

BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. EAD/KS/VB/AO/ 144/2018-19]

UNDER SECTION 15-I OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES BY ADJUDICATING OFFICER) RULES, 1995.

In respect of

1. Oasis Securities Limited (PAN :AAACO0091J)
2. Shri Indra Kumar Bagri (PAN : AEKPB3104N)
3. Shri Anil Kumar Bagri (PAN : ADPPB7746L)

In the matter of Oasis Securities Limited

BRIEF FACTS OF THE CASE

1. SEBI conducted a detailed examination on receipt of complaint of misstatements and misleading disclosure in financial statements of Oasis Securities Ltd ("hereinafter referred to as **OSL/Noticee 1**) and inadequate disclosures in the context of sale of business of OSL. It is observed that in the year 2010-11, OSL had transferred its stock broking and depository participant businesses to Icab Securities & Investment Ltd ("hereinafter referred to as **IKAB**"), who was registered as stock broker with BSE and MCX. Both OSL and IKAB are listed on BSE. It is noted that the Noticees while undertaking the aforesaid transaction and on certain other instances had violated the provisions of Clause 36, Clause 41 and Clause 50 of the Listing Agreement read with section 21 of the Securities Contracts (Regulation) Act, 1956 (hereinafter referred to as "**SC(R)A**").

APPOINTMENT OF ADJUDICATING OFFICER

2. Shri Prasad Jagdale was appointed as the Adjudicating Officer vide communique dated April 20,2016 under Section 23-I(1) of the SC(R)A read with Rule 3 of the Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 2005 (hereinafter referred to as "**SC(R)R**") to inquire into and adjudge under Section 23A and Section 23E of SC(R)A the violation of Clause 36, Clause 41 and Clause 50 of the Listing Agreement read with section 21 of the SC(R)A alleged to have been committed by OSL and its Chairman and Managing Director i.e Indra Kumar Bagri(hereinafter referred to as "**Indra / Noticee-2**"), Anil Kumar Bagri (hereinafter referred to as "**Anil / Noticee-3**") (hereinafter collectively referred to as "**Noticees**"). Pursuant to the transfer of Shri Prasad Jagdale, Shri Suresh Gupta was appointed as Adjudicating Officer and thereafter, the undersigned has been appointed as the Adjudication Officer vide an Order dated May 18, 2017.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

3. A Show Cause Notice (hereinafter referred to as '**SCN**') dated January 01, 2018 was issued to the Noticees under Rule 4 of the SC(R)R communicating the alleged violations of Clause 36, Clause 41 and Clause 50 of the Listing Agreement read with section 21 of the SC(R)A. The Noticees were also called upon to show cause as to why an inquiry should not be initiated against them in terms of Rule 4 of the SC(R)R and penalty be not imposed under Section 23A and Section 23E of the SC(R)A for the alleged contravention.
4. The details in respect of violation/ non-compliance by the Noticees are as given below:
Non compliance with Clause 36 of the Listing agreement:-
 - a) It is observed that OSL discontinued its major operations i.e Broking business and Depository participant business from 2008-09 and transferred the said

businesses to IKAB from April 1, 2010 to June 7, 2010 respectively. It is noted that discontinuance and sale of aforementioned businesses was a material event to OSL as major portion of OSL's revenue was contributed from these businesses. As per Clause 36 of the Listing Agreement, a company is required to make adequate disclosures regarding material events to the stock exchange.

- b) It was observed that the following announcements were made to BSE by OSL regarding the aforementioned transfer on the following dates which are reproduced as under:

November 14, 2008 - *"Oasis Securities Ltd has informed BSE that the Board of Directors of the Company at its meeting held on November 11, 2008, inter alia, has been decided to pass a resolution by the shareholders of the Company through postal ballot under Section 293 (1) (a) of the Companies Act, 1956 to sell, assign and transfer the Company's undertaking comprising of Broking - the Trading Membership of National Stock Exchange Ltd (NSE) and Depository Business - being a Depository Participant of National Securities Depository Ltd (NSDL)."*

June 24, 2009 - *"With reference to the earlier announcement regarding passing of resolution for selling of Company's undertaking comprising of Broking - the Trading Membership of National Stock Exchange Ltd (NSE) and Depository Business - being a Depository Participant of National Securities Depository Ltd (NSDL), Oasis Securities Ltd has now informed BSE that the Company has now received in principle the approval of National Stock Exchange of India Ltd for the above, subject to certain conditions and compliance."*

March 29, 2010 - *"Oasis Securities Ltd has informed BSE that the Company has received approvals from regulatory authorities for the transfer of Trading Membership of Oasis Securities Ltd to Ikab Securities & Investment Ltd. The*

transfer of Depository Business of Oasis Securities Ltd to Ikab Securities & Investment Ltd is under process at regulatory authority."

July 14, 2010 - "Oasis Securities Ltd has informed BSE that the Depository Business of the Company - being a Depository Participant of National Securities Depository Ltd (NSDL) has been transferred to sister concern namely Ikab Securities & Investment Ltd. with effect from June 07, 2010."

- c) Based on the examination of the aforementioned announcements made by OSL to BSE, it is alleged that OSL initially made an announcement on November 14, 2008 that its Board of Directors has decided to pass a resolution by the shareholders of the Company through postal ballot under Section 293 (1) (a) of the Companies Act, 1956 to sell, assign and transfer the Company's Broking and Depository Business. However, the company later did not make any announcement regarding approval of the shareholders for the aforementioned transfer of businesses.
- d) It is further alleged from the announcement made by OSL on November 14, 2008 and June 24, 2009 that the company did not even mention the name of the transferee, i.e. IKAB, and more importantly the fact that the transferee is a promoter group company of OSL.
- e) Further, it is also alleged that OSL failed to disclose the following material information regarding the aforementioned transfer to BSE:
 - (i) Amount of sale consideration for the transfer
 - (ii) Mode for receipt of the sale consideration
 - (iii) Amount of profits/losses realized on account of the aforementioned transfer
 - (iv) The amount of assets/liabilities and revenues/profits attributable to the Broking and Depository businesses which was transferred

- (v) The fact that the Broking and Depository businesses materially comprised the entire business of the company as on the date of discontinuance and proposed transfer.

Future plans of OSL pursuant to the transfer, especially in view of the fact that the Broking and Depository businesses materially comprised the entire business of the company as on the date of discontinuance and proposed transfer.

- f) Thus, it is alleged that OSL has not complied with the requirements of Clause 36 of the Listing Agreement as it has failed to provide BSE where OSL is listed with the material and significant information regarding discontinuance and transfer of its key business operations to IKAB.

Non compliance with AS 24 and Clause 50 of the Listing agreement:-

- g) Further, as per Accounting Standard 24 on "Discontinuing Operations" issued by the Institute of Chartered Accountants of India (ICAI) ("AS 24"), an entity is required to make various disclosures on discontinued operations in its financial statements. It is also noted that Clause 50 of the Listing Agreement requires listed companies to comply with the Accounting Standards issued by the ICAI.
- h) It is alleged that the financial statements of OSL for F.Y. 2008-09, F.Y. 2009-10 and F.Y. 2010-11 are not in compliance with AS 24 issued by ICAI as it has not provided the relevant information regarding discontinuance and transfer of its key business operations. Thus, by the non-compliance with AS 24, OSL has not complied with the requirements of Clause 50 of the Listing Agreement.

Non compliance with AS 18 and Clause 50 of the Listing agreement:-

- i) It is alleged that Noticees have failed to make disclosures of the following related party transactions in the audited financial statements of OSL for the three financial years from F.Y. 2008-09 to F.Y. 2010-11.

OSL's investments worth Rs. 22,25,000 in the companies under same group and investments worth Rs. 3,06,00,000 in other related parties as at the end of F.Y. 2010-11.

OSL gave unsecured loans to related parties worth Rs. 3,90,00,000 to related parties during F.Y. 2010-11.

