Public Version

COMPETITION COMMISSION OF INDIA

Case No. 29 of 2021

In Re:

Muthoot Finance Limited	**Informant**
And	
Trustees' Association of India through TAI-Trustees' Association of India	**Opposite Party No. 1/OP-1**
IDBI Trusteeship Services Limited	**Opposite Party No. 2/OP-2**
Axis Trustee Services Limited	**Opposite Party No. 3/OP-3**
SBI CAP Trustee Company Limited	**Opposite Party No. 4/OP-4**

Present:

For Muthoot Finance Limited (**Informant**)	:	Mr. Vijay V. Paul, Ms. Rhianne Reuben Stephen, Advocates along with Mr. Rajesh Warrier, Representative of the Informant
For Trustees' Association of India (**OP-1**) and its individuals Mr. Sanjay Sinha and Ms. Padma Vinod Betai	:	Mr. Vaibhav Gaggar, Senior Advocate and Mr. Samar Bansal, Senior Advocate (Representing TAI- Trustees' Association of India) with Mr. Vaibhav Choukse, Mr. Faiz Siddiqui, Ms. Priyanshi Jain, Mr. Ketan Sarraf and Mr. Abhishek Nair, Advocates
For IDBI Trusteeship Services Limited (**OP-2**) and Ms. Padma Vinod Betai	:	Mr. Vaibhav Gaggar, Senior Advocate with Mr. Vaibhav Choukse, Mr. Faiz Siddiqui, Ms. Priyanshi Jain Mr. Ketan Sarraf and Mr. Abhishek Nair, Advocates along with Mr. Dhruba Jyoti Bora, Representative of OP-2
For Axis Trustee Services Limited (**OP-3**) and its individuals Mr. Sanjay Sinha and Ms. Deepa Rath	:	Mr. Vaibhav Gaggar, Senior Advocate with Mr. Vaibhav Choukse, Mr. Faiz Siddiqui, Ms. Priyanshi Jain Mr. Ketan Sarraf and Mr. Abhishek Nair, Advocates along with Mr. S. Kumar Saminathan, Representative of OP-3
For SBI CAP Trustee Company Limited (**OP-4**) and its individuals Mr.	:	Ms. Sana Khan, Advocate along with Mr. A. K. Mishra, Representative of OP-4

Rajasekhar Raghavan and
Mr. Bharat Kumar Mishra

Order under Section 27 of the Competition Act, 2002

1. The Information in the present case has been filed by Muthoot Finance Limited ('**Informant**') under Section 19(1)(a) of the Competition Act, 2002 (the '**Act**'), against Trustees' Association of India ('**OP-1**'/'**TAI**'); IDBI Trusteeship Services Limited ('**OP-2**'/ **'IDBI Trustee**'); Axis Trustee Services Limited ('**OP-3**'/**'Axis Trustee**') and SBI CAP Trustee Company Limited ('**OP-4'/'SBI CAP**') *inter alia* alleging contravention of the provisions of Sections 3 and 4 of the Act. OP-1, OP-2, OP-3 and OP-4 are collectively referred to hereinafter as '**Opposite Parties**'/'**OPs**'. The Informant, OPs, TAI- Trustees' Association of India ('**New TAI**'), are collectively referred to hereinafter as '**Parties**'

Facts in brief

2. As per the Information, the Informant is a publicly listed company having its registered office in Ernakulam, Kerala. It has been regularly raising working capital from debt securities market through issuance of Non-Convertible Debentures ('**NCDs**') by way of 25 series of public issues and private placement with OP-2 as its Debenture Trustee ('**DT**') for the last 10 years. Under Section 71(5) of Companies Act, 2013 ('**Companies Act**'), every company making a public offer of debentures is mandatorily required to appoint one or more DTs in the manner prescribed thereunder. Further, Regulation 8 of the Securities and Exchange Board of India (Issue and Listing of Non-Convertible Securities) Regulations, 2021 ('**NCS Regulations**') requires every issuer of non-convertible securities to appoint a DT registered with Securities and Exchange Board of India ('**SEBI**') for any public issue or private placement of NCDs, proposed to be listed on a stock exchange. Accordingly, the Informant appointed OP-2 to act as DT in respect of all NCD issuances made during the last 10 years. As on 30.06.2021, the Informant's total NCD book stood at INR 13,478 crores.

3. OP-1 is stated to be an association of DTs, with OP-3 as its President, OP-4 as its Secretary and OP-2 as its Treasurer.

4. OP-2 is a trusteeship company providing various trusteeship services, and is jointly promoted by IDBI Bank Ltd., Life Insurance Corporation, and General Insurance Corporation of India. OP-3 and OP-4 are also trusteeship companies providing trusteeship services in India.

5. In August 2021, the Informant proposed to issue secured NCDs worth INR 982 crores through private placement and sought a fee quotation from OP-2 for acting as its DT. According to the Informant, OP-2, however, quoted a fee structure several folds higher than that charged under its previous pricing structure for providing debenture trusteeship services.

6. The Informant alleged that OP-2 attributed the revised pricing structure to a decision taken and enforced by OP-1, which comprises several DTs as its members. Under the revised pricing mechanism, the fees fixed by OP-1, for undertaking trusteeship services for issuers other than Public Sector Undertakings ('**PSUs**') in respect of listed debentures comprised an "Initial Fee" ranging from INR 75,000/- to INR 15,00,000/- and an "Annual Fee" ranging from INR 1,00,000/- to INR 22,50,000/- depending on the issue size. For an issue size between INR 100 crores and INR 1500 crores, the "Initial Fee" was prescribed as 0.01% of the issue size, and the "Annual Fee" was prescribed as 0.015% of the issue size. Accordingly, for the proposed issuance of INR 982 crore by the Informant, OP-2 quoted the following fees:

Charge Heads	Terms
Initial Fee	INR 9,82,000 + applicable GST (one-time payment, payable upfront and non-refundable)
Annual Fee	INR 14,73,000 per annum + applicable GST payable on the date of execution for the pro-rata period from execution date till March 31, and thereafter payable on an annual basis in advance on April 1 of every year till the redemption of NCDs and satisfaction of charges in full.

7. OP-2 further informed the Informant by e-mail that, since the revised fee structure had been decided by OP-1, any deviation therefrom would lead to adverse repercussions for the Informant. OP-2 also stated that the revised fee structure had been applicable to both existing as well as new clients with effect from 01.04.2021.

8. According to the Informant, the revised fee structure saw a manifold increase in the minimum fee in less than a year, while the roles and responsibilities of the DTs remained unchanged. The Informant alleged that the fee was increased unilaterally without any prior consultation with the Informant in advance. As a result, the Informant was unable to make any alternative arrangements, which resulted in the Informant not being able to file the offer document to raise working capital resources on time. Further, the Informant averred that there was a lack of clarity on the duration for which the annual fee would be payable in respect of NCDs having different maturities. According to the Informant, going by past practice, issuers, including the Informant, will be required to pay the total revised fees until redemption of NCDs having the longest maturity.

9. Further, the Informant averred that when it asked for an explanation regarding the increase in fees, OP-2 stated that the revised fee structure for the trusteeship fees had been fixed in light of the SEBI Circular dated 27.05.2019 ('**SEBI May 2019 Circular**') which required DTs to disclose on their websites the minimum fees charged for providing trusteeship services. The Informant alleged that, on the pretext of the SEBI May 2019 Circular, DTs unilaterally raised the fees in furtherance of an agreement under the aegis of OP-1 and imposed an anti-competitive pricing mechanism without providing any specific reason or background for the substantial increase.

10. It was alleged that OP-1 and its members have entered into an anti-competitive agreement, presumed to have appreciable adverse effect on competition ('**AAEC**') in India, by mutually agreeing to increase the fee structure for undertaking trusteeship services and preventing its members from charging a fee below the exorbitantly high pricing structure fixed by OP-1, thereby violating the provisions under Section 3(3) read with Section 3(1)

of the Act. Such conduct enabled the members of OP-1 to extract maximum profits from the Informant and similarly placed entities.

11. Lastly, the Informant alleged that OP-1 enjoyed a dominant position by virtue of its structure and membership strength, which enabled it to operate independently of competitive forces in the relevant market. It was alleged that OP-1 had abused its dominant position in contravention of Section 4(2) of the Act by imposing an unfair price in the provision of trusteeship services.

12. Based on the above averments and allegations, the Informant prayed that the Commission direct OP-1 and all its members to discontinue and not re-enter into agreements fixing prices for providing trusteeship services, discontinue the alleged abuse of dominant position, and direct all DTs that are members of OP-1 to offer their services to their clients at the prices offered prior to 31.03.2021 for the next 24 months, with 5% increase for every 12 months from passing of the order. The Informant also filed a separate application seeking interim relief under Section 33 of the Act.

13. The Commission considered the matter in its ordinary meeting held on 06.10.2021 and decided to obtain the response(s) of OPs on the Information. The Commission also allowed the Informant to file its response by way of rejoinder, if any.

14. Subsequently, OP-1 filed its response dated 30.11.2021, stating that it comprises ten (10) registered members. It submitted that the increased defaults by a few financial institutions, which had resulted in a loss of hard-earned monies of investors, including retail investors, and the complications faced by DTs in expeditious enforcement of collateral for debt securities had prompted SEBI to review its regulatory framework for listed/proposed-to-be-listed debt securities, public issue of debt securities and DTs to adequately protect the interest of debenture holders. In furtherance of this objective, on 08.10.2020, a series of amendments were made to the SEBI (Issue and Listing of Debt Securities) Regulations, 2008 (‘**ILDS Regulations**’), the SEBI (Listing Obligations and Disclosure Requirements), 2015 (**LODR Regulations**) and SEBI (Debenture Trustee) Regulations, 1993 (‘**1993 DT Regulations**’), to ensure adequate disclosures and strengthen the role of

DTs for effective discharge of their role (collectively referred to as the '**DT Regulation Amendments**').

15. OP-1 further stated that the SEBI had issued following circulars to substantially modify the regulatory framework governing DTs and enhance their roles and responsibilities: (a) Standardisation of the procedure to be followed by DTs in the event of a 'default' by issuers of listed debt securities dated 13.10.2020; (b) Circular on contribution by issuers of listed or proposed-to-be-listed debt securities towards creation of "recovery expense fund" dated 22.10.2020; (c) Creation of security in the issuance of listed debt securities and "due diligence" by DTs as prescribed in the circular dated 03.11.2020; and (d) Monitoring and disclosures by DTs as prescribed in the circular dated 12.11.2020 (collectively '**DT 2020 Circulars**').

16. OP-1 also stated that these enhanced roles and responsibilities led to a much higher cost burden for the DTs, as they had to: (a) upgrade the skill sets of their existing employees and hire additional employees to discharge their fiduciary role in line with the amended regulatory guidelines; (b) continuously monitor transactions' covenants on an ongoing basis; (c) coordinate with the appointed advisers/professionals/agencies/consultants on a real-time basis in connection with due diligence and periodical monitoring; (d) upgrade their enterprise resource planning ('**ERP**') systems to record and monitor breach in covenants, delay/default in payment/security creating, enabling system-related and system-generated alerts to issuers, debenture holders, rating agencies, *etc.*

17. The Commission considered the submissions of the Informant and the OPs and was of the opinion that the decision taken by OP-1 setting new pricing structure to be followed by its member debenture trustees, with any deviation therefrom resulting in adverse repercussions for such members, *prima facie* appears to fall foul of the provisions of Section 3(3)(a) read with Section 3(1) of the Act, whereby any agreement entered into or practice carried on or decision taken by any association of enterprises is presumed to have AAEC. Such collective decision-making by the association in commercial matters, interferes with the independent decision making of concerned economic players, thereby distorting competition in the market.

18. Regarding allegation of abuse of dominance by OP-1, the Commission noted that, as per SEBI's website, there were 26 DTs as of 29.09.2021. The Commission further observed that given the market structure and number of players operating therein, there are number of entities in the market providing trusteeship services and, as such, the market is fragmented and no single debenture trustee can be said to be dominant. The Commission further noted that OP-1 has only 10 DTs, as its registered members. In any event, the Act does not envisage collective dominance as a form of abuse under Section 4 thereof.

19. Thus, the Commission, *vide* its order dated 23.12.2021 passed under Section 26(1) of the Act ('**Prima Facie Order**'), being of the *prima facie* view that OPs have contravened the provisions of Section 3(3)(a) read with Section 3(1) of the Act thereof, decided to refer the matter to Director General ('**DG**') for investigation and submission of report within a period of 60 days from the receipt of the order. Further, *vide* a separate order dated 23.12.2021 passed under Section 33 of the Act, the Commission observed that no case whatsoever has been made out by the Informant which warrants grant of interim relief.

20. In the meanwhile, OP-1 filed an application dated 14.12.2021 seeking a reference by the Commission to SEBI for its opinion in terms of Section 21A of the Act. It was averred in the application that DTs are regulated by SEBI which is a specialised sectoral regulator and the issues involved in the matter fall within the regulatory framework of SEBI. Subsequently, *vide* letter dated 25.01.2022, addressed to the Commission, SEBI, *inter alia*, stated that it had received a letter from the Informant alleging potential cartelisation by SEBI-registered DTs in relation to the fees charged by them, and that it was examining the said allegations. Accordingly, SEBI requested the Commission not to proceed in the matter until SEBI conveyed its *prima facie* findings to the Commission in this regard.

21. The Commission considered the aforesaid application of OP-1 and letter of SEBI in its ordinary meeting held on 08.02.2022 and noted that investigation in the present matter was currently pending before the DG. Further, the Commission observed that the statutory mechanism for inter-regulatory co-ordination in terms of the provisions of Section 21A of the Act was not triggered in the matter and it may not be permissible to halt the

investigation in the matter as requested by SEBI. Accordingly, *vide* separate orders of the same date, the Commission held the application filed by OP-1 seeking reference to SEBI as premature and was of the opinion that no direction/action is required to be passed at this stage on the application moved by OP-1 and the letter of SEBI.

