



NSE/INSP/DAC-96/NoM/ACT/06292/2047

April 06, 2017

To,
ALKA SECURITIES LIMITED
Maitri, Road No 10,
Nutan Laxmi Society, JVPD Scheme,
Near Kotak Mahindra Bank,
Vile-Parle
Mumbai – 400049
022- 61564804 / 9619424948

Sub:-DAC order

Dear Sir,

This has reference to our show cause notice ref. no. NSE/DAC-96/06292/101702 dated January 24, 2017 and your reply email dated February 20, 2017.

This also has a reference to our letter dated February 28, 2017 asking you to appear before the Disciplinary Action Committee (DAC) of the Exchange in its meeting held on March 08, 2017 and your reply to the same vide letter dated March 03, 2017 and email dated March 08, 2017.

Based on the material and facts on record, the DAC decided that trading member – M/s Alka Securities Limited be declared a defaulter in all segments w.e.f April 06, 2017 in terms of Bye law 1(f) of Chapter XII of Bye Laws of the Exchange.

The order of the Disciplinary Action Committee is enclosed.

Yours faithfully,
For **National Stock Exchange of India Limited**

Yukti Sharma
Senior Manager - Inspection



National Stock Exchange of India Limited
Exchange Plaza, Bandra Kurla Complex, Bandra East, Mumbai - 400051
Disciplinary Action Committee ("DAC") Order
In matter of trading member M/s Alka Securities Limited

I. FACTS OF THE CASE:

DAC was apprised of the following facts:

1. M/s Alka Securities Limited ("ASL") is a Member with National Stock Exchange of India Limited ("the Exchange") in Capital Market ("CM") segment since November 1994, in Futures & Options ("FO") segment since February 2007 and in Currency Derivatives ("CD") since September 2008.
2. There were arbitration awards and Investor Grievance Redressal Panel ("IGRP") orders aggregating to Rs. 46.66 lakhs pending unpaid as on March 30, 2016 for payment to investors due to insufficient funds. Hence, the Exchange vide letter dated April 26, 2016, requested SEBI to consider issuing order to freeze the financial assets of ASL and their directors available with depositories and authorize Exchange to sell the shares wherever listed and utilize the proceeds for payments toward the IGRP orders and arbitration awards. However, SEBI vide its letter dated December 30, 2016 rejected the request made by the Exchange and directed to follow extant guidelines with regard to declaration of ASL as a defaulter Member in case the crystallized liability of the trading Member is more than its assets.
3. As per the Exchange records as on January 24, 2017, it is noted that there are 7 arbitration awards amounting to Rs. 37,11,493/-, which ASL has failed to honor. Further, there were 4 pending investor complaints having admissible claim amounting to Rs. 8,26,406/- as on January 24, 2017. Exchange does not have deposits as on March 03, 2017 of ASL, to pay the aforementioned arbitration awards and investor claims.
4. As on March 03, 2017, Exchange does not hold any funds of ASL. Its deposits with the Exchange are fully exhausted.

II. SHOW CAUSE NOTICE:

As ASL did not honor the arbitration awards and IGRP orders and that its balance deposit with the Exchange was NIL, it was necessary to issue a show cause notice ("SCN") to ASL. The Committee was further apprised that, a SCN dated January 24, 2017 was issued to ASL. ASL was asked to reply as to why proceedings of declaration of defaulter in accordance with Chapter XII of the Bye laws of the Exchange should not be initiated against it.

ASL vide email dated February 20, 2017 replied to the aforesaid SCN as below:

- a. ASL is not doing any business and had requested surrender of membership in 2013.
- b. ASL has no money to settle statutory dues, income tax and SEBI demand, so it is unable to pay any amount.
- c. ASL has no tangible or intangible assets which can be sold for settlement of these dues.

CERTIFIED TRUE COPY

National Stock Exchange of India Ltd.


Authorized Signatory



III. DAC HEARING:

ASL was accorded an opportunity of personal representation before the DAC vide Exchange letter bearing reference no. NSE/INSP/DAC-96/NoM/06292/105663 dated February 28, 2017. However, ASL vide its letter dated March 03, 2017, received on March 07, 2017 by the Exchange inter-alia made the following written submissions:-

