

**Who is “Fit & Proper” to Run an Exchange?
Regulatory Response to Payment Default by National Spot Exchange Ltd
(NSEL) of India**

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Abstract:

Exchanges are the focal points of capital markets. Regulators supervising capital markets formulate regulations for safeguarding traders’ interests. Exchanges also formulate rules as quasi-regulators to discharge their self-regulatory responsibilities. Though there have been sporadic reporting of market price manipulations and corporate governance failures, but no exchange in any country has failed to guarantee trades. Failure of an exchange became a reality, when NSEL of India defaulted paying INR5600 crore to thousands of investors. In an unprecedented move, the commodity market regulator, *Forward Market Commission (FMC)* indicted four entities as “not fit & proper” to be associated with any exchanges. This case chronicles the events associated with the default and analyses the factors behind FMC decisions.

Keywords: Commodity Spot Market, Commodity Market Regulation, Settlement Guarantee Fund, Self-Regulatory Organizations

Who is “Fit & Proper” to Run an Exchange?

Regulatory Response to Payment Default by National Spot Exchange Ltd (NSEL) of India

Exchanges are the focal points of capital market in any country. Regulatory bodies supervising capital markets formulate rules and regulations for safeguarding traders’ interests. These regulations normally relate to net worth requirement for brokers/dealers, open position limits, different types of margins on traded contracts. Regulatory bodies also formulate policies for maintaining *settlement guarantee fund* (SGF henceforth). SGF act as self-insurance mechanism by taking away credit risk associated with counterparty default and ensures that all trades executed in an exchange platform are settled. Exchanges also formulate their own rules as quasi regulators to discharge their self-regulatory responsibilities. Though there are sporadic reporting of insider trading, market price manipulation and pricing rigging, corporate governance failures at exchanges all over the world, but no exchange in any country, even in distant past, has failed to guarantee trades executed in its platform as these exchanges take the necessary precautions as *self-regulating organizations* (SROs).

Failure of an exchange became a reality, when *National Spot Exchange Limited (NSEL)* henceforth) of India, a commodity spot exchange, defaulted in paying INR 5600 crore¹ to thousands of investors during July 2013 leading to suspension of trading activities at NSEL. The probe initiated by Government of India (*GoI* henceforth) unearthed large scale violations in almost all spheres of NSEL operations.

In an unprecedented move, the commodity market regulator of India, *Forward Market Commission (FMC)* henceforth) of GoI indicted four entities associated with NSEL as “not fit & proper persons” to be associated with any commodity exchange business in India. These

¹ INR 1 crore is equivalent to INR 10 million

four entities are *Financial Technology India Limited (FTIL)* henceforth), promoting company of NSEL and three members of board of directors of NSEL.

This paper focuses on the regulatory response to the payment default leading to failure of NSEL which shook the fledgling Indian commodities market. This paper also highlights the pitfalls of under regulation of Indian commodity market and tries to answer the questions to what extent NSEL board of directors and management team of NSEL performed their duty to maintain market integrity. The paper lists the major events before and after the crisis so as to understand the backdrop of the payment default and major initiatives taken by the regulator to ring fence the impact of default to other commodity exchange platform.

The remaining part of the paper is organized as follows. *Section 1.1* focusses on the role of regulators play in maintaining market integrity when these exchanges fail to do so research findings the exchanges as SROs and. *Section 1.2* briefly introduces the Indian commodity spot and derivatives market. *Section 1.3* briefly discusses the data and methodology to have been used to develop the case. *Section 1.4* introduces NSEL and its activities. *Section 1.5* highlights the NSEL operation since its beginning to the suspension of trading activities till 31 July 2013. *Section 1.6* chronicles important events during August 2013 to December 2013 when FMC declared FTIL and three board members of NSEL as “not fit & proper persons”. *Section 1.7* discusses why FMC only penalized few of the board members and not the other board members of NSEL. *Section 1.8* lists the major shortcomings of NSEL operations which FMC took into considerations for declaring these four entities as “not fit & proper persons”. *Section 1.9* concludes the paper.

1.1: Literature review

The literature focusing role regulatory bodies in developing, promoting capital markets as well as to take necessary measures to address market failures have been far and few in between. In one of earliest studies, Jennings (1964) highlighted that during 1963, the Securities Exchanges Commission of USA asserted its power to correct certain abuses in stock exchanges practices. The following paragraph taken from the paper highlights the shifting power from the exchanges to the commission:

“congressional encouragement or pressure has apparently impelled the Commission to assert its reserve powers in order to correct certain abuses that have persisted, particularly in stock exchange practices. These moves on the part of the Commission have been met so far by the stiff resistance of the officials of the NYSE and the American Stock Exchange (Amex). The "Big Board" and the SEC have just gone through an eye-ball to eye-ball confrontation over the Commission's proposal to ban or greatly restrict floor trading. This showdown struggle over floor trading was heralded as the "biggest fight between the Big Board and the Commission since New Deal days" This new-found firmness on the part of the Commission, which has been construed in some quarters as an "attack on Wall Street", makes a reappraisal of the relative roles of the industry and the Commission in the self-regulatory system particularly timely.”.

Pirrong (1995) analyzed self-regulation mechanism of 10 commodity exchanges in USA. His study covered time periods prior to the enactment of Grain Futures Act (GFA) of 1922, the Commodity Exchange Act (CEA) of 1936, and the Commodity Futures Trading Commission Act (CFTCA) of 1974 and found that these exchanges took few measures to curb price manipulation and were inefficient in limiting monopoly power. Pirrong undertook this study from historical perspective to analyze whether the argument put forwarded by many

influential persons associated with commodity market before the enactment of above mentioned acts were right or not. Many had argued that antimanipulation laws proscribed by regulatory bodies are counterproductive and could detrimental effect on genuine traders as commodity exchanges have the incentive to deter manipulations in commodity trading. These scholars also argued that commodity exchanges can intervene in the market at low cost and take the first-best precautions against market manipulation as exchanges can internalize the cost and benefit associated with market manipulation better than regulatory bodies. DemaRzo et al (2004) study finds that stock exchanges as SROs choose a relatively lax enforcement policy to govern the agents i.e, brokers than what the customers would like them to do. They also reported that threat of government enforcement by regulatory bodies leads to strict vigilance by SROs. However, they also report that enforcement by SROs is just enough to pre-empt any government enforcement.