22. Aggrieved with the *Prima Facie* Order, OPs preferred Writ Petitions (WP Nos. 3781 of 2022, 3791 of 2022, 3842 of 2022 & 3847 of 2022) before the Hon'ble High Court of Bombay *inter alia* challenging the *Prima Facie* Order, stating that the Commission had wrongly assumed jurisdiction in the matter and that the jurisdiction in the instant case, is only within the domain of the specialist sectoral regulator *i.e*., SEBI.

23. In order dated 08.04.2022, Hon'ble Bombay High Court *inter alia* stated that:

> "*…if SEBI finally comes to the conclusion that it does not need to make any orders or that the matter should properly proceed before CCI, then whatever material SEBI has obtained will be transmitted to CCI so as to save time in that investigation*."

24. Further, the Hon'ble Bombay High Court *vide* its order dated 11.04.2022, *inter alia* directed as follows: -

> *"2. We will allow SEBI a reasonable time not exceeding 60 days i.e. till 30th June 2022 in the facts and circumstances of the case (and without setting any sort of precedent) to complete its enquiries and to form its prima facie opinion on the matter that is before it. This will necessarily be subject to other directions in our order passed on 8th April 2022 regarding what is to be done if SEBI concludes that the CCI may proceed with its enquiry. These additional directions today were to be included following our order of 8th April 2022.*
>
> *4. Until SEBI concludes its enquiry and form its prima facie view, we request the CCI and its Director General not to take any coercive action, not to adjudicate further and not to take any further steps on the matter that is pending before it."*

25. On 19.07.2022, SEBI submitted its examination report ('**SEBI Report**') to the Office of the DG and the Commission *vide* its letter dated 19.07.2022.

26. Subsequently, the Hon'ble High Court dismissed the Writ Petitions *vide* order dated 21.02.2023 and, *inter-alia*, observed as under:

> "*1. … the Petitioners will, on the basis of the present record in the Writ Petitions, as it stands today before us, proceed to a hearing before the Competition Commission of India ("CCI") on all aspects including the jurisdiction of the CCI. It is self-evident that the jurisdictional issue will have to be decided first, one way or the other. We clarify that this does not mean that, should the CCI find that it indeed has jurisdiction, it should defer a consideration on the other aspects to a later date. The CCI will decide the issue of jurisdiction and will pass an order on that issue.*
>
> *2. We keep open all contentions on merits. There are also rival contentions regarding the correct interpretation of the two competing statutes, one controlled or regulated by SEBI and the other by the CCI. Mr. Sundaresan submits that there are submissions regarding the proper interpretation and meaning of the decision of the Supreme Court in Competition Commission of India v Bharti Airtel Ltd. We have expressed no view on any of these matters. All contentions are expressly kept open.*
>
> *3. The Petitions are disposed of in these terms. All pending Interim Applications also stand disposed of as such.*"

27. Thereafter, on 21.03.2023, OP-1 filed an application before the Commission praying to recall the Prima Facie Order and to close the proceedings against the OPs. OP-1 also sought an opportunity of hearing before a decision on its said application. OP-2, OP-3 and OP-4 also filed separate applications dated 21.03.2023 stating that they are adopting the submissions made by OP-1 *vide* its aforesaid detailed application dated 21.03.2023. The OPs also made additional submissions dated 21.12.2023 in this regard.

28. In its ordinary meeting held on 15.11.2023, the Commission, considering the directions issued by the Hon'ble High Court of Bombay and the applications filed by the OPs, *inter alia*, decided to afford the OPs and the Informant an opportunity of hearing on the issue of jurisdiction on 22.11.2023. SEBI was also afforded an opportunity to be present at the hearing and make submissions, if so desired.

29. However, the Informant, *vide* e-mail dated 21.11.2023, requested for an adjournment of the hearing scheduled on 22.11.2023 by two weeks. The Commission considered the matter in

its ordinary meeting held on 22.11.2023 and in view of the request made by the Informant, rescheduled the hearing to 13.12.2023.

30. In the meanwhile, *vide* letter dated 21.11.2023, SEBI *inter alia* stated as follows:

"*With respect to issue of jurisdiction in the matter of information filed by Muthoot Finance Limited against Trustee(ship) Association of India, IDBI Trusteeship Services Limited, Axis Trustee Services Limited and SBI CAP Trusteeship Company Limited with regard to alleged cartelization by SEBI registered Debenture Trustees (DTs), it is stated that CCI is the competent authority to pass an order. SEBI has furnished its prima facie opinion to CCI on July 19, 2022 and same maybe considered by CCI along with other relevant material/information while examining the matter*."

31. *Vide* its order dated 14.03.2024, the Commission adjudicated upon the question of jurisdiction. It *inter alia* observed that compliance with the SEBI regulatory framework remains independent of the possibility of any practice of an entity operating in the financial sector falling afoul of the provisions of the Act. The Commission noted that the Hon'ble Supreme Court of India in the *Competition Commission of India v. Bharti Airtel Ltd.*, *(2019) 2 SCC 521* ('**Bharti Airtel case**') has held that the Commission's jurisdiction would not be completely ousted merely due to the existence of a sectoral regulator. Further, it will be erroneous to interpret the above-referred judgment of the Hon'ble Supreme Court to mean that in every case of overlap of jurisdiction with a sectoral regulator, the Commission will have to hold its hands and wait examination by the sectoral regulator. This would render the object and purpose of the Competition Act, 2002, nugatory.

32. Further, the Commission noted that SEBI *vide* its letter dated 21.11.2023 has stated that with respect to jurisdiction, the Commission is the competent authority to pass an order. With regard to the contention of OPs that SEBI has already decided the issue of cartelisation in its examination report dated 19.07.2022 by stating that uniform fee structure charged by only 10 members may not be construed as cartelisation, the Commission noted that SEBI has merely opined and therefore left the issue to be decided by the Commission in accordance with the provisions of the Act.

33. In view of the aforesaid analysis, the Commission observed that it is competent and equipped to independently determine whether the activities of the OPs in fixing the minimum price to be charged to issuers and providing adverse consequences for any deviation, is anti-competitive under the provisions of Section 3 of the Act. The Commission further directed that the DG may continue with its investigation.

Investigation by the DG

34. The DG, pursuant to the directions of the Commission in the prima facie order, investigated the matter, and after seeking due extensions of time, submitted the investigation report on 10.10.2024 (in confidential and non-confidential version) (hereinafter referred to as the '**Investigation Report**'). The DG identified three issues for investigation:

(i) Whether OPs are directly and/or indirectly determining/fixing the price/fee for providing debenture trusteeship services in violation of Section 3(3)(a) of the Act?

(ii) Whether the OPs are limiting or controlling the provision of trusteeship services in violation of Section 3(3)(b) of the Act?

(iii) In case answer to any of the above issues is affirmative then who are the individuals/officials of OPs liable as per Section 48 (1) or 48 (3) of the Act?

35. Since issue no. (i) and (ii) are inter-related, the DG examined both the issues together.

(i) ***Whether OPs are directly and/or indirectly determining/fixing the price/fee for providing debenture trusteeship services in violation of Section 3(3)(a) of the Act?***

(ii) ***Whether the OPs are limiting or controlling the provision of trusteeship services in violation of Section 3(3)(b) of the Act?***

36. Regarding the legal provisions, the DG *inter alia* stated that as per Regulation 13 of 1993 DT Regulations, DTs are required to enter into a written agreement with the body corporate before the opening of subscription list for issue of debentures. Further, Clause 11 of Code of Conduct ('**CoC**') for DTs prescribed under Regulation 16 of 1993 DT Regulations provides that "*a Debenture Trustee shall not indulge in any unfair competition, which is*

likely to harm the interests of other trustees or debenture holders or is likely to place such other debenture trustees in a disadvantageous position while competing for or executing any assignment nor shall it wean away the clients of another trustee on assurance of lower fees." Clause 31 of CoC provides that "*a Debenture Trustee shall not be party to price rigging or manipulation*".

37. The DG noted that apart from issuing circulars, which have overhauled the roles and responsibilities of the DTs, SEBI had *vide* public consultation paper dated 24.10.2018 ('**SEBI Public Consultation, 2018**'), prescribed that the DTs shall disclose the nature of their compensation agreements with their clients on their website. The disclosure shall include the minimum fee that DT will charge and factors determining the fee charged. The rationale behind the said disclosure was also given by SEBI. As per SEBI, with the growth and development of the corporate bond market, the scope of work of DTs has enhanced and they are responsible for providing various services/facilities like - data maintenance, monitoring of the issue, information sharing with SEBI, enforcement actions *etc*. However, it had been observed by SEBI that many DTs, in a bid to outdo competition, charge very low fee for the issue, which in turn affects the quality of the work done by DTs. It hampers the ability of the DTs to monitor the issue for timely payment and in securing the interests of the debenture holders at the time of default thereby putting the interests of the investors at a huge risk. As per SEBI, in a bid to bring transparency in the market and to make investors aware of the fee structure being charged and its likely impact on the quality of services being offered by the DT, it was proposed that DTs shall disclose the nature of compensation agreement with its clients. Thereafter, SEBI May 2019 Circular was issued, which mandated this disclosure requirement for the DTs.

38. During the course of investigation, notices were issued to the DTs, including OPs, who are members/non-members of OP-1. Also, information was sought from OP-1 as well as SEBI and statements of officials of OPs were recorded on oath.

39. The DG stated that in its meeting dated 23.03.2021, OP-1 fixed the fee structure for providing DT service by its members ('**Benchmark Pricing**'). The Minutes of the Meetings ('**MoM**') dated 23.03.2021 *inter alia* stated that the member DTs agreed to the following:

*"a) Separate benchmark floor price for PSUs ('**Public Sector Undertakings**') and Non-PSUs; b) Members would be guided by the benchmark floor price for arriving at their own pricing structure and would display on their website. The pricing by each member would not be below the benchmark floor price; c) the pricing would be effective for all debenture trusteeship service offerings for listed debt securities from 01.04.2021; d) Members would be having discretion to charge fee below their published pricing structure; However it would be ensured by each member that discretion would not result in chargeable fee getting lowered by more than 20% of its published fee structure or the benchmark floor price, whichever is higher; and e) breach in the benchmark floor price by any member, brought to the notice of OP-1, would be dealt with suitably including initiation of appropriate action against the member concerned."*

40. Further, during the course of investigation, it came to the notice of the DG, that meeting dated 23.03.2021 was not the first time that OP-1 had decided to fix the pricing/fee of trusteeship services to be provided by its members. In this regard, the DG referred to meetings dated 24.01.2018 and 06.06.2019.

41. DG noted that in the MoM dated 24.01.2018, the members of OP-1 *inter alia* discussed the need for fixation of minimum pricing standard for DT services, noting that the low pricing of Rs. 25,000 is detrimental to the business of all DTs in the industry. The members deliberated upon and fixed a minimum standard pricing structure and agreed that the said pricing structure would be forwarded to SEBI for its consideration and approval.

42. Further, in the MoM dated 06.06.2019, the members of OP-1 *inter alia* discussed the disclosure requirements of SEBI applicable to the DTs under the SEBI May 2019 Circular and proposed to have common pricing among member DTs as fixed in the meeting dated 24.01.2018. In the said meeting, OP-1 members raised concerns of losing out to non-member DTs who could take advantage of the situation by keeping their minimum prices structure lower than that fixed. It was also discussed whether the common pricing by member DTs would be categorised as cartelisation of trusteeship services. On the said point, the members were of the opinion that this will not lead to cartelisation and it was decided to examine and discuss this issue in the next meeting. The DG has stated that in view of the

said MoM, it can be said that OP-1 was aware that their conduct of fixing the minimum fee/price may fall foul of the provisions of the Act but, they still went ahead with fixing the fee/price.

43. Further, the DG compared the pricing structure fixed by OP-1 in 2018 with the pricing structure fixed in 2021. With regard to listed secured debentures, the DG noted that fee structure slabs were changed from 5 slabs fee structure to 4 slab fee structure wherein the initial minimum fee was revised from Rs. 1,00,000/- for issue value up to Rs. 50 crores to Rs. 75,000/- for the issue value up to Rs. 25 crores. At the same time, the maximum fee that could be charged under the new slab increased from Rs. 3,00,000/- to Rs. 15,00,000/- and the annual minimum fee for providing DT services increased by Rs 25,000/- that too for the issue size of Rs. 25 crores compared to the earlier fee of Rs. 75,000/- for issue size of up to Rs. 50 crores.

44. With regard to listed unsecured debentures, the DG stated that fee structure slabs were changed from 5 slabs fee structure to 4 slab fee structure wherein the initial minimum fee was revised from Rs. 75,000/- for issue value up to Rs. 50 crores to Rs. 60,000/- for the issue value up to Rs. 25 crores. Further, the maximum fee that could be charged under the new slab increased from Rs. 2,50,000/- to Rs. 7,50,000/- and the annual minimum fee for providing DT services increased by Rs 25,000/- that too for the issue size of Rs. 25 crores compared to the earlier fee of Rs. 75,000/- for issue size of up to Rs. 50 crores. For both the categories, the DG stated that the new fee slab is more dynamic in nature due to its ability to charge higher fee with higher issue size. The DG has stated that in 2021, a separate fee for PSU entities was prescribed which was lower than the fee for non-PSU entities.

45. During the course of investigation, the officials of OPs were confronted with the said MoMs wherein OP-1 fixed the minimum fee structure to be charged from the issuers of debentures.