1. Due to the SEBI ("Securities and Exchange Board of India") order against Alka Securities Limited dated July 28, 2009, its depository and pool accounts were frozen and it was restrained to take any new clients till the final outcome of the investigation. Hence, all the clients' shares which were kept in the pool and margin account by the clients for the purposes of pay in and pay out were undelivered as the pending payment was blocked.
2. This order was against the compliance related issues of the Company and SEBI had blocked its broking business. The Company had challenged this order in the SAT ("Securities Appellate Tribunal") as well as the High Court, but till the final outcome of this matter, the company's financial position completely collapsed and had shut down all operations.
3. Its bankers which had issued the various bank guarantees in favor of the National Stock Exchange of India Limited (Exchange) had withdrawn the facility and denied to renew Rs. 25,00,000 (Rupees Twenty Five Lakhs Only) worth of guarantee issued in favor of the Exchange as part of the Base Capital Requirements for the membership of the Exchange in 2012. Subsequently, Exchange had revoked the bank guarantee and the funds of the same are lying in NSE's account.
4. Income Tax Department had passed an order dated February 21, 2012 and also had frozen all the operational accounts to recover their outstanding dues of Rs. 2,06,75,389.
5. The Bank of India had started recovery proceedings and revoked the personal guarantees of Mrs. Alka Pandey and Mr. Mahesh Kothari. Concurrently, it has withdrawn all the banking facilities extended to the company.
6. SEBI had imposed a penalty of Rs. 10 lakhs and has subsequently started a recovery proceeding of this penalty in the year 2014. Vide their order, SEBI has also re-frozen the company's accounts and filed a criminal complaint against the company and its directors to recover its penalties. The matter is still pending in the SAT for the final outcome.
7. The Company had decided to exit the broking business and to surrender its membership of the National Stock Exchange but the process is incomplete due to surrender application fee of Rs. 1,12,500/- to process the application.
8. The Company has booked all the losses related to its broking business amounting to Rs. 15 crores, thus making the net worth negative amounting to Rs.1353 lakhs.
9. The Exchange has entertained many fictitious complaints and the arbitrators have passed incorrect, one-sided and prejudiced orders, ignoring all the facts of the matter as presented by the Company.
10. The Company has no money to appoint advocates and consultants to represent the Company in the SAT and other relevant authorities, since all the bank accounts of the Company are blocked, it has no free funds to pay of the investor complaints and arbitration awards.

CERTIFIED TRUE COPY
National Stock Exchange of India Ltd.


Authorized Signatory



11. It has requested to allot to the investors on a pro-rata basis the monies due to them from the various deposits of the company and accept the surrender of the membership without declaring it as defaulters because the company's equity investors will suffer further.
12. On the basis of its above submissions ASL has requested DAC to decide the matter, which it will accept.

IV. VIOLATION EXPLAINED:

ASL has failed to honor 7 arbitration awards amounting to Rs. 37,16,647/- and 4 investor complaints having admissible claim amounting to Rs. 8,26,406/-. Hence, the provisions of Chapters XI and XII of the Exchange Bye laws become applicable. The extract of relevant provisions of the Exchange Bye laws are stated below:

Declaration of Default as per the Chapter XII of the Exchange Bye laws:

"(1) A trading member may be declared a defaulter by direction / circular / notification of the relevant authority of the trading segment if-....."

.....(f) if he fails to abide by the arbitration proceedings as laid down under the Bye Laws, Rules and Regulations; or....."

Payment to constituent for arbitration award passed against the member as per Chapter XI of the Exchange Bye laws:

13B.....where the arbitration award is passed against the trading member and/or its sub-brokers and in favour of a constituent, the Exchange may debit from the deposits or other monies of the trading member lying with the Exchange, the amount of award payable to the awardee together with interest payable....."

Appeal against arbitration awards against the member as per Chapter XI of the Exchange Bye laws:

"13A (vi) (c) The trading member informs the Exchange his intention to prefer an appeal before Appellate Arbitrators of the Exchange or court but fails to prefer the same within prescribed time limit (one month from the date of receipt of award in case of appellate arbitration and three months from date of receipt of award, in case of petition in court)....."

V. DAC OBSERVATIONS

A. Arbitration Awards

DAC noted that there were 7 arbitration awards amounting to Rs. 37,16,647/- as on March 07, 2017. The funds available with the Exchange of ASL were also insufficient to pay off the arbitration claims. The details of the same have been given in Table 1 below:

CERTIFIED TRUE COPY

National Stock Exchange of India Ltd.