In contrast to above mentioned research studies, Lazzarinni and de Mello (2001) mentioned that the commodity futures exchange of Brazil (BM&F) has been effective in regulating the derivatives market in Brazil as compared to regulatory agencies. They found that regulatory agencies are susceptible to governmental discretion and tend to pursue self-interest of the government and not necessarily formulate policies to reduce market failure.

The failure of International Tin council (ITC) and its impact on London Metal Exchange (LME) also raised the question regarding the capability of exchanges to self-regulate themselves. It is to be noted here that on 24 October 1985, ITC announced its inability to pay for the purchase of the Tin to the counterparties for the trades conducted at LME. Prest (1986), Answerson and Gilbert (1988) reported the impact of failure of ITC's buffer stock program which brought LME to the brink of closure. Both these papers highlighted the fact that LME did not have a clearing house as late as 1985 as and this exacerbated the counterparty risk. In response to this crisis, in 1986, with the enactment of *Financial Services*

*Act, Security Investment Board (SIB) of UK was formed. From then SIB is acting as the regulatory body to control all trading activities in UK including LME. SIB forced LME to start an independent clearing house and made it clear that LME license would be denied if it does not start the independent clearing house. Bernanke (1990) analyzed the role of *Federal Reserve Bank* (FRB) in averting a full blown crisis soon after the stock market crash on 19th October 1987 in USA. He reported that on 20 October 1987, the FRB undertook a three pronged strategy namely reversing its tight monetary stance of the previous week, persuading 10 largest banks in New York to increase their lending to securities firms not able to pay their margin and direct intervention by Mr. Alan Greenspan, the then FRB chairman. This paper also mentions that a brief statement issued by the FRB on 20 October morning also alleviated the fear of default. The statement issued goes as follows “*The Federal Reserve consistent with its responsibilities as the nation’s central bank, affirmed today its readiness to serve as a source of liquidity to support the financial & economic system*”.*

Few research studies have focused on the role of regulation in developing secondary capital markets in developing markets. Research findings by Stigler (1964) and Black (2001) indicate the importance of government regulation in promoting and creating an order in newly formed stock markets. Research findings by Zang (2006) also indicate that government regulation should go beyond the role of merely providing and maintaining legal and regulatory system and should destroy the old market institutions to become the creator and custodian of new and efficient financial markets.

Few research studies have also addressed the role of settlement guarantee fund as well as clearing house in maintaining market integrity by managing the counterparty risk. Edward (1983) studied the risk mitigation mechanisms used by exchanges and found that exchanges employ both ruled based mechanisms as well as use their discretionary power to manage

risk. He reported that exchanges use a combination of margin and capital requirement, price and position limit and occasional expulsion of members to manage systemic risk.

1.2: Data and Methodology

This case study has been developed from data and reports from secondary sources. This case was widely reported in media and financial newspapers in India with each giving their own analysis and interpretations. The authors have been careful about reporting those facts and figures which they have corroborated from authentic sources such as reports published by FMC, press release available at FMC website, press release available at NSEL website, annual reports of FTIL and NSEL. Since the payment default came into public domain, almost every day some new aspect of the case was reported in financial newspapers and websites. It has been a quite a daunting task for authors to choose only important events and report those facts and figures so that important dimensions of the case are brought into focus.

1.3 Introduction to Indian commodity spot and derivatives market

Commodity derivatives trading in India is around 100 year old. During 1940's India had around 300 commodity exchanges/associations providing spot and forward/futures contracts on commodities. Upto 1952, these exchanges were operating as standalone units with each having their own trading guidelines. There was no market regulator and no uniformity in trading practices. In 1952, GoI formulated the *Forward Contracts (Regulation) Act, 1952 (FCR Act 1952)* and set up FMC to act as the regulator. Due to various reasons, GoI enforced a blanket ban on commodity derivatives trading in 1966. Subsequently GoI formulated many committees to start commodity derivatives trading. Based on *Kabra Committee (1994)* and *Expert Committee by National Agricultural Policy (2000)* recommendations, GoI restarted the commodity derivatives trading in India. Three national level demutualized multicommodity exchanges, namely *National Multi-Commodity Exchange of India Ltd.*

(NMCE), *National Commodity and Derivatives Exchange Ltd. (NCDEX)* and *Multi Commodity Exchange of India Ltd (MCX)* came into existence during 2002-2003. Later three other commodity derivatives exchanges started. These three are *Indian Commodity Exchange (ICX)* and *Ace Commodity Exchange (ACE)* and *Universal commodity Exchange (UCE)*. All these exchanges offer futures contracts on many commodity underlying covering agricultural, base and precious metals as well energy commodities.

In India, spot trading of commodities is predominantly undertaken at *mandis (or haats)*.

“Mandis” or “haats” are Hindi words for physical market place where buyers and seller congregate to trade goods. Producers, manufacturers, middlemen, sellers and buyers congregate at a common place to buy and sell commodities. These mandis are controlled by middlemen and they often form cartels to their advantage. Hence price discovery in these markets often tend to be faulty and not transparent.

These mandis fall under the state government’s jurisdiction, which frame their own rules and levy their own taxes. Hence at a given point of time, the spot price prevailing in these mandis for a given commodity varies widely from location to location. As there is no quality standardization across mandis, the spot price prevailing in these mandis are also not comparable. Without a standard spot price, pricing derivative contracts on these commodities becomes difficult. To overcome the difficulties associated with poor price discovery in mandies and multiple spot prices for a given commodity, as well as to provide pan India platform to buyers and sellers for spot buying and selling commodities, GoI permitted many companies including commodity exchanges to start online spot exchanges.