46. The DG noted that, from the statement of Mr. P K Malhotra [Managing Director ('**MD**') and Chief Executive Officer ('**CEO**') of OP-2, and President of OP-1], it is clear that the benchmark prices/fee for DT services were fixed by OP-1 in its meeting dated 23.03.2021 and also in earlier meetings of 06.06.2019 and 24.01.2018. The DG has stated that in his

statement recorded on 02.08.2024, Mr. PK Malhotra when confronted with MoM dated 23.03.2021, admitted that presently no DT is following the benchmark pricing as decided by OP-1 on 23.03.2021. Regarding MoM dated 24.01.2018, he stated that the decision was taken to fix the benchmarking pricing for DT services however, the same was suggestive and not followed by the members. In relation to the MoM dated 06.06.2019, Mr. Malhotra admitted that the Benchmark Pricing was decided but, was not followed by members.

47. Further, Mr. Rajasekhar Raghavan (Ex. MD & CEO of OP-4, and Ex. Secretary of OP-1), in his statement recorded on 31.07.2024 admitted that before the meeting dated 23.03.2021, members used to charge different prices for DT services, but after the said meeting, it was decided that a uniform price *i.e* Benchmark Pricing would be charged. He was the Secretary of OP-1 at that time and was responsible for the conduct of its meetings.

48. The DG has further stated that Ms. Padma Vinod Betai (Ex. MD & CEO of OP-2, and Ex. Treasurer of OP-1), in her statement recorded on 23.07.2024, admitted having attended the meeting dated 23.03.2021 and stated that there was under-cutting by various DTs therefore, the pricing structure was decided.

49. Further. Mr. Sanjay Sinha (Ex. MD & CEO of OP-3, and Ex. President of OP-1) also admitted in his statement recorded on 22.07.2024 that OP-1 in meeting dated 23.03.2021 decided to prescribe a minimum fee structure to be followed by its members.

50. ln view of the above statements, as well as copy of the MoMs, the DG found that OP-1 fixed/prescribed the minimum fee to be charged by its members/DTs from the issuers in its meeting dated 23.03.2021. The fee was also prescribed fixed by OP-1 in some of the earlier meetings as well, such as meeting dated 06.06.2019 and 24.01.2018 although it was claimed by the aforesaid officials that the same was not followed.

51. With regard to the adverse repercussion due to non-adherence of Benchmark Pricing by OP-1, as mentioned in the MoM dated 23.03.2021, the DG referred to the reply *vide* email dated 31.08.2021 by Ms. Anjalee Athalyee, Vice President (Operations) of OP-2, to an email of the same date by Mr. Rajesh Warrier, an official of the Informant, wherein the Informant had raised concerns regarding the significant increase in the fee structure and further

requested OP-2 to reduce the fee. In the said reply, Ms. Anjalee Athalyee stated that that the new fee structure has been decided by OP-1, which shall be applicable to all the DTs from 01.04.2021 and any deviation by OP-2 in quoting the price would lead to adverse repercussions on it.

52. When asked about the repercussions of not following the Benchmark Pricing, during recording of statement, she stated that it may be in the form of penalty or complaint. When shown her email dated 31.08.2021 to the Informant, she stated that "*we were concerned about some penalty or complaint by our competitors to SEBI and therefore, the email was sent*." She stated that the said email was sent after an internal consultation within OP-2. When asked about any circular or regulations of SEBI whereby OP-1 was mandated to prescribe the fee structure, Ms. Anjalee stated that she was not aware of any such circular or regulation and admitted that the adverse repercussions in terms of penalty or a complaint can be from anyone including OP-1. She also admitted, when confronted with the provision of penalty as highlighted in the MoM dated 23.03.2021, that she was made aware of the same by the compliance department of the company. She also confirmed that on the basis of the said MoM, she may have sent the said email to the Informant as well as to other prospective issuers.

53. As per the DG, Ms. Anjalee's statement shows that the members of OP-1 were enforcing its decision and they were concerned of imposition of any penalty by it in case they deviated although OP-1 had no authority under law to impose any such penalty on its members.

54. The DG further noted that OP-1 again met on 18.10.2021 with specific agenda to discuss measures to be taken against the members who deviate from the Benchmark Pricing. During the said meeting, it was *inter alia* decided to deliberate and design penalty provisions in the event of non-adherence of OP-1 guidelines/framework, withdrawal of bids and formulate a code of conduct in the meeting scheduled for 22.10.2021. According to the DG, this shows that OP-1 was not only prescribing the benchmark floor price/fee but also ensuring that the members did not deviate from it. The MoM dated 22.10.2021, however, do not record any discussion regarding penalty on the members rather, in the meeting the complaint filed by the Informant with the Commission was discussed.

55. Ms. Padma Vinod Betai, when confronted with this issue in her statement to the DG, while admitting to the decision of taking appropriate action in case of a breach of the Benchmark Pricing, stated that OP-1 technically does not have any power to take any action against any member. She also admitted that she was aware of the email sent by Ms. Anjalee to the Informant. The DG observed that this admission confirms that OP-1 had no authority to impose any penalty on its members who did not follow its directives. The proposed action was merely intended to ensure compliance with the Benchmark Pricing.

56. Further, Mr. Rajasekhar also confirmed the aforesaid decisions taken in the meetings dated 23.03.2021 and 18.10.2021.

57. The same was also confirmed by Mr. Sanjay Sinha who also stated that action by OP-1 included removal from membership and forwarding of information to SEBI for suitable action.

58. The DG stated that the aforesaid statements of the officials of OPs, the MoM dated 23.03.2021 and 18.10.2021 and the emails sent by OP-2 show that OP-1 had taken a collective decision to enforce its mandate upon its members, despite the absence of any rule/regulation/circular of SEBI or any other agency empowering OP-1 to impose penalties upon its members for non-compliance with its decisions. According to the DG, this constitutes a typical example of cartel formation by an association whereby the members could be punished for not following its diktats.

59. The DG further stated that OP-1 was actively and forcefully getting its decision implemented not only by its members but also by non-members, who were also being threatened in the name of SEBI. In this regard, the DG referred to the copy of emails provided by PNB Investment Services Limited (‘**PNBISL**’). The DG noted that *vide* email dated 11.05.2021, Ms. Anupama Naidu, an employee of OP-4 invited some non-member DTs *viz.* Mitcon Credentia Trusteeship Services Limited (‘**MITCON**’), Vardhman Trusteeship Private Limited (‘**Vardhman**’) and Milestone Trusteeship Services Private Limited (‘**Milestone**’) to join OP-1, and asked them to follow Benchmark Pricing till the time that they join it and observe the same for homogeneity. A similar email was sent by

OP-2 on 24.05.2021 to Vardhman, Milestone, MITCON and other DTs. In its reply, *vide* email of same date, Vardhman confirmed that it will follow the Benchmark Pricing till the time it joins OP-1. Further, in an email dated 20.07.2021 to MITCON and PNBISL, Ms. Shikha Bagai, an official of Vistra Debenture Trustee (‘**Vistra**’) asked them to send confirmation to OP-1 that pending their decision to join it, they will not be issuing even a single quote in the listed issuance market otherwise a complaint shall be filed with SEBI. In response, PNBISL *vide* email dated 20.07.2021 reverted that it is taking necessary approval from its board of directors to join OP-1 and confirmed that it will follow the Benchmark Pricing until till it joins OP-1.

60. Furthermore, MoM dated 18.10.2021 show that OP-1 used to enforce its diktat even by taking harsh measures. The DG has given the example of MITCON, which in response to a tender floated by Housing Urban Development Corporation (‘**HUDCO**’) for appointment of DTs for its unsecured NCD on private placement basis, quoted the price which was below the Benchmark Pricing. OP-1, on getting to know that MITCON had quoted a lower price, forced it to withdraw its bid and submit a revised bid. In MoM dated 18.10.2021, MITCON was directed by OP-1 to revise its bids to HUDCO. In response to the bid floated by HUDCO, the initial price quoted by MITCON was [redacted] as the initial fee and an [redacted] as the annual fee, whereas the revised offer on the directions of OP-1 was [redacted] as the initial fee and [redacted] as the annual fee.

61. The DG further noted from the emails provided by MITCON that on 13.10.2021, HUDCO sent an email to MITCON along with copy to Mr. Sanjay Sinha of OP-1 wherein it has been mentioned that the fee quoted by MITCON is below the fee prescribed on its website and MITCON was requested to clarify whether the same was permitted and is not in violation of SEBI May 2019 Circular. In response to said email, MITCON confirmed that the minimum fee disclosed by them is as per the said circular and they have a discretion to charge fee below 20% of its published fee as per OP-1’s schedule. The said email was forwarded by HUDCO to Mr. Sanjay Sinha of OP-1 seeking his response. Thereafter, Mr. Sanjay Sinha sent an email dated 14.10.2021 to MITCON as well as other trustees wherein

he mentioned that discretion of reducing the price up to 20% is not to reduce below the Benchmark Pricing. He invited a meeting on 18.10.2021 on the issue. It was also seen that on the said email, Vistra on 14.10.2021 responded to Mr. Sanjay Sinha that the conduct of MITCON is clearly a case of violation of OP-1's guidelines and a complaint must be filed with SEBI. Once in June, 2021 MITCON requested OP-1 to allow it to quote 10-20% below the benchmark price for the initial 06 (six) months of its membership but, the same was denied by OP-1. This as per DG further shows the control and power of OP-1 over its members / non-members to enforce its diktat.

62. The DG stated that the above instances were corroborated by officials of the OPs in their respective statements to the DG – a) Mr. Raghavan admitted that emails asking DTs to follow the Benchmark Pricing were sent by Ms. Anupama Naidu who used to report to him; b) Ms. Padma Vinod Betai admitted that emails were sent to DTs to become members and till then follow Benchmark Pricing; c) Mr. Sanjay Sinha also corroborated the fact that emails were issued to non-members to become OP-1 members and till then to follow the Benchmark Pricing; and d) The statements of Mr. Rajasekhar and Mr. Sinha confirmed that MITCON was asked to withdraw its bid price as it was below the Benchmark Pricing. Mr. Pradeep Malhotra also confirmed that MITCON was denied its request of quoting 10%-20% below the Benchmark Pricing.

63. The DG also noted that, to check whether its members/non-members were following its decision of Benchmark Pricing, OP-1 used to regularly follow up with DTs and kept surveillance on their DT fee quote to various issues. For instance, when Indian Railway Finance Corporation ('**IRFC**') invited quotes for its bonds in 2021, due to the format in which the quotes were to be given, there was an uncertainty whether the DTs followed the pricing structure or not. Therefore, email dated 26.05.2021 was sent by one of the DTs, namely Catalyst Trusteeship to OP-1, highlighting that an email has been endorsed to the bidders to justify as to how their quotes confirm to the standard fee structure. On the said email, the President of OP-1 reverted that the issue is against the fundamental of fee structure agreed by members, therefore, he proposed to have a meeting on the issue. This

shows that OP-1 was actively monitoring whether the DTs were following the pricing structure or not.

64. The DG has further stated that one of the DTs *viz.* Vardhman, who became a member of OP-1 only in August, 2021, objected to the Benchmark Pricing and gave a representation to OP-1 on 01.06.2022 requesting it to withdraw the Benchmark Pricing since the same is not in the best interest of growth and development of its members. It also highlighted to OP-1 that Benchmark Pricing is not legally mandated by SEBI or any other regulator or the Government, hence it shall not be binding on Vardhman and it should be at liberty to quote and charge fees in compliance with the applicable SEBI circulars.

65. Vardhman also mentioned in the representation that OP-1 should not involve itself in commercial aspects of fee structure. It is also stated that if it was compelled to follow the Benchmark Pricing then it shall be constrained to withdraw itself from the membership. Thereafter, Vardhman came up *w.e.f.* 20.07.2022 with its own pricing in terms of the SEBI May 2019 Circular, which is noted by the DG to be lower than Benchmark Pricing.

66. In response to Vardhman's representation, OP-1 informed it that in view of the pending writ petition filed by OP-2 and others, challenging the jurisdiction of the Commission, it will be in the fitness of things to wait the outcome of the writ petitions. The DG has stated that the said conduct of OP-1 further shows that instead of responding to the concerns of the member who was against the Benchmark Pricing, OP-1 asked it to wait till the outcome of the writ petition.

67. During the course of investigation, the DTs whose list was available on SEBI website, were asked about following of the Benchmark Pricing *w.e.f.* 01.04.2021.

68. It is stated that although responses stating "*Not followed TAI*" are a majority at 57%, it includes large number of those banks which are now not eligible to provide DT services due to Regulation 13A (which was inserted with effect from 08.08.2000) of 1993 DT Regulations. Remaining 43% are actually 100% active DTs who are members of OP-1 and followed its Benchmark Pricing.

69. The DG further stated that out of 23 licensed DTs, 10 followed the Benchmark Pricing of OP-1. The rest 12 are banks or financial institutions who have not handled the DT business and one DT *i.e.*, Orbis Financial Services Limited (‘**Orbis**’) has not dealt with listed securities during the relevant period. This shows that all DTs who were active in the DT business followed the Benchmark Pricing which further strengthened the collective decision making of OP-1.

70. The DG noted that with regard to the alleged conduct, OPs *inter-alia* claimed that the Benchmark Pricing was fixed on the advice of SEBI and SEBI was aware and inclined about devising the minimum fee structure. It was also claimed that OP-1 came up with a benchmark floor pricing/fee because their responsibilities were enhanced substantially.