OSL sold its stock broking and DP business to another promoter group entity, IKAB, in F.Y. 2010-11 at a total consideration of Rs. 1,86,54,179. The effective dates of transfer of these two businesses were April 1, 2010 and June 7, 2010 respectively.

- j) Further, with respect to trading services rendered by the OSL to its related parties in F.Y. 2008-09 and F.Y. 2009-10, OSL has made disclosures of only the amount of 'Brokerage' and the amount of 'Margin money' received from the related parties in the related party transactions schedule forming part of its audited financial statements. It is alleged that the OSL has not made disclosures of the amount of 'Trading in equities segment' as a part of the said schedule.
- k) It is further observed from the ledgers submitted by OSL for F.Y. 2010-11, vide their letter dated October 7, 2013 that OSL has paid interest of Rs. 1,90,722 to Mr. I.K. Bagri (Chairman on OSL's Board) on March 31, 2011. However, the said interest payment has not been disclosed by OSL in the related party transactions schedule forming part of its audited financial statements. It is further alleged that the corresponding loan/borrowings taken by OSL from Mr. I.K. Bagri for which the aforementioned interest is paid by OSL is also not disclosed.
- l) In view of the above, it is alleged that OSL has failed to make disclosures of its related party transactions in its audited financial statements for the financial years from F.Y. 2008-09 to F.Y. 2010-11 and has thus failed to comply with the Accounting Standard 18 "Related Party Disclosures" issued by ICAI ("AS 18").

As per AS 18, an entity is required to make disclosures of its related party transactions. The aforementioned non-disclosure of its related party transactions by OSL in its financial statements has resulted in non-compliance with AS 18.

- m) Thus, it is alleged that non-compliance with AS 18 issued by the ICAI has resulted in non-compliance with Clause 50 of the Listing Agreement by OSL for the aforementioned financial years.

Non compliance with Clause 41 of the Listing Agreement

- n) It is alleged that in its annual audited financial statements for F.Y. 2010-11, OSL had reported a Total Income of Rs. 4.2 crores and Profit after taxes of Rs. 1.34 crores and for all the unaudited four quarters of the said financial year (Sum of Q1, Q2, Q3 & Q4 for the FY 2010-11) OSL had reported an aggregate Net sales of Rs 185.40 crores and an aggregate Net profit of Rs 1.63 crores. Clause 41 (IV) (a) of the Listing agreement requires the company to submit an explanation for the reasons for variations in net profits or exceptional/extraordinary items, based on certain trigger points, to the stock exchange where it is listed.
- o) It is observed that the variation in net profits after taxes between the Unaudited quarterly reports and Audited report for F.Y. 2010-11 is around Rs. 30 lacs and more than 10% of the reported net profits. Therefore, based on the announcements made to BSE around the relevant period, it is alleged that the company has failed to submit explanations for the reasons for the above variations to BSE and has thus failed to comply with the requirements of Clause 41 (IV) (a) of the Listing agreement.

Non compliance with AS 3 and Clause 50 of the Listing agreement

- p) From the Cash flow Statement for F.Y. 2010-11, it is observed that the company has deducted Miscellaneous income of Rs. 2,20,75,800 under the

heading 'Cash flows from Operating activities' and has added the said Miscellaneous income under the heading 'Cash flows from Investing activities'. However, it is noted that there is no corresponding miscellaneous income for the aforesaid amount in the Profit & Loss Statement of the company. It is noted from the ledgers that the amount of interest paid by the OSL for the aforementioned financial year is exactly Rs. 2,20,75,800 and the same is appearing under Expenses in Profit & Loss Statement. Thus, it is alleged that OSL has failed to make appropriate adjustment for the 'Interest paid' by OSL and has incorrectly adjusted the said amount as 'Miscellaneous income' received by OSL.

- q) It is also alleged that such wrong adjustment has apparently resulted in understatement of the 'Net Cash flows from Operating activities' by Rs. 4,41,51,600 and overstatement of both 'Net Cash flows from Investing Activities' and 'Net Cash flows from Financing Activities' by Rs. 2,20,75,800 each as any interest expense charged to the Profit & Loss Account of a company has to be added under the heading 'Cash flows from Operating activities' and the same has to be deducted under the heading 'Cash flows from Financing activities'
- r) It is alleged that the said misrepresentation in the Cash Flow Statement for F.Y. 2010-11 is in violation of Accounting Standard 3 'Cash Flow Statements' issued by the ICAI and the same has also resulted in non-compliance with Clause 50 of the Listing Agreement, by OSL for the aforementioned financial year.

- 5. Thereafter, the Authorised Representative (AR) of Noticees vide its letter dated January 16, 2018 sought inspection of documents. Vide letter dated January 30,2018, the AR were advised to complete the inspection of documents in coordination with concerned department of SEBI before February 10,2018 and was granted time upto February 20, 2018 to reply to the SCN. AR were also advised to attend the Personal Hearing on February 27, 2018.

6. The concerned department of SEBI vide its Email dated February 15, 2018 confirmed that Noticees have completed their inspection on February 12, 2018. The entity vide its letter dated February 19, 2018 sought an adjournment of hearing scheduled on February 27, 2018 to any date after March 15, 2018. Vide E-mail dated February 27, 2018, the Noticees were granted a final opportunity of hearing on March 15, 2018 at 11 am. Vide Email dated March 13, 2018, the AR once again sought an adjournment to reschedule the personal hearing to March 22, 2018 and file their reply by Monday, March 19, 2018. Vide Email dated March 13, 2018, the Personal hearing was re-scheduled to March 23, 2018 at 2.30 PM. Thereafter, vide letter dated March 19, 2018 the Noticees submitted a reply to the SCN and *inter alia* made the following submissions:

Clause 36 of the Listing Agreement requires listed companies to immediately inform the Stock Exchange of all the events which will have bearing on the performance/operations of the Company as well as any price sensitive information. It provides an indicative list of the material events on which listed entities are required to make disclosures to the Exchange. The said clause is extracted hereunder:

36. Apart from complying with all specific requirements as above, the Company will keep the Exchange informed of events such as strikes, lock-outs, closure on account of power cuts, etc. both at the time of occurrence of the event and subsequently after the cessation of the event in order to enable the shareholders and the public to appraise the position of the Company and to avoid the establishment of a false market in its securities. In addition, the Company will furnish to the Exchange on request such information concerning the Company as the Exchange may reasonably require. The Company will also immediately inform the Exchange of all the events, which will have bearing on the performance/operations of the company as well as price sensitive information. The material events may be events such as:

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

Without prejudice to the generality of Clause 29 of the Listing Agreement, the Company will promptly notify the Exchange of any material change in the general character or nature of its business where such change is brought about by the Company entering into or proposing to enter into any arrangement for technical, manufacturing, marketing or financial tie-up or by reason of the Company, selling or disposing of or

agreeing to sell or dispose of any unit or division or by the Company, enlarging, restricting or closing the operations of any unit or division or proposing to enlarge, restrict or close the operations of any unit or division or otherwise.

(2) Disruption of operations due to natural calamity.

The Company will soon after the occurrence of any natural calamity like earthquake, flood or fire disruptive of the operation of any one or more units of the Company keep the Exchange informed of the details of the damage caused to the unit thereby and whether the loss/damage has been covered by insurance, and without delay furnish to the Exchange an estimate of the loss in revenue or production arising therefrom, and the steps taken to restore normalcy, in order to enable the security holders and the public to appraise the position of the issue and to avoid the establishment of a false market in its securities.

(3) Commencement of Commercial Production/ Commercial Operations

The Company will promptly notify the Exchange the commencement of commercial/ production or the commencement of commercial operations of any unit/division where revenue from the unit/division for a full year of production or operations is estimated to be not less than ten per cent of the revenues of the Company for the year.

(4) Developments with respect to pricing/realisation arising out of change in the regulatory framework.