NSEL came into existence in 2007 to provide online trading platform for spot trading of commodities. Since the initiation of NSEL, few other spot exchanges such as NSpot

promoted by NCDEX came into existence in India. However by 2013, NSEL major market share was about 90% of total trading through spot exchanges in India.

It is to be noted here that NSEL is a spot commodity exchange while MCX, NCDEX, NMCE, ICEX, ACE and UCE offer futures contracts on commodities. Commodity options are not permitted to be traded in organized commodity derivative exchanges in India. It is pertinent to note here that all commodity futures exchanges were regulated by FMC while all spot exchanges were regulated by *Ministry of Consumer Affairs* (MCA henceforth) till February 2012.

1.4 NSEL: An introduction

NSEL was incorporated 2005. It was set up as a national level, institutionalized, electronic, spot trading platform for commodities. NSEL started offering standardized spot contracts from 2007 onwards. Around 33 spot commodities were trading in NSEL platform with trading terminal distributed across many states so as to bring buyers and sellers from all over India to its platform. As NSEL's mandate was to offer spot trading of commodities, GoI decided that NSEL would be governed by *Ministry of Consumer Affairs (MCA henceforth)* of GoI unlike commodity derivatives exchanges which are governed by FMC.

Insert Figure 1 here

Figure 1 shows the ownership structure of NSEL along with other group companies as on March 31 2013. NSEL is promoted by FTIL with FTIL having 99.99% of ownership in NSEL. FTIL is a listed entity and listed at Bombay Stock Exchange (BSE) and National Stock Exchange (NSE) with Mr. Jignesh Shah holding 18.08% while La Fin Financial Services Pvt. Ltd. owning 26.76% and public shareholding of 54.37%. FTIL provides technology enable business solutions to entities associates with the exchange ecosystem such as stock and commodity exchanges, brokerage firms, clearing houses and warehouses. FTIL

also has equity ownership in many foreign exchanges such as Global Board of Trade (GBOT), Singapore Mercantile Exchange (SMX), Bourse Africa, Baharin Financial Exchange (BFX) and Dubai Gold & Commodity Exchange (DGCX). FTIL is also the promoter of commodity derivative exchange MCX and owns 26% in MCX. MCX is listed at BSE and NSE of India. NSEL in turn owns 60.88% of *Indian Bullion Market Association (IBMA henceforth)*. IBMA buys, sells and acts as commission agent in physical commodity market as well as futures market. It also acts as trading cum dealing member with both spot and commodity derivative exchanges in India. It also undertakes trades proprietary trades.

In a landmark policy guideline pronounced on 5th June 2007, MCA GoI issued a gazette notification (*Annexure A*) regarding the type of contracts that NSEL can offer in its trading platform. The important features of the notification are follows:

- NSEL being a spot exchange, it is supposed to offer contracts which have be settled on the trading day i.e, buyers to pay money and sellers to deliver goods on trading day. As this would be too restrictive, GoI allowed NSEL to offer 1-day forward contracts. This was done so that sellers (buyers) can deliver (pay) the underlying commodity (cash) on T+1 day.
- The gazette notification was vague in identifying the regulator for NSEL. The gazette mentioned that “All information relating to the trade as and when asked for shall be provided to the central government or its *designated agency*” . However the notification did not explicitly mentioned the name of the designated agency.

It is worthwhile to mention here NSEL continued its operation from 2007 till 2012 unsupervised by any regulatory body, though it reported to MCA. MCA did not have necessary infrastructure and capability to regulate NSEL. During this period, many questions were raised at various forums regarding NSEL trading activities. 5 years after NSEL’s operation MCA took cognizance of these views and on 6 February 2012, GoI issued another

gazette notification and appointed FMC as *the designated agency*². With this gazette notification, FMC become the regulator of commodity spot market in India, thus bringing NSEL under its regulatory ambit.

1.5 NSEL Operation: 2007-July 2013

Soon after its initiation, NSEL offered standardized contracts for spot trading of commodities. It also provided regular and reverse auction facilities to buyers and sellers offering commodities which are not part of standard contracts. Initially all standardized spot contracts, sell orders were backed by warehouse receipts. As the trading volume were low, NSEL started allowing members to sell contracts where a trader can give a sell orders without being backed by warehouse receipts akin to short sale in clear violation to point (i) mentioned in the gazette notification dated 5 January 2007 as given in Annexure A.

To increase trading volume even further, in November 2009, NSEL board approved a new type of contract i.e, *paired trade*. In a paired trade, a trader simultaneously takes a short term buy contract long with a long term sell contract. For example, NSEL “ T+2 T+25” paired contract allows a trader to take a buy position in T+2 contract and simultaneously take a sell position in T+25 contract. Both T+2 and T+25 contracts are taken by same counterparties but in reverse order. For example, in T+2 contract, a trader “A” agrees to buy the underlying from trader “B” at INR 1000 on day T. On T+2 day, “B” delivers warehouse receipt and A pays INR1000. On day T, both “A” and “B” also agree to take reverse position at INR 1014 to be effected on T+25 day. On T+25 day, “B” pays INR1014 to “A” and “A” returns the warehouse receipt to “B”. In this case the paired contract ensured that “A” is earning INR 14 for every INR1000 it invests for 25 days – a risk free return 20.15% to “A”.

² The notification mentions that “ in the said notification , in condition (iv), for the words “ in designated agency” the words “ Forward Market Commission Mumbai shall be submitted. Amendments to the Notification No. S.O. 906(E),dated 5th June, 2007, Ministry of Consumer Affairs, Food and Public Distribution. The Gazette of India, Directorate of Printing Government of India available at <http://www.egazette.nic.in/EnhancedSearch.aspx> accessed on 4th March 2014

Besides T+25 contracts, NSEL also offered T+36 contracts. Effectively, these paired trades functioned like a financing contract offering assured return of 15% - 20% return to trader categories of “A”. In fact, trading members of NSEL started promoting these contracts as assured return contracts thus brought many investors (mostly retail investors) into the spot commodity trading market. These retail traders have nothing to do with any of these commodities they traded – making all these trades speculative.

