WTM/SKM/EFD1-DRA-III/ 17 /2019-20

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: S. K. MOHANTY, WHOLE TIME MEMBER

ORDER

Under the provisions of Sections 11 (1), 11(4) and 11B of the Securities and Exchange Board of India Act, 1992 and Section 12A of the Securities Contracts (Regulation) Act, 1956.

In re: National Stock Exchange of India Limited

In respect of:

Noticee no.	Names of the Noticees	PAN
1.	Mr. Ajay Shah	AAPPS2553M
2.	Infotech Financial Services Pvt Ltd.	AAACI4871L
3.	Mr. Krishna Dagli, (Director of Noticee No. 2)	AEKPD6775M
4.	Ms. Sunita Thomas, (Director of Noticee No. 2)	ACHPT8291M
5.	Mr. Suprabhat Lala, Assistant Vice President, National Stock Exchange of India Limited.	ABEPL5061D

Background:

1. The Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") received complaints dated June 01, 2017 and September 07, 2017 alleging *interalia* various irregularities in respect of co-location (hereinafter referred to as "**Colo**") facility and lapses of governance at

National Stock Exchange of India Ltd. (hereinafter referred to as "**NSE**"). It was alleged in the complaints that Noticees who are related/connected entities have used their position and connection with NSE to their advantages and thereby benefitted themselves in breach of the applicable laws and rules. Accordingly, based on the gravity of allegations made in the complaints, SEBI decided to conduct an examination in the matter for the period 2009-2016. The period of the examination was extended as and where felt necessary.

2. On completion of the examination, Show Cause Notices (hereinafter referred to as **"SCNs"**) dated July 03, 2018, were issued, separately, to the following persons:

(i) Mr. Ajay Shah – **Noticee No.1**

(ii) Infotech Financial Services Pvt Ltd. – **Noticee No. 2**

(iii) Mr. Krishna Dagli, (Director of Noticee No 2) – **Noticee No. 3**

(iv) Ms. Sunita Thomas, (Director of Noticee No 2) - **Noticee No. 4**

(v) Mr. Suprabhat Lala, Assistant Vice President, National Stock Exchange of India Limited – **Noticee No. 5**

These persons are hereinafter collectively referred to as "**Noticees**".

3. As per the SCNs, on completion of the examination by SEBI, certain facts came to light on the basis of which the SCNs were issued and served on the Noticees. During the course of examination, it was gathered from NSE that the Noticee No. 1 (Mr. Ajay Shah) and his wife, Ms. Susan Thomas of Indira Gandhi Institute of Development Research (hereinafter referred to as "**IGIDR**") have been associated with NSE and its affiliate companies from about 1994 onwards and have been engaged by NSE and its subsidiaries such as National Securities Clearing Corporation Limited (hereinafter referred to as "**NSCCL**"), India Index Services & Product Limited (hereinafter referred to as "**IISL**") and Dotex International Limited (hereinafter referred to as "**DotEx**") for different assignments. Mr. Ajay Shah was also on the board of NSCCL from August 30, 1996 till August 24, 2012. Mr. Ajay Shah and his wife Ms. Susan Thomas were part of Index policy committee of IISL, Risk Containment committee and Executive committee of NSCCL. Also both Mr. Shah and Ms. Thomas have received sitting fees for attending committee meetings,

professional fees for conducting training, workshops, research projects etc., from NSE and its affiliate companies. Thus, Mr. Ajay Shah and Ms. Susan Thomas were found to be actively engaged with NSE and its affiliate companies for more than two decades in different capacities.

4. Examination further revealed that around the year of 2009-10, NSE engaged Noticee no. 2 viz. Infotech Financial Services Pvt. Ltd (hereinafter referred to as "**Infotech**") for computing of Liquidity Index (hereinafter referred to as "**LIX**") which involved certain inherent conflict of interest. Further, Noticee no. 4 (Ms. Sunita Thomas, who is the director of Noticee no.2) is the wife of Noticee no. 5 (Mr. Suprabhat Lala), Assistant Vice President (AVP), Trading Operations of NSE. Further, it was found that the Noticee no.1 is the husband of the sister of Noticee no. 4. Thus, Noticee no. 1, 4 and 5 are family relatives and Noticee no. 3 (Mr. Krishna Dagli) was also a connected person being a director of Noticee no. 2 along with Noticee no. 4. Noticee no. 2 was a profit making concern and has been in the past associated with the projects of NSE through IGIDR, Mr. Ajay Shah and his wife Ms. Susan Thomas.

5. It was noticed from SEBI's examination that there was an inherent conflict of interest in awarding the LIX project by NSE to Noticee no. 2 by overlooking its own subsidiary viz. IISL which was also engaged in similar specialized activities. It is alleged that neither Noticee no.1 who was on the board of NSCCL at the relevant point of time disclosed his conflict of interest nor did NSE or its officials verify the conflict of interest involved from the side of Mr. Ajay Shah and Mr. Suprabhat Lala in awarding the LIX project to Noticee no. 2. Further, after analyzing certain email conversations between Noticee no.1 and Noticee no. 4 and between Noticee no.5 and his wife (Noticee no.4) and various other attendant facts, the examination conducted by SEBI revealed that the trading data that was received by Noticee no.2 from NSE for research in the LIX project, was being misused for developing algorithm trading products. One such vital email conversation dated February 22, 2009 addressed by Noticee no.1 to his sister-in-law, Noticee no. 4 (Director of Noticee no.2) which has been strongly relied upon in the SCNs read as follows:

> "… *on day 1 Anupam is a finance guy. He is not a programmer. So drive him appropriately. He can go into all your existing projects-but in a domain knowledge roll e.g. he can start working on trading strategies which can go into all algorithm trading work. (But you have to swear everyone to silence on the fact that the data that we are getting out of NSE for VIX and LIX is being used for algorithmic trading work - it would*

be a severe problem if this fact comes to light since NSE has not given anyone else this data.)" (emphasis supplied to underlined words)

6. Thus, from the conduct of the connected parties, viz: Noticee no.1, 2, 3, 4 and 5, it was observed that these persons, with active support of NSE and its senior officials have misused the confidential and sensitive data provided by NSE for being used in the LIX project, to develop algorithmic trading software for sale in the securities market, thereby compromising the integrity of securities market. SEBI's examination also noticed another email dated April 27, 2014 through which Noticee no. 1 had invited Noticee no. 5 and others to discuss about HFT trading at NSE at an outside venue. It was noticed that Noticee no. 5, a senior official of NSE looking after trading operations was also involved with the other Noticees on a personal level and was sharing professional information with them. Moreover, at para 16 of the SCNs, several instances of emails addressed by Noticee no. 5 to his wife (Noticee no. 4) have been highlighted which indicates that Noticee no. 5 was sharing confidential internal information / data of NSE with his wife who was director of Noticee no. 2 which was having business contract with NSE under was having a data sharing agreement. Thus, the SCNs has alleged that all the Noticees were sharing a collusive relationship amongst each other in their dealings with NSE.

7. Based on the aforesaid factual observations, the allegations levelled in the SCNs, against the Noticees are enumerated as under:

7.1 That NSE and its officials ignored the issues of conflicts of interest and gave contract to Noticee no. 2 overlooking their own subsidiary company engaged in such specialised activities.

7.2 That Noticee no. 1, in connivance with Noticee no. 2 and its directors i.e. Noticee no. 3 and Noticee no. 4, NSE and officials of NSE, employed a device/scheme/artifice wherein the confidential and sensitive data provided by NSE to be used for research for LIX project, was misused for making algorithmic trading software for sale to market participants for dealing in securities market.

7.3 That the said action of the aforesaid Noticees has resulted in compromising the integrity of the securities market.

7.4 That Noticee no. 5, by sharing confidential information of NSE in a fraudulent manner, with Noticee no. 4 (Director of Noticee no. 2), who was in the business of developing algorithmic software and selling it to market participants for dealing in securities market also colluded with other Noticees who had defrauded NSE, thereby compromising the integrity of the securities market.

7.5 That Noticee no. 1 misused his position by virtue of being on the Board of NSCCL, to place himself and his wife in various committees, research projects etc. at NSE and its subsidiaries and has procured projects for Noticee no. 2 which was a connected entity.

7.6 That Noticee no.1 conducted himself in a manner which is not commensurate with the position occupied by him at NSE and its subsidiaries. The said conduct of Noticee no.1 was in violation of Code of Conduct for office bearers of the Stock Exchange and provisions related to fairness & transparency, due diligence and conflict of interest as specified in the law.

8. In view of the above, respective Noticees have been alleged to have committed the following violations:

(a) Noticee No. 1 - Section 12A (b) & (c) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act, 1992**"), Regulations 3(c) & (d) and 4(1) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 (hereinafter referred to as "**PFUTP Regulations, 2003**") and SEBI's Master Circular no. CIR/MRD/DSA/SE/43/2010 dated December 31, 2010 read with Section 3 (2) (b) of the Securities Contracts (Regulation) Act, 1956 (hereinafter referred to as "**SCR Act, 1956**").

(b) Noticee No 2 to 5 - Section 12A (b) & (c) of the SEBI Act, 1992 and Regulations 3(c) & (d) and 4(1) of PFUTP Regulations, 2003

9. Accordingly, in the SCNs, the Noticees have been called upon to show cause, as to why suitable directions should not be issued to:-

(a) **Noticee No. 1** under Sections 11(1), 11(4) and 11B of the SEBI Act, 1992 and Section 12A of the SCR Act, 1956;

(b) **Noticee No. 2 to Noticee No. 5** under Sections 11(1), 11(4) and 11B of the SEBI Act, 1992.

