*,* while upholding the view recorded by Hon'ble SAT, observed the following.

"55…. the entrustment of powers to SEBI under clauses (a) and (b) of section 55A of the Companies Act was in addition to the power already vested in the SEBI under sections 11, 11A and 11B of the SEBI Act. The aforesaid power, according to the SAT, extended to unlisted companies as well, in respect to matters relating to issue of capital, transfer of securities and other matters incidental thereto."

126 In the matter of *SEBI vs PAN Asia Advisors & Anr.*[30] also, the following was observed by the Hon'ble Supreme Court:

"72.Under Section 11(4)(a) and (b) apart from and without prejudice to the provisions contained in sub-section (1), (2) (2A) and (3) as well as Section 11B, SEBI can by an order, for reasons to be recorded in writing, in the interest of investors of securities market either by way of interim measure or by way of a final order after an enquiry, suspend the trading of any security in any

[29] CIVIL APPEAL NO. 9813 OF 2011
[30] Civil Appeal No. 10560 of 2013

recognized stock exchange, restrain persons from accessing the securities market and prohibiting any person associated with securities market to buy, sell or deal in securities. On a careful reading of Section 11(4)(b), we find that the power invested with SEBI for passing such orders of restraint, the same can even be exercised against "any person". Under Section 11B, SEBI has been invested with powers in the interest of investors or orderly development of the securities market or to prevent the affairs of any intermediary or other persons referred to in Section 11 in themselves conducting in a manner detrimental to the interest of investors of securities market and also to secure proper management of any such intermediary or person. It can issue directions to any person or class of persons referred to in Section 11 or associated with securities market or to any company in respect of matters specified in Section 11B in the interest of investors in the securities and the securities market. The paramount duty cast upon the Board, as stated earlier, is protection of interests of investors in securities and securities market. In exercise of its powers, it can pass orders of restraint to carry out the said purpose by restraining any person. Section 12A of the SEBI Act, 1992 creates a clear prohibition of manipulating and deceptive devices, insider trading and acquisition of securities. Section 12A(a), (b) and (c) are relevant, wherein, it is stipulated that no person should directly or indirectly indulge in such manipulative and deceptive devices either directly or indirectly in connection with the issue, purchase or sale of any securities, listed or proposed to be listed wherein manipulative or deceptive device or contravention of the Act, Rules or Regulations are made or employ any device or scheme or artifice to defraud in connection with any issue or dealing in securities or engage in any act, practice or course of business which would operate as fraud or deceit on any person in connection with any issue dealing with security which are prohibited. By virtue of such clear cut prohibition set out in Section 12A of the Act, in exercise of powers under Section 11 referred to above, as well as 11B of the SEBI Act, it must be stated that the Board is fully empowered to pass appropriate orders to protect the interest of investors in securities and securities market and such orders can be passed by *means of interim measure or final order as against all those specified in the above referred to provisions, as well as against any person. The purport of the statuary provision is protection of interests of investors in securities and the securities market.*

127 From the above judicial pronouncements, it is clear that SEBI's powers under the SEBI Act are in addition to, not limited by, the Companies Act and even unlisted companies and instruments issued by them fall within SEBI's domain if there are concerns of investor protection or fund raising from public. The jurisdiction of SEBI flows from the conduct of the entities, not from their corporate form. In the present case, the primary allegation made against MLIC was that its holding company, MFSL, authorized the issuance of its unlisted shares to ABL at discount and brought it back at premium, through a fraudulent arrangement and resultantly, the shareholders of MFSL suffered losses. Thus, the real subject matter is not merely issuance of unlisted shares, but a composite arrangement affecting a listed company and its investors.

128 Therefore, MLIC's contention that SEBI lacks jurisdiction merely because the shares involved pertain to an unlisted subsidiary is misconceived. The jurisdictional fact for assumption of powers under the SEBI Act is the existence of conduct having a nexus with the securities market or the listed holding company and its investors. Where the impugned transaction forms part of an integrated arrangement involving a listed entity and has the potential to affect investor interest or market integrity, SEBI's jurisdiction is clearly attracted, notwithstanding Section 55A of the Companies Act.

ii. The SCN traveling beyond the IRDAI Order

129 While MLIC had raised objections on SEBI jurisdiction primarily on grounds of being an unlisted company, other Noticees including MFSL, ABL, ASL and ACL

contended that since IRDAI had already examined the transactions, SEBI cannot travel beyond the IRDAI Order and it could not have issued the SCN on the basis of the IRDAI Order. It is submitted that only IRDAI had exclusive jurisdiction for the violation of its own regulations, considering that IRDAI has already examined the transactions and passed an order and SEBI has relied on the findings of the IRDAI Order.

130 To deal with the above issue raised by the Noticees, it is required to trace back the origin of the SEBI proceedings. It has already been discussed that SEBI was already examining the transactions between MFSL and ABL concerning the shares of MLIC based on some media articles and during the said examination, was also in receipt of a letter dated November 01, 2022 from IRDAI, *inter alia,* informing that MFSL, a listed entity, was involved in series of buy and sell transactions in unlisted equity shares of MLIC with ABL, another listed entity.

131 IRDAI, vide its Order(s) against MLIC and ABL, *inter-alia,* observed that by undertaking and facilitating the transfer of shares of MLIC, in violation of IRDAI directions, MFSL and ABL had circumvented the maximum limits of commission, remuneration or reward as stipulated in the IRDAI (Payment of commission or remuneration or reward to insurance agents and insurance intermediaries) Regulations, 2016 read with Regulation 18(1) of IRDAI (Registration of Corporate Agents) Regulations, 2015, and had imposed a penalty of ₹ 2 Crores on ABL and ₹ 3 Crores on MLIC. All these facts are undisputed and also the fact that the IRDAI Orders have attained finality since the MLIC/ABL did not appeal the said Orders and also paid the penalties. However, after passing of such Orders, IRDAI, vide letter dated November 01, 2022, forwarded the said Orders to SEBI for information and further examination at SEBI's end as deemed necessary. The information was shared on a confidential basis. It is pertinent to reiterate here that SEBI was already examining the transactions before IRDAI sent the letter.

132 In this context, the Noticees have submitted that all the transactions were undertaken with the approval of IRDAI. At this stage, without going into the detailed set of the transactions and the allegations of fraud, the limited issue for consideration is whether SEBI has jurisdiction over the transactions undertaken by these entities. SEBI's jurisdiction over the securities market transactions has been discussed in foregoing paragraphs. Additionally, it is noted that SEBI and IRDAI are both independent sectoral regulators overseeing the securities and insurance markets, respectively. IRDAI has been established to protect the interests of holders of insurance policies, to regulate, promote and ensure orderly growth of the insurance industry whereas, SEBI has been established, *inter alia,* to protect the interest of investors in securities market. Both these authorities have separate existence, powers, functions and separate framework to support the functions. It is a settled position of law that SEBI, while exercising powers under various provisions *viz.* Sections 11 and 11B of the SEBI Act, is entitled to take cognizance of material, findings, or information emanating from other statutory or regulatory authorities, provided that SEBI independently applies its mind to such material for the purposes of proceeding under the SEBI Act. The contention of the Noticee that SEBI has impermissibly relied upon the findings of another statutory authority and has failed to conduct an independent examination is misplaced and is liable to be rejected.

