

MCX STOCK EXCHANGE LTD.

DISCIPLINARY ACTION COMMITTEE

ORDER UNDER RULES 1 & 2 OF CHAPTER V OF THE RULES OF MCX STOCK  
EXCHANGE LIMITED

**1. Background:**

- 1.1 Jain Broking Pvt. Ltd. (JBPL) is a trading member on the Currency Derivatives (CD) segment of MCX Stock Exchange Ltd. ("the Exchange") and is registered with Securities and Exchange Board of India (SEBI) as a trading Member on CD segment of the Exchange with registration No. INE261090134 on April 27, 2009.
- 1.2 JBPL has not activated its membership on the Exchange till date and there are no deposits of JBPL with the Exchange.
- 1.3 SEBI has advised the Exchange to carry out inspection of even those members who are not activated on the Exchange for trading. The scope of such inspection is verification of:
  - i. Compliance with Regulation 8 (1) (f) & 8 (3) (f) of SCRR i.e. (not to deal in commodities / business other than securities)
  - ii. Unapproved changes such as change in the control of member entity, Change in the constitution, change in the shareholding, etc.
  - iii. compliance with net worth criteria as prescribed
  - iv. location of Member's office as per the details available with the Exchange

**2. Inspection:**

- 2.1 JBPL was selected for inspection in the 'Not Activated' Category.
- 2.2 An intimation letter no. MCX-SX/INS/RE/01/232/13-14/7212 dated May 15, 2013 was sent to the Member's registered address 3, Bentinck Street (2<sup>nd</sup> Floor) Kolkata 700001 intimating the member that an inspection shall be carried out by the Exchange Officials on or after May 22, 2013. It was also sent to the member's email id available with the Exchange viz. [msethiaco@gmail.com](mailto:msethiaco@gmail.com) on the same day.



2.3 On May 28, 2013, the Exchange official carried out the inspection at the JBPL's registered office.

**3. Inspection Observations & issue of Show Cause Notice & Hearing before the Committee:**

3.1 During inspection, no non-compliance with regards to Rule 8 (1) (f) & 8 (3) (f) of SCRR was observed.

3.2 However, it was observed that JBPL had removed one of the Designated Directors viz. Sangeeta Sethia without obtaining prior approval of the Exchange and also did not make available / provide Net worth Certificate as on March 31, 2012 and September 30, 2012 for verification.

3.3 Hence JBPL was advised, vide Exchange's letter no. MCX-SX/INS/RE/07-10/232/13-14/10259 dated June 11, 2013 to submit the Net worth Certificate and complete the process of updating the Exchange's records regarding change in Designated Director. However, there was no response from JBPL.

3.4 Then the Exchange sent the following reminders to JBPL advising to submit the documents:

- i. Letter No. MCX-SX/INS/RE/07-10/1232/13-14/18492 dated September 10, 2013, advising JBPL to submit documents by October 8, 2013
- ii. Letter No. MCX-SX/INS/RE/07-10/1232/13-14/19513 dated October 11, 2013, advising JBPL to submit documents by October 18, 2013
- iii. Letter No. MCX-SX/INS/RE/07/1232/13-14/19677 dated October 18, 2013, advising JBPL to submit documents by October 25, 2013
- iv. Letter No. MCX-SX/INS/RE/07/1232/13-14/19875 dated October 28, 2013, advising JBPL to submit documents by November 5, 2013
- v. Letter No. MCX-SX/INS/RE/07/1232/13-14/20463 dated November 25, 2013, advising JBPL to submit documents by December 2, 2013



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- vi. Letter No. MCX-SX/ INS /RE/07/1232/13-14/20612 dated December 2, 2013, advising JBPL to submit documents by December 7, 2013

However, JBPL did not submit any documents. The Exchange then placed the matter before the Disciplinary Action Committee (DAC) of the Exchange in its meeting held on December 26, 2013.