Inspection of documents, filing of replies and personal hearings:

10. After the issuance of the SCNs, Noticees sought inspection of documents. Accordingly, in compliance with the principle of natural justice to ensure that fair opportunity is provided to the Noticees to represent their stand and defend the allegations made in the SCNs, inspection of documents was provided to the Noticees. Further, pursuant to the inspection, Noticees have also been provided with the copy of the documents as desired by them.

11. Thereafter, all the Noticees have filed their replies as under:

S. No.	Reply filed by	Date of reply
1.	Noticee no. 1	February 11, 2019
2.	Noticee no. 2 to 4 (common reply)	February 11, 2019
3.	Noticee no. 5	February 11, 2019

12. I note that the Noticees were granted opportunity of personal hearing on January 14, 2019 before me. The Noticees had sought adjournment of hearing and requested for re-scheduling of the hearing on any other date. Considering the request of the Noticees, the hearing in the matter was fixed on January 28, 2019. However, the Noticees again sought adjournment. Accordingly, another opportunity of personal hearing was granted on February 12, 2019. On the said date, the Noticees appeared before me and made their submissions. This was followed by another opportunity of personal hearing which was conducted on February 20, 2019 and the hearing was concluded qua all the Noticees on the said date.

13. The submissions made by all the Noticees were perused and considered. The explanations offered and arguments advanced by the Noticees are summarized as below:

13.1 <u>Submissions of Noticee no. 1:</u>

13.1.1 There is no evidence to prove that the data received for LIX project was unauthorizedly used for algorithmic trading work.

13.1.2 Data received was not confidential and sensitive and was available in the public domain.

13.1.3 Noticee was not an office bearer of the stock exchange or a member of the board of the exchange, hence, cannot be alleged to have acted in violation of SEBI circular dated December 31, 2010.

13.1.4 He has made all required disclosure under Section 299 of the Companies Act, 1956 and the Code of Conduct of NSCCL, in his capacity of a member of the board of NSCCL.

13.1.5 The SCNs also does not disclose the specific violation of the circular dated December 31, 2010.

13.1.6 Noticee no. 1 has not dealt in securities directly or indirectly, hence, any allegation pertaining to fraud under PFUTP Regulations, 2003 is baseless, as there is nothing on record to suggest inducement or fraud upon any person.

13.1.7 Credibility of the complaints triggering the investigation vitiates the entire investigation.

13.1.8 Noticee no. 1 was never a part of the board of directors or senior management or committee of NSE to have any influence in the awarding of contract to the Noticee no. 2.

13.1.9 Noticee no.1 and his wife were brought in on a pro bono basis as an independent researcher for the designing of LIX project and the same is a well established international practice.

13.1.10 E-mail dated February 22, 2009 addressed to Noticee no. 4 has been misconstrued by SEBI, as the said e-mail was responded in connection to employment of one Mr. Anupam Jain and Noticee was only throwing caution to the team in handling

the LIX project. Further, the data required was not made available by NSE as on date of the email.

13.1.11 The relationship of the Noticee no. 1 with Noticee no. 4 is known publicly at large and no disclosure is required under any law or Code of the Conduct.

13.1.12 Email dated April 27, 2014 was merely an invitation for discussion on "NSE-HFT" to students and practitioners to have discussion on various topics relating to research and has no connection with the project of LIX project, hence, the same is baseless.

13.2 <u>Submissions of Noticees nos. 2 to 4:</u>

13.2.1 Noticee no. 2 is a software Development Company, incorporated in the year 1999 and delivers customized software solution for various industry sectors and not confined to financial markets only. Noticee no. 3 & 4 became its director in the year 2006 and 1999 respectively. Noticee no. 3 is shareholder of Noticee no. 2 and looks after administration, HR, Finance and execution of research projects where as Noticee No 4 has no stake in the Noticee no. 2 and solely focuses on Technology related matters.

13.2.2 The allegations are bald, vague, baseless and not supported by any piece of evidence.

13.2.3 Failure to provide inspection of complete documents rendered the proceedings in breach of principle of nature justice.

13.2.4 Merely because some of the software designed by them may be used by the securities market participants would not be sufficient to make the Noticees market intermediary or person associated with securities market, therefore, the proceeding is devoid of jurisdiction. An anonymised and historical market by price (MBP) data with corresponding NIFTY index data, which exchange provides to their trading members were provided to the Noticee no. 2 for development/design of LIX.

13.2.5 Noticee no. 2 has long association with NSE, even before the marriage of Noticee no. 4 with Noticee no. 5. Further, Noticee no. 1 & 5 have not stake/interest in the Noticee no. 2 and have not been connected with the business of Noticee no. 2 in any manner whatsoever.

13.2.6 Noticee No. 2 is not an empanelled software vendor of any exchange. The algorithmic trading platform development by it viz; Chanakya has been used as an in–house software by trading members and despite half yearly audits conducted by NSE in compliance with SEBI circular, no abnormality has ever been noticed.

13.2.7 Noticee no. 2 does the computer programming at the specific request of the client and each program is confidential and proprietary to its client. LIX as a program is an indicator of liquidity and not related to the algorithmic trading platform, hence, it is wrong to allege that the data was used for development of algorithmic trading software/strategies.

13.2.8 Apart from Noticee no. 2, other vendor also provides algorithmic trading software to market participant and do projects for NSE.

13.2.9 Noticee no. 1 has never provided algorithmic trading strategies to the client of Noticee no. 2 and more particularly to OPG Securities and Omnesys. Same is evident from the statement of Noticee no. 1 & 4 recorded by SEBI. The proceeding ought to be dropped as copies of statements of the clients of Noticee no. 2 have not been made available to corroborate the submissions.

13.2.10 No enquiry was made on the pseudonymous complaints to verify its sanctity before initiating investigation as the complaint was created on June 01, 2017 by one Mr. Devraj Uchil, an employee of Financial Technologies (India) Limited (hereinafter referred to as "**FTIL**") for reasons to harass and defame.

13.2.11 Merely because Noticee no. 1, 4 & 5 are related by virtue of family connection, cannot be a ground or basis for allegation as all of them operate independently and maintain highest level of professional standards in their respective works and conduct.

13.2.12 Noticee no. 2 has stated that it had profit sharing contracts with its various clients and the same is a standard business practice.

13.2.13 There is no conflict and connection between building an index and creation of algorithmic trading platform.

13.2.14 Data shared by NSE for the project was not unique, sensitive or confidential and the same is available in public domain and further can be purchased from DotEx, a subsidiary of NSE created for the specific purpose to possess, preserve and provide data.

13.2.15 The total cost for designing the LIX project was INR 10,00,000/- (INR Ten Lakh only) whereas Noticee no. 2 was paid only a sum of INR 2,00,000/- (INR Two Lakh only).

13.2.16 It is a common business practices by stock exchanges all over the world to get project/product developed by researchers or institutions of their choice and then hand over the project/product to in-house organization/institution for operationalization and management thereof.

13.2.17 The email dated February 22, 2009 has been misconstrued as the same was intended to ensure that the data provided by NSE would not be available for utilisation as the same may be perceived as falling out of contractual stipulations. Further, the said email contains factual error to the extent that data related to LIX was not made available till the date of email, data related to Volatility Index (hereinafter referred to as "**VIX")** was not undertaken by them and lastly, Noticee no. 2 does not write algorithmic trading strategies on its own but only implements them based on the specifications provided by the clients.

13.2.18 Data related to LIX had several errors and was made available for meaningful purpose only in October, 2010. Upon completion of the project, Noticee no. 2 had no access to the data related to LIX.

13.2.19 Noticee no. 1 does not work with Noticee no. 2 and is not aware of the exact nature of work or codes worked on by the Noticee no. 2 for its clients. Noticee no. 1 is only a researcher on the LIX project contracted to Noticee no. 2 by NSE.

13.2.20 It is submitted that Noticee no. 2 was already in possession of data bigger than what was made available under the LIX, hence, it is wrong to allege that the data was misused by the Noticees. There is substantial time gap between the periods to which the

data pertained, at the time when access to the data was given by NSE. More so, it has been clarified that the data was not sensitive in any respect and was easily available in public domain.

13.2.21 SEBI has recently announced that Tick-by-Tick (hereinafter referred to as "**TBT**") data must be disseminated free of cost, hence, the data that was made available by NSE does not make it sensitive and confidential to the exclusion of others.

13.2.22 No evidence has been put forth to show that any market intermediary has been benefitted from the Noticees or to the extent that data was shared unauthorizedly by Noticees with any other entity.

13.2.23 The algorithmic trading platform of the Noticee is already in operation successfully since, 2005 and the data made available for LIX is not required to develop software as the data does not include pre-built trading strategies. Further, for the development of software strategies, Noticee no. 2 had already access to a far better and voluminous data.

13.2.24 None of the email exchanged between Noticee no. 4 & 5 can be classified into the category of sharing confidential data/information, rather the e-mails were exchanged in personal capacity dealing with their personal lives.

13.2.25 The email pertaining to “NSE HFT” had no connection with the agreement executed with NSE as the same was written three years after the agreement for the designing of the LIX.

13.3. <u>Submissions of Noticee no. 5:</u>

13.3.1 The complaints are undated and not signed. Further scrutiny of the complaints reveal the facts that the same are motivated complaints by the business opponent of NSE containing baseless allegations. Any action on the pseudonymous complaint is against the spirit and mandate of the Central Vigilance Commission Circular No. 98/DSP/9.

13.3.2 It is wrong to allege that Noticee no. 5 has shared confidential information with his wife i.e. Noticee no. 4. Noticee no. 5 has an excellent and unblemished career as an employee of NSE.

13.3.3 The alleged e-mails were exchanged not in the official capacity and emails exchanged in personal capacities ought not to be utilized without the authorization of the competent court/authority.

13.3.4 Noticee was not part of the team interacting and responsible for the signing of the contract with the Noticee no. 2.

