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Our Priority

NSEL is committed to Expedite
Recovery from the Defaulters,
to Resolve the Crisis

NSEL is committed to taking all the steps required and extending complete cooperation for an early resolution to the crisis through recovery of trading clients' money from the defaulters. FTIL has already provided ad-hoc without prejudice relief to NSEL to support small trading clients with exposure upto Rs 10 lakh and is helping the exchange with financial, infrastructure and personnel support to speed up the recovery process from the defaulters.

FTIL by itself has not committed any breach of governance standards or market abuses. It is a well-run company, with close to 60,000 public shareholders, an accomplished Board and a dynamic management, that has steered this company from being a start-up in early 2000s to one of the most respected and widely regarded technology solutions company that pioneered multi-asset-class trading segments, which stood the tests of competition from global majors such as IBM. Cost-effective and efficient technology solutions enabled Indian financial markets to expand the reach and access nationwide, benefiting millions, including financial institutions, intermediaries, investors and other stakeholders.

Since its inception, FTIL has not received any complaint from exchanges or intermediaries, which are its biggest clients and customers. Even competing institutions used to buy technology solutions from FTIL, which is a testimony for its integrity and business ethics. There was never any regulatory action of any sort though the exchange and ecosystem ventures of the Financial Technologies Group were operating in several regulatory jurisdictions in India and abroad.

FTIL never received any subsidy, land or financial or fiscal support from any state or Central government. It has contributed significantly to tax generation in the form of corporate income tax, service tax, transaction tax, stamp duty and other levies and charges from various institutions from time to time.

FTIL is a first-generation enterprise that created new standards and benchmarks on potential and possibility of financial markets development.

Despite FTIL being in the private sector, it has contributed significantly to the growth of public capital markets. FTIL is the one that took India to the global league tables in regard to exchange operations in major segments, such as commodities, currencies and energy.

It enabled several key and strategic sectors, working with a wide range of commodities to hedge, manage risk and discover prices to promote efficient production, procurement, sales and distribution.

A nationwide study by a leading research institution, Tata Institute of Social Sciences (TISS), described MCX one of the erstwhile Financial Technologies Group Companies in one catch line: "A Million Jobs and a Million More Opportunities".

The Financial Technologies Group has expanded its operations and sphere of influence and in this process conceived and created some of the best exchange and ecosystem ventures, which stand out as a distinct achievement and accomplishment from any emerging market economy in the world.

As it was expanding its sphere of influence across various asset classes in new market segments coming up in different geographies across the world, it engaged in numerous businesses connected with technology and exchange industry and in the process set up several subsidiaries, one of which was National Spot Exchange Limited (NSEL).

The genesis of NSEL came in the background of the desire of public policy and the Government of India to create a common commodities market in which a nation wide electronic platform for spot trading in commodities assumes significance. Reports of the Government have often mentioned the need for such an institutional mechanism to provide transparent and market-determined process to the producers of commodities. MCX, the flagship commodity futures exchange of the Financial Technologies Group, had several rounds of discussion with the Government in taking forward the spot exchange initiative. It is worthwhile to note that NSEL was not set up by FTIL but by MCX in 2005. It was only later on that shares held by MCX and its nominees in NSEL were transferred to FTIL as the current legislation was not conducive to commence greenfield spot trading and agriculture being a subject governed by different state governments with a Model APMC legislation, having promulgated by the Union Government and adopted by 16 state governments. Subsequently, an exemption was granted by the Ministry of Consumer Affairs, Food & Public Distribution, Government of India, to NSEL to conduct nationwide trading in one-day forward contracts. This was not a privilege extended to just NSEL, as similar exemptions were granted to all the other exchanges running similar platforms such as NCDEX promoted NSPOT and NMCE promoted National APMC.

While several agencies of regulation, government and investigation are currently involved in examination and study of various issues leading to the payment crisis, the MCA has suddenly come up with a proposal to merge NSEL with FTIL in contravention of the long established conventions of corporate law and conduct. Subsequently, newspaper reports hinted that the MCA is contemplating supersession of the management of FTIL, which is again a contravention of the established norms of economic freedom.