As these contracts are offered by NSEL, it gave legitimacy to these transactions. “A” category traders perceived that in case “B” category of traders defaults in paying their dues on T+25 or T+36 days, they have two lines of defense. Being exchange traded contracts, all trades are guaranteed by NSEL and SGF of NSEL will take care of counterparty default. These trades are backed by warehouse receipts thus giving a second line of defense. In case any default happens, the exchange can sell goods backed by the warehouse receipts.

It is also worthwhile to mention here that in the NSEL payment default, number of category “A” traders who cumulatively lost INR 5600 crore rupees stood at 13000 compared to 25 companies belonging to category “B” traders. For the sake of clarity, these 13000 category “A” traders are addressed as “investors” and 25 category “B” traders as “defaulters” for the rest of the paper.

Both short sale contracts and paired contracts increased the trading volume in NSEL significantly. Though NSEL started its operation in 2007, the actual trading started around middle of 2008. **Figure 2** shows the monthly trading turnover at NSEL during October 2008 to July 2013. After an initial period of low turnover, the trading turnover peaked to INR 45,486 crore during March 2012. In fact, paired trades grew significantly YoY. Data given in **Table A** shows that paired trades accounted for about 99% of the total trading volume generated in NSEL during April to July 2013 when payment default became public.

Insert Figure 2 here

Insert Table A here

These paired contracts also violated the mandate given to NSEL as per on 5 June 2007 gazette notification. Being a spot exchange, NSEL was empowered to offer only T+1 contracts and not forward contracts for longer maturity such as T+25 or T+36 contracts. In the meantime, many people associated with commodity business as well as FMC expressed their concern regarding NSEL allowing traders to short sale as well as to offer T+25 and T-36 contracts. Taking cognizance of these opinions, on 6 February 2012, MCA issued another *gazette notification* and named FMC as the “designated agency” to regulate NSEL.

Based on this notification, FMC started questioning NSEL activities. This impacted NSEL trading volume as can be seen from the Figure 2. After reaching a peak trading volume in March 2012, total trading volume declined sharply in the month of April 2012. In fact, during April 2012, the total trading volume fell by 45% compared to March 2012 traded volume. However, careful analysis of Figure 2 and the data given in Table A shows that annual turnover in 2012-13 is almost four times higher compared to 2011-12. In 2012, the paired trade accounted for 97% of the total transaction.

Based on analysis of trading data furnished by NSEL to FMC, in April 2012, FMC reported to MCA regarding NSEL not abiding by the conditions (i) and (ii) of 5 June 2007 gazette notification. It is important to note here that even though GoI made FMC the regulator of spot market through 6 February 2012 gazette notification, FMC did not have any real power to initiate steps against NSEL. In April 2012, FMC wrote to MCA to initiate a probe against NSEL for violating FCRA 1952 Act and for not abiding by the conditions (i) and (ii) of 5th June 2007 gazette notification. Based on FMC report, during May 2013, MCA sought

clarifications from NSEL. During June 2012, responding to the clarifications sought by MCA, NSEL letter MCA to indicated that “.. *does not insist on ownership of goods before allowing a member to sell contracts*³”.

It is interesting to note here that, MCA did not do anything for almost a year, even after it received clarifications from NSEL affirming that it offers contracts not mandated by MCA. One of the crucial facts of this case is that, instead of taking necessary measure against NSEL, MCA slept over this issue till July 2013. After gap of 13 months, on 12 July 2013, MCA directed NSEL not to issue any fresh contract and also reduce settlement and delivery of all T+25 and T+36 contracts.

NSEL agreed to abide by MCA notification. On 31 July 2013, NSEL suspended all trading activities in these contracts and announced that it has merged all outstanding contracts for delivery and settlement. It also announced that settlements of these outstanding contracts to be deferred till 25 August 2013 by which all payment will be made. This announcement created a panic in the market as many “investors” feared that they will not be able to recover their dues even having warehouse receipts as collateral. By this time unconfirmed reports of warehouse receipts not backed by goods started circulating adding more fire to the panic. On 31 July 2013, media reports started pouring in regarding the payment crisis at NSEL and this event became national sensation.

1.6: Sequence of major events after mayhem on 31 July 2013:

This section chronicles major events after the suspension of trading at NSEL on 31 July 2013.

This is done so as to give a proper perspective to the case. However, like a multi starrer

³ The notification In the said notification, in condition(iv), for the words, :its designated agency” the words “ forward Markets Commission, Mumbai” shall be substituted.

Source: FMC notice on “Fit & Proper Notice” Dated 17th November 2013 available at <http://www.fmc.gov.in/WriteReadData/links/Order%20dated%2017-12-2013%20in%20case%20of%20Fit%20and%20Proper%20Status-185672116.pdf>

Bollywood movie, this case has many characters, turns and twists, allegations and counter allegations, misappropriation of funds, related party transactions, bribe, forensic audit, etc.

1 August 2013: To alleviate the panic that gripped the market, on 1st August 2013, Mr. Anjani Sinha (the then MD & CEO of NSEL) announced to media that settlement guarantee fund (SGF) has Rs.850 crore and investors need not worry about their dues from NSEL.

4 August 2013: Mr. Sinha announced that SGF has only INR 62 crore and not INR 850 crore as announced three days before. He also mentioned that NSEL is in possession of post-dated cheques (PDC) from “defaulters” to the tune of INR4900 crore, hence “investors” need not worry. Mr. Sinha in a press release⁴ mentioned that “*while PDCs are a commitment, the payout process may not roll out smoothly in a month’s time*” effectively indicating that NSEL will not be able to use these PDCs to pay to the investors without explaining why these PDCs cannot be used to pay dues to investors.