71. OP-1, *vide* its reply dated 18.04.2024, *inter alia,* submitted regarding increased default by few financial institutions leading to increased roles and responsibilities of DTs and resultant higher cost burden for DTs and DT Regulation Amendments by SEBI. OP-1 also stated that SEBI Report has also recognised that there has been a significant increase in the roles and responsibilities of DTs after 2020. OP-1 further stated that the DTs were exploited by the issuers for many years as they were forced to charge a very nominal fee by putting one DT against the other (*i.e.*, forum shopping), which has resulted in inadequate remuneration *vis-à-vis* their (DTs) roles and responsibilities. There were instances where DTs were compelled to accept very nominal fees, which affected their visibility and also the ability in discharging the duties, thereby affecting the interest of debenture holders. As per OP-1, the SEBI Report has also noted that several DTs, in a bid to outdo competition used to charge very low fee for the issue which in turn affected the quality of the work done by DTs. OP-1 further stated that SEBI has routinely advised & cautioned DTs to take timely and corrective steps to avoid deficiencies in quality of compliances due to inadequate resources.

72. As per OP-1, with significant increase in roles and responsibilities of DTs, it was not possible for them to provide their services at such a significantly lower fee. Accordingly, they felt a need to enhance the service fee charged by the DTs to commensurate with significant increase in their roles and responsibilities.

73. OP-1 claimed that on the basis of SEBI's advice, OP-1 in consultation with its members devised a minimum fee structure, considering all economic realities including cost of their services, enhanced role & responsibility and shared the same with SEBI for discussion. Given that roles & responsibilities remain same for all DTs in providing services to an issuer, the fee structure was bound to be similar for all DTs.

74. OP-1 also stated that as per SEBI Report, increase in the fee by DTs is not excessive and is proportionate to the increase in their roles and responsibilities. Further, SEBI Report also concluded that the DTs have not indulged in any cartelization.

75. OP-1 also stated in its reply that there had been emails exchanged and discussions between it and SEBI regarding the fee. The brief of these emails/communications have been filed by OP-1 which are as under: -

(a) On 08.02.2021, SEBI sent an e-mail to OP-1 regarding holding a meeting with OP-1 & its members on 12.02.2021 to *inter-alia* discuss the service fee to be charged by DTs for issues signed after 01.04.2021 and the status of implementation of DT 2020 Circulars.

(b) On 12.02.2021, SEBI had a meeting with OP-1 and its members.

(c) On 22.02.2021, taking into account the significant increase in the roles and responsibilities of DTs, OP-1 with the help of its members devised a minimum fee, which was shared with SEBI.

(d) On 24.02.2021, SEBI had a discussion with the President of OP-1 wherein it raised the issue of minimum fee structure being on the higher side.

(e) On 25.02.2021, OP-1 sent an e-mail to SEBI whereby it explained and justified the reason for an increase in minimum fees as there has been a manifold increase in responsibilities of DTs following DT Regulation Amendments.

(f) On 15.03.2021, OP-1, after internally discussing with its members informed SEBI that:

i. There is no change in the minimum fee and the same will serve as a benchmark floor price for all issuance effective 01.04.2021.

ii. The exact pricing structure of members will be computed by members themselves based on their own cost structure. However, the price structure quoted by individual members to the issuer will not be below the minimum fee.

iii. Members have discretion to charge fee below its published pricing structure. However, it would be ensured by each member that the discretion would not result in the chargeable fee getting lowered by more than 20% of its published fee or the minimum fee, whichever is higher.

OP-4, OP-3 as well OP-2 reiterated the said submissions of OP-1 in their respective replies.

76. Regarding the reliance on SEBI circulars/communication by OP-1 as reason for fixing benchmark fee, the DG has found that there was no circular/mandate/instruction/email of SEBI, including SEBI May 2019 Circular, which mandated OP-1 to decide the benchmark price for the DT services on behalf of its members. The only requirement for the DTs was to provide the rationale of the pricing and to disclose the same on their respective websites.

77. The DG has stated that even in their statements, the officials of the OPs could not highlight any such direction from SEBI. Therefore, the stand taken by the OPs that SEBI was aware about the Benchmark Pricing and had always been in loop, does not justify their conduct of collusive determination of the same. Rather, the email dated 25.02.2021 sent by Mr. Sanjay Sinha to SEBI mentions that SEBI was apprehensive of the fee as prescribed by OP-1 to be on a higher side, despite which OP-1 decided to keep the same pricing structure. Admittedly, the OPs charged a lower fee than the Benchmark Pricing of OP-1 after March, 2022. Therefore, had there been any such mandate of SEBI, then the DTs could not have charged a lower fee as compared to the benchmark price/fee. The DG also stated that on SEBI Public Consultation, 2018, public comments were received by SEBI suggesting that in order to curtail the practice of outdoing competition by cutting rates by DTs, a minimum threshold fee should be prescribed by SEBI in consultation with OP-1. However, SEBI, considering the fact that fee charged by DTs is a commercial aspect of the DT business, decided that it may not be appropriate for it to specify the minimum fee. Hence, it can be said that OP-1 fixed the Benchmark Pricing on the pretext of SEBI Circular discussions.

78. It has also been found by the DG that even before the issuance of SEBI May 2019 Circular, which has been wrongly relied upon by the OPs to justify their conduct of fixing the benchmark fee, OP-1 in its meeting dated 24.01.2018 had also decided to fix the minimum standard price to be followed by its members. Further, SEBI *vide* its reply to the DG dated 26.06.2024 stated that it did not express any views on the Benchmark Pricing, whether to agree/disagree or proposed any changes. It has stated that while discussions/communications may have occurred with regard to the revised fee structure by OP-1, any discussion/communication from SEBI's perspective has been to ensure adherence by DTs with 1993 DT Regulations and circulars issued thereunder.

79. It has further been found in the investigation that prices/fee was not decided by OP-1 due to the enhanced responsibilities of DTs, otherwise the members could not have charged a lower price after March, 2022 when the roles and responsibilities remain unchanged. This is also corroborated by the statements of officials of DTs whereby they have stated that respective OPs did not follow the Benchmark Pricing after March, 2022 with no change in roles and responsibilities.

80. The DG has stated that OP-2 *vide* its reply dated 26.06.2024 submitted that during Financial Year (‘**FY**’) 2022-23, it charged fee lower than Benchmark Pricing for [redacted] issuances out of [redacted] and for those instances' competition benefit for issuers is equal to Rs. [redacted]. OP-3 *vide* reply dated 06.09.2024 submitted that it did not follow Benchmark Pricing in [redacted] out of [redacted] listed debenture issuances during FY 2022-23 *i.e* in [redacted] of the cases and in [redacted] of [redacted] debenture issuance, it charged a lower fee than Benchmark Pricing. The DG noted that the competition benefit for the issuers was [redacted]. OP-4 *vide* reply dated 03.09.2024 stated that out of [redacted] listed debenture issuances, in [redacted] instances it charged pricing equal to Benchmark Pricing and for the rest of the cases, it had charged as per its own convention. Total competition benefit for the issuers in the case of OP-4 accounts for [redacted]

81. On the basis of analysis of competition benefit to issuers during the year 2022-2023 when the Benchmark Pricing was not followed, it has been stated by the DG that a hefty amount of money of issuers would have been gone into availing DTs services if Benchmark Pricing had to be followed in FY 2022-2023 as well. Hence, it was found by the DG that OP-1 and other OPs were found to be charging higher fee price in a concerted manner and were also forcing other DTs to follow unreasonably high fee in the guise of or by misinterpreting circulars/notifications of SEBI.

82. In view of the above, the DG concluded that the conduct of OP-1, OP-2, OP-3 and OP-4 was found to be contravening provisions of Section 3(3)(a) and 3(3)(b) of the Act. The conduct amounted to fixing of price/fee for the provision of DTs services, and also amounted to limiting and controlling the supply/market of provision of said services as OP-2 denied lowering of fee to the Informant and members as well as non-members were dictated by OP-1 not to charge below the benchmark fee.

Issue (iii): In case answer to any of the above issues is affirmative then who are the individuals/officials of OPs liable as per Section 48 (1) or 48 (3) of the Act?

83. In terms of Section 48 of the Act, the DG identified the following officials of OPs who played an active role in the contravention of the provisions of Section 3 of the Act and/or who have been in charge of and responsible to the company for the conduct of the business of the OPs:
    a) Mr. Sanjay Sinha - the then President of OP-1 and MD/CEO of OP-3, Mr. Rajasekhar Raghavan - the then Secretary of OP-1 and MD/CEO of OP-4, Ms. Padma Vinod Betai – the then Treasurer of OP-1 and MD/CEO of OP-2 and Ms. Deepa Rath, MD/CEO of OP-3 under Section 48(1) and 48(3) of the Act based on the following grounds:
        i. Responsible for the conduct of business/association including implementation of benchmark fee.
        ii. Attended meeting of OP-1 and took active participation in decision making.
        iii. Asking MITCON to withdraw the bid made to HUDCO.

b) Mr. Bharat Kumar Mishra, MD and CEO of OP-4 under Section 48(1) of the Act on the ground of conducting business of OP-4 after resignation of Mr. Rajasekhar Raghavan, hence deemed to be responsible for contravention during FY 2021-22.

84. The Commission considered the Investigation Report submitted by the DG on 31.01.2025 and directed to forward an electronic copy of the non-confidential version of the Investigation Report to the Informant, the 04 (four) OPs, and the individuals of the OPs found to be liable by the DG in terms of the provisions contained in Section 48 of the Act.

85. It was further directed by the Commission that the aforesaid OPs and the individuals of the OPs may file their respective objections/suggestions to the Investigation Report, if any, thereto within 08 (eight) weeks from the date of receipt of the order and the Parties may thereafter file reply/rejoinder, if any, to the objections/suggestions filed by other parties, within a further period of 02 (two) weeks from the receipt of such objections/suggestions.

86. The Commission further directed the aforesaid OPs and the individuals of the OPs to furnish copies of their duly audited financial statements including balance sheets and profit & loss accounts/income and expenditure accounts and income derived by them, directly or indirectly, from provision of debenture trusteeship services within 04 (four) weeks from the date of receipt of the order.

87. OP-1 filed an application dated 13.03.2025 seeking dismissal of proceedings against it on account of it being defunct. It was further stated by OP-1 that on 20.09.2023, SEBI issued a circular (‘**SEBI September 2023 Circular**’) through which it recognised OP-1 as a designated body for the redressal of investors' grievance/complaints lodged on the SEBI Complaints Redress System (‘**SCORES**’) platform against SEBI registered DTs. In order to comply with the said circular, OP-1 has undergone a structural change wherein it has become a body corporate and is registered under Section 8 of the Companies Act, having Corporate Identity Number U94110MH2024NPL420361 as new TAI and this was disclosed to the DG by OP-1 and OP-2 by way of their separate responses dated 12.04.2024

and 15.04.2024, respectively. It was also mentioned that the role and responsibilities of OP-1 & new TAI are different. It was further stated that with effect from 2024, the new TAI has 7 members *i.e.*, OP-2, OP-3 and other members.

88. *Vide* order dated 28.05.2025, the Commission decided to relist the matter in one of the ensuing ordinary meetings.

89. The Commission considered the matter in its ordinary held on 16.07.2025 and decided to give one more opportunity to the Parties and their respective individuals to file their objections/suggestions to the Investigation Report and financials as sought in the previous order dated 31.01.2025 within 08 (eight) weeks from the receipt of the order.

90. Further, considering the necessity and expediency of such request made by OP-2, OP-3 and OP-4 and their respective individuals, the Commission decided to set up a Confidentiality Ring in the matter in terms of Regulation 36 of the Competition Commission of India (General) Regulations, 2024 ('**General Regulations**') to grant access to the OPs and their respective individuals, if so desired, to the confidential version of the Investigation Report of the DG. Further, access was also granted to the confidential case record of the matter.

91. Regarding the application of OP-1, for the dismissal of proceedings against it on account of it being defunct, it was observed by the Commission that such stance of OP-1 is without merit. The Commission observed that while it is true that OP-1 has undergone a structural change from being an unregistered association of persons to becoming a body corporate in compliance with the SEBI September 2023 Circular, proceedings against it cannot be dismissed merely on account of its changed identity, when in essence the majority of members of the new TAI have migrated from OP-1.

92. The Commission further referred to Para 1.b. of the MoM dated 20.04.2024 of SEBI with registered DTs as annexed in OP-1's application which *inter alia* states that:

"*It was outlined that SEBI has requested the registered intermediaries or entities regulated by it to form/join into an association, as the same enables having common standards, convenience in cooperation and smoother discussion of issues as all concerns are raised and discussed at a common forum. Such association also could be a designated body in terms of SEBI SCOREs system*.

…SEBI desired DTs either join the existing association of DTs – TAI – or may consider establishing another such association for smooth and collective resolution of issues with the regulator and if so, do so expeditiously.

Further, SEBI intends to pursue the association approach for convenience in cooperation and taking up industry concerns."

The Commission stated that from a plain reading of the above para, it is clear that the role of new TAI as a designated body in terms of SEBI SCORES system is in fact in addition to its role as a common platform of DTs which it was performing as OP-1. Therefore, the Commission observed that the statement of OP-1 that the roles of OP-1 and new TAI are different cannot be accepted.

93. In light of the above, the Commission directed that OP-1 continues to be a party to the proceedings through new TAI; the latter being the successor in interest of OP-1 and the same be also reflected in cause titles in future proceedings. The Commission directed that compliance by OP-1 as enumerated in paras 18 to 23 of the order will be done through new TAI.

94. Further, *vide* order dated 12.11.2025, the Commission, considered the application filed by OP-1 for review and recall of the order dated 16.07.2025 passed by the Commission. The Commission observed that for the purpose of the present matter, new TAI remains the successor of OP-1 and rejected the application filed by OP-1, stating that any such contention of OP-1 may be raised and dealt with at the stage of hearing. Further, regarding the requests for extension of time, the Commission directed that all the OPs and their

respective individuals may file their respective objections/suggestions to the Investigation Report, if any, along with financials and other details, as directed *vide* order dated 31.01.2025 within 04 (four) weeks from the date of receipt of the order.