THE PERTINENT QUESTIONS THAT EMERGE IN THIS CONTEXT ARE:

- Is it fair to impose harsh and unjust actions on FTIL for payment defaults at one of its subsidiaries?
- Is it consistent with the local legislative and legal framework?
- Is it in accordance with the established conventions and practices?
- Is it in the good spirit of domestic and global corporate law?
- Has the regulator | government contemplated similar initiatives for companies that have experienced crisis that are much more grave and serious?
- Is the regulator | government succumbing to the demands of vested interests and a minority against a large majority of thousands of shareholders, employees and other stakeholders of FTIL justifiable?
- Are the proposed and management supersession aimed at only to settle the claims of a few high network trading clients against, the livelihoods of scores of people and families that directly or indirectly depend on the success of the FTIL justifiable?
- Is it fair for the government to deprive FTIL genuine investors/shareholders their due share in the progress of the company?

If the Government is keen on settling the claims of a few high network trading clients and a few brokers whose demand and persistence is leading it to take such unusual measures as considering merger and supersession of the FTIL Board and management, why cannot it direct its efforts to any of the following actions?

WHY CANNOT:

- The Government extend help and support to the three-member Committee set up by the Bombay High Court to dispose of the confiscated assets of the defaulters and utilise proceeds for the settlement?
- The brokers who have large role in the marketing, selling and trading of the defaulted contracts be investigated and forensic audit of their entire chain of operations be conducted?
- Strict action be taken against defaulter members who are evading payment?
- A fast track Court be set up to expedite recovery of dues from the defaulters and liquidate their assets?
- The PMLA (Prevention of Money Laundering Act 2002) be amended to enable proceeds of assets attached by the ED to go to the trading clients rather than the Government?

The amount close to the claim amount is already available in the form of collateral with the investigating agencies. It is expected that the Government, regulatory authorities and investigating agencies will sell the confiscated assets first towards settlement of the claims of the trading clients.

The Financial Technologies Group has created millions of new stakeholders in the financial system, giving opportunities to earn, grow, and seek sustainable livelihoods. It created and nurtured new market segments and expanded the product ranges to serve a multitude of purposes such as investing, hedging and seeking newer opportunities for wealth creation. Governments, regulators and other development institutions from various countries used to visit the Financial Technologies Group to know and learn how it was able to create such a success story of sustainable financial market infrastructure growth and

development with such an extensive ecosystem and a large engagement of numerous stakeholders. Countries were keen to partner with the Financial Technologies Group to replicate the success that the Financial Technologies Group has managed in India, in their respective countries. The whole country expectantly looked at the Financial Technologies Group for leading to new directions of growth and maturity in Capital and Financial markets.

All this came to an abrupt halt just because of payment defaults at one of its subsidiaries. Government and regulatory authorities could have surely recognized the power of enterprise that the Financial Technologies Group has built, the impeccable record of conduct it has displayed in public markets, the unblemished achievement of enriching thousands of its shareholders with uninterrupted dividend payout for 36 consecutive quarters, getting accolades and recognition from global and domestic institutions, including multilateral institutions such as UNCTAD, FAO, and should have extended a helping hand to the Financial Technologies Group to overcome the crisis, which could have enabled it to solve the settlement crisis quickly and take the country towards the next generation of growth and development in the financial markets. The world over it is not uncommon for the Government to give temporary and ad-hoc support to institutions in crisis. If the US and European regulators and governments would have adopted the same stance as that of the Indian Government and the FMC, there would not have been anything of US or European finance left by now. Globally, Governments and crisis-hit institutions have always worked hand in hand in solving the problem and enabled both to reach recovery within a short time, which proved helpful to investors, customers and other constituents of the economy and finance. Unfortunately in the case of the Financial Technologies Group, it was nothing but vilification and witch-hunt from all sides, be it the government or the regulator or the agencies that have pressed it into a corner disabling its power to recover and redress quickly.