13.3.5 Noticee no. 5 has always been complying with the Code of Conduct as specified by NSE for its employees and has not been alleged for any wrong doing during his 18 years of career in NSE.

13.3.6 SEBI is erroneously relying on merely 4 emails out of hundreds of emails exchanged over a period of five years, contents of which have no bearing related to the agreement executed by NSE and Noticee no. 2 for designing of LIX.

13.3.7 The present proceeding pertain to the period of 2009 and therefore hit by the principle of laches and delay.

13.3.8 The SCNs is not specific and vague in nature. The allegations made in the SCNs do not satisfy the principle laid down by the Hon'ble Apex Court in the matter of ***Gorkha Securities Services Vs Government (NCT of Delhi) and other 2014 (9) SCC 105*** as the SCNs does not set out the kind of penalty to be imposed on the Noticee.

13.3.9 Noticee has not been provided with copies of all documents and records relied upon including the source of information.

13.3.10 Noticee no. 5 is not having any stake in the Noticee no. 2 and the said company was incorporated much before the marriage of the Noticee no. 5 with Noticee no. 4.

Consideration of issues and findings thereon:

14. Before proceeding to consider the various issues involved in the matter, certain admitted facts need a mention. One of the critical issues brought out in the SCNs is that Noticee no. 1 to 5 were closely connected to each other. Noticee no. 2 is a software development company predominantly dealing in Algo-trading software products in securities market of which Noticee no. 3 and 4 are directors. Noticee no. 4 is the wife of Noticee no. 5 who works in NSE as an AVP and is also sister-in-law of Noticee no. 1. SCNs further notes that Noticee no. 1 and his wife Ms. Susan Thomas were actively associated with NSE and its subsidiary companies since 1994 onwards.

15. The association of Noticee no. 1 with NSE and the implicit personal influence of the Noticee no. 1 on NSE becomes clear when one goes through the statement recorded by the Noticee no. 1 on April 3, 2018 before SEBI in which Noticee no. 1 has narrated his association with NSE in various initiatives such as construction of Nifty, building of PRISM (Parallel Risk Management), setting up of Clearing Corporation, setting up of NSDL, launch of Derivatives trading, etc. As per the Noticee no. 1, his relationship with NSE was at its peak till 2001 when he moved to New Delhi to work for Ministry of Finance. In the words of Mr. Ajay Shah, *"My relationships at NSE began with Dr. R.H. Patil, Ravi Narain, Chitra Ramakrishna, Raghavan Putran, Ashish Chauhan. In later years I have engaged with Ravi Apte, Ravi Varanasi, J. Ravichandran, etc."* The Noticee has also stated that he and his wife Ms. Susan Thomas have been utilizing data from NSE for their research work for many years and prior to 2012, they used to get data from NSE without having to sign any data use contract. Post 2012, the Noticee no. 1 and his wife, Ms. Susan Thomas, were the signatories to the data use contracts under which they received data from NSE for various purposes.

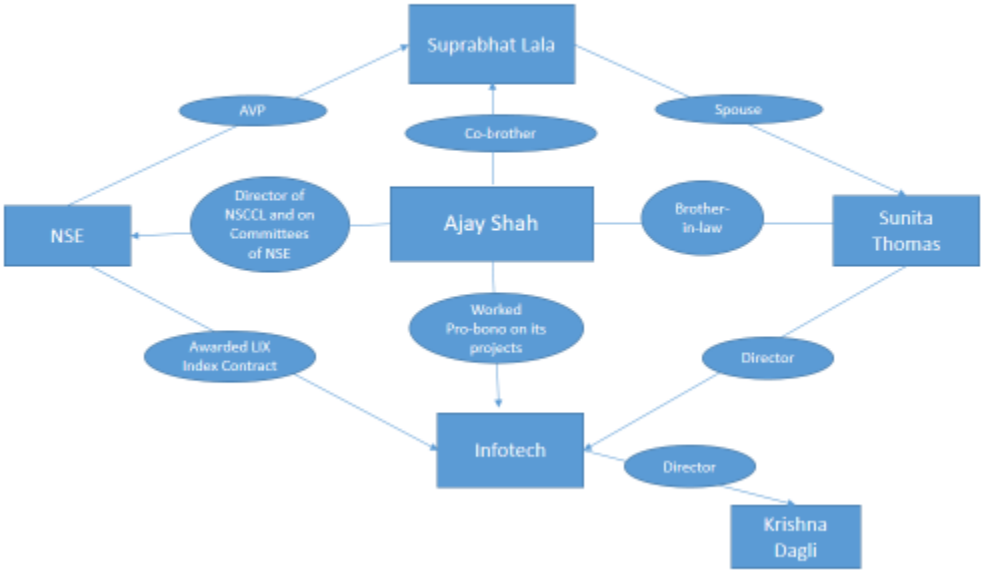
16. Further, talking about his association with the Noticee no. 2 (Infotech), Noticee no. 1 has mentioned in his statement that he has associated with his sister-in-law and her company in some of his projects including the PRISM project of NSE for which Noticee no. 2 was assigned to do work of implementation. With respect to the LIX project that was assigned to Noticee no. 2 by NSE, I find that it was the idea of Noticee no. 1 and his wife Ms. Susan Thomas that was germane to the LIX project being awarded to the Noticee no. 2. This can be observed from the statement given by Noticee no. 1 in response to Question no. 13 of his statement wherein he

states that *"Susan Thomas and I imagined two new information systems, LIX and VIX. We discussed these with NSE. The plan was that we would work on these pro bono. We required software development to go with this. Through discussions with the NSE top management, it was agreed that NSE would contract with Infotech financials, through which they would be the software development team that would support the research that would lead up to LIX. Through the contract with NSE, the presence of data at Infotech financials and their use of it for software development".* Thus, I note that the LIX project was undertaken by NSE with the recommendation of Noticee no. 1 and his wife and NSE agreed to award software implementation part of the said project to Noticee no. 2 on the suggestion of Noticee no. 1 and his wife. From the above facts and the statement made by the Noticee no. 1, one can appreciate the goodwill and influence that the Noticee no. 1 was having upon NSE due to his long professional engagement with NSE and its subsidiary companies and also personal relationship with the senior management of NSE.

17. With respect to the business activities of Noticee no. 2, from a perusal of the statement given by Noticee no. 4 before SEBI on July 26, 2017, it is noted that Noticee no. 2 was incorporated in the year 1999 and has been in the business of software development primarily for capital market. Its clients largely comprise of stock brokers, financial institutions, mutual funds, etc., to whom it supplies customized solutions and products. From 2006 onwards, Noticee no. 2 has been providing its Chanakya product to its customers which is an algorithmic trading platform to enable its customers to have their customized algo softwares for trading in Securities market. Noticee no. 2 earns its revenue by entering into profit sharing agreement with its customers who use its algo trading platform and softwares.

18. In the context of aforesaid admitted factual position, an agreement dated January 19, 2009 called "Professional Service Agreement" was entered between NSE and Noticee no. 2 with regard to the development of a software namely ‘LIX’. For this purpose, in terms of the abovementioned agreement, NSE was required to provide sensitive and confidential trade data to Noticee no. 2. It is alleged that this confidential data was misused for the purpose of developing of algorithmic trading products by Noticee no. 2, which were then sold to market participants to deal in securities market. As pointed out earlier, the SCNs highlight the inherent conflict of interest existed in awarding the LIX project to Noticee no. 2. This is because Noticee no. 2, which was engaged by NSE for completing LIX project on the basis of data to be provided

by NSE, was itself having its own business of developing and selling Algo software to stock brokers and Noticee no. 1 was deeply associated with it. For the sake of clarity, the apparent conflict of interest allegedly emerging out of the contract between NSE and Noticee no. 2 is diagrammatically presented below:



19. As pointed out earlier, the Noticee no. 1 was instrumental in giving the LIX project to Noticee no. 2 and Noticee no. 1 and his wife, Ms Susan Thomas were working *pro-bono* on the said project. Curiously enough, NSE and its officials ignored the *inter se* family relations amongst the Noticees and also overlooked the issues of conflict of interest arising out of such relationships, and awarded the LIX contract to Noticee no. 2 instead of awarding to its own specialized subsidiary, i.e. IISL which was also engaged in providing such specialized services. The SCNs further note that Noticee no. 1 misused his position by virtue of being on the Board of NSCCL to place himself and his wife in various committees, research projects etc. at NSE and its subsidiaries and also procured the contract from NSE for Noticee no. 2. SCNs further note that Noticee no. 5 shared confidential internal information/data originating from NSE with Noticee no. 4 who was the director of the Noticee no. 2, a company in the business of developing and selling

of algorithmic software to market participants for dealing in securities market, thus compromising the integrity of the securities market.

20. Before dealing with the contentions of Noticees, it would also be appropriate to refer to the relevant provisions of law which have been invoked in the SCNs. The same are reproduced hereunder:

Relevant extract of provisions of SEBI Act, 1992:

"Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.

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

(a)……

(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;

(d)……..."

Relevant extract of provisions of SCR Act, 1956:

"Application for recognition of stock exchanges.

3. (1) Any stock exchange, which is desirous of being recognised for the purposes of this Act, may make an application in the prescribed manner to the Central Government.

(2) Every application under sub-section (1) shall contain such particulars as may be prescribed, and shall be accompanied by a copy of the bye-laws of the stock exchange for the regulation and control of contracts and also a copy of the rules relating in general to the constitution of the stock exchange and in particular, to—

(a) the governing body of such stock exchange, its constitution and powers of management and the manner in which its business is to be transacted;

(b) the powers and duties of the office bearers of the stock exchange;

(c)…….

(d)……..”

Relevant extract of PFUTP Regulations, 2003:

“3. Prohibition of certain dealings in securities

No person shall directly or indirectly—

(a)…….

(b)……

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

(d) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made there under.