95. Subsequently, *vide* order dated 31.12.2025, the Commission directed that all the OPs and their respective individuals may file their respective objections/suggestions to the Investigation Report, if any, along with financials and other details, as directed *vide* order dated 31.01.2025 within 02 (two) weeks from 06.01.2026 *i.e.* by 20.01.2026.

96. Subsequently, *vide* order dated 29.05.2026, the Commission directed that OP-1 be given the last opportunity to file its objections/suggestions to the Investigation Report, if any, along with financials and other details, as directed *vide* order dated 31.01.2025 within 03 (three) weeks of receipt of the order. Further, the Commission decided to fix date for a hearing in the matter as 01.07.2026 at 2:45 PM.

97. *Vide* order dated 24.06.2026, the Commission decided to give OP-1 last opportunity to file its objections/suggestions to the Investigation Report, if any, along with financials and other details in terms of directions given in the order dated 31.01.2025 within 03 (three) weeks of receipt of the order. Further, considering the applications of OP-1, OP-2 and OP-3, the Commission decided to fix date for a hearing in the matter as 29.07.2026 at 2:45 PM.

<u>Objections/Suggestions of the Parties</u>

Objections/Suggestions of the Informant

98. In its objections/suggestions to the Investigation Report dated 06.08.2025, the Informant has *inter alia* submitted that it supports the finding of the DG that establishes anti-competitive conduct of OPs as it is based on a sound appreciation of facts, evidence, and law. The Informant requested the Commission to accept the Investigation Report submitted by DG in its entirety and hold the OPs and its individuals accountable under Section 3(3)(a), 3(3)(b), and Section 48 of the Act.

Common Objections/Suggestions of OP-1, OP-2, OP-3 and OP-4 :

99. OP-1, OP-2, OP-3 and OP-4 have made common submissions on the legal framework and issue of jurisdiction of the Commission in the matter *vide* their objections/suggestions dated 20.07.2026, 06.02.2016, 06.01.2026, and 06.05.2025 & 25.02.2016, respectively. It may be noted that individuals identified under Section 48 of the Act have adopted the objections/suggestions of their respective OPs.

100. With regard to the legal framework, OPs have *inter alia* reiterated their submissions made earlier to the DG *viz*: (a) DTs are governed by the SEBI Act, 1992 and 1993 DT Regulations (b) OPs have highlighted Clause 11 and Clause 31 of CoC; (c) roles and responsibilities of DTs have increased due to widening retail participation, DT Regulation Amendments and DT 2020 Circulars which has increased the cost of DTs; (d) DTs were exploited by the issuers for many years as they were forced to charge a very nominal fee by putting one DT against the other; (e) After public consultations during the year 2018, SEBI May 2019 Circular was issued by SEBI, wherein it mandated DTs to disclose the nature of compensation arrangement, including the minimum fee on their respective websites, for providing trusteeship services; (f) In light of significant increase in the roles and responsibilities of the DTs, several consultations took place between OP-1 and SEBI (emails dated 08.02.2021 to 15.03.2021).

101. OPs also submitted that in the SEBI Report, the SEBI also clarified that a DT does not service an issuer. Rather, it acts as a trustee on behalf of the debenture holders. A DT holds the secured property on behalf of debenture holders in order to protect their interests. Therefore, it is the debenture holders and not the issuer, who are the actual recipients of services provided by the DT. It is only incidental that the issuer pays the DT requisite fee for it to perform the role of DT.

102. The OPs also raised the issue of jurisdiction. It was stated that the Hon'ble Supreme Court in the Bharti Airtel case has considered the scope and ambit of two specialized regulators *i.e.*, the Commission and the Telecom Regulatory Authority of India ('**TRAI**') at great length, and the interplay of the jurisdiction of the two.

103. OPs stated that on the basis of the above judgment, if the jurisdictional issues are pending before a sectoral regulator, the following two conditions need to be fulfilled for the Commission to assume jurisdiction:

a) *Firstly*, the jurisdiction of the sector-specific regulator needs to be given primacy over the jurisdiction of the Commission; and
b) *Secondly*, the sector-specific regulator needs to return a finding which leads to *prima-facie* conclusion that an enterprise(s) has indulged in anticompetitive practices.

104. OPs stated that in the present case, the first condition has already been fulfilled by the Hon'ble Bombay High Court *vide* orders dated 08.04.2022 and 11.04.2022 as the Hon'ble Bombay High Court while applying the principles laid down by the Bharati Airtel case noted that on the basis of the SEBI Complaint, SEBI is already seized of or investigating the matter and hence, it would be appropriate that SEBI is given a reasonable chance to arrive at its *prima-facie* view. Accordingly, the first condition has already been fulfilled.

105. However, the second condition as laid down in the Bharti Airtel case has not been fulfilled to activate jurisdiction of the Commission in the present case as after conducting an investigation, SEBI has not returned a finding which led to *prima-facie* conclusion that OPs have indulged in anticompetitive practices *i.e.*, the SEBI concluded that OPs have not indulged in cartelisation or any anti-competitive activities and consequently, the Information does not warrant any further action.

106. It is further stated by OP-4 that SEBI in its letter dated 21.11.2023 averred jurisdiction to the Commission only in general sense, while itself having conclusively determined pursuant to a detailed examination that no cartelisation existed.

107. On merits, OP-1, OP-2 and OP-3 have *inter alia* submitted the following common objections/suggestions to the Investigation Report:

a) *Benchmark Pricing was devised in consultation with SEBI*: The DG failed to appreciate that the Benchmark Pricing was formulated in consultation with SEBI, with OP-1 regularly updating SEBI on deliberations and receiving its feedback. At the meeting held on 12.02.2021, SEBI requested OP-1 to share the proposed fee structure, post which, OP-1 kept SEBI informed of its internal deliberations, including the commercial and regulatory rationale necessitating the proposed upward revision in fees. Upon examining these submissions, SEBI did not communicate any objection, reservation, or prohibition. SEBI even examined the rationale for upward revision and raised concerns where it deemed appropriate. The fact that SEBI commented on the fee being on the higher side demonstrates its active involvement in the process of formulating the Benchmark Pricing. Had SEBI considered the proposal impermissible or anti-competitive, it would have expressly communicated its disapproval in its capacity as the sectoral regulator. The presence of a sectoral regulator exercising supervisory jurisdiction breaks the causal link between parallel conduct and any alleged agreement under competition law. Despite the existence of email correspondence and meetings between SEBI and OP-1, the DG did not examine or depose any relevant official of SEBI.

b) *DG has failed to note that the SEBI has taken a completely different stance in the SEBI Report vis-à-vis SEBI DG Reply:* In the SEBI Report, SEBI has analysed the Benchmark Pricing and categorically noted that it is minimal, relative to the overall issue size. Further, contrary to Informant's allegations, there has been no significant increase in fees charged by OP-1 members. Accordingly, SEBI observed that a standardized fee framework is necessary to prevent undercutting and ensure fair, cost-based, and non-discriminatory charges by DTs. Whereas, SEBI, in its reply dated 26.06.2024, to the DG notice dated 19.06.2024 has taken a different stance that it did not express any views, either in agreement or disagreement, on the Benchmark Pricing. The DG's failure to reconcile its findings with SEBI's express conclusions, or to depose SEBI officials, renders the investigation incomplete and biased.

c) *Regulatory oversight by the SEBI negates the existence of an 'agreement'*: It is stated that Section 3(3) read with Section 3(1) of the Act can be invoked only where there is clear and unequivocal evidence of an "agreement" between competitors, as defined under Section 2(b) of the Act. Existence of an agreement, understanding or arrangement, demonstrating/indicating a meeting of minds, is an essential condition for establishing a contravention of Section 3 of the Act. In the present case, SEBI was actively engaged in the consultative process leading to the devising of the Benchmark Pricing. Any alignment that followed was thus regulatory-compliant, not a product of collusion or consensual coordination among DTs.

d) *SEBI's own regulatory framework materially shaped the market conditions*: SEBI's own regulatory framework, specifically the 1993 DT Regulations and CoC, prohibit unfair competition, client-poaching on lower fees, and price rigging by DTs and limit the scope for price competition between them. Any conduct that may appear anti-competitive is, in substance, a consequence of the regulatory architecture established by SEBI.

e) *DG failed to note that there was no mechanism devised for imposing sanctions by OP-1*: The DG's conclusion that non-compliance with the Benchmark Pricing would result in adverse repercussions is unsubstantiated. No mechanism for imposing sanctions was devised, approved, or implemented by OP-1, and there is no evidence that any DT was penalised for deviation. The DG has mechanically relied upon isolated references in the MoM dated 23.03.2021 and 18.10.2021, together with the statements of Ms. Anjalee Athalyee. Ms. Athalyee holds a relatively junior role in OP-2 and has no involvement in OP-1's strategic, commercial or policy-related decision-making. She did not attend the key OP-1 meetings in question, nor does she possess first-hand knowledge of any discussions or decisions allegedly taken therein. Her account is limited to what was selectively briefed to her. The DG has selectively relied on her statements, while completely ignoring the following admissions made by OP-1's office bearers: i) Mr. Sanjay Sinha stated "*There is no such SEBI rule empowering OP-1 to impose penalties or take any adverse action against members"*; b) Ms. Padma Vinod Betai stated: "*OP-1 had no powers to take any action against any member*"; and c) Mr. Rajasekhar stated: "*…publication of the price was mandated by SEBI. Every member trustee was free to arrive at their own minimum floor pricing*". Further, mere passing reference in the MoM dated 18.10.2021 regarding a possible future exploration of a mechanism to impose sanctions on DTs allegedly not following the Benchmark Pricing cannot be construed as proof of existence of an agreed, operative, or implemented disciplinary framework. There is not a single instance on record evidencing the invocation or enforcement of any such alleged mechanism, whether by way of warnings, deterrent measures, or penalties. Further, the Benchmark Pricing was never fully implemented.

f) *DG failed to note that OP-1 invitation to on-members was made pursuant to SEBI's request*: OP-1 only requested, and did not compel, non-members to join the association and follow the Benchmark Pricing, and this was done at the behest of SEBI, as evidenced by the email dated 25.11.2020 from OP-1 to the official of SEBI, wherein it sought SEBI's assistance in obtaining the list of DTs whom OP-1 could approach for membership. Email dated 11.05.2021 records that OP-1's invitation to non-members was made pursuant to SEBI's request, where SEBI encouraged non-member DTs to join OP-1 to align their processes with the amended DT regulatory framework. All such email communications to non-member DTs were made transparently, with relevant officials from SEBI being marked on these emails.

g) *The DG's investigation is vitiated by its selective attribution of liability*: While the MoM dated 23.03.2021 and 18.10.2021 record that the discussions and decisions were collective and participated in by all attending members of OP-1, the DG has proceeded only against OP-2, OP-3 and OP-4, without assigning any reason for excluding other participating members of OP-1, namely Centbank Financial Services Limited, Orbis, Beacon Trusteeship Limited, Vistra and Catalyst Trusteeship Limited.

h) *The alleged conduct has not caused AAEC:* The Benchmark Pricing improves commercial viability, incentivises new entrants, supports existing DTs, enhances service quality, and yields benefits to consumers. The DG has failed to demonstrate any tangible harm or foreclosure of competition.

Objections/Suggestions by OP-1 in addition to the common Objections/Suggestions

108. OP-1 in its objections/suggestions to the Investigation Report has *inter alia* stated that it is filing without prejudice to its primary contention that OP-1 has been defunct and non-operational since March, 2023, ceased to function as an association thereafter, and that no

meeting of its members has been held since March, 2023. Further, it does not have any elected office bearers such as President, Treasurer, or Secretary since 2023.

109. It is submitted by OP-1 that pricing a service higher does not amount to 'limiting supply' under Section 3(3)(b) of the Act. A price increase, even if concerted, is actionable under Section 3(3)(a) but does not automatically constitute supply restriction under Section 3(3)(b) of the Act. Supply was never limited or controlled - it remained freely available from 26 registered DTs. The DG has conflated pricing with supply restriction, which are distinct anti-competitive harms requiring separate evidentiary foundations. It is further stated that the DG's failure to engage with SEBI's findings, or to explain why the same evidence supports contradictory conclusions, renders the Investigation Report a document that exists in an evidentiary vacuum, divorced from the regulatory reality of the DT market.

110. OP-1 has stated that the DG's reasoning that fees fell after March 2022 while responsibilities remained unchanged, therefore responsibilities don't justify higher fees, is a non-sequitur. The fall in fees after March, 2022 could be explained by multiple factors, such as, the 'chilling effect' of the present investigation by the Commission itself (initiated in September, 2021) deterring firms from maintaining fee levels; price wars initiated by firms seeking to gain market share at the expense of profitability *etc*.

111. OP-1 has further stated that in the event that the Commission were to conclude that OP-1 has contravened Section 3(3) of the Act, it is submitted that no penalty should be imposed on it, considering the presence of the following mitigating factors as prescribed under Regulation 5 of the Competition Commission of India (Determination of Monetary Penalty) Guidelines, 2024 (‘**Penalty Guidelines**’): (a) OP-1 is defunct; penalty serves no purpose; (b) OP-1 earned Nil income during FY 2020-21 to FY 2023-24; (c) In reality, no punitive sanctions for non-adherence to Benchmark Pricing have been devised by OP-1; (d) OP-1 has never been found guilty of contravention of the Act in the past; and (e) OP-1 has made full disclosures and cooperated in entirety with the investigations of the DG and the Commission.