133 A perusal of the records in the present case clearly shows that the findings of the other authority have been relied upon only as a corroborative material. SEBI has independently examined the transactions, documents, and surrounding circumstances from the standpoint of securities law, investor protection, and market integrity. The jurisdiction exercised by SEBI is distinct, the statutory purpose is different, and the conclusions drawn are based on an independent evaluation of the material on record. The mere fact that certain factual aspects overlap with proceedings before another authority does not render SEBI's action invalid, nor does it amount to abdication of SEBI's statutory responsibility. In fact, pursuant to SEBI investigation, various allegations related to non-disclosure,

incomplete or delayed disclosure were also made against MFSL which were independent of the findings of IRDAI. SEBI is duly empowered to examine the transactions undertaken by the Noticees if it affects the interests of securities market and / or market integrity.

134 The proceedings under the SEBI Act are not dependent upon the outcome or methodology of proceedings under other enactments. Accordingly, the contention that SEBI did not have jurisdiction over the alleged transactions is devoid of any merit. Even otherwise, the jurisdiction under the SEBI Act being distinct and autonomous, the proceedings cannot be invalidated merely on the ground that certain material relied upon was provided by another statutory authority.

135 I note that the SCN has relied on the findings of IRDAI, alleging that the valuation methods for the shares were adopted *'as per convenience of the parties'* to disguise excess commissions as capital transactions, thereby bypassing IRDAI's permissible commission limits. In this regard, it is matter of record that IRDAI has already determined that the transactions done by MLIC and ABL resulted in extending additional benefits or rewards to ABL beyond the commissions permissible under IRDAI regulations, and the same is not under question. However, for SEBI to hold the Noticees liable for 'fraud' under the securities laws, it must be independently demonstrated that the accounting and valuation of these transactions were deliberately misrepresented to the shareholders of MFSL, thereby distorting the true and fair view of the listed entity's financials.

136 The material on record suggests that the pricing mechanisms specifically the issuance at par and the repurchase at a higher price linked to Fair Market Value were submitted to and approved by IRDAI on February 5, 2016, and were subsequently disclosed in MFSL's financial statements. While the structuring of this transaction was later deemed by IRDAI to be a regulatory circumvention of insurance commission limits, this constitutes a regulatory arbitrage falling squarely within the domain of insurance laws. From the standpoint of securities law, it is

already noted that the disclosures made by MFSL to the stock exchanges and in the Annual Reports, did not result in violation of the disclosure requirements as alleged in the SCN. Without independent evidence demonstrating that the valuations were falsely reported to the stock exchanges to manipulate MFSL's scrip price, a penalty by another regulator for sector-specific cap violations cannot automatically be imported as a 'fraudulent and unfair trade practice'. Also, as a corollary, nothing precludes SEBI from exercising its jurisdiction if the impugned transactions are found to be violative of Securities laws.

Consideration of issues on Merit

137 Having addressed the preliminary issue regarding the jurisdiction, I now turn to the main allegations against the Noticees. It is alleged in the SCN that the structured transactions undertaken by the Noticees, which were disguised as investments, enabled ABL and its group entities to enrich at the cost of MFSL and its shareholders. It is observed in the SCN that had these structured transactions not been undertaken and ABL would have received only the commissions permissible by IRDAI, the shareholders of MLIC and MFSL would have been the beneficiaries. Further, the SCN has alleged that active concealment of the fact related to the structured transactions and incorrect and misleading disclosures, to the detriment of the interests of the shareholders, squarely falls under the definition of fraud under the PFUTP Regulations.

138 The Noticees have vehemently contested that the transactions which are alleged to be detrimental to the shareholders' interests were in fact not only beneficial but also caused substantial value creation for all shareholders. It is submitted that the long-term partnership between ABL and MFSL has created value for shareholders of both MFSL and MLIC and accordingly, no loss has been caused to the shareholders. The following facts have been submitted by the Noticees in this regard:

138.1 Before 2010, MLIC/ AMLI lacked a credible bancassurance partner, resulting in only 4% of its new business being generated through bancassurance channels. In 2010, following the conclusion of ABL's corporate agency arrangement with MetLife, ABL sought to establish a new bancassurance partnership. At the time, ABL was the third largest bank in the country, with demonstrated expertise in selling life insurance, having generated sales worth 1,000 Crore during its three-year tie-up with MLIC/AMLI. Given these circumstances, the partnership with ABL was of strategic significance to MLIC/AMLI. In a challenging insurance industry environment in 2009 (due to economic slowdown and regulatory changes), the partnership was expected to significantly benefit MNYL, its financial targets for 2010-2012, including:

(a) New business (AFYP) growth projections of 20%, 18%, and 22% for 2010, 2011, and 2012, respectively;
(b) Market share expansion from 5.9% in 2011 to 6.4% in 2012;
(c) Achieving statutory break-even by 2011 and cost break-even by 2013;
(d) New Business Margins between 11-13%;
(e) Peak capital requirements of ₹ 2,468 Crore with an additional capital infusion of ₹ 686 Crore; and
(f) Projected embedded value of ₹4,333 Crore by 2012.

138.2 Since ABL became MLIC/AMLI's bancassurance partner, MLIC/AMLI's profitability significantly increased. The same is demonstrated by the following:

138.2.1 MLIC/AMLI's embedded value grew 8X from ₹ 3,200 crores in FY 2010-11 to over ₹ 24,000 crores in 9MFY25, with CAGR of 15%.

138.2.2 The contribution of the ABL in this growth is evident from the following:

Table No. 15. Increase in gross premium:

Year	**Gross Premium Income (₹ Crores)**

	MLIC(A)	ABL(B)	ABL Contribution[%](C=B/A)
2009-10	4,861		
2010-11	5,813	371	6%
2011-12	6,391	1,031	16%
2012-13	6,639	1,623	24%
2013-14	7,279	2,351	32%
2014-15	8,172	2,963	36%
2015-16	9,216	3,838	42%
2016-17	10,780	4,657	43%
2017-18	12,501	5,630	45%
2018-19	14,575	7,089	49%
2019-20	16,184	7,761	48%
2020-21	19,018	9,713	51%
2021-22	22,414	11,718	52%
2022-23	25,342	13,167	52%
2023-24	29,529	14,265	48%
2024-25	33,223	15,557	47%
Total	**2,27,075**	**1,01,734**	**45%**

Table No. 16. New business sales:

Year	**New Business sales (₹ Crores)**		
	MLIC(A)	**ABL(B)**	**ABL Contribution [%](C=B/A)**
2009-10	1,849		
2010-11	2,061	371	18%
2011-12	1,902	764	40%
2012-13	1,899	899	47%
2013-14	2,262	1,022	45%
2014-15	2,573	1,167	45%
2015-16	2,882	1,223	42%
2016-17	3,666	1,512	41%

2017-18	4,349	1,888	43%
2018-19	5,160	2,501	48%
2019-20	5,583	2,563	46%
2020-21	6,826	3,484	51%
2021-22	7,905	4,337	55%
2022-23	8,960	4,455	50%
2023-24	11,023	4,673	42%
2024-25	12,174	4,814	40%
Total	**79,224**	**35,674**	**45%**

138.3 Prior to the bancassurance partnership with ABL, between FY 2001 to FY 2010, MLIC/AMLI made net losses of ~ ₹ 1,000 crores.