On this date, he also announced the list of defaulters and the amount they owe to investors along with outcome of negotiation NSEL presumed to have done since last 4 days during 1 to 4 August to recover the dues. He announced that

- 8 defaulters having total dues of INR 2181 crore and are willing to pay as per scheduled due date (25 August 2013) or even earlier. Interestingly he did not name these defaulters as presumably these parties have agreed to pay their dues in time.
- He also listed out the names of thirteen defaulting companies with total dues of INR 3107 crore. He also mentioned that these thirteen companies have agreed /offered to pay 5% of their total dues every week. Names of these defaulting companies are given in *Table B1*.

⁴ NSEL Press Release “Proposed Settlement Cycle” dated 4 August 2013 available at http://www.nationalspotexchange.com/NSELUploads/PressReleases/2013/August/English/48/NSEL_Press_Release_-_08042013.pdf

- He listed out names of three defaulting companies with total INR 311 crore default with whom NSEL is negotiating regarding payment schedule as these three companies are not agreeing pay their dues. Names of these three defaulting companies are given in *Table B2*.

Insert Table B1 & Table B2 here

Mr.Sinha also announced that defaulting companies listed in Table B1 are agreeing to pay all their dues in an orderly manner and came out with a detailed plan in which NSEL would receive money from defaulters every week for 30 weeks and NSEL in turn would pay to investors on every subsequent Tuesday for 30 weeks.

13 August 2013: FMC met with NSEL officials and prepared a weekly schedule of money to be collected from defaulters and deposited into an escrow account. The escrow account is to be operated by FMC and proceed from this account would be used to pay to investors. The schedule had 20 weekly installments of INR174.72 crore, 10 weekly payments of INR 86.02 crore and interestingly a balloon payment of INR1219 crore was not given any specific date of refund. NSEL announced that the defaulters will pay INR 1219 crore by selling commodities, fixed assets and land but did not gave deadline by which date these amount to be refunded to investors. FMC also directed NSEL to submit the details of PDC that were supposedly given by defaulters which NSEL agreed to provide.

20th August 2013: NSEL could not pay full payment of the 1st installment of the 20 weekly installment payment even though it had earlier announced that it has in possession PDC worth INR 4900 crore submitted by defaulters. On this date FMC asked the NSEL's board of directors to take complete responsibility for settling of all outstanding dues. FMC also asked NSEL to submit the stock verification report of the NSEL warehouses. FMC appointed SGS,

(a unit of Swiss based firm SGS) a collateral management firm to do stock verification at NSEL owned/approved warehouses. FMC also appointed *Grant Thornton* to do forensic audit of NSEL accounts. On the same day, NSEL board of directors removed Mr. Anjani Sinha along with five other top level executives⁵.

27 August 2013: A high profile committee headed by economic affairs secretary of GoI, Mr. Arvind Mayaram was given the charge of probing NSEL payment default. The committee had representation from *Economic Offense Wing (EOW) of Mumbai police, Directorate of Revenue Intelligence, Securities and Exchange Board of India (Sebi), Reserve Bank of India (RBI), Forward Markets Commission (FMC), Serious Fraud Investigation Office (SFIO) and Department of Consumer Affairs.*

11 September 2013: Mr. Anjani Sinha filed a 13-page affidavit in Maharashtra court where he absolved NSEL board of directors⁶ and named some of his colleagues from NSEL responsible for payment default. It is also important to note here that Mr. Sinha along with 5 other executives was removed from NSEL on 20 August 2013. The salient points of the affidavit are as follows:

- Mr. Sinha mentioned that “*I along with the senior management team of NSEL, which includes Mr. Amit Mukherjee (Assistant Vice President, Business Development), Mr. Jai Bahukhandi (Assistant Vice President, Warehousing), Mr. Shashidharan Kotian (CFO), Mr. S B Mohanti (Assistant Vice President, Delivery), Mr. Santosh Mansingh (Assistant Vice President, Clearing and Settlement) of NSEL are*

⁵ Disciplinary action initiated by NSEL Board on Management Team
http://www.nationalspotexchange.com/NSELUploads/PressReleases/2013/August/English/55/PR_20_Aug_2013.pdf

⁶ Interestingly complete detail of affidavit started circulating in media shortly after 11th September 2013. It is widely believed that some of the board members of NSEL made this affidavit available to journalists so that they can prove their innocence.

responsible for the current problem faced by NSEL. None of the board members are responsible for this”.

- In this affidavit Mr. Sinha elaborated the lapses by different members
- **Lapses by defaulters**
 - Misrepresentation of facts pertaining to declaration of stock position.
 - Issuance of sale invoice without having goods in stock
 - Issuance of false documents relating to physical possession of goods.
 - Entering into sale transactions without having stock of goods.
 - Defrauding money by enjoying the sale proceeds without effecting deliveries
 - Diversion of funds availed through fictitious sale of transactions to buy real estate and other properties.
 - Making false statement about stock position in presence of FMC official.
- **Lapses by business development team headed by Mr.Amit Mukherji**
 - Introducing buyers with bad credentials into NSEL system.
 - Not informing the management about the possible diversion of funds by defaulters.
 - Not informing management about non-availability of stock or pledge of stock with other lenders and simply allowing them to siphon off funds.
- **Lapses on part of warehousing team, headed by Mr. Jai Bahukhandi**
 - Mr. Sinha mentioned that *“The violation done by the warehousing team is the most severe. The weakest link in the entire episode is the warehouse management. Before launch of every contract, Mr.Jai Bahukhandi used to visit the location, verify stocks, depute warehouse supervisor and security guard and then give confirmation about launch of the contract. Based on his report,*

trading commenced in every contract. But subsequently the warehousing team of NSEL did not have any control on the stock.”