The Company will promptly inform the Exchange of the developments with respect to pricing of or in realisation on its goods or services (which are subject to price or distribution control/restriction by the Government or other statutory authorities, whether by way of quota, fixed rate of return, or otherwise) arising out of modification or change in Government's or other authority's policies provided the change can reasonable be expected to have a material impact on its present or future operations or its profitability.

(5) Litigation/dispute with a material impact

The Company will promptly after the event inform the Exchange of the developments with respect to any dispute in conciliation, proceedings, litigation, assessment, adjudication or arbitration to which it is a party or the outcome of which can reasonably be expected to have a material impact on its present or future operations or its profitability or financials.

(6) Revision in Ratings

The Company will promptly notify the Exchange, the details of any rating or revision in rating assigned to any debt or equity instrument of the Company or to any fixed deposit programme or to any scheme or proposal of the

Company involving mobilisation of funds whether in India or abroad provided the rating so assigned has been quoted, referred to, reported, relied upon or otherwise used by or on behalf of the Company.

(7) Any other information having bearing on the operation/performance of the company as well as price sensitive information, which includes but not restricted to;

- i) Issue of any class of securities.
- ii) Acquisition, merger, de-merger, amalgamation, restructuring, scheme of arrangement, spin off or selling divisions of the company, etc.
- iii) Change in market lot of the company's shares, sub- division of equity shares of company.
- iv) Voluntary delisting by the company from the stock exchange(s).
- v) Forfeiture of shares.
- vi) Any action, which will result in alteration in, the terms regarding redemption/cancellation/retirement in whole or in part of any securities issued by the company.
- vii) Information regarding opening, closing of status of ADR, GDR, or any other class of securities to be issued abroad.

Cancellation of dividend/ rights/ bonus, etc.

The above information should be made public immediately.

b. We submit that as per clause 36 of the Listing Agreement, the Company informed the BSE of the Board of Director's meeting held on November 11, 2008 wherein it was decided to sell, assign and transfer the Company's business of Stockbroking and Depository Participant business. Subsequently, the resolutions were filed with the Registrar of Companies which maintains the records of all the Companies wherein they are made available to the general public, including shareholders. The decision of the Board, which was taken in the meeting held on November 14, 2008, was informed to BSE on the said day itself.

c. Thereafter, vide letter dated June 24, 2009, Company informed BSE that the Company has received in-principle approval for the transfer of membership from the NSE subject to certain conditions and compliance. Further, the Company also informed the BSE vide letter dated March 29, 2010 that the Company had received approvals from regulatory authorities to transfer the broking business to Icab and that for the transfer of Depository Participant business to Icab, they were awaiting approval from the regulatory authorities. It is also pertinent to note that vide letter dated July 14, 2010, the Company informed BSE that the Depository

Participant business is also transferred to Icab with effect from June 07, 2010. Copies of all the above letters have been provided to SEBI and are available on the website of the BSE.

d. It may be noted that as per the clause 36 of the Listing Agreement there is no requirement to make any announcement regarding the approval of the shareholders for the transfer of business. Also, there is no requirement that at the time of the initial disclosures, the Company should mention the name of the transferee. However, it is pertinent to note that the Company did mention the name of the transferee while making later disclosures to the Stock Exchange.

Thus, all material information regarding the transfer of business to Icab were disclosed by the Company to BSE at the relevant times. Furthermore, as is evident from the above extract of Clause 36, the material information which is listed out by SEBI in paragraph 7 is not a requirement of clause 36. This expansion of the requirement of Clause 36 is not set out in the Bye Laws, Rules and Regulations of the BSE or in any circular issued by them or by SEBI. In the absence of the same, the disclosure by Oasis that it was selling, assigning and transferring the Company's business of Stockbroking and Depository Participant business is sufficient compliance with Clause 36 of the Listing Agreement.

f. In view of the above, we deny the allegation that we have not complied with the requirements of clause 36 of the Listing Agreement.

With reference to paragraphs 9 & 10 of the said Show Cause Notice, we submit as under: -

a. It is alleged that we have not made adequate disclosures in respect of our discontinued businesses as required under Accounting Standard 24 ("AS-24") issued by the Institute of Chartered Accountants of India ("ICAI"). Clause 20 of AS-24 reads as under:

"Presentation and Disclosure Initial Disclosure

20. An enterprise should include the following information relating to a discontinuing operation in its financial statements beginning with the financial statements for the period in which the initial disclosure event (as defined in paragraph 15j) occurs:

- (a) a description of the discontinuing operation(s);
- (b) the business or geographical segment(s) in which it is reported, as per AS 17, Segment Reporting;
- (c.) the date and nature of the initial disclosure event;
- (d) the date or period in which the discontinuance is expected to be 'completed if known or determinable;

(e) the carrying amounts, as of the balance sheet date, of the total assets to be disposed of and the total liabilities to be settled;

(f) the amounts of revenue and expenses in respect of the ordinary activities attributable to the discontinuing operation during the current financial reporting period;

(g) the amount of pre-tax profit or loss from ordinary activities attributable to the discontinuing operation during the current financial reporting period, and the income tax expense- related, thereto; and

(h) the amounts of net cash flows attributable to the operating, investing, and financing activities of the discontinuing operation during the current financial reporting period.

For the purpose of presentation and disclosures required by this Standard, the items of assets, liabilities, revenues, expenses, gains, losses, and cash flows can be attributed to a discontinuing operation only if they will be disposed of settled, reduced, or eliminated when the discontinuance is completed. To the extent that such items continue after completion of the discontinuance, they are not allocated to the discontinuing operation. For example, salary of the continuing staff of a discontinuing operation.

If an initial disclosure event occurs between the balance sheet, date and the date on which the financial statements for that period are approved by the board of directors in the case of a company or by the corresponding approving authority in the case of any other enterprise, disclosures as required by Accounting Standard. (AS) 4, Contingencies and Events Occurring after the Balance Sheet Date, are made.

c. As stated herein above and in previous correspondence with SEBI, the Board of Directors of Oasis decided to sell and transfer its Stockbroking Depository Participant businesses in meeting held on November 11, 2008. This was disclosed by Oasis in its 22nd Annual report of the Financial Year 2008- 09, wherein it was mentioned that "the company is proposing to sell, assign and transfer its undertaking comprising of its broking (the trading membership of NSE) and depository business (being a DP of NSDL). The final necessary approvals from the regulatory authorities are awaited" thus complying with the requirement to disclose the initial disclosure event.

d. However, the effective transfer of the aforementioned sale took place only in the year of 2009-10. Therefore, in Company's 23rd Annual report of 2009-10, it mentioned that "the company has transferred its undertaking comprising of its broking (the trading membership of NSE) and depository business (being a DP of NSDL) after obtaining the necessary approvals of the regulatory authorities".

Thereafter, the Company in its 24th Annual report of the year 2010-11, mentioned that "the company had sold its broking business in the previous year and sold its depository business in this financial year. The company is now focusing on its NBFC activities".

Thus, the Company has always made disclosures regarding the discontinued businesses in its Annual Reports in accordance with the requirements of AS-24. The allegation that the Company has not done so is baseless, erroneous, false, and because of the failure on the part of SEBI to consider relevant and material documents produced by the Company and available in the public domain. In view of the above, it is also erroneous and false to allege that the Company has not complied with Clause 50 of the Listing Agreement with the BSE and NSE.

With reference to paragraph 11 to 15 of the said Show Cause Notice, we submit as under:

a. Accounting Standard 18 ("AS-18") provides for disclosure requirements in respect of Related Party Transactions and transactions between an enterprise and its related parties

Paragraph 3 of the said standard sets out the relationships to which the standard applies. Paragraph 20 to 23 sets out the Disclosure requirements, as under:-

'Disclosure

20. The statutes governing an enterprise often require disclosure in financial statements of transactions with certain categories of related parties. In particular, attention is focused on transactions with the directors or similar key management personnel of an enterprise, especially their remuneration and borrowings, because of the fiduciary nature of their relationship with the enterprise.