138.4 Within three years of ABL becoming a corporate agent of MLIC in FY 2012-13 the gross premium of MLIC/ AMLI was ₹ 6,639 crores and the PAT was ₹423 crores. In FY 2015-16, the gross premium of MLIC was ₹ 9,216 crores and the PAT was ₹ 439 crores. In FY 2020-21, the gross premium of MLIC/ AMLI was ₹19,018 crores and the PAT was ₹ 523 crores.

138.5 MFSL has received dividend of ₹ 2,141 crores from MLIC between 2013 to 2022.

138.6 Furthermore, MFSL’s share price has risen from around ₹ 175 in March 2010 to an all-time high of ₹ 1,311 in October 2024, following the disclosure of MFSL’s sale of a 12.002% stake in MLIC to ABL.

138.7 MFSL had infused approximately ₹1,450 crores in equity into MLIC between 2000 and 2010. Since ABL became MLIC’s bancassurance partner in 2010, MFSL has not been required to provide any additional capital to MLIC.

138.8 The presentation given by the management of MFSL at the board meeting held on March 30, 2010, projected a growth in sales of MLIC to about ₹ 1500 crores over a three-year period, as a consequence of fostering of the relationship between MFSL and ABL. The actual sales of MLIC at the end of three years was over ₹ 2000 crores. Similar considerations and discussions have been discussed by the management of MFSL and the board of directors of MFSL in various subsequent board meetings including on June 27, 2012, August 9, 2012, February 12, 2016, and March 28, 2016. This shows that the management and the board of directors of MFSL showed acute foresight in 2010 in building the relationship between MFSL and ABL.

138.9 Even after the deficient disclosure (as alleged in the SCN), which included purchase of MLIC shares by ABL at prices higher than the face value/selling price of such shares, the share price of MFSL's shares on the market was not adversely impacted.

138.10 The proposal for entering into a share purchase agreement with ABL was approved by the board on April 27, 2020, whereby the board of MFSL approved entering into definitive agreements with ABL for the sale of 29.002% equity stake in MLIC, to ABL and/or its affiliates. The proposal in relation to the afore-mentioned transaction was placed before the shareholders of MFSL, which approved the transaction on June 16, 2020 with a 99.9% vote in favour of the transaction. This clearly shows that even as per the shareholders of MFSL, the transaction with ABL was beneficial and in the interest of the company.

139 In the context of the above submissions, I note that it is an undisputed fact the MLIC is a material subsidiary of MFSL and the SCN has also acknowledged that largely the entire profit of MFSL was dependent on MLIC's performance and profits. The same has been captured in the SCN also as per the following Table:

Table No. 17.

Year	MLIC profit after tax	MFSL Profit After tax (Consolidated)
2010-11	194.06	21.84
2011-12	459.83	237.88
2012-13	423.44	849.53
2013-14	435.91	209.5
2014-15	414.24	364.91
2015-16	439.11	393.19
2016-17	659.92	593.27
2017-18	527.62	450.51
2018-19	556.42	416.47
2019-20	539.37	272.85
2020-21	522.99	559.75
2021-22	386.65	318.40

140 Further, the SCN has also noted that since 2010, the price of the scrip of MFSL had shown an increasing trend from ₹ 108 (when shares were issued at par on December 23, 2011). The below graph indicated that the market value of the share had never fallen below ₹ 159.98. The profitability of MFSL as mentioned above indicates that the valuation of MFSL had always been largely dependent on the performance of its subsidiary, MLIC. Also, subsequent to the demerger in 2015, MLIC was the sole subsidiary of MFSL.

141 Having observed as such, I note that the Noticees have placed heavy reliance on the commercial success of the bancassurance partnership, citing various parameters, including profitability, growth in sales, expansion of business, substantial growth in embedded value, gross premium income, and the distribution of ₹2,141 crores in dividends to MFSL. While it may be true that the arrangement appeared to have yielded commercial benefits and the transactions were commercially lucrative, it must be categorically stated that commercial prudence or financial profitability, by itself, does not absolve a listed entity from its obligations under the SEBI Act and Regulations framed thereunder. A scheme or an arrangement can be highly profitable yet inherently fraudulent. Thus, the issue that merits consideration is whether MFSL, MLIC, ABL along with ASL and ACL and other Noticees are liable for devising a fraudulent scheme to defraud the shareholders of MFSL. They have been alleged to have violated Section 12A(b) and 12A(c) of the SEBI Act and Regulation 3(c), 3(d), 4(2)(k) and 4(2)(r) of the PFUTP Regulations.

142 Having examined the factual details of the arrangement, I now turn to the legal arguments advanced by the Noticees. The Noticees have vehemently contended that the SEBI allegations do not satisfy the essential ingredients of fraud. It has been argued that 'inducement', which is a primary ingredient required to prove fraud under the PFUTP Regulations, is missing and there needs to be an identified instance or act/omission resulting in inducement.

143 I refer to the relevant legal provisions in this regard, Section 12A of the SEBI Act provides as follows:

"*12A. No person shall directly or indirectly.*

(b) employ any device, scheme or artifice ***to defraud*** *in connection with issue or dealing in securities which are listed or proposed to be listed on a recognised stock exchange;*

*(c) engage in any act, practice, course of business which operates or would operate as **fraud** or deceit upon any person, in connection with the issue, dealing in securities which are listed or proposed to be listed on a recognised stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;*"

144 Further, Regulation 3(c) and 3(d) of the PFUTP Regulations are also similarly worded and intent of all these provisions is to prohibit fraud by any person by whatever means. 'Fraud' has been defined in Regulation 2(1)(c) of the PFUTP Regulations which reads as follows.

"*2(c) "fraud" includes any act, expression, omission or concealment committed whether in a deceitful manner or not by a person or by any other person with his connivance or by his agent while dealing in securities **in order to induce** another person or his agent to deal in securities, whether or not there is any wrongful gain or avoidance of any loss, and shall also include—*

(1) a knowing misrepresentation of the truth or concealment of material fact in order that another person may act to his detriment;

(2) a suggestion as to a fact which is not true by one who does not believe it to be true;

(3) an active concealment of a fact by a person having knowledge or belief of the fact;

(4) a promise made without any intention of performing it;

(5) a representation made in a reckless and careless manner whether it be true or false;

(6) any such act or omission as any other law specifically declares to be fraudulent;

(7) deceptive behaviour by a person depriving another of informed consent or full participation,

(8) a false statement made without reasonable ground for believing it to be true.

(9) the act of an issuer of securities giving out misinformation that affects the market price of the security, resulting in investors being effectively misled even

though they did not rely on the statement itself or anything derived from it other than the market price.

And "fraudulent" shall be construed accordingly;

Nothing contained in this clause shall apply to any general comments made in good faith in regard to—

(a) the economic policy of the government

(b) the economic situation of the country

(c) trends in the securities market or

(d) any other matter of a like nature whether such comments are made in public or in private;"

145 Thus, the essential ingredients of what would amount to fraud are as under:

- *(i) any act, expression, omission or concealment (committed in a deceitful manner or not);*
- *(ii) Committed by a person or by any other person with his connivance or by his agent;*
- *(iii) while dealing in securities;*
- *(iv) in order to induce another person or his agent to deal in securities;*
- *(v) whether or not there is any wrongful gain or avoidance of any loss.*

Further, the definition gives instances of what would constitute fraud *viz.* knowing misrepresentation of the truth or active concealment of material fact, etc. and also provides for what would be exceptions to fraud *viz.* any general comments made in good faith with respect to (a) the economic policy of the government; (b) the economic situation of the country; (c) trends in the securities market, etc.