- Not having adequate control on physical stocks and also making false statement.

- **Lapses by himself.**

- Not having proper systems and controls to monitor physical stock vis a vis exposure taken by traders.
- Not informing NSEL about increasing exposure and risks of widespread default, which was a breach of trust of other Board members.
- Relying upon the statements made by Mr. Jai Bahukhandi about stock statements and statement made by Mr. Amit Mukherji about buyers' credentials without having cross verification.
- Submitting wrong stock statement to the NSEL board on 30th July 2013, and subsequently to FMC, based on the reports given by the warehousing department.
- His affidavit also mentions that
“by 2011-12, the scenario was such that if we did not allow roll over, buyers would have defaulted with huge amount. On the other hand, if we allow him to roll over his position, his exposure keeps on increasing 20-25% every year due to impact of roll over cost and exchange fee. The judgment error on our part that due to fear of widespread default, we allowed the market to function rather than stopping it boldly in past”.

- **17 September 2013:** The collateral management company SGS submitted its interim audit progress report regarding the stock available at NSEL owned/approved

warehouse. By 17th September 2013, SGS reported that it could conduct audit at 17 warehouses as the owners of other 30 warehouses did not permit SGS to conduct audit.

- **20 September 2013:** Mr.Arvind Mayaram Committee (which was set up on 27th August 2013) submitted its report to Ministry of Finance. The committee questioned the role of NSEL auditor “Mukesh P Shah & Co” and mentioned that action needed to be initiated against the NSEL auditor for “failure to furnish true and fair view of the state of affairs at NSEL in its balance sheet for the financial year ended March 31, 2013”.
- **21 September 2013:** Mukesh P Shah &Co, informed NSEL that the accounts of FY2012-13 could not be relied upon. The following lines were prominently displayed in the NSEL website: *“In view of request made by statutory auditors as per standard on Auditing SA-560, no reliance may be kept on audited financial statements for FY 2012-13 for NSEL and IBMA”*
- **4 October 2014:** FMC issues "not fit and proper" show-cause-notice to four entities. These 4 are FTIL and 3 members of NSEL board namely Mr.Jignesh Shah, Mr. Joseph Massey and Mr. Shreekant Javelgekar The criteria for a person deemed to be “a fit & proper person” is given in *Annexure B*. FMC gave two weeks’ time for receiving responses from these 4 parties explaining their views. It is important to note here that FTIL and these 3 individuals were issued “fit & proper notice” not only they are board members of NSEL, but they were also the board members of MCX, one of the leading commodity derivatives exchange in India. Table C lists board members of NSEL as on 31st July 2013 as well as their subsequent association with NSEL.

Insert Table C Here

- **17 October 2014:** EOW of Mumbai Police arrested Mr. Anjani Sinha and remanded him to police custody. EOW started an enquiry under the "*Prevention of money Laundering Act*" suspecting large-scale money laundering. The probing team found a new dimension involving Ms. Shalini Sinha, wife of Mr. Anjani Sinha. Ms. Shalini Sinha was the owner and Managing Director of SNP Designs. On behalf of SNP Designs, IBMA was trading at NSEL platform and no margin money was ever taken from SNP Designs.
- **18 October 2013:** In a surprising turn of events, Mr. Anjani Sinha filed a fresh affidavit in which he mentioned that "*The affidavit I filed on 14 August 2013 was under duress and was forced to do so by NSEL Board*". He also mentioned that all trades were authorized by the board of directors and he and other employees mentioned in his earlier affidavit dated 11 September 2013 should not only be held responsible for the INR 5600 crore default.
- **23 October 2013:** The EOW of Mumbai police arrested Mr. Nilesh Patel, Managing Director of NK Proteins. NK Proteins was the largest defaulter and defaulted to the tune of INR 930 out of INR 5600 crore, though its name did not feature among the list of defaulting companies announced by Mr. Anjani Sinha on 4th August 2013. This is because Mr. Nilesh Patel is the son-in-law of Mr. Shankar Lal Guru, who was the non-executive chairman of board of director of NSEL (he resigned on 7th August 2013) as can be seen in Table C.

- **6 November 2013:** Grant Thornton (appointed on 20th August 2013) submitted its forensic audit report to FMC. The report detailed many violations by the NSEL. Some of these are as follows:
 - NSEL used the SGF margin money to repay bank loans as some traders had taken loan from these banks to trade at NSEL. In fact, NSEL had provided guarantee to these banks on behalf some of the defaulters i.e., if these defaulters do not repay the banks, NSEL stands as a guarantor.
 - NSEL had no system of maintaining records of margin money paid by traders.
 - Many warehouses only existed in paper.

- **17 December 2013:** FMC ruled that FTIL, Mr. Jignesh Shah, Mr. Joseph Massey and Mr. Shreekant Javelgekar are “not fit & proper persons⁷” to run any commodity exchange business in India. The FMC order on this date presented the facts which the regulator considered for each of these 3 persons as well as for FTIL.

1.7: FMC and NSEL board members

Table C lists the seven members of board of directors of NSEL as on 31 July 2013. Out of these 7 members, as the data given in Column (C) of Table C indicates that 6 members resigned from the board at different point of time with Mr. Anjani Sinha was removed from the board on 20 August 2013. Out of these six members, FMC only brought in 3 individuals to its “not fit & proper status” and not others. This section briefly analyses the reason for so. Data given in Table C indicates that Mr. Jignesh Shah & Mr. Joseph Massey were also board members of MCX. Mr. Shreekant Javelgekar was the MD & CEO of MCX as well as board member of NSEL and IBMA. As mentioned earlier, MCX is the leading commodity