Objections/Suggestions by OP-2 and OP-3 in addition to the common Objections/Suggestions

112. In addition to the common objections/suggestions, OP-2 has *inter alia* stated that the listed debenture issuance data of OP-2 shows that no sanctions were imposed on OP-2 by OP-1 even in instances of deviations. Out of a total of [redacted] listed debenture issuances for FY 2021-22, OP-2 did not follow Benchmark Pricing in [redacted] listed debenture issuances. Despite this, OP-1 issued no sanction against OP-2. Further, OP-2's deviation from the Benchmark Pricing from March, 2022 onwards was a commercially rational response to market realities, as other DTs were not adhering to it. Its decision to discontinue adherence occurred shortly after it received the *prima facie* order. In light of the pendency of the investigation, OP-2 took a cautious approach and refrained from following any practice that could potentially be misconstrued as aligned conduct. Such conduct cannot be construed as evidence of anticompetitive behaviour.

113. In addition to the above common objections/suggestions, OP-3 has *inter alia* stated that out of a total of [redacted] listed debenture issuances for FY 2021-22, OP-3 did not follow the Benchmark Pricing in [redacted] of those instances *i.e.*, [redacted] listed debenture issuances. Despite this, OP-1 issued no sanction, or reprimand against OP-3, which confirms that no sanction mechanism existed or operated at any time.

114. OP-2 and OP-3 have stated that their initial limited adherence to the Benchmark Pricing reflected a *bona fide* and industry-driven commitment to recognising the expanding roles and responsibilities of the DTs, which was also in consultation with SEBI. However, the deviation from the said fee structure from March, 2022 onwards occurred solely due to commercial realities. Several DTs were not following the Benchmark Pricing, which placed them at a competitive disadvantage.

115. OP-2 and OP-3 have stated that in the event that the Commission concludes that OP-2 and/or OP-3 is liable for contravention of Sections 3(3)(a) and 3(3)(b) of the Act, this matter warrants no imposition of penalty by the Commission, considering the presence of the

following mitigating factors as prescribed under the Penalty Guidelines: (a) Duration of the alleged contravention is limited to a period of merely two financial years; (b) OP-2 and/or OP-3 played no leading role in orchestrating the alleged conduct; (c) in reality no punitive sanctions for non-adherence to Benchmark Pricing have been devised by OP-1; (d) OP-2 and/or OP-3 have never been found guilty of contravention of the Act in the past; and (e) OP-2 and OP-3 have made full disclosures and cooperated in entirety with the investigations of the DG and the Commission.

116. If the Commission decides to impose penalty, then the penalty must be calculated considering the relevant turnover/profit of OP-2 and OP-3 in terms of the principle laid down by the Hon'ble Supreme Court in *Excel Crop Care Ltd & Ors. V. Competition Commission of India & Ors.*, read with the Penalty Guidelines. The relevant turnover/ profit to be considered in the present case shall be the revenue or net profit generated by OP-2 and OP-3 from providing debenture trusteeship services for listed debenture issuances. Further, the appropriate years to be considered in the instant case should be FY 2020-21, and FY 2021-22 *i.e.*, the relevant period of the alleged contravention.

Objections/Suggestions by OP-4 in addition to the common Objections/Suggestions

117. OP-4 has *inter alia* stated that OP-1 only informed other non-member trustees to join their association as it might be helpful for them. On the contrary, the Informant and the DG projected OP-1 as an enforcing authority to control the service fees, which is not correct. Except for one internal meeting dated 23.03.2021, the DG has failed to put forward strong and valid evidence against OP-1 and its members for cartelisation of service fees of debenture trustees.

118. It is further stated that OP-1 explicitly permits members a deviation of up to 20% from the benchmark floor prices, keeping in mind various business models. The Informant has alleged that OP-2 fixed its trusteeship fees and refused to negotiate due to OP-1's influence; however, OP-2 was at liberty to reduce fees within this permitted deviation and they simply chose not to exercise that discretion. OP-1 and OP-4 cannot be held liable for OP-2's non-

utilization of its discretionary power, and such failure cannot implicate OP-4 or its associated individuals, Mr. Rajasekhar Raghavan and Mr. Bharat Kumar Mishra.

119. OP-4 has stated that it charged different service fee to their different customers, as has been admitted by Mr. Rajasekhar Raghavan also. Such deviation from the benchmark floor pricing was not challenged by OP-1, and it never took any action against OP-4.

120. It is stated that OP-4 has not entered into any anti-competitive agreement with other OP-1 members. It is further stated that the Informant never approached OP-4, or any trustee other than OP-2, rendering the allegation vague and unsubstantiated. Further, not all OP-1 members adhered to the floor prices - for instance, Vardhaman followed an entirely different pricing structure, disproving any cartelisation among members.

121. It is stated that an officer of OP-4 sent an email dated 11.05.2021 to various DTs, including MITCON, inviting them to join OP-1. The email was purely promotional in nature and was issued to multiple trustees. The email has not mentioned anywhere that MITCON should withdraw its service fee offer to HUDCO. The DG has therefore wrongly interpreted this email as a directive to MITCON to withdraw its fee structure offered to HUDCO. On the contrary, as per MITCON's own reply, the fee structure it offered was never accepted by HUDCO, and HUDCO never raised any grievance in this regard with either MITCON or SEBI.

122. It is further stated by OP-4 that only 10 out of the 26 SEBI registered DTs being members of OP-1, any discussion on fees within this subset cannot be construed as evidence of cartelisation capable of affecting the entire market. Major Public Sector Banks such as Bank of India and Bank of Maharashtra, which were SEBI-registered DTs and continuing business till 1996 and 2020 respectively, were not part of OP-1. The DG's theory of industry-wide collusion ignores this substantial segment of the market, which was unaffected by and unaware of OP-1's activities.

123. It is stated that Investigation Report cites no single instance or evidence against Mr. Bharat Kumar Mishra concerning cartelization of debenture trusteeship services, and he is being penalized merely for his association with OP-1, in his capacity as MD of OP-4. No

significant decisions relating to the alleged cartelization were passed during his tenure. In the absence of any documentary evidence, it is stated that Mr. Bharat Kumar Mishra ought to be absolved of all charges.

124. Regarding Mr. Rajasekhar Raghavan, OP-4 has submitted that his actions were always in his official capacity, pursuing legitimate business and regulatory compliance objectives and he should not be penalised under Section 48 of the Act.

Objections/Suggestions by Ms. Padma Vinod Betai, Ms. Deepa Rath and Mr. Sanjay Sinha

125. Ms Betai, Ms Rath and Mr. Sinha stated that the findings in the Investigation Report, as against them deserve to be dismissed outright. The DG has drawn incorrect conclusions and erred in the application of the law and established competition law principles. They denied that they were engaged in any anti-competitive behaviour, in violation of provisions of Section 48(1) and Section 48(3) of the Act.

126. They requested that factors such as *inter alia*: minimal nature and gravity of conduct by their respective OPs, limited role in OP-1, absence of decision-making authority or affirmative conduct contributing to the alleged contravention, collective and democratic decision-making within OP-1, absence of active participation, intent, or influence, no implementation of the alleged fee structure by their respective OPs, extent of cooperation during the DG's investigation and/or proceedings before the Commission, and no prior history of any contravention of the Act, may be considered as mitigating factors for the purpose of imposing penalty.

127. On 29.07.2026, the Commission heard the counsels who appeared on behalf of the Parties and decided to pass an appropriate order in due course. The Commission in the interest of justice directed the Informant, OPs and their respective individuals found to be liable by the DG in terms of the provisions contained in Section 48 of the Act to file brief synopsis of their oral arguments (if so desired) within 01 (one) week from the date of hearing.

128. The Informant, in its written submission filed on 18.08.2026 has *inter alia* stated that - (a) There is no statute, rule, regulation, circular, guideline or direction of SEBI requiring or permitting OP-1 to fix a fee; (b) OP-4 has stated on affidavit that the fee is "a commercial aspect", that SEBI “did not recommend any cost-based service fees", and that SEBI "does not control the service fees"; (c) On the OPs’ own admission, the Benchmark Pricing has not been followed since March, 2022, with the roles and responsibilities of debenture trustees entirely unchanged. A regulatory mandate cannot be observed for twelve months and abandoned thereafter at the convenience of those said to be bound by it.; (d) The obligations said to be new, pre-existed under the Companies Act, 1956 and 2013, the SEBI 1993 DT Regulations and SEBI's circular of 19.12.2011. OP-1 had, moreover, attempted to fix a minimum price even before the SEBI May 2019 Circular on which it now relies; (e) OP-2’s financials reveal that the DT business is more profitable without a fixed floor than it was with one; (f) OP-1 possessed no lawful power to penalise anyone. The purpose was cartel discipline, and the conduct falls squarely within Section 3(3)(b) of the Act.

129. OPs, in their written submissions dated 05.08.2026, reiterated the submissions made in their objections/suggestions to the Investigation Report. Further, OP-2 in its written submission has stated that reliance placed by the Informant on the entity-level profit margins disclosed in OP-2's Annual Reports is misconceived since those financial statements represent the combined financial performance of all business verticals and not the listed DT business alone.

130. In its written submission dated 05.08.2026, new TAI has requested for review and recall of the Commission’s order dated 16.07.2025 and 12.11.2025, to the extent that they treat new TAI as the successor-in-interest of OP-1. It is, *inter alia*, stated that – a) OP-1 and new TAI are distinct in their constitution, membership, objects, powers, and functions; b) legal and functional continuity between the new TAI and OP-1 needs to be established by identifying a ‘connective tissue’ between them; c) new TAI did not come into existence as a voluntary continuation of OP-1, but was incorporated because SEBI required the creation of a body corporate to discharge statutory grievance redressal functions; d) since new TAI did not exist during the alleged period of contravention, it is legally impossible to attribute to it

any liability entered into by an entity which existed independently nearly two years earlier; e) DG neither arrayed new TAI as an OP nor investigated it; e) erstwhile members of OP-1 have not migrated to a single successor organisation but have instead dispersed across multiple independent bodies; and f) the mischief rule cannot be applied in the present matter as the alleged contravention, the entity against whom the allegations have been made, and the individuals and DT who were members of OP-1 during the relevant period are all known and identifiable.

Analysis of the Commission

131. The Commission notes that the Informant, who has been availing services of OP-2 as DT, has alleged a steep increase in prices quoted by OP-2 pursuant to the decision taken by OP-1 in its meeting dated 23.03.2021, whereby a minimum pricing/fee structure was prescribed/fixed for provision of trusteeship services by the DTs with effect from 01.04.2021. Further, based on an e-mail shared by OP-2, the Informant alleged that in the said meeting of OP-1, not only the pricing/ fee structure was prescribed/fixed, but adverse repercussions for the members of OP-1 were also contemplated in case of any deviation therefrom.

132. Before proceeding to examine the case on merits, the Commission notes that the OPs, in their objections/suggestions to the Investigation Report, have raised the issue of jurisdiction of the Commission in the matter, stating that in the instant matter, the Commission has no jurisdiction.

133. In this regard, it is observed that the Commission has already dealt with and decided the issue of jurisdiction *vide* its order dated 14.03.2024, as discussed in detail in preceding paras and the same is not being reproduced here in the interest of brevity. Briefly, pursuant to the directions of the Hon'ble High Court of Bombay whereby it directed the OPs to proceed to a hearing before the Commission on all aspects including the jurisdiction of the Commission, the OPs had filed applications before the Commission praying for recall of the *prima facie* order dated 23.12.2021 passed in the matter and to close the proceedings against the OPs.

134. The Commission, keeping in view the observation of the Hon'ble Supreme Court in Bharti Airtel case (supra) and the SEBI's letter dated 21.11.2023, had *inter-alia* observed in its order that "*42. ….it is competent and equipped to independently determine whether the activities of the OPs in fixing the minimum price to be charged to issuers and providing adverse consequences for any deviation, is anti-competitive under the provisions of Section 3 of the Act.*" Accordingly, investigation in the matter by the DG was continued. Based on foregoing, the Commission is of the view that the issue of jurisdiction in this matter stands decided *vide* order dated 14.03.2024 and nothing further remains to be decided thereupon.

135. The Commission notes that OP-4 in its submissions has also stated that SEBI *vide* letter dated 21.11.2023 had recognised the Commission's jurisdiction only in a general sense. However, a bare reading of the said letter would show that this submission of OP-4 does not hold merit, as the said letter is specific in its reference to the present matter as noted in Para 31 of this order.

136. The Commission now proceeds to examine the matter on merits. The Commission has perused the Information, the Investigation Report, the objections/suggestions to the Investigation Report, the oral and written submissions of the Parties and their respective individuals along with other material available on record.

137. The Commission notes that in the present matter the DG found the conduct of OP-l, OP-2, OP-3 and OP-4 to be in contravention of the provisions of Section 3(3)(a) and 3(3)(b) of the Act for the period 2020-21 and 2021-22. The DG has stated that the conduct of the OPs amounts to fixing of price/fee for the provision of debenture trusteeship services and to limiting and controlling the supply of said services.

138. The OPs in their submissions have refuted the findings of the DG in the Investigation Report and stated that there exists no cogent or concrete evidence against them to be held liable for contravention of the provisions of the Act.

139. The Commission observes that at the center of the impugned conduct, as well as the DG's findings in the Investigation Report, are the MoMs of OP-1 dated 24.01.2018, 06.06.2019

and 23.03.2021. The relevant extracts of the MoMs have been mentioned earlier in the order. The Commission notes from the said MoMs of OP-1 that during the meeting held on the said dates the following issues were discussed/ decided – (a) the need for minimum pricing/common pricing of debenture trusteeship services among DTs; (b) fixing of Benchmark Pricing, (c) expression of concerns over non-members pricing below the Benchmark Pricing; (d) whether fixing of Benchmark Pricing would be cartelisation under the Act; and (e) whether any breach in the Benchmark Pricing would invite punitive action.