146 Therefore, the definition of 'fraud' under PFUTP regulations is inclusive and broad. The Noticees have relied on the observations made in the Judgement of the Hon'ble Supreme Court in the *Kanaiyalal* Case (reproduced below), to submit that the element of "inducement" must exist to constitute 'fraud' under the PFUTP Regulations.

“6. “The definition of 'fraud', which is an inclusive definition and, therefore, has to be understood to be broad and expansive, contemplates even an action or omission, as may be committed, even without any deceit if such act or omission has the effect of inducing another person to deal in securities. Certainly, the definition expands beyond what can be normally understood to be a 'fraudulent act' or a conduct amounting to 'fraud'. The emphasis is on the act of inducement and the scrutiny must, therefore, be on the meaning that must be attributed to the word “induce”.

…

8. A person can be said to have induced another person to act in a particular way or not to act in a particular way if on the basis of facts and statements made by the first person the second person commits an act or omits to perform any particular act. The test to determine whether the second person had been induced to act in the manner he did or not to act in the manner that he proposed, is whether but for the representation of the facts made by the first person, the latter would not have acted in the manner he did. This is also how the word inducement is understood in criminal law. The difference between inducement in criminal law and the wider meaning thereof as in the present case, is that to make inducement an offence the intention behind the representation or misrepresentation of facts must be dishonest whereas in the latter category of cases like the present the element of dishonesty need not be present or proved and established to be present. In the latter category of cases, a mere inference, rather than proof, that the person induced would not have acted in the manner that he did but for the inducement is sufficient. No element of dishonesty or bad faith in the making of the inducement would be required."

147 Further, it is submitted that Hon’ble SAT in the matter of *Ms. Chitra Ramkrishna vs SEBI (Appeal No. 334 of 2019),* while referring to the observations of Hon’ble Supreme Court in *Kanaiyalal* matter, has observed the following*:*

“91. From the aforesaid decisions and on a reading of the provisions of Section 12A of the SEBI Act and Regulation 3 & 4 of PFUTP Regulations, it is apparently clear that the object of Section 12A & PFUTP Regulations is to curb “market manipulations”. The manipulative and deceptive devices must be in relation to “securities” and must be by a person “dealing in securities”. The Supreme Court has enlarged the scope of “fraud” under the PFUTP

Regulations to cover an action or omission even without deceit if such act or omission had the effect of inducing another person to deal in securities. Thus, "inducement" became more significant where 'fraud' was required to be proved. The Supreme Court held that fraud can be inferred on a preponderance of probabilities. However, the inferential conclusion must be arrived at from proven and admitted facts.

92. Further, fraud cannot be proved only on alleged negligence, as amounting to collusion and connivance. The Supreme Court in Kanaiyalal's case (supra) has categorically held that the element of "inducement" must exist and should be proved before holding that a person is guilty of fraud…"

148 I note that the foremost argument advanced by the Noticees is that SEBI must establish the element of "inducement" to constitute 'fraud' under the PFUTP Regulations. In this regard, I refer to the observations made by Hon'ble SAT in the matter of *Ketan Parekh Vs. SEBI*[31](Appeal No. 2 of 2004) wherein the Hon'ble Tribunal had, *inter alia,* observed the following:

"12…One cannot lose sight of the fact that a stock exchange is a place where persons willing to trade in the securities come to buy and sell and they are provided with a platform where a buyer buys securities without knowing the seller and vice-versa. The stock exchange is also a platform for the fair price discovery of a scrip based on the market forces of demand and supply. Securities market is so wide spread and in a system of screen based trading various potential investors who track the scrips through the screens of the exchanges only see whether a particular scrip is active or not, whether it is trading in large volumes and whether the price is going up or down. Having regard to these factors he makes up his mind to invest or disinvest in the securities. When a person takes part in or enters into transactions in securities with the intention to artificially raise or depress the price he thereby automatically induces the innocent investors in the market to buy / sell their stocks. The buyer or the seller is invariably influenced by the price of the stocks and if that is being manipulated the person doing so is necessarily influencing the decision of the buyer / seller thereby inducing him to buy or sell depending upon how the market has been manipulated. We are therefore of the view that

[31] MANU/SB/0229/2006

inducement to any person to buy or sell securities is the necessary consequence of manipulation and flows therefrom. In other words, if the factum of manipulation is established it will necessarily follow that the investors in the market had been induced to buy or sell and that no further proof in this regard is required. The market, as already observed, is so wide spread that it may not be humanly possible for the Board to track the persons who were actually induced to buy or sell securities as a result of manipulation and law can never impose on the Board a burden which is impossible to be discharged. This, in our view, clearly flows from the plain language of Regulation 4(a) of the Regulations."

149 The said observations by Hon'ble SAT were also referred to by Hon'ble Supreme Court in the matter of *SEBI vs Rakhi Trading Private Limited*[32], which was decided subsequent to the *Kanaiyalal* Case cited above. In the Rakhi Trading Case, Hon'ble Supreme Court had observed the following.

" *36.Respondent-Rakhi Trading and Kasam Holding on facts are found to have been engaged in non-genuine transactions creating appearance of trading.* ***If the factum of manipulation is established, it will necessarily follow that the investors in the market have been induced to buy or sell and that no further proof in this regard is required. The market, as already observed, is so widespread that it may not be humanly possible for the Board to track the persons who were actually induced to buy or sell securities as a result of manipulation and the Board cannot be imposed with a burden which is impossible to be discharged****."*

150 I also refer to one recent Judgement pronounced by Hon'ble Supreme Court of India on May 29, 2026, in the matter of *Reliance Industries limited & Ors. Vs SEBI*[33]*.* In the said Judgement, Hon'ble Court has referred to its earlier decisions including its judgments in the matter of *Kanaiyalal, Rakhi Trading, Kishor Ajmera,* etc. on the interpretation of the term 'fraud' and its necessary ingredients in the context of PFUTP Regulations. After discussing at length its earlier decisions, Hon'ble Court has outlined the following scenarios for a more purposive approach

[32] Civil Appeal Nos. 1969, 3174-3177 and 3180 of 2011 (MANU/SC/0096/2018)
[33] CIVIL APPEAL NO. _4015 OF 2020

to Regulation 2(1)(c) of the PFUTP Regulations which defines 'Fraud'. The relevant extracts of the said Judgement are reproduced below:

> *"219… Even though inducement has been held to be the necessary ingredient for establishing fraud in Kanhaiyalal Baldevbhai Patel (supra), yet in Rakhi Trading (supra), this Court has held that inducement need not be proved if the factum of manipulation is sufficiently and cogently established. This makes it all the more necessary for the respondent authority to prove deceitful intention from the beginning that would lead to a pre-planned act or omission.*
>
> *220. We have taken this forward by discussing the definition of fraud under Regulation 2(1)(c) of the PFUTP Regulations and making the following courses of action necessary in certain situations. The definition of fraud under the PFUTP Regulations uses the word 'act' and not 'entry'. Though the definition is wide, it does not mean every expression, omission or concealment under the sky. This is because the expression 'inducement' as used in the provision is sine qua non to bring a transaction within the ambit of a fraudulent activity. In our opinion, it cannot be the intention of the PFUTP Regulations to give unfettered powers to decide the question of fraud. We find it apposite to purposively interpret Regulation 2(1)(c). In our considered view, both intention and act cannot be made into irrelevant factors for deciding fraud. Therefore, we may outline the following scenarios:*
>
> *i) In situations where injury due to wrongful act is established, i.e, inducement to deal in securities has caused the other person to be adversely affected and allowed the party accused of fraud to gain unlawful profits or avert ordinary losses at the former's expense, there would be no requirement on the respondent authority to prove deceitful intention. In other words, where injury is impossible to be proved, the requirement of wrongful intention becomes mandatory.*
>
> *ii) Secondly, in situations where deceitful or mala fide intention to defraud and manipulate the securities market is clear from the blatant misconduct or attending circumstances that cogently establish wrongful intention, then proving the injury would not be required.*