21. Name of the related party and nature of the related party relationship where control exists should be disclosed irrespective of whether or not there have been transactions between the related parties.

22. Where the reporting enterprise controls, or is controlled by, another party, this information is relevant to the users of financial statements irrespective of whether or not transactions have taken place with that party. This is because the existence of control relationship may prevent the reporting enterprise from being independent in making its financial and/or operating decisions. The disclosure of the name of the related party and the nature of the related party relationship where control exists may sometimes be at least as relevant in appraising an enterprise's prospects as are the operating results and the financial position presented in its

financial statements. Such a related party may establish the enterprise's credit standing, determine the source and price of its raw materials, and determine to whom and at what price the product is sold.

23. If there have been transactions between related parties, during the existence of a related party relationship, the reporting enterprise should disclose the following:

- (i) the name of the transacting related party;
- (ii) a description of the relationship between the parties; (iii) a description of the nature of transactions;
- (iv) *any other elements of the related party transactions necessary for an understanding of the financial statements;*
- (v) *the amounts or appropriate proportions of outstanding items pertaining to related parties at the balance sheet date and provisions for doubtful debts due from such parties at that date; and*
- (vi) *amounts written off or written back in the period in respect of debts due from or to related parties.*

The following are examples of the related party transactions in respect of which disclosures may be made by a reporting enterprise:

- (a) *purchases or sales of goods (finished or unfinished);*
- (b) *purchases or sales of fixed assets;*
- (c) *rendering or receiving of services;*
- (d) *agency arrangements;*
- (e) *leasing or hire purchase arrangements;*
- (f) *transfer of research and development;*
- (g) *licence agreements;*
- (h) *fit la nee (including loans and equity contributions in cash or in kind);*
- (i.) *guarantees and collaterals; and*
- (j) *management contracts including for deputation of employees..."*

We submit the following in reply to the specific instances of non-disclosure of related party transactions:

a) Investments in Stuish Capital Services Private Limited (Outstanding amount as at the end of the year - Rs.3.06

Crores)

Stuish Capital Services Private Limited ("**Stuish**") is related to Oasis because its Directors, Mr. Anil Bagri and Mrs. Archana Bagri are the promoters of Oasis. Oasis invested in preference shares issued by Stuish; details of which have already been provided to SEBI vide letter dated April 25, 2014, but are once again provided herewith for the sake of convenience and marked as **Annexure C**.

Paragraph 24 of AS-18 provided examples of related party transactions of which disclosures are to be made by a reporting enterprise. It is pertinent to note that these do not include reporting of investment by the reporting enterprise in shares of the related entity especially when these are considered as stock in trade and not investment for the purpose of control. The preference shares were treated by Oasis as stock in trade.

b) *Investments in Ikab Securities & Investment Limited to the extent of Rs. 22.25 Lakhs*

We made an investment in 1,00,000 shares of Ikab in and around 1998. The investment amount is Rs. 2.25 Lakhs and not Rs. 22.25 Lakhs as falsely alleged or otherwise. This amount has been carried over in the books since 1998 and therefore, this investment was not made in the relevant period and therefore, did not require disclosure as a Related Party Transaction for the FY 2010-11.

Ikab was a client of Oasis until 2010 (when the broking business was transferred to them) and Oasis received brokerage and margin payments from them. These were disclosed in the Annual Reports for the years prior to 2010-11. Copies of the relevant portions of the Annual Reports for the Financial Years 2007-08, 2008-09 and 2009-10 showing the same are annexed hereto and collectively marked as **Annexure D**.

c) *Loans and Advances given to Emerging Equities Private Limited (Outstanding amount as at the end of the relevant year - Rs. 3.9 Crores)*

Loans and Advances made to Emerging Equities Pvt. Ltd., were interest bearing Inter Corporate Deposits. It may be noted that during the relevant period, none of our promoter directors are on the Board of Directors of Emerging Equities Private Limited or vice versa. In fact, none of our Promoter Directors are major shareholders of Emerging Equities Private Limited; therefore, the former

7. In the interest of natural justice, an opportunity of hearing was provided to the Noticees on March 23, 2018. During the Hearing held on March 23, 2018, Shri Joby Mathew along with Shri Anil Kumar Bagri, appeared as AR on behalf of the Noticees

and reiterated the submissions made by the Noticees in their reply to the SCN. No further hearing was sought by the AR in the matter.

CONSIDERATION OF ISSUES AND FINDINGS

8. I have carefully perused the written submissions of the Noticees and the documents available on record. The issues that arise for consideration in the present case are :

- a) Whether the Noticees had violated the Clause 36, Clause 41 and Clause 50 of the Listing Agreement read with section 21 of the SC(R)A?***
- b) Do the violations, if any, attract monetary penalty under Section 23A and 23E of the SC(R)A?***
- c) If yes, what should be the quantum of penalty?***

9. Before moving forward, it is pertinent to refer to the relevant provisions of Clause 36, Clause 41 and Clause 50 of the Listing Agreement read with section 21 of the SC(R)A which read as under:-

36.”.....The Company will also immediately inform the Exchange of all the events, which will have bearing on the performance/operations of the company as well as price sensitive information. The material events may be events such as:

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

.....

Without prejudice to the generality of Clause 29 of the Listing Agreement, the Company will promptly notify the Exchange of any material change in the general character or nature of its business where such change is brought about by the Company entering into or proposing to enter into any arrangement for technical, manufacturing, marketing or financial tie-up or by reason of the Company, selling or disposing of or agreeing to sell or dispose of any unit or division or by the Company,

enlarging, restricting or closing the operations of any unit or division or proposing to enlarge, restrict or close the operations of any unit or division or otherwise.”

41. The company agrees to comply with the following provisions:

.....

(IV) Other requirements as to financial results

(a) Where there is a variation between the unaudited quarterly or year to date financial results and the results amended pursuant to limited review for the same period, and –

(i) the variation in net profit or net loss after tax is in excess of 10% or Rs.10 lakhs, whichever is higher; or

(ii) the variation in exceptional or extraordinary items is in excess of 10% or Rs.10 lakhs, whichever is higher - the company shall submit to the stock exchange an explanation of the reasons for variations, while submitting the limited review report. The explanation of variations so submitted shall be approved by the Board of Directors: Provided that in case of results for the last quarter, the above sub-clause shall apply in respect of variation, if any, between the year to date figures contained in the unaudited results and the figures contained in the annual audited results

50. The company will mandatorily comply with all the Accounting Standards issued by Institute of Chartered Accountants of India (ICAI) from time to time.”

Securities Contracts (Regulation) Act, 1956

21. Conditions for listing. — Where securities are listed on the application of any person in any recognised stock exchange, such person shall comply with the conditions of the listing agreement with that stock exchange.

Non compliance with AS 24 and Clause 50 of the Listing agreement:-

10. Now, one of the issues for consideration is whether the Noticees did not comply with Accounting Standard 24 in turn Clause 50 of the Listing agreement. It was alleged in the SCN that the financial statements of OSL for F.Y. 2008-09, F.Y. 2009-10 and F.Y. 2010-11 are not in compliance with AS 24 issued by ICAI as it has not provided the relevant information regarding discontinuance and transfer of its key business operations. I note from AS24 that a “discontinuing operation” is the one which meets with the definition as prescribed in the accounting standard. For a quick reference I intend to reproduce the definition of a discontinuing operation which reads as follows:

A discontinuing operation is a component of an enterprise:

that the enterprise, pursuant to a single plan, is disposing of substantially in its entirety, such as by selling the component in a single transaction or by demerger or spin-off of ownership of the component to the enterprise’s shareholders; or

disposing of piecemeal, such as by selling off the component’s assets and settling its liabilities individually; or

terminating through abandonment; and that represents a separate major line of business or geographical area of operations; and that can be distinguished operationally and for financial reporting purposes.