⁷ As part of the “Guidelines for constitution of the Board of Directors, Nomination of Independent Directors and appointment of Chief Executives at the Nationwide Multi Commodity Exchanges.” issued by FMC on 12 August 2013. Source: <http://www.fmc.gov.in>

derivatives exchanges in India. FMC chose three persons so as to ring-fence MCX operations as well as to ensure that these three persons do not occupy board position in any other commodity exchange operations in India in future. The FMC being the regulator of the commodity derivatives market in India, pronounced that these three individuals along with parent company FTIL are “not fit & proper persons”. The FMC observed that general reputation and character, record of fairness, honesty and integrity of these three persons have been eroded substantially and hence they should not be associated with any other commodity exchange in India. Similarly penalizing FTIL, FMC reported that FTIL being the 99.99% owner of NSEL is responsible for the failure of NSEL. As FTIL is also the major shareholder of MCX, it cannot be entrusted with the responsibility of governing MCX. The FMC report dated 17th December 2013 stated the following details to this effect

“Keeping in view the foregoing observations and the facts which reveal misconduct, lack of integrity and unfair practices on the part of FTIL in planning, directing and controlling the activities of its subsidiary company, NSEL, we conclude that FTIL, as the anchor investor in the Multi-Commodity Exchange Ltd., (MCX) does not carry a good reputation and character, record of fairness, integrity or honesty to continue to be a shareholder of the aforesaid regulated exchange”.

1.8 Major shortcomings of NSEL operation

The rationale for FMC granting “not fit & proper persons” to these 4 entities are summarized as follows:

- NSEL offered paired trade contracts and allowed traders to short sales which were not permitted by any regulatory body. Though FMC raised objections regarding these contracts as early as April 2012, NSEL continued offering these contracts. This could not have happened without the knowledge of the board members of NSEL.

- NSEL owned/approved warehouses issued warehouse receipts not backed by goods. Many cases these warehouses existed only in paper. Such gross violation of basic trading guidelines could not have happened without the knowledge of the board members. In fact, in April 2012, fifteen months before the crisis, NSEL informed to the GoI, that “*NSEL does not insist on ownership of goods before allowing a member to sell contracts*”. So board members knew that trading happens at NSEL platform without being backed by warehouse receipts.
- NSEL did not maintain enough SGF to protect the traders from any default thus clearly violated the basic exchange guidelines. NSEL also submitted wrong information regarding the amount available SGF at different points of time since NSEL default come into public domain on 31 July 2013. Annual report for FY 2013 of NSEL indicates that NSEL has INR 84.66 lakh in SGF. But at different point of time, figures ranging from INR 850 crore to INR 62 crore were submitted to FMC. This indicates that either the company was not aware of the amount available in SGF or knowingly gave misleading information to the regulator.
- Similarly on 4 August 2013, NSEL announced that it has in its possession postdated cheques worth INR 4900 crore from defaulters. This information was misleading as NSEL defaulted in paying the scheduled weekly payouts it had announced on 4 August 2013. In fact, Mr. Jignesh Shah gave a presentation on 10 July 2013 (only 20 days before the default became public) to officials from FMC and DCA where he made a strong case for NSEL and declared that all trading on NSEL platform is backed by 100% commodities, 10-20% of margin money as well as 100% post-dated cheques thus making NSEL trading activities completely risk-free. If the firm had INR 4900 crore of postdated cheques from defaulters, then the company should have been able to pay as per the committed schedule.

- NSEL allowed members to trade on the exchange even after defaulting on margin payment. Based on the forensic audit report, FMC cited that a trading member “Lotus Refineries” defaulted on 198 occasions during 1 April 2012 and 20 July 2013. But it continued to trade as NSEL granted exemption to the company from depositing margin money. NSEL granted 1800 margin limit exemptions during 2009 to 2014 including 198 exemptions to “Lotus Refinery”. FMC argued that such gross violation of exchanges norms could not have been possible without the knowledge of board members.
- NSEL did not have any system to limit a members’ exposure based on the members net worth and credit score. NSEL gave trading membership to companies without following the mandatory Know-your-Customer (*KYC*) documentation for identity proof, address proof, shareholding pattern, memorandum of association, net worth certificate etc.
- The affidavit given by Mr. Anjani Sinha on 11 September 2013 clearly shows that NSEL faltered in all areas of exchange operation. This could not have gone unnoticed by the NSEL board year after year.
- NSEL allowed IBMA (another group company) to trade at NSEL platform which is a clear violation of related party transaction. IBMA was registered as a trading member with NSEL though NSEL owned 60.88% of IBMA shares.
- The warehouses owned/approved by NSEL had their own IT system and were not integrated to NSEL IT system which could have enabled NSEL officials to know the status of commodities available in these warehouses. FMC reasoned that FTIL, the promoter of NSEL, being a technology company specializing in offering technological backbone to many leading exchanges in the world, deliberately did not

integrate these warehouses to facilitate these wrong doings and this could not have been undertaken without the knowledge of board members.

- NSEL board of directors did not constitute different committees as per the rules and bye laws of the NSEL. The board was responsible for formulating, trading committee, clearing house committee, commodity specific committee etc. FMC found that NSEL board did not constitute 9 out of 10 mandatory committees.

Based on these major findings, on 17 December 2013, FMC announced that these four entities are not “fit & proper persons” to hold any position in the management and board member of any commodity exchange in India. The FMC observed that general reputation and character, record of fairness, honesty and integrity of FTIL and these 3 persons have been eroded substantially. FMC also noted that FTIL or any group company of FTIL cannot hold more than threshold limit of the total paid-up capital of associations / exchanges recognized by GoI or registered by the FMC. FMC also ruled that these 3 individuals are also banned from holding more than threshold limit of equity capital of associations / exchanges recognized by the government.