151 Thus, from the decisions cited above, it is clear that although *inducement* to deal in securities is required to constitute fraud, the same is not required to be proved in cases where SEBI is able to establish blatant misconduct or the attending circumstances are such which cogently establish the wrongful intention of the parties. A natural corollary to that is if manipulation is established, investors in the

market would be deemed to have been induced and no further proof in this regard is required as has been held by Hon'ble Supreme Court in *Rakhi Trading* and *affirmed in Reliance Industries limited.*

152 On the standard of proof, Hon'ble Court in the said Judgement of *Reliance Industries limited (supra) has also observed that* ***"****in our considered view, where the circumstances indicate that no inducement is present yet fraudulent conduct may have been at play, the standard of proof to be discharged is a higher degree of the preponderance of probabilities."*

153 Manipulation of market signals such as price, volume, liquidity and the appearance of genuine trading interest directly affects investors' behavior. Any conduct which interferes with free price discovery, creates an artificial market, distorts demand and supply, or generates misleading market signals has the inherent tendency to influence investment decisions. Where transactions lack commercial substance and serve no purpose other than impacting market perception, inducement is implicit in the nature of the conduct itself and need not be independently demonstrated.

154 Non-disclosure of material information may also be tantamount to misconduct. Material information is any fact that a reasonable investor would consider important while deciding whether to buy, sell, or hold a security. When such information is not disclosed, it creates information asymmetry. Insiders/the issuer possess superior knowledge whereas public investors assume no adverse facts exist. This imbalance itself nudges investors into trading under incorrect assumptions. In a disclosure-based regime, investors expect all material adverse facts to be disclosed. If nothing negative is disclosed, the market infers stability, compliance, or profitability. Therefore, non-disclosure of any adverse material information, artificially supports the price and creates a misleading appearance of normalcy. Further, the share price also looks safer or more attractive than it actually is and this false comfort induces buying or holding. Non-disclosure of

material information also suppresses known risks and inflates expected returns. The illustrations of fraud under Regulation 2(1)(c) *inter alia* also includes knowing misrepresentation of the truth or concealment of material fact in order that another person may act to his detriment or an active concealment of a fact by a person having knowledge or belief of the fact. Therefore, by law also non-disclosure of information has been termed as fraudulent. Further, the above mentioned 'inducement' need not arise from any active solicitation or positive misstatement. Where there exists a statutory duty to disclose, non-disclosure itself operates as a deceptive device, enabling trading which would not have occurred, or would have occurred at different price points, had the material information been disclosed.

155 Having discussed the essentials of 'fraud' at length, it needs to be examined whether in the instant case and with the surrounding facts and circumstances of the case, the ingredients of 'fraud' are established on not.

156 On perusal of the SCN, I note that the SCN has alleged that the active concealment of the fact related to the structured transactions and incorrect and misleading disclosures, was detrimental to the interests of the shareholders, and thus would fall under the definition of 'fraud' under the PFUTP Regulations. As discussed earlier, it is true that active concealment or non-disclosure of any material information or non-disclosure of information, which the entities are statutory obliged to disclose, constitute fraud. However, as discussed earlier in Issue I, on perusal of the transactions undertaken by MFSL in the three arrangements (2010, 2015 and 2020), the sequence of events, and the information generated therefrom, it is evident that the allegations concerning disclosures related lapses by MFSL are not established. Since the case of active concealment of any information by MFSL is not established, the allegation that non-disclosure eventually led to fraud is not made out. Further, there is no allegation of market manipulation through artificial inflation of price, volume or otherwise interference with market integrity.

157 The SCN has also alleged that MFSL in connivance with MLIC and ABL/ASL/ACL devised a scheme wherein a method was used to benefit ABL firstly by issuance of shares at par / sale of shares and then buyback of shares at higher prices. In this regard, reference has been made to definition of 'connivance' mentioned in the Black's Law Dictionary, by which 'connivance' means the secret or indirect consent or permission of one person to the commission of an unlawful or criminal act by another. The said definition has been followed in multiple cases and the same is required to be proved based on analysis of evidence/material, objective facts such that an ordinary person under similar observations would conclude that there is high probability of collusion/connivance. In the instance case, the SCN has failed to bring out any evidence to demonstrate connivance on part of the Noticees. It has already been discussed that issuance of shares at par / sale of shares was approved by the sectoral regulator and only pursuant to all the regulatory approvals and definitive agreements, disclosures were made by MFSL. Therefore, the element of connivance is conspicuously missing in the SCN and the allegation is not supported by any material.

158 Therefore, upon a cumulative consideration of the material on record, I find that neither has the SCN been able to justify the injury due to wrongful acts of the Noticees i.e. inducement to deal in securities has not been proved, nor attending circumstances surrounding the case and the conduct of the Noticee is so blatant that demonstrate wrongful intent to defraud and manipulate the securities market. Therefore, the essential ingredients necessary to sustain a charge of fraud under Section 12A(b) and (c) of the SEBI Act read with Regulations 3(c) and 3(d) of the PFUTP Regulations read with Regulation 2(1)(c) of PFUTP Regulations are not established.

159 Further, the SCN has alleged violation of Regulation 4(2)(k) and 4(2)(r) of the PFUTP Regulations.

160 Regulation 4(2)(k), *inter alia*, provides that disseminating information or advice through any media, whether physical or digital, which the disseminator knows to be false or misleading in a reckless or careless manner and which is designed to, or likely to influence the decision of, investors dealing in securities, shall be deemed to be fraudulent or unfair trade practice. I note that although the SCN has not clarified how and why these allegations are being charged, it appears that these provisions have been invoked considering the allegation of non-disclosure, partial disclosure and/or untimely disclosure by MFSL which would have the likelihood of influencing the decision of investors while dealing in securities. However, as has been recorded earlier, the allegation related to disclosure violations have been found to be unsubstantiated. Further, no evidence has been brought forth, which may justify dissemination of information through media with likelihood to influence the decisions of the investors. Thus, I find that the allegation of violation of Regulation 4(2)(k) is not established in the present case.

161 Further, Regulation 4(2)(r) provides that knowingly planting false or misleading news which may induce sale or purchase of securities is deemed as fraudulent or an unfair trade practice. In this regard, SCN has not brought out any material reflecting planting of any specific false or misleading news inducing the sale or purchase of its securities. Also, the essential element of inducement is also missing. Therefore, the allegation of violation of Regulation 4(2)(r) is also not established in the present case.