11. I also note from Para 15 of AS24 that an enterprise is expected to make certain initial disclosure event with respect to discontinuing operation, upon the earlier occurrence of any of the following events namely;

the enterprise has entered into a binding sale agreement for substantially all of the assets attributable to the discontinuing operation; or

the enterprise’s board of directors or similar governing body has both (i) approved a detailed , formal plan for the discontinuance and (ii) made an announcement of the plan.

12. From the reply of the Noticee I notice that the Board of Directors of the OSL at its meeting held on November 11, 2008 had decided to sell and transfer its stockbroking and depository participant businesses. Upon a closer reading of AS24 it becomes clear that it is obligatory on an enterprise to disclose about its discontinuing operations on the occurrence of either of the two events i.e. entering into buying and selling agreement or decision of the board of directors. In the present matter, as per records, the Board of Directors of the OSL at its meeting held of November 11, 2008 had decided to sell of stock broking and Depository participant businesses. The date of entering into a binding agreement, if any, has not been brought on record. Therefore, I rely upon the Board meeting date as is available on records. In view of the above, I am convinced that an obligation to make relevant disclosures arises when the Board of Directors has decided to sell off the business as mentioned above. Having ascertained and convinced that an initial disclosure of a discontinuing operation needs to be made in financial statements, it becomes imperative to understand the disclosures to be made. I find from AS24 that an enterprise should include the following information relating to a discontinuing operation in its financial statements beginning with the financial statements for the period in which the initial disclosure event (as defined in paragraph 15) occurs:

- a) a description of the discontinuing operations(s);
- b) the business or geographical segment(s) in which it is reported as per AS 17, Segment Reporting;
- c) the date and nature of the initial disclosure event;
- d) the date or period in which the discontinuance is expected to be completed if known or determinable;
- e) the carrying amounts, as of the balance sheet date of the total assets to be disposed of and the total liabilities to be settled;
- f) the amounts of revenue and expenses in respect of the ordinary activities attributable to the discontinuing operation during the current financial reporting period;

- g) the amount of pre-tax profit or loss from ordinary activities attributable to the discontinuing operation during the current financial reporting period, and the income tax expense related thereto; and
 - h) the amounts of net cash flows attributable to the operating, investing and financing activities of the discontinuing operation during the current financial reporting period.
13. Also I note that Paras 21 to 32 of AS-24 also specify further disclosure related requirements. Again I note from Para 34 of AS-24 that it is obligatory for an enterprise to restate and prepare its financial statement after initial disclosure event by segregating assets, liabilities, revenue, expenses and cash flows of continuing and discontinuing operations.
14. From the replies I note that the Board of Directors of the OSL had taken a decision to sell off the broking and Depository Participant businesses in the F.Y. 2008-09, the effective transfer of the sale had taken place in 2009-10. However I note from the "Director's Report" forming part of annual report pertaining to financial years 2008-2009, 2009-10 and 2010-11 that the OSL has made a "mere" (emphasis supplied) disclosure as mentioned below.

2008-09

The company is proposing to sell, assign and transfer its undertaking comprising of its broking (the trading membership of NSE) and depository business (being a DP of NSDL). The final necessary approvals from the regulatory authorities are awaited".

2009-10

The company as transferred its undertaking comprising of its broking (the trading membership of NSE) and depository business (being a DP of NSDL) after obtaining the necessary approvals of the regulatory authorities.

2010-11

The company had sold its broking business in the previous year and sold its depository business in this financial year. The company is now focusing on its NBFC activities.

15. From the above I note that OSL has only made a mere intimation of the impugned sale. I do not see any disclosures as per AS 24 in the financial statements. Therefore I am convinced that the Noticees have not complied with AS 24 and therefore not complied with Clause 50 of the erstwhile Listing Agreement.

Non compliance with AS 18 and Clause 50 of the Listing agreement:-

16. With regard to the allegation of non-disclosure under AS-18 with respect to the investment of Rs.3,06,00,000 in non-convertible bonds of Stuish Capital Services Pvt Ltd ("**Stuish**"). The Noticees submitted that Stuish is related to Oasis because its Directors, Mr. Anil Bagri and Mrs. Archana Bagri are the promoters of Oasis and Oasis invested in preference shares issued by Stuish. The Noticees also submitted that Para 24 of AS-18 provides examples of related party transactions of which disclosures are to be made by a reporting enterprise and these do not include reporting of investment by the reporting enterprise in shares of the related entity especially when these are considered as stock in trade and not investment for the purpose of control. The Noticees further submitted that preference shares issued by Stuish were treated as stock in trade.
17. I note from the examination report of SEBI for the period from April 2008 to March 2011 that there is a finding on an investment worth Rs.3.06 crores by OSL in Stuish Capital Services Private Limited (SCSPL). In this regard, I note that Mr. Anil Kumar Bagri and Mrs. Archana Bagri (spouse of Mr. Anil Kumar Bagri) were the directors in SCSPL during their relevant financial year namely 2010-11 when the said investments were made. Also, I note that from annual report of SCSPL for the year 2010-11 that Mr. Anil Bagri and Mrs. Archana Bagri were holding 95.47% and 4.53%, thus totaling 100% of the share capital of SCSPL. Also I note from the replies of the noticees that Mr. Anil Kumar Bagri and Mrs. Archana Bagri, forming part of the promoter group of OSL are the directors of SCSPL.

18. In terms of AS 18 an enterprise and reporting entity are considered to be related on multiple grounds and the clause that is relevant for the present matter is reproduced below.

Related party - parties are considered to be related if at any time during the reporting period one party has the ability to control the other party or exercise significant influence over the other party in making financial and/or operating decisions.

Control – (a) ownership, directly or indirectly, of more than one half of the voting power of an enterprise, or (b) control of the composition of the board of directors in the case of a company or of the composition of the corresponding governing body in case of any other enterprise, or (c) a substantial interest in voting power and the power to Related Party Disclosures 275 direct, by statute or agreement, the financial and/or operating policies of the enterprise.

Significant influence - participation in the financial and/or operating policy decisions of an enterprise, but not control of those policies. An Associate - an enterprise in which an investing reporting party has significant influence and which is neither a subsidiary nor a joint venture of that party. A Joint venture - a contractual arrangement whereby two or more parties undertake an economic activity which is subject to joint control.

Relative – in relation to an individual, means the spouse, son, daughter, brother, sister, father and mother who may be expected to influence, or be influenced by, that individual in his/her dealings with the reporting enterprise.

I thus note the noticee-2 & 3 and the SCSPL are related in number of ways as mentioned above. Also from the reply of the noticees, I find it to be an admitted fact that the notice-2 &3 are related to SCSPL.

Having ascertained that the Noticee-2 & 3 and SCSPL are admittedly related to each other, it is necessary to examine whether the investment of the OSL in SCSPL to the tune of Rs.3.06 crores requires disclosure in the annual report of the relevant period or not. In this regard, I note from reply of the noticees that it has treated investment in shares and also in preference shares of SCSPL as stock in trade and not as

investment for the purpose of control. In this regard, the noticees also relied upon paragraph 24 of AS-18 that provides certain examples of relative party transactions which need a disclosure. Para 24 of AS-18 is reproduced here in below for a quick reference.

“The following are examples of the related party transactions in respect of which disclosures may be made by a reporting enterprise: (a) purchases or sales of goods (finished or unfinished); (b) purchases or sales of fixed assets; (c) rendering or receiving of services; (d) agency arrangements; (e) leasing or hire purchase arrangements; (f) transfer of research and development; (g) licence agreements; (h) finance (including loans and equity contributions in cash or in kind); (i) guarantees and collaterals; and (j) management contracts including for deputation of employees.”