4. Prohibition of manipulative, fraudulent and unfair trade practices

(1) Without prejudice to the provisions of regulation 3, no person shall indulge in a fraudulent or an unfair trade practice in securities.

(2)……..."

Submissions of Noticee no. 1 and consideration thereof:

21. One preliminary objection raised by Noticee no. 1 is that he has not been provided with inspection of complete set of documents and also he has not been provided with the copies of the certain documents viz: (a) statements of brokers recorded by SEBI during the investigation which pertain to allegation contained in the SCNs; and (b) the names of the internal committee members of NSE who approved the LIX agreement and copies of their statements recorded by SEBI. In this regard, I find that Noticee no. 1 has been provided with the inspection of all the documents available on record which have been used and relied upon in the SCNs served on him. Regarding non-furnishing of the copies of the certain documents as mentioned by Noticee no. 1, I find that the SCNs does not rely upon or refer to the statements of either brokers or the members of the committee of the NSE which approved the award of LIX agreement to Noticee no. 2. Since, these documents have not been referred/relied upon in the present proceedings, they do not form part of the present proceedings, hence, question of inspection and/or furnishing of copies of such documents does not arise.

22. Another contention raised by Noticee no. 1 is regarding the application of Regulations 3(c) & 3(d) and 4(1) of PFUTP Regulations, 2003 on him. According to him, to invoke these provisions there must be existence of "dealing in securities" and there must be some persons who have been defrauded. Both of these two ingredients, according to Noticee no. 1 are absent in his case. To deal with this contention, it is necessary to have a look at the definition of "dealing in securities" as given under Regulation 2(1)(b) of the PFUTP Regulations, 2003 and extracted hereunder:

"(b) "dealing in securities" includes an act of buying, selling or subscribing pursuant to any issue of any security or agreeing to buy, sell or subscribe to any issue of any security or otherwise transacting in any way in any security by any person as principal, agent or intermediary referred to in Section 12 of the Act.

23. The scope of aforesaid definition came for consideration of the Hon'ble Supreme Court in ***SEBI Vs.*** **Kanaiyalal *Baldevbhai Patel (2017) 15 SCC 1***, wherein Hon'ble Supreme Court observed as under:

> *"24……..The definition of 'dealing in securities' acquires some importance as charge under regulation 3 completely depends on the aspect whether the tippee was dealing in securities in the first instant or not. For a transaction to be termed as dealing in securities, following ingredients need to be satisfied-*
>
> *1. includes an act of buying, selling or subscribing pursuant to any issue of any security, or*
>
> *2. Agreeing to buy, sell or subscribe to any issue of any security, or;*
>
> *3. Otherwise transacting in any way in any security by any person as principal, agent or intermediary referred to in Section 12 of the Act.*
>
> *25. The definition of 'dealing in securities' is broad and inclusive in nature. Under the old regime the usage of term 'to mean' has been changed to 'includes', which prima facie indicates that the definition is broad. Moreover, the inclusion of term 'otherwise transacting' itself provides an internal evidence for being broadly worded so as to include situations such as the present one……..."*

24. Thus, as can be noted from the plain language of the definition as provided under Regulation 2(1)(b) of the PFUTP Regulations, 2003 and also from the observation made by the Hon'ble Supreme Court, the definition of "dealing in securities" is an inclusive definition and is not confined only to the acts of buying, selling or subscribing to securities. In the present case, the allegations levelled against the Noticee no. 1 is that he misused his position by virtue of being on the Board of NSCCL and by using his influence on the senior management of NSE, he procured a contract from NSE for Noticee no. 2, a company which is in the business of developing algorithmic software and selling it to market participants for dealing in securities market. Further, there is a charge against Noticee no. 1 that he, in connivance with Noticee no. 2, its directors viz. Noticee no. 3 and 4 and with NSE and its officials, employed a device/scheme/artifice wherein the confidential and sensitive data provided by NSE for being used for research for LIX project

was misused for creating algo trading software for sale to market participants for dealing in securities market. Thus, the acts alleged against the Noticee no. 1 have a close nexus with trading in securities and hence fall in the definition of “dealing in securities” and he can be charged with the violations of PFUTP Regulations, 2003. Needless to mention here that the algorithmic trading software which was allegedly being developed and sold to the traders/brokers in the market were meant to induce and encourage market participants to trade in securities for better trading results on the strength of capability of such software so sold to them by Noticee no. 2 prepared out of exclusive data, in collusion with other Noticees as alleged in the SCNs. The acts of the Noticee as alleged in the SCNs were necessarily aimed at trading in securities. Therefore, I find no infirmities in the SCNs so far as the allegations under PFUTP Regulations, 2003 levelled against the Noticee.

25. Another contention of Noticee no. 1 is that merely because he was on the board of NSCCL, which is a subsidiary company of NSE and merely because he was engaged in the past by NSE and its subsidiaries for unconnected assignments, and was part of certain committees of NSE and its subsidiaries, it cannot be inferred that he had the ability to influence the decisions of NSE, an independent body with its own set of board of directors and management. In this regard, it is noted that LIX agreement between NSE and Noticee no. 2 was made in January, 2009 and at the relevant point of time, Noticee no. 1 remained as director on the Board of NSCCL till August 24, 2012. Moreover, as highlighted by me in the beginning of this order, Noticee no. 1 has been closely associated with important assignments from NSE, such as conceptualization and development of NIFTY Index in the year 1996, building of PRISM, setting up of Clearing Corporation, setting up of NSDL, launch of Derivatives trading, Designing Mumbai Interbank Offer Rate (NSE MIBOR) in 1998, etc. It is also noted that at the relevant point of time, NSCCL was a 100% subsidiary entity of NSE and also was being manned by personnel of NSE and practically was serving as an integral part of NSE.

26. Mr. Ravi Narain, Ex-MD & CEO of NSE, in his statement recorded before SEBI has referred to the Noticee no. 1 as one of the very few such economists known in capital markets who write policy papers based on data analytics. Noticee no.1 has himself admitted that on his suggestion NSE undertook the LIX project and awarded the said project to Noticee no. 2 on the basis of his discussion with the senior management of NSE. Such an observation coming from the senior management of NSE about the Noticee no. 1 and the Noticee's own admission in his

statement on the instrumental role he played in getting the project to Noticee no. 2, certainly, explains the fact that the Noticee no. 1 was enjoying a position of influence in NSE. At the same time the fact that Noticee no. 1 was instrumental in getting Noticee no. 2 to develop the software for the LIX project shows that Noticee no. 1 misused his position to get the contract of LIX project for Noticee no. 2 in which he was interested.

27. In his submission, the Noticee no. 1 has contended that the charge of connivance with the other Noticees levelled against him in the SCNs for employing a device/scheme/artifice wherein confidential and sensitive data of NSE was misused and he along with the other Noticees have compromised the integrity of the securities market, is without any basis. In this context, Noticee no. 1 has disputed the inference drawn in the SCNs from the email dated February 22, 2009 sent by Noticee no. 1 to Noticee no. 4 and 3. Noticee no.1 has contended that the said email does not suggest that the data received from the NSE for preparing LIX was being used for making algo trading software. In this regard, Noticee no. 1 has submitted as under:

(i) The said email was a sort of warning for the employees of Noticee no. 4 for future work rather than admitting to the fact of using the data for algorithmic trading work.

(ii) No data was received from NSE by the time when the aforesaid email was written.

(iii) Data as provided by NSE was not confidential/sensitive as it was available to academic institutions for research and also available for sale by NSE.

(iv) Data, as provided by NSE, was replete with errors and virtually unusable.

28. For better understanding of the aforesaid allegation and the explanation offered by the Noticee no. 1, the relevant extracts of the said email addressed by him to his sister-in-law (Noticee no. 4) with copy marked to Noticee no. 3 are reproduced once again hereunder:

> "… *on day 1 Anupam is a finance guy. He is not a programmer. So drive him appropriately. He can go into all your existing projects-but in a domain knowledge roll e.g. he can start working on trading strategies which can go into all algorithm trading*

work. (But you have to swear everyone to silence on the fact that the data that we are getting out of NSE for VIX and LIX is being used for algorithmic trading work - it would be a severe problem if this fact comes to light since NSE has not given anyone else this data.)" (emphasis supplied to underlined words)

29. A plain reading of the aforesaid email suggests that Noticee no. 1 is clearly asking the recipient of the email to be silent on the fact that the data being received from NSE for LIX was being used for algo trading work. It also indicates that the said trade data was being exclusively received by them from NSE which was being used for the purpose of developing "*trading strategies which can go into all algorithm trading work".* Statement dated April 03, 2018 (para 28 & 29 of the statement) of the Noticee no. 1 made before SEBI, throws further light on the circumstances in which the aforesaid email was written. In the said statement, in response to question no. 28 & 29, Noticee no. 1 has stated that the data for LIX project was transported from NSE using CD ROMs and USB hard disks or through IP addresses and password given by NSE. That data for LIX was shared between Noticee no. 1 and Noticee no. 2 who were to write the LIX codes. Since, the data was being jointly shared and used by Noticee no. 1 and 2, in effect it may be said that Noticee no. 1, 2, 3 & 4 (Noticee no. 3 & 4 being director of Noticee no. 2) were working together on LIX project and were using the data provided by NSE for the said project. It is in this context that the attempt of Noticee no. 1 to suppress their secret about using NSE data for algorithmic trading work is visible from his concerns expressed in the aforesaid email addressed by him. Notice no. 1 wanted other Noticees and the employees of Noticee no. 2 to maintain silence about their covert endeavour to misuse the trade data for the purpose of their commercial interest. This single piece of evidence speaks volumes about the collusive involvement of Noticee no. 1 with other Noticees and leaves no doubt about the fact that the aforementioned four Noticees were using the NSE trade data together for the development of algorithmic trading products with a commercial motive and not for the purpose for which the data was shared with them by NSE under the LIX project.