162 Thus, upon a careful consideration of the allegations in light of the applicable legal provisions, I find that the charges as framed in the SCN do not satisfy the essential ingredients required to attract the provisions of law invoked therein. Liability under the relevant provisions of the SEBI Act and the PFUTP Regulations must rest upon conduct that operates, *inter alia*, as a deceptive device, manipulative practice, or an act having the tendency to mislead investors or distort the securities market. In

the absence of material demonstrating such elements, the allegations cannot be sustained.

163 Thus, the answer to the 2nd issue is also in negative. I would now proceed with consideration of next issue on the role and liability of the other Noticees.

Issue-III - The roles and liabilities of Noticee No. 6 to 12.

164 I note that the SCN has imputed vicariously liability upon Noticees No. 6-12 for the contravention allegedly committed by MFSL. Further, some of the allegations levelled against these Noticees are emanating for their individual roles and responsibilities held by them during the investigation period. The details of the allegations against the said Noticees have been mentioned above. During the investigation period, the role and the tenure of said Noticees as mentioned in the SCN is as per the following table.

Table No. 18.

S.N.	Name of Noticees	Designation and Period
1.	Mr. Analjit Singh (Noticee No. 6)	Chairman and Managing Director – FY 2009 to 2011,Founder Chairman – FY 2011-12 till 2017-18
2.	Mr. Mohit Talwar (Noticee No. 7)	Deputy Managing Director since February 2012, Managing Director – FY 2015 – 2022
3.	Mr. Rahul Khosla (Noticee No. 8)	Managing Director - Since February 2012 till 2014-15, Permanent Invitee to Board – Since 2015-16
4.	Ms. Sujatha Ratnam (Noticee No. 9)	CFO - FY 2009-10,FY 2010-11, FY 2015-16 to 2018-19
5.	Mr. Rahul Ahuja (Noticee No. 10)	Group Financial Controller (Group FC)/CFO - FY 2011-12 to FY 2014-15
6.	Mr. Jatin Khanna (Noticee No. 11)	CFO- FY 2019-20 and FY 2020-21
7.	Mr. V Krishnan (Noticee No. 12)	Company Secretary from FY 2009-10 to 2014-15 and Compliance Officer FY 2019-20 to FY 2022-23

165 Noticee No. 6-12 except Noticee No. 9 were represented through common authorized representative and similar submissions were made while adopting the submission made on behalf of Noticee No. 1. The submissions made by these Noticees are broadly summarized as below.

165.1 Section 27 of the SEBI Act and Section 24 of the SCRA were amended on March 8, 2019, to substitute the word 'offence' with 'contravention'. It is submitted that prior to the amendments, there was no statutory provision that extended vicarious liability for civil contraventions under the SEBI Act or its Regulations.

165.2 SCN fails to make any direct or specific allegation of 'fraud' against the individual KMPs in respect of the transactions or contraventions alleged to have occurred post March 8, 2019.

165.3 It is submitted that the individual Noticees associated with MFSL cannot be held vicariously liable unless MFSL is first found guilty of having committed fraud under the SEBI Act and the PFUTP Regulations. In the absence of a definitive and independent finding establishing MFSL contravention, the imposition of liability on its KMPs is legally unsustainable.

165.4 Vicarious liability can only be imputed from being in charge of and responsible for the conduct of business of the company at the relevant time when the offence was committed and not on the basis of merely holding a designation or office in a company.

165.5 It is trite law that merely because a director attends a Board Meeting or signs a Board Resolution does not mean that he can, on the sole basis, be penalized for any subsequent acts, especially when the subsequent acts have taken place without their knowledge.

166 Noticee No. 9 appeared herself and made submissions, which are summarized below.

166.1 She was the Head of Accounts Function (designated as CFC/CFO) during 6-year period comprising (a) FY 2009-10 and FY 2010-11, and (b) FY 2015-16 to FY 2018-19. The SCN categorically restricts the allegations only w.r.t. the financial results:

i. Regulation 33(2)(a) of LODR Regulations post notification of the LODR notification;

ii. Clause 41 II (a) and 49 V (a) of the erstwhile Listing Agreement read with Section 21 of SCRA.

166.2 Her role is to be contrasted with the role of other noticees viz. Noticee Nos. 6 to 8 and 13 to 25 who are collectively referred to as the "Approving Noticees" as they were part of the Board of the Directors. The stringent provisions of Section 12A of SEBI Act and allegations of fraud as per PFUTP Regulations have not been alleged against the Non-Executive Directors ("NEDs"). As no fraud has been alleged against the NEDs who were the Approving Noticees and met the twin conditions of being aware and having approved the Max Axis Deal, the allegation of fraud against a non-approving person cannot be sustained. Awareness on a standalone basis cannot be used as a standard of proof in a legal context.

166.3 That sudden unwarranted introduction of provisions of fraud under SEBI Act and PFUTP Regulations along with Vicarious liability under Section 27 of SEBI Act is a direct and consequential unintended and inadvertent result arising out of the distinct and incremental role of Mr. Jatin Khanna (Noticee No. 11). Section 27 has been invoked against Noticee No. 11 as he was delegated authority by the Board of Directors decision in the Board meeting held on April

27, 2020. The above position is in sharp contrast to Noticee No. 9 and 10, who were never delegated any authority under the 2010 or 2015 arrangement.

166.4 No allegations under Section 12A have been made against her in her individual capacity. Wrongful invocation of Vicarious Liability under Section 27 of the SEBI Act has resulted in the unintended, unwarranted and inadvertent consequence of allegations under Section 12A and Section 27 of SEBI Act along with the related regulations against her.

166.5 The allegations regarding the CEO and CFO certifications are bad in law for multiple reasons highlighted by her some of which are as reproduced below.

166.5.1 The duty under the above is towards the Board of Directors for enabling them to have knowledge of the full facts so that they are aware of the nuances of the financials. The Compliance Certificate is furnished to the Board of Directors. The Board of Directors having already approved the full contours of the Max Axis Deal in their previous meeting held on March 30, 2010, had full knowledge of all aspects of the Max Axis Deal.

166.5.2 The SCN does not ascribe any other specific wrong doing against her regarding recommendation, approval and/or having played a significant role in devising the scheme or having been delegated any authority by the Board of Directors regarding the Max Axis Deal.

166.5.3 The SCN by clubbing the disclosures to Stock Exchanges, which is the duty of the Company Secretary and Compliance Officer (SEBI’s primary concern) with the subsequent accounting disclosure in the annual financial statements s (based on the stock exchange disclosure and also subject to compliance with Accounting Standards and existence of underlying agreements in case of Option Liability) has effectively wrongly burdened the Noticee with the alleged dereliction of duties by the Board of Directors and/or the designated Compliance Officer.

166.6 The Noticee restricts her response only to the accounting disclosures as it has been established that disclosure to stock exchange/(s) was the sole functional responsibility of Mr. V Krishnan [Noticee No. 12], the designated Compliance Officer.

166.7 Accounting disclosures have to be in compliance with the Accounting Standards. Accounting disclosure regarding option liability could not be made during the said two Financial Years in the absence of all regulatory approvals for FY 2009-10 and the underlying definitive binding agreements not being in place even on the date of signing of Annual Financial Results for FY 2009-10 and FY 2010-11. Whereas, the Letter to Shareholders, Directors Report and MDA are governed by a broader mandate under the Companies Act, 2013 and other related regulations that offer a wider scope in terms of its contents. The Letter to Shareholders, Directors Report and MDA are signed on behalf of the Board of Directors. Noticee No. 9 has neither signed the same nor was any authority delegated to her by the Board of Directors. Information asymmetry, if any, can only be attributable to the Compliance Officer who acts as the Secretary to the Board.