Further I note that paragraph 23 of AS-18 states that If there have been transactions between related parties, during the existence of a related party relationship, the reporting enterprise should disclose the following: (i) the name of the transacting related party; (ii) a description of the relationship between the parties; (iii) a description of the nature of transactions; (iv) volume of the transactions either as an amount or as an appropriate proportion; (v) any other elements of the related party transactions necessary for an understanding of the financial statements; (vi) the amounts or appropriate proportions of outstanding items pertaining to related parties at the balance sheet date and provisions for doubtful debts due from such parties at that date; and (vii) amounts written off or written back in the period in respect of debts due from or to related parties.

Upon reading of Para 24, I note that it only provides an example of situations that require a disclosure and the same should not be considered as exhaustive. I further find it difficult to accept the contention of the noticees that the said paragraph does not necessitate reporting of investment by a reporting enterprise in shares of a related entity especially when the investment is considered as stock in trade and not as investment for the purpose of control. In fact the Accounting Standard requires

“transactions” between related parties to be reported in the manner specified thereat. I find the Noticees have merely mentioned that there was an investment in related party, in the schedule to the accounts for the financial year 2010-11. I do not see any disclosures as prescribed in the Accounting Standards. Thus, I find the Noticees have failed to disclose the necessary details in terms of AS-18, thereby violating Clause 50 of the erstwhile listing agreement.

19. With regard to the allegation of non-disclosure under AS-18 with respect to the investment of Rs.22,25,000 in the equity shares of Ikab Securities & Investment Limited, the Noticees have submitted that investment amount is Rs. 2.25 lakhs and not Rs. 22.25 lacs. In this regard, I note from the balance sheet of OSL for the FY 2010-2011, the Investment in Ikab Securities & Investment Limited has been shown at Cost value i.e Rs2,25,000 and the Market Value has been shown as Rs.22,25,000. Further, OSL submitted that the said investment has been carried over from previous years and was not made in the relevant period and therefore did not require disclosure. However, I find that Para 23(VI) of AS-18 mandates disclosures of outstanding items pertaining to related parties as at the balance sheet date. Since the aforesaid investment was outstanding at the balance sheet date i.e, March 31, 2011 the same should have been disclosed as per AS- 18.

20. With regard to the allegation of non-disclosure under AS-18 with respect to the loans & Advances to Emerging Equities Private Limited amounting to Rs.3.9 crore, the Noticees have submitted that Emerging Equities Private Limited as a related party of Oasis only because the shareholders of Emerging Equities Private Limited are related to our promoters and not because of any control or influence. I find that the said transaction should have been disclosed as per AS-18 considering the definition of related party transaction as per Para 10 and the illustrative list as per Para 24 of AS-18. Further, I also find that OSL itself has shown the above entity as related in the RPT

schedule forming part of Annual Report. However, I find the volume of transaction with Emerging Equities Private Limited is shown as Nil, which is incorrect.

21. With regard to the allegation of non-disclosure under AS-18 with respect to the transfer of Broking & DP businesses to IKAB by OSL, the Noticees have submitted that transaction for sale of broking and depository businesses to Icab was done at cost value, of which the majority of the funds were for transfer of balances and broking related assets. There was no undue gain or loss in the said transactions. I find that the transfer of Broking & DP businesses to IKAB is related party transaction as has been discussed elsewhere in the Order and the prescribed details should have been disclosed as per AS-18 irrespective of whether it was done at cost value or not.
22. With regard to the allegation of non-disclosure under AS-18 with respect to the payment of interest of Rs. 1,90,722 to Noticee-2, the Noticees have submitted that the Unsecured Loans from Mr. I.K. Bagri was squared off as at the end of the year and apart from interest on loan and sitting fees, no payments were made to Mr. I.K. Bagri. In this regard, I note that the amount of loan received and repaid during the year and also the amount of interest paid on such loan should have been disclosed as per AS-18 and the same has not been done by the Noticees.
23. The next allegation is that the Noticees should have disclosed the amount of trading in equity segments in respect of trading services rendered by it to its related parties for the financial years 2008-09 and 2009-10. I note that the Noticees have disclosed schedule forming part of the annual report by way of annexure details of the transactions with related parties. From the annexure, I further note that the Noticees have disclosed amount of brokerage received, maximum margin received, margin received as on end of the financial year in respect of each of the related parties. The Noticees have replied that the transaction with IKAB, one of the related parties was in the capacity of the OSL as a stockbroker. The Noticees further replied that these

transactions were carried out on the stock exchange and not between themselves. In view of the above I find that the Noticees have disclosed the brokerage, margin money etc. as received from each of the related parties and I am inclined to accept the reply of the Noticees.

24. In view of the findings in paras above, I conclude that the allegation of Non compliance with AS -18 read with Clause 50 of the Listing agreement except in respect of the allegation on trading securities to the extent is established against the Noticees.

Non compliance with AS-3 and Clause 50 of the Listing agreement

25. With respect to the allegation of misrepresentation in the Cash Flow Statement for F.Y. 2010-11 is in violation of Accounting Standard 3 on 'Cash Flow Statements' issued by the ICAI which resulted in non-compliance with Clause 50 of the Listing Agreement. The Noticees have submitted that the interest expense was erroneously shown as miscellaneous income in the Cash Flow Statement. The Noticees further submitted that there was a technical error due to change in presentation norms and it was not a willful omission. The Noticees also submitted that the final figures for the change in Cash Balances as well as the closing figure for Cash and Cash equivalents remain precise.
26. I find that the error as brought out above, was not restricted to incorrect terminology or item description. Notably, an interest expense charged to the Profit & Loss Account of a company has to be added back under the heading 'Cash flows, from Operating activities' and the same has to be deducted under the heading 'Cash flows from Financing activities'. The Noticees rather deducted the above amount under the heading 'Cash flows from Operating activities' and added it under the heading 'Cash flows from Investing activities'. As a result, the 'Net Cash flows from Operating activities' were under stated by approximately Rs. 4.42 crores and both 'Net Cash flows from Investing Activities' and 'Net Cash flows from Financing Activities' were

over stated by approximately Rs. 2.21 crores each. I note that though the final figure for change in Cash Balances was correctly disclosed, but the Cash flows from each of the three heads were incorrectly stated, as mentioned above. In view of the above, I conclude that the allegation of violation of Accounting Standard 3 on 'Cash Flow Statements' issued by the ICAI resulting in non-compliance with Clause 50 of the Listing Agreement is established against the Noticees.

Non compliance of Clause 36 of the Listing agreement

27. The Noticees in their reply have submitted that there is no requirement to make any announcement regarding the approval of the shareholders for the transfer of Broking/DP business. Also the Noticees have further submitted that there is no requirement that at the time of the initial disclosures the company should mention the name of the transferee. I note that it is a basic company law principle that the Board of Directors of a company acts as an agent and trustee to the shareholders who are the ultimate owners of a company. The Board of Directors only recommends actions and places the same before the shareholders at the general meetings in order to obtain their approval. Thus, no proposal will reach finality unless the shareholders approve the same. Issues like the one under consideration i.e. sale of major business operations and that too to a promoter related company certainly requires approval of the shareholders and will take effect only after the consent of the shareholders. In terms of Clause 36 of the erstwhile Listing Agreement it is mandatory for listed companies to inform the exchange of material events. One such matter that is mandatory to be reported and relevant to the present matter, in terms of clause 36 of the erstwhile listing agreement, is "selling divisions of the company". I find that the material details which will be of importance to any investor was not disclosed by Noticees to BSE and the disclosures *inter alia* include the following:

- The transferee is a pro group company of OSL
- Amount of sale consideration for the transfer
- Amount of total assets and liabilities to be transferred

- Amount of profits/losses on account of the transfer

It is an admitted fact that there was sale of business divisions of the OSL. Another such material event, as has been prescribed in Clause 36, is “change in the general character or nature of business”. From available records I understand that OSL was mainly operating as a broker and Depository Participant until the two business verticals were sold to IKAB. From the profit and loss accounts, as available on records, of OSL I note that the major income from operations is from the above two business verticals for the period 2008 to 2010. Thus, after selling the two major business operations, the OSL has admitted that it was acting as an NBFC. In view of the same I find that there is certainly a change in the “nature of business” carried out by OSL i.e. from securities market to NBFC. Apparently this change in nature of business could not have been given effect to without the approval of the shareholders of the company. In view of the above the approval of the shareholders/the outcome of the shareholders meeting in question assumes a greater importance and the same ought to have been disclosed to the exchange(s). I further note that Clause 35A of the erstwhile listing agreement mandates the issuer companies to submit to the stock exchange, within 48 hours of conclusion of its General Meeting, details regarding the voting results in a prescribed format. Therefore, it is difficult to accept the argument of the Noticees that there was no requirement to announce the approval of shareholders.