30. The contents of the aforesaid email further falsifies the claim of the Noticee no. 1 that the data being received from NSE for the LIX project was not confidential, since the Noticee himself has admitted in his email that "*it would be a severe problem if this fact comes to light since NSE has not* given *anyone else this data"*, (emphasis supplied). Moreover, under the Professional Service Agreement dated January 19, 2009 signed between NSE and Noticee no. 2, the salient

features of which are discussed in subsequent paragraphs, the data for LIX project was meant to be treated as confidential.

31. Further, a perusal of an email dated November 9, 2009 addressed by Noticee no. 1 to Noticee no. 4 and 3 (enclosed by Noticee no. 1 to his reply dated February 11, 2019) with regard to treatment of the data received from NSE regarding the LIX project, it is observed that the data so provided by NSE is exclusive and not shared with anyone else except for Noticee no. 1 and 2 (and its directors viz. Noticee no. 3 and 4). The relevant extract of the email is reproduced as below:

> "*Before going anywhere with this data, a lot of experimentation is required to verify that it makes basic sense.* ***NSE has never produced this data before and we are their only users.*****"**

32. It is thus established that the trade data received from NSE was admittedly confidential in nature and as the email dated November 9, 2009 referred to above suggests, Noticee no. 1, 2, 3 & 4 were the only users of NSE data and such data was not being given to anyone else.

33. Regarding the allegation in the SCNs that Noticee no. 1 violated the Code of Conduct for the office bearers of a stock exchange and provisions related to fairness and transparency, due diligence and conflict of interest mandated under SEBI's Master Circular dated December 31, 2010 read with Section 3 (2) (b) of the SCR Act, 1956, Noticee no. 1 has contended that he was never an office bearer of a stock exchange. Therefore, the Master Circular does not apply to him. Further, NSCCL on whose board Noticee no. 1 was a member, has its own code of conduct and the same has always been compiled with by the Noticee no. 1.

34. In this regard, it is noted that Clause 3.8. of the SEBI's Master Circular dated December 31, 2010 provides Code of Ethics for Directors and Functionaries of Stock Exchange (hereinafter referred to as "**the Code**"). Some of the relevant clauses of the Code are reproduced hereunder:

> *"3**.8.9 Disclosures of beneficial interest***
>
> *All Directors and functionaries shall disclose to the Governing Board, upon assuming office and during their tenure in office, whenever the following arises,*

i……

ii……

iii. any other business interests.

3.8.12 Misuse of Position

Directors/ committee members shall not use their position to obtain business or any pecuniary benefit (as intermediaries like brokers or in any other capacity like professional or consultancies) in the organization for themselves or family members."

35. Noticee no. 1 is contending that the Code is not applicable to him and there was a separate code of conduct of NSCCL which was duly followed by him. Regarding the applicability of the aforestated Code on Noticee no. 1, I note that the Code clearly provides that it applies to the directors and functionaries of the stock exchange. It is not disputed that Noticee no. 1 was the director on the board of NSCCL, a subsidiary of NSE. If read literally, one may say that the Code shall not apply to the board members of the subsidiary of the stock exchange. However, in the eyes of SEBI's regulations it is to be noted that the said subsidiary was not performing any separate business. During the relevant period, clearing and settlement (a function performed by the NSCCL) was an essential and integral part of the business of a stock exchange which was being carried out by the stock exchanges either through an in-house clearing house or through a subsidiary company (as in the present case).

36. It was only in the year 2012, with the coming into force of SECC Regulations, 2012 that clearing corporations were given recognition as separate entities for regulatory purposes. Thus, prior to the year 2012, NSCCL was performing an essential and integral function of a stock exchange i.e. NSE and was an integral part of NSE for regulatory purposes. Therefore, governance norms including the Code of Conduct, as applicable to directors and functionaries of the stock exchanges at that point of time, were equally applicable to the directors and functionaries of its subsidiary performing clearing & settlement functions, in the present case, NSCCL. The fact that NSCCL being a separate legal entity was having its own code of conduct and the Noticee no. 1 duly followed the said code of conduct, does not in any way dilute the rigour of the applicability of the regulatory Code of Conduct on the directors and functionaries of

the NSCCL which, despite being a separate legal entity was merely performing the integral functions of the exchange. If the interpretation offered by Noticee that he does not have to abide by the Code of Conduct prescribed for the stock exchanges because he was on the Board of the subsidiary entity (NSCCL) and not on Board of NSE, is to be accepted, then the very objective of having a separate regulatory Code of Conduct for the stock exchanges, which perform a critical function in the securities market would be defeated. The facts that Noticee no. 1 failed to disclose his interest in Noticee no. 2, used his position to procure the LIX contract for Noticee no. 2, and connived with other Noticees to fraudulently use confidential data of NSE for developing and selling of algo trading software in securities market, have rendered the contention of Noticee no. 1 not maintainable. Hence, the Code referred to above as prescribed by SEBI in the Master Circular for adherence by the directors and functionaries of stock exchanges was very much applicable to Noticee no. 1 and the same stood violated by the acts attributed to him, in the SCNs.

37. On the allegation of collusion, Noticee no. 1 has further submitted that SCNs fails to identify any trading or dealing in securities, or even orders placed, which are alleged to be fraudulent and in the absence of existence of any of these essential ingredients that are required for invoking the provisions of PFUTP Regulations, 2003, there is no scheme or artifice to collude over. Noticee no. 1 has further argued that his email dated April 27, 2014 to Noticee no. 5 and others as referred to in the SCNs, was meant to invite his students and some practitioners in the field to meet and have discussions on various topics with respect to which he had been doing research. Noticee no. 1 has submitted that the emails referred to in para 16 of the SCNs (exchanged between Noticee no. 4 and 5 wherein confidential information originating from NSE was allegedly shared) have no connection with High Frequency Trading (HFT).

38. In this connection, I note that applicability of the provisions of the PFUTP Regulations, 2003 has already been explained at para 22 to 24 above. As regards, the charge of collusion amongst Noticees, the same has to be seen in the entirety of the facts and circumstances of the case. It has been observed that Noticee no. 1 along with Noticee no. 2, 3 and 4 misused the NSE data for the purposes other than as specified in the LIX agreement executed between NSE and Noticee no. 2. It has also been noted that the said contract was awarded to Noticee no. 2 by giving it preference over NSE's own specialised subsidiary i.e. IISL which is also engaged in this specialised field, on the recommendation by Noticee no. 1. These facts alongwith my

observations at para 28 and 29 of this order in the context of the email addressed by Noticee no. 1 to Noticee no. 4, disclose collusion amongst Noticees to use the LIX contract as a device/scheme/ artifice so as to fraudulently misuse the data for the purpose of developing and selling algo trading products for the securities market. Therefore, the contentions of the Noticee no. 1 in this regard do not hold good and are not supported by his actions.

39. As regards explanation submitted by the Noticee no. 1 on the emails referred to in para 16 of the SCNs (exchanged between Noticee no. 4 and 5), it is noted that the SCNs attributes collusion between Noticee no. 4 and 5 on the basis of said emails wherein confidential information pertaining to NSE was allegedly exchanged between them. Given the fact that Noticee no. 4 & 5 are related to each other and Noticee no. 4 is not entitled to any internal information of NSE, the exchange of such emails by Noticee no. 5 with 4 indicate that Noticee no. 4 had access to data and information about functioning of NSE other than the data that her company i.e. Noticee no. 2 was entitled to receive from NSE for the LIX project. Therefore, such email correspondences and the easy access to the internal information / data of NSE which Noticee no. 2 had through its director (Noticee no. 4) strengthen the preponderance of probability of collusion of Noticee no. 5 and other Noticees. In view of the same, whether these emails pertained to LIX or not, does not makes any difference.

Submissions of Noticee no. 2, 3 and 4 and consideration thereof:

40. Noticee no. 2, 3 and 4 have given a common reply to the SCNs issued to them. The first contention raised in their reply is that they have not been provided with complete inspection of documents and the copies of documents which amounts to violation of principles of natural justice. In this context, the grievance of Noticee no. 2-4 is that they were not provided with the copies of statements of brokers recorded by SEBI during the examination. Contrary to their claim, I find from the records that the Noticee no. 2-4 have been provided with inspection of all the documents available on record which are relied upon /referred to in the SCNs. Regarding non-furnishing of the copies of the statements of brokers, I find that the allegations made against the Noticees in the SCNs are not based on any statements of brokers. Since, these documents have not been relied upon/referred to in the present proceedings and thus do not form part of the present proceedings, therefore, question of inspection and/or furnishing of copies of such documents does not arise.