140. Specifically, the Commission notes that in its meeting dated 23.03.2021, OP-1 fixed the fee structure for providing DT service by its members. The MoM dated 23.03.2021 *inter alia* stated that the member DTs agreed that they would be guided by the Benchmark Pricing for arriving at their own pricing structure and would display the same on their website. The pricing by each member would not be below the Benchmark Pricing. Further, the pricing would be effective for all debenture trusteeship service offerings for listed debt securities from 01.04.2021. While members would have discretion to charge fee below their published pricing structure, it would be ensured by each member that discretion would not result in chargeable fee getting lowered by more than 20% of its published fee structure or the benchmark floor price, whichever is higher.

141. Further, as brought out by the investigation, the MoMs dated 24.01.2018 and 06.06.2019 show that there had been discussions on prescribing/fixing of the minimum pricing structure of trusteeship services to be provided by the members of OP-1 since 2018.

142. In this regard, the Commission further notes that, during investigation, the DG also confronted the officials of OPs with the said MoMs and recorded their statements. These have been extracted above in this order and are not being reproduced for the sake of brevity. It is observed that certain officials of OPs, namely, Mr. Sanjay Sinha (Ex. MD & CEO of OP-3, and Ex, President of OP-1), Mr. Rajasekhar Raghavan (Ex. MD & CEO of OP-4, and Ex. Secretary of OP-1) and Ms. Padma Vinod Betai (Ex. MD & CEO of OP-2, and ex. Treasurer of OP-1) have confirmed in their statements that they attended the meeting dated 23.03.2021, wherein the Benchmark Pricing was fixed by OP-1.

Further, they have neither contested the contents of the said MoMs, nor the fact that the fees for trusteeship services was fixed by OP-1 in the said meetings.

143. However, the OPs in their objections/suggestions have contended that the DG has mechanically relied upon the said MoMs and have claimed that the fee prescribed/fixed in these meetings was suggested but not followed. In their defense of the fixing of Benchmark Pricing, the OPs have, *inter-alia*, stated that the same was done to address the undercutting of pricing being indulged into by some DTs, which led to deterioration in the quality of debenture trusteeship services.

144. From the foregoing, the Commission finds that a minimum fee/ benchmark price to be charged from the issuers by the DTs/ members of OP-1 was prescribed/fixed in the meeting dated 23.03.2021. The fact that in the meeting dated 06.06.2019, it was discussed whether the fixing of pricing could be construed as cartelisation under the Act, in fact shows that OP-1 and its members were also aware of the provisions of the Act, and despite there being concerns of contravention of those provisions, they went ahead with the same.

145. Further, the statement of Mr. Rajasekhar Raghavan recorded by the DG, wherein he has *inter alia* stated that – "*Earlier before that meeting (23.03.2021), members used to charge different prices for DT services, but after the meeting, it was decided to charge uniform price as per Schedule of price attached with said MoM*" This shows that the endeavour of OP-1 was to ensure adherence to Benchmark Pricing.

146. Furthermore, it is noted that communications were sent to non-members inviting them to join OP-1 and asking them not only to follow the Benchmark Pricing, but in some cases even asking them not to issue a single quote in the listed issuance market till the time they joined OP-1. This is corroborated by the email dated 11.05.2021 sent by Ms. Anupama Naidu, an office bearer of OP-4, to MITCON wherein she concludes the email by stating that "*… till the time you join TAI, you are requested to follow the above pricing structure and observe the same for homogeneity*."

147. Thus, the Commission finds that OP-1 and its members were not only setting the benchmark prices for the member DTs but were also attempting to nudge non-member

DTs to follow the same. This was to allay any chance of competitive pricing by non-members and thereby ensuring earning of significantly higher trusteeship services fees without competing with each other.

148. The Commission also notes that although OP-1 informed SEBI *vide* email dated 15.03.2021 that the members had discretion to charge a 20% lower fee of its published fee or the benchmark price whichever is higher, in practice it was not being followed. MITCON was forced by OP-1 to withdraw its offer made to HUDCO and also not allowed to quote 10-20% below the benchmark for 06 (six) months. This establishes that OP-1 fixed the Benchmark Pricing to create homogeneity in prices to be offered for debenture trusteeship. It also influenced the non-member DTs to follow the Benchmark Pricing and took active steps to ensure that no DT breached this minimum level. As seen in the case of MITCON, it even went to the extent of influencing it to withdraw its bid and submit a higher revised bid. Statement of Ms. Anjalee Athalyee that in case the Informant had not accepted the fees proposed by OP-2, which was in consonance with the Benchmark Pricing, it would not have provided the debenture trusteeship services to the Informant reflects the standard of homogeneity and adherence that the diktat of OP-1 carried.

149. In this context, it would also be apposite to refer to MoM dated 23.02.2021, which, *inter alia,* contained as follows: "*Breach in the benchmark floor price by any member, brought to the notice of TAI, would be dealt with suitably including initiation of appropriate action against the member concerned*".

150. Thus, the Commission notes that *vide* MoM of 23.03.2021, not only was Benchmark Pricing fixed but adverse repercussions were referred to for non-adherence to the prescribed/ fixed fee/pricing structure. While the OPs have stated that no mechanism was devised, approved, or implemented by OP-1, the MoMs of OP-1 and the follow up actions taken to ensure observance of Benchmark Pricing by member and non-member DTs reveal an entirely different scenario. The contents of the above MoM clearly show that breach in benchmark floor pricing were to result in suitable action against any member(s) who deviated from the benchmark. Such diktat in the MoM was an instruction for every member to adhere to the Benchmark Pricing, failing which, it would invite appropriate

action.

151. In fact, as a follow up of the MoM dated 23.02.2021, another MoM of OP-1 dated 18.10.2021 was issued. As brought out in the Investigation Report, in the said meeting the specific agenda was "*to discuss measures to be taken to prevent deviation vis-à-vis the benchmark floor fee structure which was unanimously agreed to by the members in the meeting of TAI held on 23.03.2021*". This shows that a meeting of OP-1 was again held to discuss measures against the members who deviated from the pricing as decided on 23.03.2021. In the said meeting, a decision was taken that the members will deliberate and design penalty provisions in the event of non-adherence of Benchmark Pricing. Statement of Ms. Anjalee Athalyee has corroborated the same, wherein she has stated that the compliance department of OP-2 had informed her about potential action in case of breach of Benchmark Pricing. This indicates that there was systematic messaging to the DTs regarding potential punitive action.

152. That the member DTs were mindful of the necessity of compliance to the Benchmark Pricing to avoid any punitive action is clear from the email dated 31.08.2021 from Ms. Anjalee Athalyee to the Informant, wherein she stated that the new pricing structure was applicable to all trustees for the listed NCD issues on or after 01.04.2021 and any deviation from quoting the price would lead to adverse repercussion for OP-2. The contention of the OPs that Ms. Athalyee was a junior officer, not in full knowledge of the matter does not hold merit as in her statement, Ms. Anjalee, herself being the Vice President (Operations) of OP-2, stated that the said email was written after internal consultation within OP-2. Further, the above stated facts in her email and statement are found to be in consonance with the contents of the MoM dated 23.03.2021.

153. It is also noted that Mr. Rajasekhar Raghavan, ex-Secretary of OP-1; Ms. Padma Vinod Betai, Ex-treasurer of OP-1; and Mr. Sanjay Sinha, Ex-President of OP-1, in their statements, confirmed that decisions were taken in the said meetings to take punitive action against any potential deviations and to design the provisions thereof. The OPs have however, submitted that the DG ignored the statements by these individuals that OP-1 did not have any power to take any punitive action. In this context, it has emerged that the

punitive action was threatened and that did act as a coercive factor for the DTs to follow the diktat. Whether OP-1 was empowered to do so under any provision or regulation is not relevant. Rather, it indicates OP-1 was not only threatening punitive action but was also misleading DTs that it can take punitive action knowing fully well that it had no such enforceable powers. It is also pertinent to note that the threat of punitive action was not limited to the members of OP-1.

154. The Commission notes that there was also monitoring of Benchmark Pricing to ensure compliance with the same. It is noted that *vide* email dated 26.05.2021, the Corporate Head of Catalyst Trusteeship Limited wrote to Sh. Sanjay Sinha that "*A copy of this email is endorsed to only those members of TAI who have given quotes, with a request to please confirm the quotes given by them and justify as to how their quotes conforms to the standard fees structure*." This reflects that there was active monitoring of quotations by DTs for provision of debenture trusteeship services at an individual level by OP-1 to ensure strict adherence to its diktat by member DTs. Notably, this is in contradiction to the submission by the OPs that there was no active mechanism to implement/monitor Benchmark Pricing.

155. Another example of active monitoring and enforcement of Benchmark Pricing is recorded in MoM dated 18.10.2021, wherein OP-1 directed MITCON to withdraw its bid in a tender floated by HUDCO and submit a revised, higher bid, which was subsequently followed by MITCON. Further, in June, 2021 MITCON requested OP-1 to allow it to quote 10-20% below the benchmark price for initial 06 (six) months of its membership but, the same was denied by OP-1. This further shows the action taken by OP-1 to enforce its diktat over its members as well as non-members.

156. The Commission observes that this active monitoring and enforcement of Benchmark Pricing went on until the time the Information was filed in the present matter, post which, DTs appear to have followed their own pricing structure. In this regard, the statement of Ms. Anjalee Athalyee is found to be relevant wherein she stated that only after March, 2022, DTs have begun following independent prices. This is indicative of the fact that the filing of the present case and initiation of its investigation prompted OP-1 and its

members to discontinue the practice. This is further corroborated from the statement of Ms. Padma Betai that "*after Muthoot's complaint everyone went on back foot and became defensive about pricing*".

157. Further, when Vardhaman *vide* a representation to OP-1 dated 01.06.2022, raised the issue of Benchmark Pricing, and refused to follow the same, citing no such requirements from SEBI, OP-1 in its response informed that in view of the pending writ petition filed by OP-1 and others challenging the jurisdiction of the Commission, it will be in the fitness of things to wait for the outcome of the writ petitions. It is clear from the response of OP-1, that given the present case before the Commission and the pending investigation and writ petition filed by the OPs, OP-1 refrained from convincing Vardhaman to follow its diktat, or cite any SEBI directive in the matter and chose to wait for the outcome of the writ petition which challenged the jurisdiction of the Commission to deal with the matter.

158. Based on the aforesaid, the Commission finds that OP-1 indulged in stipulation of minimum benchmark service fees to be charged by the DTs from the issuers for provision of debenture trusteeship services. The same was monitored, active intervention was done wherever required and punitive actions were threatened in case of non-compliance.

159. The Commission notes that the OPs have contended that Benchmark Pricing was fixed as a result of the legal framework within which the DTs operate, and at the behest of SEBI. In this regard, the Commission observes that SEBI May 2019 Circular mandated that DTs shall disclose compensation arrangement with their client on their websites including the minimum fee to be charged (in absolute or percentage terms) and factors determining the same. From competition law standpoint, it is required that the commercial decisions such as fixing of prices for services are determined independently. In this context, the Commission notes that there is no provision in the sectoral legal framework governing the functioning of DTs, that either stipulated or authorised fixing of a collective minimum benchmark fees to be uniformly applicable on all DTs. Rather individual DTs were asked to display their own individual pricing on their website, which goes on to show that there was no mandate for collective decision. In fact, in response to the SEBI Public Consultation, 2018, prior to the issuance of SEBI May 2019 Circular, despite receiving

certain public comments proposing SEBI to prescribe a minimum fee, SEBI, considering the fact that fee charged by DTs is a commercial aspect of the DT business, decided that it may not be appropriate for it to specify the minimum fee.

160. Further, it is noted that in MoM dated 24.01.2018, members of OP-1 had fixed a minimum pricing structure for DT services, which was much before the issuance of the SEBI May 2019 Circular. This indicates that fixation of homogenous pricing for debenture trusteeship services was already on the agenda of OP-1. Further, in the said MoM, members of OP-1 agreed to forward the pricing structure so fixed to SEBI for its consideration and approval. This shows that it was the members of OP-1 who fixed the pricing structure on their own. Further, OPs have failed to provide any evidence regarding SEBI granting its approval to said pricing structure, which was adopted by members of OP-1 *vide* MoM dated 06.06.2019 to fulfill the disclosure requirements of SEBI May 2019 Circular.

161. OPs have cited certain emails being exchanged with SEBI (email dated 22.02.2021, 25.02.2021 and 15.03.2021) in which fixing of an indicative fee was discussed. The Commission observes that it can be seen from the content of the emails that SEBI wanted a minimum fee to be disclosed by the DTs but, the said emails nowhere suggest any direction by SEBI to OP-1 to fix the minimum fee structure on behalf of its members or any endorsement by it of Benchmark Pricing. Further, SEBI *vide* its reply to the DG dated 26.06.2024 stated that it did not express any views on the fee structure, whether to agree/disagree or proposed any changes in the fee structure devised by OP-1. It has further stated that any discussion/communication from SEBI's perspective has been to ensure adherence by DTs with 1993 DT Regulations and circulars issued thereunder.

162. Further, even in cases where OP-1 or its members found cases of non-adherence to the Benchmark Pricing, OP-1 never referred the same to SEBI, which would have been the case if Benchmark Pricing would carry endorsement of SEBI. As noted earlier, in MoM dated 06.06.2019, members of OP-1 discussed whether common pricing would amount to cartelisation, but OPs have not furnished any evidence regarding raising this issue with SEBI.