- 3.5 The DAC deliberated on the matter and decided to further give 15 days' time to JBPL to provide the net worth certificate as per Dr. L C Gupta Committee Report as on March 31, 2013 and September 30, 2013. The Committee also decided that the matter pertaining to regularization of the change in Designated Director, may be forwarded to the Membership Department of the Exchange for further processing.
- 3.6 The decision was informed to JBPL vide letter no. MCX-SX/INSP/2013-14/1232/21573 dated January 1, 2014.
- 3.7 In response to the above letter, JBPL submitted Net worth Certificate as on August 10, 2013, showing net worth of Rs 77 lacs only, well below the prescribed limit of Rs 1 Crore.
- 3.8 Hence the Exchange vide letter no. MCX-SX/INSP/2013-14/1232/463 dated January 22, 2014, advised JBPL to increase their net worth to the prescribed limit of Rs. 1 Crore and submit a certificate in Dr. L.C. Gupta format and duly certified by a Chartered Accountant, latest by February 06, 2014. However, JBPL did not respond to the same.
- 3.9 The Exchange then issued a Show Cause notice to JBPL vide letter no. MCX-SX/INSP/RE/10/1232/2013-14/1654 dated March 19, 2014, asking as to why disciplinary action should not be taken against the member. However, JBPL did not respond to the notice.

#### 4. Considerations

The matter was again placed before the Committee in its meeting held on March 31, 2014. JBPL was informed of the same vide letter no. MCX-SX/INSP/RE/10/1232/2013-



14/1699 dated March 20, 2014 and offered a personal hearing before the DAC to present their case. JBPL was also informed that in case they do not appear before the DAC, the matter shall be decided on the basis of material available on record and that the action may include expulsion from the membership of the Exchange. The Member neither appeared before the DAC nor submitted any reply to the Exchange.

During the meeting held on March 31, 2014, the following facts and records were considered by the DAC for arriving at a decision in the matter:

4.1 JBPL did not comply with the continued membership criteria for members as laid down by SEBI and the Exchange.

4.2 JBPL did not comply with various Rules/Regulations/Bye-laws of the Exchange/SEBI, including the following:

Exchange circular no. MCX-SX/MEM/49/2009 dated January 13, 2009 prescribing the Net worth requirement of Rs 1 Crore for trading members of the Exchange in Currency Derivatives. [Not maintaining Net worth as per the prescribed limit is in violation of Regulation 16L (2) of SEBI Stock Broker and Sub broker Regulations, 1992 and Rule 32 of the Rules of the Exchange]

4.3 Even after repeated follow-ups, JBPL neither allowed the exchange to conduct inspection nor submitted any documents for verification.

## 5. Decision

5.1 We note that the Exchange has followed up with JBPL on numerous occasions and has given multiple opportunities for presenting their case in person before the DAC of the Exchange. It is also evident that the principle of natural justice has been aptly followed by the Exchange in its approach.

5.2 In terms of Rule 32 of the Exchange 'The relevant authority shall from time to time prescribe conditions and requirements for continued admittance to trading membership which may, inter alia, include maintenance of minimum net worth and capital adequacy, renewal of certification, if any, etc. The trading



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membership of any person who fails to meet these requirements shall be liable to be terminated.'

5.3 Further, Rules 1 and 2 of Chapter V of the Rules of the Exchange provide as follows

**Rule 1:** "The relevant authority may expel or suspend and/or fine under censure and/or warn and/or withdraw any of the membership rights of a trading member if it be guilty of contravention, non-compliance, disobedience, disregard or evasion of any of the Bye Laws, Rules and Regulations of the Stock Exchange or of any resolutions, orders, notices, directions or decisions or rulings of the Stock Exchange or the relevant authority or of any other Committee or officer of the Stock Exchange authorised in that behalf or of any conduct, proceeding or method of business which the relevant authority in its absolute discretion deems dishonorable, disgraceful or unbecoming a trading member of the Stock Exchange or inconsistent with just and equitable principles of trade or detrimental to the interests, good name or welfare of the Stock Exchange or prejudicial or subversive to its objects and purposes"

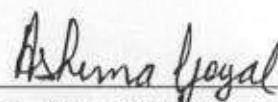
**Rule 2:** In particular and without in any way limiting or prejudicing the generality of the provisions in Rule (1) above, a trading member shall be liable to expulsion or suspension or withdrawal of all or any of its membership rights and/or to payment of a fine and/or to be censured, reprimanded or warned for any misconduct, un-businesslike conduct or unprofessional conduct in the sense of the provision in that behalf contained herein.

5.4 Considering the series of events, the provisions of the Rules, Bye-laws and Regulations of the Exchange and the non-inclination of the Member to comply with the requirements of the Exchange, we hereby direct that the Member viz. Jain Broking Pvt. Ltd. be expelled from the membership of the Exchange with immediate effect.

Dated this 26/06/2014



Thomas Mathew T.



Prof. (Mrs.) Ashima Goyal

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