41. Another contention raised by the Noticee no. 2-4 is that SCNs have been issued without jurisdiction and are not maintainable against them. In support of this contention, Noticees have submitted that they are neither market intermediaries nor persons associated with the securities market. Noticee no. 2 is a software development company, and its software products are not exclusively associated with the securities market. In this connection, it would be appropriate to refer to the judgment of the Hon'ble Bombay High Court in ***Price Waterhouse & Co. &Ors. Vs. SEBI [2010] 160 Comp Case 324 (Bom)*** wherein while dealing with the contention that the auditors of a listed company cannot be treated as persons associated with securities market, Hon'ble High Court observed as under:

> *"……..27. In so far as the submission of Mr. Dwarkadas that the petitioners are not directly associated by the securities market is concerned, it is true that the petitioners may not have any direct association with the securities market since they were performing their duties as Auditors of the Company and were associated with the preparation of the balance-sheets of the Company. It is however required to be noted that normally an investor would like to invest his money in the shares of a Company on the basis of reflection of Company's financial health as disclosed in the balance-sheet of the Company and he may consider that it is safe to invest money in a particular company, if the balance sheets have been certified by reputed Chartered Accountants and it reflects that the financial position of the Company is sound. An investor is likely to be guided by the audited balance-sheet of the Company and would presume that the facts incorporated in the balance-sheet are true and correct. Considering the said aspect, even though the petitioners may not have direct association in the share market activities, yet the statutory duty regarding auditing the accounts of the Company and preparation of balance-sheets may have a direct bearing in connection with the interest of the investors and the stability of the securities market. In our view, the petitioners in their capacity as auditors of the Company Satyam, which was at one point of time considered to be a blue chip company who had a defining influence on the securities market, can be said to be persons associated with the securities market within the meaning of the provisions of the said Act……..."*

42. Applying the aforesaid dictum to the facts of the present case, it can be very well said that the Noticee no. 2-4 are the persons associated with securities market as they are admittedly

in the business of developing algo trading platforms as well as algo trading software which are used for dealing in securities by market participants in the securities market. Needless to state that such products developed by the Noticees would induce the brokers and other market participants to trade in securities by using these products on the strength of the advantages associated with these products. As the developer of these trading softwares, Noticee no. 2 and its directors i.e. Noticee no. 3 & 4, can very well be termed as persons associated with securities market.

43. Regarding misuse of data received by them from NSE under the agreement for developing LIX, for the purpose of developing algo trading software, Noticee no. 2 -4 have submitted that Noticee no. 2 does not write or develop algorithmic trading strategies on its own. It only does computer programming for algorithmic trading strategies as per the instructions of its clients. Their's is a mere software services function which does not require any trade data from the exchange. The information and data required for development of an algorithmic trading platform is completely different from the data that was provided to Noticee no. 2 under the LIX agreement with NSE. Noticee no. 2 does not write the algo-trading strategies and as such the data provided under the LIX Agreement would not be of any use to the Noticee no. 2 for development of its software.

44. In this regard, it is noted that Noticee no. 2, as per its own submission, was involved in programming of trading strategy as part of the customized work done for its clients. Noticee no. 2 was also into the business of development of software to convert trading strategies of its clients into algo trading software. As an integral part of any process of software development, the algo trading software also needs to be back tested or validated with the help of data. This is where the role of data comes into play as the algo trading softwares which are code based trading strategies for the use of end customers would be necessarily, required to be validated by back testing with the help of actual market data. On the one hand the Noticee states that it does not require any data for its work and at the same time it claims that the data required for its Algo trading platform is different from the data it received from NSE. Thus none of the contentions of Noticee has been substantiated by it.

45. It is also seen from the work order annexed to the Professional Service Agreement signed by Noticee no. 2 with NSE, wherein it is stated that *"LIX would be directly used for index*

arbitragers, who would use it in their internal calculations". It implies that the product (LIX) was meant for use by the arbitrage traders. In this regard, I have noticed from the statement of Noticee no. 4, recorded before SEBI, that the Noticee no. 2 was in the business of providing decision support system to market players to help them in their arbitrage trading for which, the Noticee no. 2 had profit sharing arrangement with such traders such as CrossSeas Capital Services Pvt. Ltd. It indicates that the data that was being obtained from NSE was of significant relevance for the business of Noticee no. 2.

46. Noticee no. 2-4 have further submitted that the projects implemented by the Noticee no. 2 for NSE including LIX project were non-standard research projects of small value and was conceptualised by the researchers. On the issue of awarding the project to the Noticee no. 2 and not to IISL which is a subsidiary company of NSE, the reasons furnished by the Noticee are that unlike it (Infotech) IISL is not a software firm and Noticee no. 2 had already successfully implemented research projects for NSE in the past, hence, it was awarded the LIX project based on past performance. According to them IISL on the other hand, operates and maintains indices. The explanations offered by the Noticee is not satisfactory. I note that in the said LIX project, Noticee no. 1 and his wife, Ms. Susan Thomas, were working on a *pro bono* basis and the project was awarded to Noticee no. 2 on the basis of discussion by Noticee no. 1 with the senior management of NSE. From the beginning, it was envisaged that while the Noticee no. 2 would carry out the software development of the project, the research part was to be carried out by Noticee no. 1 and his wife. In view of the implicit vested interest of Noticee no. 1 in the project which was undertaken by NSE on the basis of his suggestion, the involvement of IISL in this project was never contemplated from the very beginning. Therefore, the contention of Noticee no. 2 that the project was awarded to it on the basis of their antecedent and past performance is devoid of merit. Incidentally, it is understood that it is IISL (subsidiary of NSE) who finally developed and implemented the LIX project at NSE. Therefore, the explanations offered by Noticee no. 2 in this regard are not sustainable.

47. Noticee no. 2-4 have further contended that the data in question which was shared by NSE for the LIX project was not unique, sensitive or confidential data. It was also contended that information contained in this data was already available in the public domain and was available for sale by DotEx, subsidiary of NSE. In this regard, to understand the extent of confidentiality and sensitivity of the aforesaid data in more detail, it would be appropriate to look at the relevant

clauses of LIX agreement dated January 19, 2009 entered into between the NSE and Noticee no. 2. The relevant clauses of the agreement (Titled as 'Professional Service Agreement') are as follows:

*(a) **"Definition clause** – It defines "Information" as meaning and including all confidential or proprietary information related but not limited to:-*

(a) Software products and documentation.

(b) Proprietary documentation duly endorsed on the face by the party before making the information available to other party. In some cases information could be in the nature of verbal or group dicussions between the parties. For the said purpose there shall be a system of documentation of each and every such points discussed. Such discussions shall be recorded in form of minutes of meeting and shall be a part of the Proprietary information.

(c) Market, operation, personal and business dealings, third party dealing with either party which by their very nature may neither be documented not endorsed a confidentiality notice.

(d) Information which have commercial value for the business and is confidential or proprietary in nature including but not limited to inventions (patentable or otherwise) technology software development tools, trade secrets, processes, schedules, knowhow designs, formulas, computer programmes, databases, techniques, algorithims, customer and product development plans, ideas, improvements, research or development, customer and supplier list, business strategies, financial information and other confidential information of parties, their affiliates, exposed to (all of which including copies and material containing such information).

*(b) **Clause 3(b)** – All the team members who were directly or indirectly involved in developing the deliverables shall be bound by the terms and conditions of the said agreement individually as well as through Infofin during the*

subsistence of their contract/employment with Infofin as well as after leaving Infofin, as the case may be.

(c) ***Clause 4(a)****- Infofin agrees that the proprietary information is the sole property of NSEIL or its affiliates, customers, suppliers. Further, NSEIL is the sole owner of the all patents, copy rights, trade marks, if any, and other proprietary rights in connection thereto and no license of any kind is granted hereby to Infofin.*

(d) ***Clause 4(b)*** *- Infofin agrees that it shall not use the proprietary information of NSEIL except to evaluate such information for the sole limited business purposes of NSEIL.*

(e) ***Clause 7(d)*** *– Infofin shall be responsible for all the acts, actions, commissions and omissions of the individuals of its team involved in developing the Deliverables. Infofin shall obtain individual undertaking from the team members with respect to the maintaining of secrecy of the Deliverables, confidential and proprietary information and other incidental information which the team members may come across during, the period of developing the Deliverables.*

(f) ***Clause 10(k)*** *– **Confidentiality:** The parties shall maintain utmost confidentiality of the information provided pursuant to this Agreement at all times and none of the parties shall make any announcement to the public or to any third party regarding the arrangements contemplated under this Agreement without the consent of the other, such consent shall not be unreasonably withheld or delayed, save (in the absence of agreement of both the parties) for any statement or disclosure which may be required by law or is required to be disclosed by way of an action or order of a court of competent jurisdiction or of any requirement of legal process, law or governmental or regulatory order, decree, regulation or rule. Such statement or disclosure shall be no more extensive than is usual or necessary to meet the requirements imposed upon the party making such statement or disclosure. Such information may be disclosed*

by the parties to such of their own employees who need to know the same. This clause shall survive the termination or expiration of this Agreement."

48. A bare reading of the aforesaid clauses of the agreement signed between the parties shows that the parties have themselves treated the data/information to be provided pursuant to the said agreement as confidential and accordingly, covenanted with respect to maintaining its confidentiality. After admitting the trade data proposed to be received from NSE as confidential, it is not open to the Noticees to now contend that the information provided was not confidential.

49. Even for a moment, assuming that the said trade data was also available in public domain, as contended by the Noticees, it cannot be stated with certainty that it was available in public domain with same granular details and in the desired format as was exclusively been made available to Noticee no. 2 by NSE in terms of the agreement.

50. The Noticees have not explained as to why Noticee no. 2 had agreed to various terms of confidentiality of data, in the agreement if such data was available in public domain for anyone to obtain, process and use the way one wanted to use them for its business requirements. The very fact of existence of a specific Professional Service Agreement for the purpose of receiving data with specific clauses relating to confidentiality, shows that the data with its granularity receivable by Noticee no. 2, was unique and confidential. Further, email dated November 9, 2009, as addressed by Noticee no. 1 to Noticee no. 4 referred to above reveals that Noticee no. 1 to 4 were the only users of NSE data and such data was not being given to anyone else. In view of the aforesaid, the submission of Noticees no. 2-4 that the data received by them from NSE was not confidential/sensitive is not tenable.

51. Noticee no. 2-4 have also given their own interpretation of email dated February 22, 2009 addressed by Noticee no. 1 to Noticee no. 4 with a copy marked to Noticee no. 3. It is explained that the said email was intended to warn that the LIX data should not be used for programming of trading strategy as part of the customised work done by Noticee no. 2 for its clients. Noticee no. 1 in his reply has further submitted that the LIX data might be used by Mr. Anupam Jain (employee proposed to be hired by Noticee no. 2) for algorithmic trading strategies for which he wanted everyone to be sworn to silence. These explanations lacks substance and all the more, it points to the fact that it was in the contemplation of the Noticees that the LIX data

will be used by them for algorithmic trading strategies for which they were ensuring secrecy. It also supports the observation made in this order that the data so received from NSE was very much usable for developing algo softwares, contrary to the contention of the Noticees that the data being historic in nature was not suitable for making algo trading software. Further, the data was also evidently misused by the Noticees as clearly brought out above from the contents of the email addressed by Noticee no. 1 to Noticee no. 4.