Even without assistance and support and despite being under constant and continuous harassment, NSEL is determined to get itself out of the crisis and redress grievances of the claims of trading clients. It is extending cooperation and actively coordinating with the courts and other agencies towards realization of dues from the defaulters that could lead to an early settlement. In all these efforts, FTIL is fully supporting NSEL, both with personnel and finance.

FTIL and NSEL are not allowed to do even this in a planned and orderly manner with continuous threats of mergers and supersessions, which are not only unjust but could best be ascribed as measures of plain expropriation of a successful enterprise.

A POSITIVE ACTION FROM THE FMC COULD HAVE LED TO A PRODUCTIVE OUTCOME

It is surprising to note that the FMC has never let NSEL management handle recovery with focus and never partnered NSEL's recovery effort. In fact, the FMC kept taking decisions to destabilize recovery and keep defaulters away from being the focal point.

If the DCA had accepted NSEL's suggestion of orderly closure of the market in July 2013, this episode would not have happened. This fact is being stated not for pointing fingers but to clarify to those who have alleged that this model was deliberately wrongly designed, which is far from truth.

Globally, post-global market crisis, it called for creation of stability and isolation of risk whereas despite Financial Stability and Development Council (FSDC) being in place, the FMC through its various actions in fact has enhanced and accentuated the risk for the FTIL Group due to its hurried decision on declaring FTIL as not Fit and Proper. Overtime, enough evidence was there which clearly proved this point but by then NSEL had been disadvantaged.

From July 2013 to September 13, 2013 the Board at NSEL was trying to come to grips with the problem and understand the problem caused by the defaulters. By August 2013, NSEL filed its complaint against defaulters with the EOW. Later, the EOW registered the complaint of the trading clients. On December 13, 2013, the FMC declared FTIL and key officials of the FTIL Group, including the promoter of FTIL, CEOs of MCX and MCX-SX as not 'Fit and Proper' without proper hearing and consideration, which was ritualistically followed by SEBI (in case of MCX-SX) and Central Electricity Regulatory Authority (in case of IEX) despite regulatory compliance in both these exchanges being of the highest order, with an instruction for the FTIL Group to sell its stake in respective exchanges. This was also followed by each regulatory institution organizing forensic audit in each of the exchanges (i.e., NSEL, MCX, IEX and MCX-SX). Meanwhile, NSEL was busy making settlement agreements with defaulters to recover money or obtain collaterals, but the FMC refused to approve the agreements provoking the aggrieved parties moving to the MPID court for ratification of agreements, which later got embroiled in litigations. Finally, NSEL got court order in such cases and now competent authority is trying to sell the assets of the Defaulters. The process has been periodically interceded with recovery of assets, dialogues and negotiations for settlement, cases against NSEL | FTIL and cases against defaulters. Now when things were getting stabilized and a high-powered High Court Committee was constituted to look into the entire process of recovery, the FMC has come out with yet another vindictive and damaging proposal of recommending the MCA to merge NSEL with FTIL and subsequently change FTIL's management, which is quite in contradiction to the established conventions of corporate law and could only prove counter-productive as other measures of the FMC have been since the beginning of the crisis. The recurring theme of FMC has been non-cooperation, destabilization and hostility with the NSEL management which has further delayed recovery process and destroyed the growth prospects of a fast-growing financial markets group such as FTIL, which had taken India to the top of the league tables in several aspects of market depth.

Dealing with such complex issues require the support of the government and the FMC should have sought this support. Instead, the FMC chose to dump NSEL and make it extinct as an Exchange and damage the prospects of the FTIL group for a reason not very noble.

Though the Government in 2011 designated the FMC to provide oversight, safeguarding investor interest and collection of periodic information from the national spot exchanges, the latter did not initiate enough measures to conduct these vital functions that were required for sustained growth of spot exchanges.

Though FMC in their communication dated August 12, 2013 to DCA proposed actions under their power, FMC did not even appoint forensic auditors on defaulting entities, and also did not take effective and prompt steps for ceiling of warehouses. Instead it went ahead only with the preconceived objective of framing FTIL.