167 Having gone through the main allegations against MFSL as discussed above, it is clear that the charges as framed in the SCN against MFSL do not sustain. Therefore, the primary issue for adjudicating the liabilities of Noticees No. 6-12 is whether in absence of any liability upon MFSL for the alleged fraud and/or disclosure related violations, can the individual KMPs be held vicariously responsible in terms of Section 27 of the SEBI Act and Section 24 of the SCRA.

168 With reference to Section 27 of the SEBI Act and Section 24 of the SCRA, it is submitted that these provisions were amended on March 08,2019, when the word

‘offence’ was substituted with ‘contravention’ and prior to the amendments, there was no statutory provision that extended vicarious liability for civil contraventions under the SEBI Act or its Regulations. Observations of Hon’ble SAT in the matter of Reliance Industries Ltd. vs. SEBI[34] are relevant in this regard, which read as follows.

“…We are thus of the view, that Section 27 prior to the amendment i.e. prior to March 08, 2019 had no application to civil liability and only after the amendment w.e.f. March 08, 2019 that Section 27 provided for vicarious liability on both criminal and civil liability for contravention of the SEBI Act, Rules and Regulations…”

169 Thus, it is clear from the aforesaid observations that prior to March 08, 2019 which substantially covers most of the alleged transactions between MFSL and ABL, Section 27 cannot be relied for imputing vicarious liability upon the KMPs and other Directors for the contraventions committed by the Company. However, for the transactions executed under the 2020 Arrangement and the subsequent execution tranches in 2019 and 2021, the amended provisions of Section 27 are squarely applicable.

170 For the alleged contraventions committed after March 08, 2019, it is submitted that the SCN has failed to make any direct or specific allegation of ‘fraud’ against the individual KMPs, and that KMPs and other Directors cannot be held vicariously liable unless MFSL is first found guilty of having committed fraud under the SEBI Act and the PFUTP Regulations.

171 In this context, I refer to observations of Hon’ble Supreme Court in the matter of *S.M.S. Pharmaceuticals Ltd. v. Neeta Bhalla*[35] wherein it was observed that:

---

[34] 2023 SCC Online SAT 1019
[35] (2005) 8 SCC 89

"…there is nothing which suggests that simply by being a director in a company, one is supposed to discharge particular functions on behalf of a company. It happens that a person may be a director in a company but he may not know anything about the day-to-day functioning of the company. As a director he may be attending meetings of the Board of Directors of the company where usually they decide policy matters and guide the course of business of a company. It may be that a Board of Directors may appoint sub-committees consisting of one or two directors out of the Board of the company who may be made responsible for the day-to-day functions of the company. These are matters which form part of resolutions of the Board of Directors of a company. Nothing is oral. What emerges from this is that the role of a director in a company is a question of fact depending on the peculiar facts in each case. There is no universal rule that a director of a company is in charge of its everyday affairs."

172 Further, Hon'ble Supreme Court in the matter of *Sanjay Dutt v. State of Haryana*[36], has observed the following.

"…While a company may be held liable for the wrongful acts of its employees, the liability of its directors is not automatic. It depends on specific circumstances, particularly the interplay between the director's personal actions and the company's responsibilities. A director may be vicariously liable only if the company itself is liable in the first place and if such director personally acted in a manner that directly connects their conduct to the company's liability. Mere authorization of an act at the behest of the company or the exercise of a supervisory role over certain actions or activities of the company is not enough to render a director vicariously liable. There must exist something to show that such actions of the director stemmed from their personal involvement and arose from actions or conduct falling outside the scope of its routine corporate duties.

[36] 2025 SCC OnLine SC 32

Thus, where the company is the offender, vicarious liability of the Directors cannot be imputed automatically, in the absence of any statutory provision to this effect. There has to be a specific act attributed to the director or any other person allegedly in control and management of the company, to the effect that such a person was responsible for the acts committed by or on behalf of the company.

…

At the same time, wherever by a legal fiction the principle of vicarious liability is attracted and a person who is otherwise not personally involved in the commission of an offence is made liable for the same, it has to be specifically provided in the statute concerned. When it comes to penal provisions, vicarious liability of the managing director and director would arise provided any provision exists in that behalf in the statute. Even where such provision for fastening vicarious liability exists, it does not mean that any and all directors of the company would be automatically liable for any contravention of such statute. Vicarious Liability would arise only if there are specific and substantiated allegations attributing a particular role or conduct to such director, sufficient enough to attract the provisions constituting vicarious liability and by extension the offence itself…"

173 Although the aforesaid observations were made by Hon'ble Supreme Court in context of criminal liability, the same principle should apply in the present case also. For levelling the allegations against the said Noticees, the SCN has mainly relied upon the observations/allegations made against MFSL and in light of these allegations, the role and responsibilities of the individual entities were discussed. The SCN has not brought forward any independent material to make any direct or specific allegation of 'fraud' against the individual KMPs and Directors. The SCN has failed to identify any specific act, omission, or involvement by the individual that would amount to fraud as defined under the PFUTP Regulations. More so, the legal ingredients for attracting the fraud are not even attracted against the

alleged primary violator i.e., MFSL, the question of extending the same to individual does not even arise.

174 It is also submitted that the arraignment of the company as an accused is an express and indispensable condition precedent for imputing vicarious liability upon its directors and officers. Further, Hon'ble Supreme Court has repeatedly and unequivocally affirmed that in statutory regimes employing *"offence/contravention by company"* clauses, the commission of the offence by the company, and its presence before the court, is the foundational jurisdictional fact upon which any deeming fiction of vicarious liability can operate.

175 In this regard, I refer to the observations made by Hon'ble Apex Court in the matter of *Aneeta Hada v. Godfather Travels & Tours (P) Ltd.*[37] wherein it was inter alia observed as follows.

> *"…Applying the doctrine of strict construction, we are of the considered opinion that commission of offence by the company is an express condition precedent to attract the vicarious liability of others. Thus, the words "as well as the company" appearing in the Section make it absolutely unmistakably clear that when the company can be prosecuted, then only the persons mentioned in the other categories could be vicariously liable for the offence subject to the averments in the petition and proof thereof. One cannot be oblivious of the fact that the company is a juristic person and it has its own respectability. If a finding is recorded against it, it would create a concavity in its reputation. There can be situations when the corporate reputation is affected when a director is indicted.*
>
> *In view of our aforesaid analysis, we arrive at the irresistible conclusion that for maintaining the prosecution under Section 141 of the Act, arraigning of a*

[37] *(*2012) 5 SCC 661

company as an accused is imperative. The other categories of offenders can only be brought in the dragnet on the touchstone of vicarious liability as the same has been stipulated in the provision itself…"

176 Thus, in the absence of any primary charge sustaining against the company, the charge against the KMPs (Noticee No. 6-12) would not sustain in light of observations made by Hon'ble Supreme Court as discussed above.