52. Regarding email dated April 27, 2014 from Notice no. 1 to Noticee no. 3 & 4 inviting them for a discussion on "NSE HFT", Noticee no. 2-4 have submitted that a mere reliance on an email with a subject-line NSE-HFT cannot form the basis of an allegation of collusion against the Noticees. Further, the email being relied upon in the said paragraph is followed up by a calendar invite for a meeting that actually never took place. In this regard, it is important to note that irrespective of the fact whether the meeting as per the invitation took place or not it shows that the Noticees involved in such interaction were acting together with a commonality of purpose, be it academic or professional. It is further noted that the charges against Noticee no. 1 working in collusion with other Noticees is to be seen in the entire web of events wherein Noticee no. 5 was found sharing confidential information of NSE through emails mentioned at para no. 16 of SCNs with Noticee no. 4 (his wife) who is also a director in Noticee no. 2. Moreover, the finding earlier made in this order that Noticee no. 1 and Noticee no. 2, 3 and 4 have misused the LIX data for the purposes other than as specified in the agreement between NSE and Noticee no. 2, is strongly supportive of the allegation of collusion against the aforesaid Noticees. All these events when seen together provide a clear picture of irrefutable preponderance of probability of a nexus amongst the Noticees to use LIX project as a conduit to achieve their commercial goals.

Submissions of Noticee no. 5 and consideration thereof:

53. I have gone through the reply filed by the Noticee no. 5. Noticee no. 5 has raised some preliminary objections such as, initiation of investigation based on pseudonymous complaints, non-furnishing of complete set of documents to enable the Noticee to defend properly, not making available the original documents during the course of inspection, proceedings pertaining to an event which is around 10 years old and that the SCNs lacks reasons for the delay etc. As regards the inspections and non-furnishing of the documents are concerned, I find that the Noticee no. 5 has been provided with inspection of all the relevant documents, as relied in the

SCNs. I find that the objections of the Noticee no. 5 are general in nature and not specific. Noticee no. 5 has not brought out the denial of inspection of any specific documents, which has caused prejudice to his interest. I further note that during the course of hearing, the Noticee has not made any submission on this aspect. Therefore, the submission of the Noticee no. 5 are nothing but general observations without raising any specific point which needs to be addressed and hence, are devoid of any merit. As regards delay in issuing SCNs, I find that there is no provision in the SEBI Act, 1992 which lays down any time frame beyond which SEBI cannot take cognizance of a matter, although it is expected that there should not be any undue delay. As regard the delay in initiating the proceeding is concerned, the relevant factor to be determined is the time when the violation came to the notice of the authority. Delay has to be reckoned from the date when the matter comes to the notice of the authority. In the present case, I note that the SCNs clearly mentioned that the SCNs has been issued pursuant to the examination conducted by SEBI after the receipt of the complaints dated June 01, 2017 and September 07, 2017 and consequently, the present SCNs were issued to Noticees on July 03, 2018. In view of the same, I find that there is no delay in taking cognisance of the complaints and in initiating the proceedings against the Noticee. Hence, the contention of the Noticee no. 5 in this regard are rejected.

54. Further, the Noticee no. 5 has raised objection to the initiation of examination on the pseudonymous complaints, which are motivated and filed with malafide objective and has stated that the action initiated based on such complaints is without verifying the credentials of the complaints. According to the Noticee no. 5, such action by SEBI is hit by Circular of *Central Vigilance Commission (98/DSP/9)* which prohibits initiation of any action on anonymous/pseudonymous petitions/complaints. In this regard, I find that the reliance placed by the Noticee no. 5 on the Circular of CVC is misplaced, as the said circular prohibits initiation of action on anonymous/pseudonymous petitions/complaints filed against the public servant with an malafide intent of blackmailing and detrimentally affecting the career of public servants whose promotions/career benefits may be denied owing to consequent investigation. If a complaint, even if anonymous, discloses *prima facie* violations of securities laws, then SEBI can always conduct examination of the matter and can arrive at an independent conclusion regarding proceeding further in the matter. This understanding also find support from the judgment of the Hon'ble High Court of Delhi in ***Writ Petition (Civil) No. 9058/2014 - Tarini International Ltd. Vs. Union of India &Ors.,*** wherein the Petitioner was praying for a direction prohibiting SEBI to

take cognizance of the anonymous complaint. The Hon'ble High Court of Delhi vide its order dated December 19, 2014, disposed of the petition with following observations:

> *"I am unable to accept the said contention as the SEBI being an independent authority is entrusted with the duty to safeguard the investors and is bound to enquire into complaints? even anonymous ones ? Where, in its wisdom, it is of the opinion that investigations are necessary or warranted. Needless to mention that the SEBI shall proceed in accordance with law uninfluenced by any direction or suggestion of any other party".*

55. It may be noted here that the allegations made in the SCNs are not merely based on the said complaints received by SEBI. Pursuant to receipt of the aforesaid complaints, SEBI has conducted necessary examination and based on the finding of such examination of facts, SCNs were issued. Hence, the objections raised by the Noticee no. 5 in this regard, are not acceptable.

56. Noticee no. 5 has placed reliance on ***Gorkha Securities Services Vs. Govt. of NCT of Delhi & Ors. (2014) 9 SCC 105,*** to contend that SCNs must indicate the direction which is proposed to be issued. I have perused the said judgment and find that the said judgment is distinguishable on several counts and thus does not apply to the present case. The decision in Gorkha Security pertained to blacklisting of a contractor by a government agency, which results into depriving the contractor from entering into any public contracts, thus violating the fundamental rights of such person. Further, in Gorkha Security case, the contractor was blacklisted for breaching the terms of the contract, whereas the present SCNs has been issued for breach of statutory provisions. Also, in Gorkha Security case, blacklisting was imposed by way of penalty whereas the instant proceedings propose to issue directions, if found necessary, which are preventive and remedial in nature. Further, in Gorkha Security Case, blacklisting of the contractor was provided in the contract as a penalty to be imposed in case of breach of terms of contract, whereas in the present matter provisions of law under which directions are contemplated to be issued, confer statutory discretion on SEBI to take such measure as it thinks fit in the interest of investors and securities market. The SCNs has already stated the provisions of law under which the directions proposed to be issued and the specific directions that may be issued by the competent authority can be determined only after the competent authority examines the submissions and explanations of the Noticee. In my view, the reliance upon the

judgment of the Hon'ble Supreme Court, in the case of Gorkha Security referred to above, by the Noticees is misplaced on facts and is bereft of merit.

57. From a perusal of the SCNs, it is noted that the allegations levelled against the Noticee no. 5 are that the Noticee in collusion with other Noticees has employed a scheme/artifice/device to defraud NSE and has thus compromised with the integrity of the securities market. Noticee no. 5 has relied on the decision of Hon'ble Supreme Court in ***P.C. Joshi Vs. State of UP and Other (Dated 08/08/2001)*** to contend that there must be legally acceptable evidence to support the charge of misconduct. Accordingly, it has been submitted by the Noticee no. 5 that despite conducting elaborate examination, no legally acceptable evidence has been found except the emails exchanged between the Noticee with Noticee no. 4 and therefore, there is nothing which adversely reflect on the reputation, integrity, commitment and devotion of the Noticee no. 5. It is also submitted that during his career of 18 years with NSE, Noticee has not been found indulging in any act, which could be categorized as being not in the interest of the institution i.e. NSE or against the interest of the securities market.

58. The contentions of the Noticee have been carefully considered. I note that in the present case, the allegation against the Noticee no. 5 has been specifically made based on certain e-mails exchanged / shared by the Noticee no. 5 with Noticee no. 4, in breach of his duties. These emails addressed by the Noticee to Noticee no. 4 indicate his close nexus with the Noticee no. 2 through Noticee no. 4 (his wife) who were recipient of the data from NSE under the LIX project. It is a fact that Noticee no. 4 (wife of Noticee no. 5) was under a data sharing agreement with NSE for the purpose of her business through Noticee no. 2 and therefore was an interested party as far as her relationship with NSE was concerned. Therefore, the acts of Noticee no. 5 in sharing various information/ data through emails addressed to his wife alludes to the fact that Noticee no. 5 was closely associated with the business activities of his wife and through her was also actively engaged with the other Noticees. Further, the conduct of Noticee no. 5 in sharing internal data/ information with Noticee no. 4 and also being an invitee of Noticee no. 1 to discuss about HFT at NSE at an outside venue also strongly point to the fact that Noticee no. 5 was actively associated with other Noticees in their commercial activities. Thus, in the present case there is sufficient evidence available on record to prove the acts attributed to Noticee no. 5 in the SCNs. Therefore, the Noticee's reliance upon the P.C. Joshi case (*supra*) is not maintainable.