Authorized Signatory



Table 1 – Details of Unsettled Arbitration Awards

S. No.	Arbitration Matter Nos.	Applicant Name	Award Date	Unsettled Arbitration Award Amount (Rs.)
1	CM/C-0032/2013	Radha Rani Nayar	13-Mar-14	8,11,300
2	CM/M-0066/2013	Santosh D. Oswal	25-Feb-14	26,01,098
3	CM/M-0003/2015	Shyam Shripat Patil	20-Apr-15	33,593
4	CM/M-0006/2015	Shripat Tukaram Patil	20-Apr-15	69,873
5	CM/M-0004/2015	Shubhada Shyam Patil	20-Apr-15	1,64,423
6	CM/M-0005/2015	Pundlik Dnyandeo Mule	20-Apr-15	4,370
7	CM/M-0007/2015	Shraddha Sopan Mule	20-Apr-15	31,987
Total				37,16,647

DAC noted that there were no funds available with the Exchange as on March 03, 2017 towards settlement of arbitration awards. Further multiple opportunities were given by the Exchange to ASL to abide by the arbitration awards passed, vide letters dated January 19, 2015, February 10, 2015, March 17, 2015, May 18, 2015 and November 30, 2015.

B. Investor Claims

DAC further noted that there were 4 investor complaints against ASL being unsettled claims amounting to Rs. 8,26,406/- as on March 07, 2017. The details of the same have been given in Table 2 below:

Table 2 – Details of unsettled investor claims

S.No	Complaint ID	Investor name	Date of IGRP Order	Unsettled Amount (Rs.)
1	1505220629200064	Krishnan MV	03-Jun-15	2,30,000
2	1406210629200055	Murli Pohumal Chandani	05-Aug-14	5,58,338
3	1503210629200062	Bhaskar V Prabhu	30-Mar-15	264
4	1512210629200065	Shailaja Sanjay Patkar	21-Dec-15	37,804
Total				8,26,406

DAC noted that multiple opportunities were given by the Exchange to ASL to resolve investor complaints received amounting to Rs. 8,26,406/-. The Exchange has issued letters to ASL as mentioned in Table 3 below for resolution of investor complaints:

CERTIFIED TRUE COPY

National Stock Exchange of India Ltd.


Authorized Signatory



Table 3: List of communications sent towards admissible claim for resolution of investor complaints

S. No.	Letter reference no.	Letter date
1	NSE/ISC/2014/1406210629200055/247015-6	6-Aug-14
2	NSE/ISC/2014/252414-B	09-Oct-14
3	NSE/ISC/2015/1503210629200062/O09/20433	30-Mar-15
4	NSE/ISC/2015/1505220629200064/27681	27-May-15
5	NSE/ISC/2015/52258	30-Nov-15
6	NSE/ISC/2015/1512210629200065/O08/54781	21-Dec-15

Despite various opportunities given by the Exchange to ASL as stated above, it has failed to resolve investor complaints for which IGRP orders have been passed.

The contention of ASL that *"The Exchange has entertained many fictitious complaints and the arbitrators have passed incorrect, one-sided and prejudiced orders, ignoring all the facts of the matter as presented by the Company,"* cannot be considered by DAC, ASL had the option of appealing against these awards before Appellate Tribunal .

Also, the contention of ASL in respect of availability of Rs. 25 Lakhs with Exchange, by invoking its Bank Guarantee is incorrect as there are no enforceable/valid deposits/Bank Guarantees of ASL available with the Exchange as on March 03, 2017.

DAC was apprised of the fact that ASL has vide letter dated December 18, 2015 expressed its inability to pay the funds towards these arbitration awards and investor complaints.

DAC noted that the arbitration awards were passed during the year 2014 and 2015, ASL has not yet appealed against the same till date.

VI. DAC DECISION:.

DAC carefully examined the facts and circumstances of the case, including the SCN and written submissions of ASL in the matter. DAC observed that ASL has been given a fair and reasonable opportunity to present its case in accordance with the regulatory provisions.

DAC noted that available deposit of ASL with the Exchange has been fully exhausted and no further funds are available for settlement of Arbitration Awards which are due for settlement as mentioned in Table 1.

DAC noted that ASL has vide its email dated February 20, 2017 and letter dated March 03, 2017 accepted that it has no free funds to pay off the arbitration awards and investor claims.

CERTIFIED TRUE COPY
National Stock Exchange of India Ltd.


Authorized Signatory




DAC deliberated on ASL's request to accept its membership surrender request. DAC opined that failure to honor arbitration awards is clear case of default within the meaning of Byelaw 1 (f) of Chapter XII the NSEIL Bye laws.

Considering the fact that ASL has failed to honor Arbitration Awards, the Committee decided that the Trading Member M/s. Alka Securities Limited, be declared defaulter in terms of Bye law 1(f) of Chapter XII of Bye Laws of the Exchange with effect from the approval of this order.

CERTIFIED TRUE COPY

National Stock Exchange of India Ltd.


Authorized Signatory,