28. The Noticees have also submitted that there was no requirement to mention the name of the transferee at the time of initial disclosures. In this regard I note that the Noticee in its correspondence dated July 15, 2015 addressed to SEBI has confirmed that around November 2008 the Board of Directors of the OSL decided to sell its stock broking and depository participants businesses to IKAB. It clearly confirms the fact that OSL was aware of the buyer in 2008 itself and the board meeting had taken place to approve the proposal to sell the business units to the identified buyer. As has been mentioned elsewhere in this order that IKAB is a promoter related entity and assumes

the character as “related party”. Thus, when the Noticees had identified the buyer, that too from the promoter group, it becomes necessary to inform such a material information to the exchange. I note that Clause 36 requires companies to inform the exchange of any price sensitive information and those events that will have a bearing on the performance or operations of the company. The prescriptions at Clause 36 are indicative in nature and should not be construed to be exhaustive as it is difficult to foresee various types of business situations and mandate the disclosure requirements accordingly with certainty. In light of the above I do not agree with the submission of the Noticees that Clause 36 did not mandate disclosure of the name of the buyer. Thus, I conclude that the Noticees have not complied with Clause 36 of the erstwhile listing agreement.

29. In view of the above, I conclude that the allegation of violation of Clause 36 of the Listing agreement is established against the Noticees.

Non compliance with Clause 41 of the Listing Agreement

30. It was alleged in the SCN that in its annual audited financial statements for F.Y. 2010-11, OSL had reported Total Income of Rs. 4.2 crores and Profit after taxes (PAT) of Rs. 1.34 crores and for all the unaudited four quarters of the said financial year (Sum of Q1, Q2, Q3 & Q4 for the FY 2010-11) OSL had reported aggregate Net sales of Rs 185.40 crores and aggregate Net profit of Rs 1.63 crores. It was observed that the variation in net profits after taxes between the Unaudited quarterly reports and Audited report for F.Y. 2010-11 is around Rs. 30 lacs and more than 10% of the reported net profits. It was alleged that the company has failed to submit explanations for the reasons for the above variations to BSE and has thus failed to comply with the requirements of Clause 41 (IV) (a) of the Listing agreement.

31. Further, from the available records, the extracts of the unaudited results for four quarters of the said financial year FY 2010-11 and the sum of the figures for the said quarters is given below

Type	Un-Audited	Un-Audited	Un-Audited	Un-Audited	Total (in millions)
Period Ending	31-Mar-11	31-Dec-10	30-Sep-10	30-Jun-10	
No. of Months	3	3	3	3	
Net Sales / Interest Earned / Operating Income	10.6	1,557.28	253.08	32.9	1853.86
Other Income	0	0.15	-0.3	0.3	0.15
Expenditure	-12.25	-1,528.31	-246.55	-30.65	-1817.76
Interest	1.18	-13.33	-7.75	0	-19.9
Profit Before Depreciation and Tax	-0.47	15.79	-1.52	2.55	16.35
Profit before Tax	-0.47	15.8	-1.41	2.44	16.36
Net Profit	-0.47	15.8	-1.41	2.44	16.36

From the above table I note that OSL had reported aggregate Net sales of Rs 185.40 crores and aggregate Net profit of Rs 1.63 crores. I also note that there is no difference between the Profit before Tax reported and the Net Profit reported in the quarterly results. I further note that no taxation expense has been shown in the quarterly results as required by the format prescribed in the Annexure to Clause 41 of the erstwhile Listing Agreement.

32. From the Annual report for the FY 2010-2011, I find that OSL had reported Total Income of Rs. 4.22 crores and Profit after taxes of Rs. 1.34 crores as seen from the table below:-

Particulars	For the year ended 31-03-2011(in Rs)	Total
INCOME		
Brokerage		
Depository Income	1,71,810	
Income from Trading in Securities and Derivatives	4,18,40,169	
Other Income	1,81,750	4,21,93,729

EXPENDITURE		
Interest Paid	1,96,67,127	
Employee Remuneration and Benefits	11,59,923	
Establishment and Other Expenses	47,81,322	
Depreciation	-	2,56,08,372
Profit before Taxation		1,65,85,357
Provision for Taxation		(31,76,799)
Profit after Taxation		1,34,08,558
Transfer to Statutory Reserves under RBI Act (45IC)		(26,81,712)
Deferred Tax Assets / Liabilities		2,56,181
Balance transferred to Balance Sheet		1,09,83,027

33. On comparison of the extracts of the results in the Annual report for FY. 2010-2011 and the quarterly results for various quarters in F.Y 2010-2011, I note that the Profit after Taxation amounts to Rs. 1.34 cr in Annual report while the sum of the net profits for various quarters Rs. 1.63 cr and thus the variation in net profits after taxes between the Unaudited quarterly reports and Audited report for F.Y. 2010-11 is around Rs. 30 lacs and more than 10% of the reported net profits. The variation in net profits can be attributed to Provision for Taxation for an amount of Rs. 31,76,799 which was reported in the Annual report but was not reported in the Quarterly results. The above difference in PAT requires an explanation in terms of Clause 41 of the erstwhile Listing Agreement, which I do not see.
34. The Noticees have submitted that for the Financial Year 2010-11 in which they have acted as an NBFC, the Profit After Tax ("PAT") was Rs. 134.09 Lakhs and as per RBI norms, they were to transfer 20% of the net profit i.e. an amount of Rs. 26.82 Lakhs (20% of Rs. 134.09 Lakhs) to the statutory reserves. By a clerical error, an amount of Rs. 33.17 Lakhs (which is 20% of the Profit Before Tax ("PBT") figure of Rs. 165.85 Lakhs) was transferred to reserves and shown as an expense, leading to Profit After Tax being shown as Rs. 109.83 lakhs instead of Rs. 134.09 lakhs, being lower by Rs. 24.26 lakhs. The Noticees also submitted that the same was corrected in the Balance Sheets sent out to shareholders as soon as the error was detected and there was no variation in the actual Net Profit figures of the OSL.

35. From the reply of the Noticees I find that the Noticees have accepted an error in calculation of statutory reserve under Section 45I of the RBI Act as a result of which the profit carried over to balance sheet stands reduced. The Noticees have mentioned that the error had been corrected in the balance sheet sent to shareholders. However, irrespective of whether there is an error in calculation of statutory reserve under Section 45I of the RBI Act or not, I find that there is no cause of action arising due to such error.
36. With regard to the variation in the income reported in the Annual report and Quarterly results, the extracts of the sum of the unaudited results for four quarters of the said financial year FY 2010-11 with respect to the Income as submitted by Noticees vide Email dated June 01, 2018 is given below

Particulars	Amount (in lacs)
Sales	18,536.83
Less: Purchases	18,334.36
Add: Change in Stock	215.93
Net Income from Share Trading	418.40
Add: Other Operating Income	1.72
Add: Other Income	1.51
Profit from Share Trading & Other Income	421.63

37. From the Annual report for the FY 2010-2011, I find that OSL had reported Total Income from Trading in Securities of Rs. 418.40 as seen from the table below

Particulars	Amount (in million)
Income from Trading in Securities	418.40
Less: Purchases	0.00
Add: Change in Stock	0.00
Add: Other Operating Income	1.72
Add: Other Income	1.82
Profit from Share Trading & Other Income	421.94