59. It has been further contended by Noticee no. 5 that NSE has a policy in place to prevent/monitor data flowing outside the organization and alert is generated, in case confidential/secret information is mailed, printed or copied on USB and in the entire career of the Noticee no. 5, no such alert has ever been generated for leakage of the secret or confidential information. The Noticee no. 5 also submits that e-mails exchanged with Noticee no. 4 are not related to the work done by the Noticee no. 2 for the development of LIX nor was it containing any secret/confidential information. The said emails are text of mails proposed to be sent by the Noticee no. 5 for which he sought the suggestion of Noticee no. 4 for appropriate syntaxing and/or readability. In this regard, it needs to be noted that the allegations against the Noticee no. 5 is not about leaking of any specific or confidential data / information related to the project (LIX) awarded to Noticee no. 2. The allegations against the Noticee is about colluding with the other Noticees through sharing of confidential information in course of his employment in NSE, through the aforesaid emails which were exchanged with the Noticee no 4. In this regard, I find that specific allegations have been made in para 16 of SCNs, wherein, *inter alia*, it is alleged that Noticee no. 5 has shared with Noticee no. 4 details of deliberations held of the Technical Advisory Committee (hereinafter referred to as "**TAC**") meeting held on October 17, 2012 and other information pertaining to internal issues specific to NSE. The observations of TAC are confidential in nature and there was no justification regarding sharing of the said information with Noticee no. 4.

60. To support his claim that the e-mails have been exchanged for syntax and or readability, the Noticee no. 5 has also enclosed a table exhibiting the corrections made by the Noticee no. 4 to the said e-mails of the Noticee no. 5. Noticee no. 5 has submitted that these emails were part of the personal correspondence and not part of any official correspondence of NSE or otherwise. I find contradiction in the submissions advanced by the Noticee no. 5 in this regard. The Noticee no. 5 on the one hand submitted that the said emails are part of personal correspondence and on the other hand has mentioned that they were draft emails proposed to be sent to his NSE superiors/colleagues. It is clear from the perusal of the emails that the content of the emails contained information which were relating to the functioning of NSE, which should not have been shared with Noticee no. 4 in light of the fact that Noticee no. 4 was already having a data based project with NSE and was herself in the business of making Algo softwares for use in the securities market.

61. The close nexus of Noticee no. 5 with other Noticees has also to be understood in the light of email dated April 27, 2014 wherein Noticee no. 1 wanted to have a meeting, inter alia, with Noticee no. 3, 4 and 5 to discuss regarding happenings in NSE HFT (High Frequency Trade) and to make further plans. The question that arises is if Noticee No.5, who was looking after trading operations at NSE, had no nexus with Noticee No.1 or Noticee No.2, what was the need for him to be invited outside the Exchange office premises to discuss the latest development about HFT trades at NSE? Why was he expected to share NSE's trade information to outsiders at an outside venue amongst strangers? Whether the meeting eventually took place or not is not relevant, as long as the fact remains that the Noticee No. 5 was invited by Noticee No. 1 and others to discuss about NSE matters outside NSE premises. It shows collusion as well as professional misconduct on the part of Noticee no. 5 for accepting invitation to discuss internal issues of NSE with other Noticees. Under the circumstances, the sharing of official information by Noticee No. 5 through emails addressed to his wife, who happened to be having a data sharing engagement with NSE through her company (Noticee No.2) reflects adversely on the integrity of the Noticee and shows that Noticee no. 5 was in collusion with other Noticees. Therefore, the said contention also stands on a weak foot and is devoid of merit.

Conclusion:

62. The allegations levelled against the Noticees in the SCNs have been examined, the explanations offered and arguments advanced by the Noticees have been carefully considered. The aforesaid discussions and my observations bring out certain admitted factual positions that impinge on the merit of the allegations made in the SCNs. It is a fact that the Noticee no. 1 has been long associated and actively engaged with NSE and its subsidiaries in various capacities. Noticee no. 1 held a position of high esteem and influence in the minds of the senior management of NSE, as evident from the statement of Mr. Ravi Narain, former MD and CEO of NSE. The Noticee no. 1 was capable of influencing the decision making of NSE management which is exemplified by the fact that the Noticee no. 1 and his wife suggested to NSE and NSE undertook the LIX project for which the Noticee no. 2 was awarded the contract. An examination of the relevant provisions of the Professional Service Agreement, at para no. 47, signed by Noticee No. 2 with NSE has already revealed that the data received by Noticee no. 2 from NSE was confidential and exclusive in nature which was made available only to the Noticee no. 1 and 2 and its two directors (Noticee no. 3 and 4). There is no denying the fact that the Noticee no. 2

and its two directors have been in the active business of providing trading solutions to the market participants on algorithmic trade through various products. Further, evidently Noticee no. 5 has committed professional compromise by sharing internal data / information with Noticee no. 4 through the emails referred to at Para-16 of the SCNs and also by accepting invitation from Noticee no. 1 to discuss HFT at NSE at an outside venue in the presence of other Noticees. This leads one to believe that Noticee no. 5 was actively associated with Noticee no. 1 and no. 4 and her company i.e. Noticee no. 2 in their professional activities.

63. The convergence of interests of all the Noticees in receiving the data which was confidential and exclusive in nature, is borne out from the fact that the Noticee no. 1 in his own emails has acknowledged its confidential nature and also the fact that he along with other Noticees was involved in using the said confidential data for developing algo trading software for sale to traders in the securities market.

64. To sum it up, all the Noticees were collectively responsible for misuse of the data received from NSE. The fact that Noticee no. 2 was paid only Rs. 2 Lakh out of the total fees of Rs. 10 Lakh receivable by it under the agreement and it did not recover the remaining fees, further strongly signifies that the underlying intention of the Noticees behind entering into said agreement was not monetary consideration but to have access to the exclusive wealth of data of NSE, so that the same can be commercially exploited for the benefit of the Noticees. The aforesaid leads to a conclusion that Noticee no. 1 and other Noticees, have collusively worked to fulfil their commercial goals by fraudulently using the data that was obtained by them from NSE to develop algo trading software. Keeping in line with the regular business of Noticee no. 2, i.e. providing algo trading software to traders in securities, the algorithmic trading software so developed from LIX data was meant to be sold to the traders/brokers in the market to induce them to trade in securities with better trading results, on the strength of capability of such algo trading software prepared out of such exclusive data not ordinarily available to other market participants. Further, Noticee no. 5 being a senior official of NSE ought to have displayed professional integrity by disclosing to the senior management his connection with Noticee no. 2 through his wife i.e. Noticee no. 4 which had a strong cause to give rise to a conflict of interest to him as well as to Noticee no. 1. Moreover, by sharing internal information / data about NSE and the minutes of TAC etc. with his wife (Noticee no. 4) who was a beneficiary party of the LIX project, Noticee no. 5 has committed breach of his duties to collude with other Noticees for the

aforesaid fraudulent acts. In my view, there is no difficulty in sharing of data by Noticee no. 1 with an outside entity for commercial purpose as long as the agreement spells out clearly its objectives and provides for the commercial terms and conditions in the agreement in compliance with the stated data sharing policy of the exchange. However, when a data sharing agreement purely meant for research purposes assumes the colour of a commercial agreement thereby providing privileged access to confidential and exclusive trade data of the exchange to a select few persons who, clandestinely exploit the said data for their commercial gains, it leads to serious issues leading to compromise on market integrity. This is certainly not a desirable situation as it leads to violation of principles of transparency, equity and fairness in dealing with market participants by the Exchange which is not permissible under the regulations. Under the circumstances, the acts attributable to the Noticees for the reasons recorded and observations made in the foregoing paragraphs of this order, are clearly violative of the various legal provisions, as alleged in the SCNs and the Noticees are liable to be held accountable for the acts and the breach of law committed by them.

65. Confronted with the above discussed strong preponderance of probabilities supported by the aforesaid factual evidence, I am of the view that the allegations levelled against Noticee no. 1, 2, 3, 4 and 5, in the SCNs, stand established. Accordingly, I find that :

(a) Noticee no. 1 has violated Section 12A (b) & (c) of SEBI Act, 1992, Regulations 3(c) &(d) and 4(1) of PFUTP Regulations, 2003 and SEBI's Master Circular no. CIR/MRD/DSA/SE/43/2010 dated December 31, 2010. However, on perusal of Sections 3(2) (b) of SCR Act, 1956, it is found that the said provision refers to documents to be furnished by a stock exchange while making application for recognition as stock exchange and hence, is not violated in the present case.

(b) Noticee no. 2, 3, 4 and 5 have violated Section 12A (b) & (c) of SEBI Act, 1992 and Regulations 3(c) & (d) and 4(1) of PFUTP Regulations, 2003.

Directions:

66. In view of the aforesaid violations committed by the Noticees, I, in exercise of the powers conferred by Sections 11(1), 11(4) and 11B read with Section 19 of the SEBI Act, 1992, issue the following directions to the Noticees:

(a) Noticee no. 1 (Mr. Ajay Shah) is directed not to hold, directly or indirectly, any position in the management of and/or in the Board of or be associated in any manner and in any capacity, with any Stock Exchange, Clearing Corporation, Depository, recognized or registered by SEBI and/or with any intermediary registered with SEBI or their related entities and/or with any company listed in any of the Stock Exchanges recognized by SEBI, for a period of 2 years.

(b) Noticee No. 2 (Infotech Financials Pvt. Ltd.), Noticee no. 3. (Mr. Krishna Dagli) & Noticee no. 4 (Ms. Sunita Thomas), are directed not to provide any services to and/or be associated in any manner and in any capacity, directly or indirectly, with any Stock Exchange, Clearing Corporation, Depository, recognized or registered by SEBI, and/or with any intermediary registered with SEBI or their related entities and/or with any company listed in any of the Stock Exchanges recognized by SEBI, for a period of 2 years.

(c) Noticee No. 5 (Mr. Suprabhat Lala) shall not hold any position, either directly or indirectly in or be associated, directly or indirectly, with any Stock Exchange, Clearing Corporation, Depository, recognized or registered by SEBI and/or in any intermediary registered with SEBI or any of their related entities, for a period of 2 years.

-Sd/-

S.K. MOHANTY

DATE: April 30, 2019 **WHOLE TIME MEMBER**

PLACE: MUMBAI **SECURITIES AND EXCHANGE BOARD OF INDIA**