177 Additionally, I note that other than the provisions for which the SCN has imputed liability upon Noticees No. 6-12 for the contravention allegedly committed by MFSL and which has been discussed above, the SCN has also alleged the following violations against the Noticees No. 6-12 for their individual roles:

177.1 Violations of Regulation 4(2)(f)(ii) (7), (8), 4(2)(f)(iii) (1), (3), (6), (12) and 17(8) of the LODR Regulations and Clause 49(V)(a) of the erstwhile listing agreement against Mr. Analjit Singh, Mr. Mohit Talwar, and Mr. Rahul Khosla.

177.2 Violations of Clause 49(V)(b) of the erstwhile listing agreement against Mr. Analjit Singh and Mr. Rahul Khosla and violation of Regulation 17(5)(a), 17(8) and 26(3) of the LODR Regulation against Mr. Mohit Talwar.

177.3 Violations of Clause 49 (II) (D) (1), (4) (e), (5) of the erstwhile listing agreement against Mr. Rahul Khosla.

177.4 Violation of Regulation 18(3) read with Part C of Schedule II against Mr. Mohit Talwar

177.5 Violation of Clause 49 V (a) of the erstwhile Listing agreement against Ms. Sujatha Ratnam, Mr. Rahul Ahuja and Mr. Jatin Khanna.

177.6 Violation of Regulation 17(8) against Ms. Sujatha Ratnam and Mr. Jatin Khanna.

177.7 Violation of Regulation 47(a) and 52(1)(b) of the erstwhile listing agreement against Mr. V. Krishnan and Regulation 6(2)(a), (c) of the LODR Regulations.

178 The aforesaid provisions are reproduced below:

Provisions of erstwhile listing agreement.

47. The Company agrees-
a) to appoint the Company Secretary to act as Compliance Officer who will be responsible for monitoring the share transfer process and report to the Company's Board in each meeting. The compliance officer will directly liaise with the authorities such as SEBI, Stock Exchanges, Registrar of Companies, etc., and investors with respect to implementation of various clauses, rules, regulations and other directives of such authorities and investor service and complaints of related matter;

52. ***Corporate Filing and Dissemination System (CFDS), viz., www.corpfiling.co.in***
(1) *(b) that the Compliance Officer, appointed under clause 47(a) and the company shall be responsible for ensuring the correctness, authenticity and comprehensiveness of the information, statements and reports filed under this clause and also for ensuring that such information is inconformity with the applicable laws and the listing agreement.*

49. CORPORATE GOVERNANCE

…

II Audit Committee

(D) Role of Audit Committee

The role of the audit committee shall include the following:

1.Oversight of the company's financial reporting process and the disclosure of its financial information to ensure that the financial statement is correct, sufficient and credible.

4.Reviewing, with the management, the annual financial statements before submission to the board for approval, with particular reference to:

…

(e). Compliance with listing and other legal requirements relating to financial statements.

V. CEO/CFO certification

The CEO, i.e. the Managing Director or Manager appointed in terms of the Companies Act, 1956 and the CFO i.e. the whole-time Finance Director or any other person heading the finance function discharging that function shall certify to the Board that:

(a)They have reviewed financial statements and the cash flow statement for the year and that to the best of their knowledge and belief: (i)these statements do not contain any materially untrue statement or omit any material fact or contain statements that might be misleading;

(ii)these statements together present a true and fair view of the company's affairs and are in compliance with existing accounting standards, applicable laws and regulations.

(b)There are, to the best of their knowledge and belief, no transactions entered into by the company during the year which are fraudulent, illegal or violative of the company's code of conduct.

Provisions of LODR Regulations.

(5). The listed entity shall ensure that key managerial personnel, directors, promoters or any other person dealing with listed entity complies with responsibilities, if any, assigned to them under these regulations.

17(5)(a). The Board of directors shall lay down a code of conduct for all members of board of directors and senior management of the listed entity.

17(8). The chief executive officer and the chief financial officer shall provide the compliance certificate to the board of directors as specified in Part B of Schedule II.

26(3). All members of the board of directors and senior management personnel shall affirm compliance with the code of conduct of board of directors and senior management on an annual basis.

179 With respect to the aforesaid provisions the violation of which has been charged against Noticees No. 6-12, the facts and material on record do not establish any underlying contravention, misconduct or lapse on the part of the Company in relation to the acts forming the subject matter of the present proceedings. In the absence of such foundational facts, the mere association of the Noticees with the Company, or their designation/position therein, cannot by itself constitute a basis for attributing an independent violation to them. Further, the material on record does not demonstrate, by cogent evidence, any specific act, omission, participation, knowledge or conduct attributable to the said Noticees in their individual capacity which would independently satisfy the ingredients of the violations alleged in the SCN. Accordingly, the charges levelled against the Noticees in their individual capacity do not sustain.

180 In view of the discussion above, I find that no case has been made out against the Noticees No. 1-12 and the proceedings against them are liable to be dropped.

Conclusion

181 The present case broadly focuses on the issue whether MFSL failed to make adequate and timely disclosures in connection with the agreement(s) and arrangement(s) made by it with ABL, ASL and ACL and whether MFSL, MLIC and ABL along with ASL and ACL and other Noticees are liable for devising a fraudulent scheme to defraud the shareholders of MFSL/MLIC.

182 On an overall consideration of the matter, I am conscious that the disclosure framework applicable to listed entities has evolved considerably since 2010. The erstwhile Listing Agreement left significant room for judgment in determining materiality, whereas the subsequent LODR framework has progressively introduced more specific disclosure requirements, quantitative thresholds for materiality and detailed guidance, thereby bringing greater uniformity and reducing subjectivity in disclosure practices. Viewed with the benefit of this evolved framework, the disclosures made by MFSL could undoubtedly have been more comprehensive and, in certain instances, a more cautious and consistent approach to disclosure may have been desirable. However, the conduct of MFSL and other Noticees has to be tested against the legal requirements prevailing at the relevant time. For the reasons discussed above, in the absence of material establishing violation of the specific provisions invoked in the SCN, the disclosure-related charges cannot be sustained.

183 With regard to the allegations of fraud, the case of active concealment of material information by MFSL has not been established. There is also no evidence of manipulation of price or volume, creation of an artificial market, or any other interference with market integrity. The SCN has neither established injury arising from the alleged wrongful acts, including inducement to deal in securities, nor demonstrated such blatant conduct or attending circumstances that would establish a wrongful intention to defraud or manipulate the securities market. Thus, the allegation that MFSL, MLIC and ABL along with ASL and ACL and other

Noticees are liable for devising a fraudulent scheme to defraud the shareholders of MFSL is not established.

184 In the absence of the underlying disclosure-related violations or fraud being established against MFSL, and for the reasons discussed above regarding their individual roles and liabilities, the charges against the KMPs of MFSL also cannot be sustained.

Order

185 I, therefore, in exercise of the powers conferred upon me under Sections 11(1), 11(4), 11(4A), 11B (1) and 11B (2) read with Section 19 of the SEBI Act, dispose of the proceedings initiated against Noticee No. 1 to 12, without issuance of any direction or imposition of any penalty.

186 This order shall come into force with immediate effect.

187 A copy of this order shall be served on all the Noticees, recognized Stock Exchanges, Depositories and the Registrar and Share Transfer Agents for their information and record.

AMARJEET SINGH

Digitally signed by AMARJEET SINGH
Date: 2026.08.24 20:32:12 +05'30'

AMARJEET SINGH

PLACE: MUMBAI **WHOLE TIME MEMBER**

SECURITIES AND EXCHANGE BOARD OF INDIA