163. Further, it is noted that the OPs have contended that the benchmark floor pricing was stipulated because roles and responsibilities of DTs have increased due to widening retail participation, DT Regulation Amendments and DT 2020 Circulars, which have increased the cost of DTs. In this regard, as brought out by the investigation, the Benchmark Pricing was followed by OP-1 and its members during April, 2021 to March, 2022. After March, 2022 the Benchmark Pricing, as admitted by OPs in their statements, had not been followed even with the unchanged responsibilities, which was there during April, 2021 to March, 2022. Further, the Commission notes that in his statement to the DG, Mr. Rajasekhar Raghavan *inter alia* stated that – "*Earlier before that meeting (23.03.2021), members used to charge different prices for DT services, but after the meeting, it was decided to charge uniform price as per Schedule of price attached with said MoM*." The Commission thus observes that the Benchmark Pricing, was to ensure that the DTs do not charge below the threshold irrespective of their cost structure or pricing strategy. As discussed earlier, the Commission observes that OPs did not stop at fixing the price, they actively pursued members and non-members of OP-1 alike, to ensure that no DT charged below the Benchmark Pricing

164. Such collective fixing of minimum price/fee by OP-1, for the provision of debenture trusteeship services, and other follow-on actions prevented independent commercial decision making by the DTs and amounted to cartelisation. The conduct reduced effective choice to the customers. Further, benchmark trusteeship services fees fixed by OP-1 in 2021 were substantially higher than in 2018 and thus resulted in high cost for services availed. It is admitted in the statements of officials of OPs that the pricing behavior of DTs changed significantly after March, 2022, when it was influenced by market forces, and not any diktat of an association. The Commission observes that significant competition benefit in the DT market has been calculated by the DG on account of the OPs not following the Benchmark Pricing in a number of instances in FY 2022-23.

165. The conduct also amounts to limiting and controlling the supply/market of provision of said services, as members of OP-1 as well non-members were dictated not to provide services to the issuers of debentures below the benchmark fee. Further, there were

instances where the DTs were directed not to issue a single quote till the time they become members of OP-1 and followed the Benchmark Pricing. Thus, the conduct of OP-1 resulted in AAEC in the market for provision of debenture trusteeship services. In view of the above, the Commission observes that the conduct of the OP-1, in terms of fixing the Benchmark Pricing, requiring members as well as non-members to follow the Benchmark Pricing, actively monitoring its implementation and threatening action against non-adhering DTs, is in contravention of Section 3(3)(a) and 3(3)(b) of the Act.

166. As brought out in the preceding paras of the order, OP-2 and OP-4, apart from being a part of the decision taken in the MoMs dated 24.01.2018, 06.06.2019 and 23.03.2021, also actively furthered the OP-1's endeavor of adherence to Benchmark Pricing, by writing emails to non-members to join OP-1 and till the time of joining, adhere to Benchmark Pricing. Thus OP-2 and OP-4 are found to be in contravention of the provisions of Section 3(3)(a) and 3(3)(b) of the Act. Further, Mr. Sanjay Sinha, CEO of OP-3 was the President of OP-1 and actively pursued the monitoring of DTs and ensuring that DTs, members and non-members alike, fall in line with Benchmark Pricing, even if it involved withdrawal of bids. As Sanjay Sinha can be said to be representing OP-3 while discharging functions as President of OP-1, the Commission finds OP-3 also to be in contravention of Section 3(3)(a) and 3(3)(b) of the Act.

<u>Liability under Section 48</u>

167. The Commission now proceeds to determine and analyse the role and liability of the respective individuals of the aforesaid OPs who can be held liable for such anti-competitive acts in terms of Section 48 of the Act.

168. In terms of Section 48 of the Act, the DG identified the following individuals of OPs who played an active role in the contravention of the provisions of Section 3 of the Act and/or been in charge of and responsible to the company/enterprise for the conduct of the business of the OPs:

Sl. No.	Opposite Party	Individuals	Section
1	**Trustees' Association of India (OP-1)**	Mr. Sanjay Sinha, President (2019- 2021)	48(1) and 48(3)
		Mr. Rajasekhar Raghavan, Secretary (2019- 2021)	48(1) and 48(3)
		Ms. Padma Vinod Betai, Treasurer (2020- 2022)	48(1) and 48(3)
2	**IDBI Trusteeship Services Limited (OP-2)**	Ms. Padma Vinod Betai, MD & CEO (2020- 2022)	48(1) and 48(3)
3	**Axis Trustee Services Limited (OP-3)**	Mr. Sanjay Sinha, MD & CEO (2018- 2021)	48(1) and 48(3)
		Ms. Deepa Rath, MD and CEO (2021-2022)	48(1) and 48(3)
4	**SBI CAP Trustee Company Limited (OP-4)**	Mr. Rajasekhar Raghavan, MD & CEO (2018- 2021)	48(1) and 48(3)
		Mr. Bharat Kumar Mishra, MD and CEO (2021 onwards)	48(1)

Mr. Sanjay Sinha, President from 2019 to 2021 of OP-1 and MD and CEO of OP-3 from 2018 to 2021

169. It is noted by the Commission that being the President of OP-1 from 2019 to 2021, Mr. Sanjay Sinha was in charge of the association and was responsible for the conduct of its affairs. Further, being the MD of OP-3, he was responsible for the conduct of its affairs till 30.04.2021 and the decision of Benchmark Pricing was taken on 23.03.2021. It is observed that OP-3 has violated the provision of Sections 3(3)(a) and 3(3)(b) of the Act by way of participation in the meeting of OP-1, discussing/ fixing the Benchmark Pricing and its implementation during his tenure. Hence, he is deemed to be liable under Section 48(1) of the Act.

170. Further, Mr. Sanjay Sinha used to attend the meetings of OP-1. He actively participated as the President of OP-1 and the MD and CEO of OP-3, in the decision making of OP-1 with regard to the Benchmark Pricing, issuing threat of punitive action for not following Benchmark Pricing through exchange of emails and ensuring adherence to Benchmark Pricing by all DTs - members and non-members of OP-1, alike - through measures such as asking MITCON to withdraw bid *etc.* This shows that contravention of provisions of the Act by OP-1 and OP-3 has taken place with his consent/connivance. Hence, he is liable under Section 48(3) of the Act.

Mr. Rajasekhar Raghavan, Secretary from 2019 to 2021 of OP-1 and MD and CEO from 2018 to 2021 of OP-4

171. Mr. Rajasekhar Raghavan was the Secretary of OP-1 during 2019 and 2021 and MD of OP-4 from December 2018 to October 2021. Being the Secretary of OP-1, he had overall in-charge of the administration and execution of all the programmes of OP-1 and was responsible for the conduct of its affairs. Further, he was also responsible for the conduct of business of OP-4. It is observed that OP-4 has violated the provision of Sections 3(3)(a) and 3(3)(b) of the Act by way of participation in the meeting of OP-1, discussing/ fixing the Benchmark Pricing and its implementation during his tenure. Therefore, he is deemed to be liable under Section 48(1) of the Act.

172. Further, Mr. Raghavan attended the meetings of OP-1 on behalf of OP-4, thereby actively participated in the decision making with regard to fixing Benchmark Pricing and threat of penal action for not following it. Further, OP-4 implemented the Benchmark Pricing during his tenure. This shows that contravention of provisions of the Act by OP-1 and OP-4 has also taken place with his consent/connivance. Hence, he is liable under Section 48(3) of the Act as well.

Ms. Padma Vinod Betai, Treasurer from 2020 to 2022 of OP-1 and MD & CEO from 2020 to 2022 of OP-2

173. Ms. Padma Vinod Betai was the Treasurer of OP-1 from 2020 to 2022 and was looking

after the accounts of the association. She was also an active member of its Managing Committee. Further, being the MD of OP-2, she was responsible for the conduct of its business. Accordingly, Ms. Betai is deemed liable under Section 48(1) of the Act.

174. Further, she used to attend the meetings of OP-1 thereby actively participated in the decision making with regard to fixing Benchmark Pricing and threat of penal action for not following it. She was also aware of the email sent by Ms. Anjalee, Vice President (Operations) to the Informant wherein it was denied the request for a lower fee. This shows that contravention of provisions of the Act by OP-1 and OP-4 has taken place with her consent/connivance. Hence, she is liable under Section 48(3) of the Act as well.

Ms. Deepa Rath, MD and CEO from 2021 to 2022 of OP-3

175. Ms. Deepa Rath was the MD of OP-3 during 2021-22, hence she was responsible for conduct of its business. Even during her tenure (2021-22 after Mr. Sanjay Sinha), OP-3 followed the Benchmark Pricing. It was noted by the Commission that after the retirement of Mr. Sanjay Sinha, she was made designated President of OP-1. Hence, she is deemed to be liable under Section 48(1) of the Act.

176. She attended the meeting dated 18.10.2021 where MITCON was asked to withdraw the bid made to HUDCO. OP-3 implemented the Benchmark Pricing during her tenure as well. Hence, the contravention of the provisions of the Act by OP-3 has also taken place with her consent/ connivance. Hence, she is liable under Section 48(3) of the Act as well.

Mr. Bharat Kumar Mishra, MD and CEO of OP-4 from 2021 onwards

177. Mr. Bharat Kumar Mishra became MD of OP-4 on 03.11.2021 after the resignation of Mr. Rajasekhar. Hence, he is responsible for the conduct of its business. Therefore, he is deemed to be liable under Section 48(1) of the Act for contravention by company during 2021-22 as shown in the investigation.

178. With regard to the request by new TAI that it may be not held as a successor of OP-1, it is observed that the Commission, while disposing of IA No. IA-130/2025 *vide* order dated

16.07.2025, had observed that '*While it is true that OP-1 has undergone a structural change from being an unregistered association of persons to becoming a body corporate in compliance with SEBI Circular, proceedings against it cannot be dismissed merely on account of its changed identity, when in essence the majority of members of the new TAI have migrated from OP-1*'. In this regard, the Commission notes that new TAI (comprising 7 members) carries 6 members of OP-1, including OP-2 and OP-3. Only OP-4 has not joined new TAI.

179. As further observed vide the said order, '*role of New TAI as a designated body in terms of SEBI SCOREs system is in fact in addition to its role as a common platform of DTs which it was performing as OP-1.*'

180. The Commission, while disposing of IA No. IA-364/2025 *vide* order dated 12.11.2025, had also noted that '*SEBI Circular had recognized OP-1 as a designated body and OP-1 underwent a structural change. Thus, it is a misinterpretation to suggest a difference in the role and responsibility of OP-1 and New TAI.*'

181. Thus, the Commission notes that the new TAI is, in essence, representing largely similar stakeholders as OP-1, providing a platform to DTs and continues to discharge functions that were earlier being done by OP-1, in addition to other responsibilities vested on it.

182. The conduct is attributable to OP-1 in its capacity as an association of DTs, which provided a platform to engage in fixing of Benchmark Pricing and also to certain member DTs i.e. OP-2, OP-3 and OP-4 as detailed in the order. Further, succeeding paras of the order delineate certain obligations on the association of DTs to ensure that impugned conduct is not continued in the future.

183. In view of the above, the Commission does not find any merit in the contentions of new TAI, and holds new TAI as the successor-in-interest of OP-1 for the purposes of this order.

Order

184. OPs and their identified individuals are found in contravention of Section 3(3)(a) and 3(3)(b) read with Section 3(1) of the Act by indulging in fixing the benchmark price of providing debenture trusteeship services during the period of FY 2020-21 and 2021-22. Section 27 of the Act empowers the Commission to issue such other order or direction as it may deem fit in case of contravention of the provisions of Section 3 of the Act. Further, where a contravention of the Act is committed by a company, including association of individuals, the Commission may proceed under Section 48 of the Act to hold and penalise the individuals guilty of the said contravention.

185. Accordingly, the Commission in terms of Section 27(a) of the Act, directs the OPs (OP-1 through new TAI) to cease and desist in future from indulging in any practice/conduct/activity that has been found in the present order to be in contravention of the provisions of Section 3 of the Act. In consideration of the mitigating factors such as OP-1 not having any income in the period of contravention and OP-2, OP-3 and OP-4 having charged DT services fees below the Benchmark Pricing in many cases, no penalty is being imposed on the OPs and their individuals identified under Section 48 of the Act.

186. It may, however, be noted that any continuation or recurrence of such conduct by the OPs would be construed as recidivism with attendant aggravated consequences not only for the OPs but their individuals in their personal capacity.

187. Before parting with the order, the Commission deems it appropriate to address the requests for confidentiality filed by OPs and other DTs under Regulation 36 of the General Regulations. OPs and other DTs have sought confidentiality over certain documents/information submitted in the proceedings. Considering the grounds put forth by them for the grant of confidential treatment, the Commission grants confidentiality to such documents/information in terms of Regulation 36 of the General Regulations, 2024 read with Section 57 of the Act for a period of three years from the passing of this order. It is, however, made clear that nothing used in this order shall be deemed to be

confidential or deemed to have been granted confidentiality as the same has been used for the purposes of the Act in terms of the provisions contained in Section 57 thereof. Accordingly, the Commission directs that two versions of the present order may be issued i.e. public version and confidential version. The public version shall be served upon the Informant, OPs and their individuals (through their respective OPs) and new TAI. Further, a confidential version shall be shared with the OPs *viz.* OP-1, OP-2, OP-3 and OP-4 through members of the confidentiality ring. The public version of the order shall be prepared keeping in mind the confidentiality requests and the provisions of Section 57 of the Act read with Regulation 36 of the General Regulations. For convenience, it is directed that the confidential version of this order may be provided to such ring members/ individuals through one of the ring members, who may then share the same with the other ring members nominated by the concerned named OPs. OPs are directed to serve a copy of the confidential version of this order upon their respective individuals who have been found in contravention of the provisions of the Act.

188. The Secretary is directed to forward copies of this order to the Informant, OPs and their respective individuals, forthwith.

Sd/-
(Ravneet Kaur)
Chairperson

Sd/-
(Sweta Kakkad)
Member

Sd/-
(Deepak Anurag)
Member

New Delhi
Date: 02/09/2026