38. I note from the reply of the Noticees wherein they have submitted OSL was operating as a stock broker till March 31, 2010 and it continued to report all purchases and sales of securities as separate figures. Noticee further submitted that while this had the effect of inflating the turnover figures, it had no effect on the profits. Subsequently, from April 01, 2010, when OSL started functioning as an NBFC registered with RBI, OSL started reporting net figures of its turnover instead of giving a break-up of purchases and sales. The Noticees, vide their email dated June 01, 2018, clarified the calculations explaining the differences between the consolidated figures for the year ended March 31, 2011 vis a vis its annual report figures. Further, Vide Email dated June 04, 2018 clarification was sought regarding the relevant RBI guidelines that requires net reporting of sales. Noticees vide its email reply dated June 04, 2018, clarified that there was no RBI guideline in this regard and it was only on its own accord the net figures were shown in order to give a clearer picture to the investors instead of inflated turnover figures.
39. Thus, I find that the Noticees have failed to explain the difference between the quarterly results and the Annual results for the variation in sales / income figures to the stock exchange as per clause 41 of the erstwhile listing agreement. Also, I do not find explanation in the notes to the accounts in the annual report of the noticee. In view of the above, I find that the Noticees have not tendered any explanation for the differences in figures in terms of Clause 41 of the erstwhile listing agreement to enable the investors to take an informed investment decision.
40. In view of the above discussions I conclude that the allegation of violation of Clause 41 of the Listing agreement is established against the Noticees.
41. I have considered other contentions raised by the Noticees in their reply and find no merit in them in the context of the facts and circumstances of the matter in hand. As

the violations of the have been established, I hold that the Noticees are liable for monetary penalty under Section 23A and 23E of SC(R)A, which reads as under:-

23A. Penalty for failure to furnish information, return, etc.-Any person, who is required under this Act or any rules made there under,- (a) to furnish any information, document, books, returns or report to a recognised stock exchange, fails to furnish the same within the time specified therefor in the listing agreement or conditions or bye-laws of the recognised stock exchange, shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for each such failure;

23E. Penalty for failure to comply with provisions of listing conditions or delisting conditions or grounds.—If a company or any person managing collective investment scheme or mutual fund, fails to comply with the listing conditions or delisting conditions or grounds or commits a breach thereof, it or he shall be liable to a penalty not exceeding twenty-five crore rupees.

42. Over here I would also like to quote the observations of Hon'ble Supreme Court of India in the matter of Shri N. Narayanan vs. SEBI decided on 26.04.2013 wherein it was observed as follows"... *Company though a legal entity cannot act by itself, it can act only through its Directors. They are expected to exercise their power on behalf of the company with utmost care, skill and diligence.*

Further, Hon'ble High Court of Madras in Madhavan Nambiar vs Registrar Of Companies (2002 108 Comp Cas 1 Mad) has held that:

... Section 5 of the Companies Act defines the expression "officer who is in default". The expression means either (a) the managing director or managing directors ; (b) the whole-time director or whole-time directors ; (c) the manager ; (d) the secretary ; (e) any person in accordance with whose directions or instructions the board of directors

of the company is accustomed to act; (f) any person charged by the board with the responsibility of complying with that provision ; (g) any director or directors who may be specified by the board in this behalf or where no director is so specified, all the directors.

... Section 291 of the Companies Act provides the general power of the board and Therefore it follows there cannot be a blanket direction or a blanket indemnity in favour of the petitioner or other directors who have been nominated by the Government either ex officio or otherwise. Hence the second point deserves to be answered against the petitioner...

... There may be a delegation, but ultimately it comes before the board and it is the board and the general body of the company which are responsible.”...

Thus, I hold the directors i.e Noticee-2 and Noticee-3 responsible for the failures/Non-compliance by OSL, the company being an Artificial Juridicial Person.

43. With respect to the proceedings under Section 23A of the SC(R)A against the Noticees, it is clear on perusal of Section 23A that the penalty can be levied on the company and its directors for the violation of Clause 36, Clause 41 and Clause 50 of the Listing Agreement read with section 21 of the SC(R)A. However, with respect to the proceedings under Section 23E of the SC(R)A against Noticees, I find that Penalty under section 23E of the SC(R)A can be levied only on the company and not against promoters/directors or company and promoters/directors jointly and severally. Thus, only Noticee-1 is liable for the penalty under section 23E of the SC(R)A.
44. While determining the quantum of penalty under Section 23A of the SC(R)A against the Noticees and under Section 23E of SC(R)A on Noticee-1, it is important to consider the factors relevantly as stipulated in Section 23J of the SC(R)A which reads as under:-

Factors to be taken into account by the adjudicating officer.

While adjudging quantum of penalty under section 23-I, the adjudicating officer shall have due regard to the following factors, namely:-

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

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

(c) the repetitive nature of the default

45. In view of the charges as established, the facts and circumstances of the case together with replies of Noticees, the quantum of penalty would depend on the factors referred in Section 23J of the SC(R)A stated as above. No quantifiable figures are available to assess the disproportionate gain or unfair advantage made as a result of such default by the Noticees. Further, no monetary loss to investors has been brought on record and it may not be possible to ascertain the exact monetary loss, if any, to the investors on account of default by the Noticees. I also note from the documents available on record that the violations reported are not of repetitive nature.
46. I note that in terms of Section 73 of companies Act 1956 read with Section 21 of SC(R)A and the rules made thereunder Companies enter into listing agreement with recognised Stock Exchanges and it is compulsory to comply with the conditions of the listing Agreement. I note that Disclosures are the lifeline for the investors of listed securities to decide on the investment decisions. The continuous disclosure requirement by way of corporate announcement or through annual report are the means by which a listed company intimates its share holders of its state of affairs and progress in its operations. Investors look forward to such disclosures to take a decision on their investment. Any compromise by a listed company in its disclosure compliance would have a telling effect affecting the interest of investors. Therefore, I find that such disclosure related non-compliances cannot be viewed lightly.

ORDER

47. In view of the above, after considering all the facts and circumstances of the case together with the replies of Noticees and exercising the powers conferred upon me under Section 23-I read with Rule 5 of SC(R)A Rules, I hereby impose a monetary penalty of Rs. 20,00,000/- (Rupees Twenty Lac only) under Section 23A and Section 23E and of the SC(R)A on M/s Oasis Securities Limited and 5,00,000/- (Rupees Five Lac only) each on Shri Indra Kumar Bagri and Shri Anil Kumar Bagri under Section 23A of the SC(R)A. In my view the penalty imposed is commensurate with the default committed by the Noticees.
48. I am of the view that the said penalty is commensurate with the lapse/omission on the part of the Noticees. The amount of penalty shall be paid either by way of demand draft in favour of “SEBI - Penalties Remittable to Government of India”, payable at Mumbai, or by e-payment in the account of “SEBI - Penalties Remittable to Government of India”, A/c No. 31465271959, State Bank of India, Bandra Kurla Complex Branch, RTGS Code SBIN0004380 within 45 days of receipt of this order.
49. The said demand draft or forwarding details and confirmations of e-payments made (in the format as given in table below) should be forwarded to “The Division Chief, Enforcement Department, Securities and Exchange Board of India, SEBI Bhavan, Plot No. C –4 A, “G” Block, Bandra Kurla Complex, Bandra (E), Mumbai –400 051.”

1. Case Name:	
2. Name of payee:	
3. Date of payment:	
4. Amount paid:	
5. Transaction no.:	
6. Bank details in which payment is made:	
7. Payment is made for : (like penalties/ disgorgement/ recovery/ settlement amount and legal charges along with order details)	

50. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is being sent to the Noticees viz. Oasis Securities Limited, Indra Kumar Bagri and Anil Kumar Bagri and also to the Securities and Exchange Board of India.

Date: June 25, 2018
Place: Mumbai

K SARAVANAN
GENERAL MANAGER &
ADJUDICATING OFFICER