As the probe progressed, the investigative agencies arrested Mr. Amit Mukeerjee and Mr. Jai Bahukhandi, the two persons named by Mr. Anjani Sinha on 11 September 2013 affidavit. Subsequent probe by investigating agencies led to arrest of Mr. Jignesh Shah, Mr. Shreekant Javelgakar as well as many defaulters. The 13000 investors have created a *NSEL Investors Forum* (NIF)⁸ and collectively mounting pressure on GoI to speed up the attachment of property of defaulters and sell/auction these to recover their dues. FMC and other law enforcement bodies such as EOW of Mumbai police are actively involved in pursuing defaulters and have put many defaulters (*Table B1 and B2*) behind bars and also have started

⁸ These investors have created a social media account for the forum as NIF NEL Investors Forum available at <https://www.facebook.com/nseldefault>

selling these assets to recover dues. As of July 2014, NSEL has appointed a new MD and also reconstituted the board with four new board members who are overseeing these activities. NSEL has also started making part payments (*Table D*) to these 13000 investors after receiving dues from some defaulters.

This case focuses the events surrounding the NSEL payment default which resulted in FMC granting “not fit & proper person” status to four entities. The case also tries to analyze the regulatory response to tackle the crisis. In fact, credit goes to FMC for dealing with the crisis swiftly and roping in other regulatory bodies and enforcement agencies so as to have a comprehensive probe and took some bold steps. Of course the role of media in making the case one of the highly debated topic for months after the default cannot be ignored. The analysis of the case also clearly indicates that NSEL failed miserably as a SRO even though its board members came with vast experience of running many exchanges.

Analysis of this case throws open some big questions which are yet to be answered. NSEL remained practically unsupervised from its inception till February 2012. Even though FMC was appointed as regulator from February 2012 onwards, it lacked the power to take any action against NSEL. On many occasions, FMC raised several questions regarding NSEL operations to MCA, but no action was taken by MCA. If MCA would have taken cognizance to these alerts earlier, would this problem have taken such mammoth proportion? If a government body is at fault, who should be penalized?

Why these three experienced and seasoned individuals with so many years of experience in running exchanges faltered in all most all areas of running another exchange? Does the concept of “too-big-to-fail” is also equally applicable to individuals who thought that they can get away with doing (or not doing) anything? Would three of them and the management

team of NSEL have behaved differently if they would have known that the MCA has the power to penalize?

Trades executed at NSEL platform did not require seller to own commodities. Hence almost all trades were speculative in nature and could have influenced spot price prevailing for those commodities in the physical market. Did spot price discovered at NSEL contributed to inflationary price trend in many commodities India?

1.9: Summery

NSEL started as spot exchange and provided online platform to bring buyers and sellers of commodities from all over India. Though it was not mandated to offer forward contracts, it offered T+25 and T+36 contracts. Since its inception till March 2012, it was regulated by Ministry of Consumer Affairs of GoI. When FMC was appointed as the regulator of NSEL in March 2012, FMC started raising objections regarding these contracts. However NSEL continued to offer these contracts.

On 31 July 2013, payment default became public knowledge when NSEL suspended trading. Media report started pouring in regarding the imminent payment default by NSEL. It became a national sensation with TV channels beaming investors flocking to NSEL offices to recover their dues. Within few days, the enormity of the problem came into fore -- NSEL payment default stood at a staggering figure of INR5600 crore.

FMC as the regulator initiated multipronged investigations and found that rut in the NSEL runs deeper and far more serious than initially perceived. FMC not only took exchange officials as well as defaulters to task, it also penalized the board of directors of NSEL. On 18 December 2013, in an rare move, FMC indicted four entities as “not fit & proper” to be associated with any commodity exchange operation in India. As an epilogue, FMC and other

regulatory bodies as well as law enforcement agencies are trying to recover remaining dues from defaulters to pay to these 13000 investors.

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- Ministry of Consumer Affairs, Food & Public Administration, Government of India available at <http://fcamin.nic.in/>
- Multi Commodity Exchange available at www.mcxindia.com

Annexure A
MINISTRY OF CONSUMER AFFAIRS, FOOD & PUBLIC DISTRIBUTION¹
(Department of Consumer Affairs, Government of India)
NOTIFICATION

NEW DELHI: 5th June 2007

In exercise of the powers conferred by Section 27 of the Forward Contracts (Regulation) Act, 1952, the central government hereby exempts all forward contracts of one day duration for the sale & purchase of commodities traded on the National Spot Exchange Ltd. From operation of the provisions of the said Act subject to the following conditions, namely : --

- (i) **No short sale** by members of the exchange shall be allowed.
- (ii) All outstanding positions of the trade at the end of the day shall result in delivery.
- (iii) The National Spot Exchange Ltd. shall organize spot trading subject to regulation by the authorities regulating spot trade in the areas where such trading takes place.
- (iv) All information or reruns relating to the trade as and when asked for shall be provided to the central government or **its designated agency**.
- (v) The central government reserves the right to impose additional conditions from time to time as it may deem necessary and
- (vi) In case of exigencies, the exemptions will be withdrawn without assigning any reason in public interest

(signed by Paul Joseph,
Senior Economic Advisor)

Annexure B

CRITERION FOR A PERSON TO BE DEEMED TO BE “A FIT AND PROPER PERSON¹”

Issued by Forward Market Commission (FMC), Government of India

For the purpose of these guidelines, a person shall be deemed to be a fit and proper person if:-

(i) such person has a general reputation and record of fairness and integrity, including but not limited to:

(a) financial integrity;

(b) good reputation and character; and

(c) honesty

(ii) Such person has not incurred any of the following dis-qualifications :

(a) the person has been convicted by a Court for any offence involving moral turpitude or any economic offence, or any offence against any laws;

(b) the person has been declared insolvent and has not been discharged;

(c) an order, restraining, prohibiting or debaring the person, from dealing in commodities / securities or from accessing the market has been passed by any regulatory authority.

(d) Any other order against the person which has a bearing on the commodities market, has been passed by any regulatory authority.

(e) The person has been found to be of unsound mind by a Court of competent jurisdiction and the finding is in force.

(f) The person is financially not sound; and

(g) The person is involved in any action of fraud or dishonesty.

Figure A: NSEL and other Group Companies of Financial Technology India Ltd (FTIL).

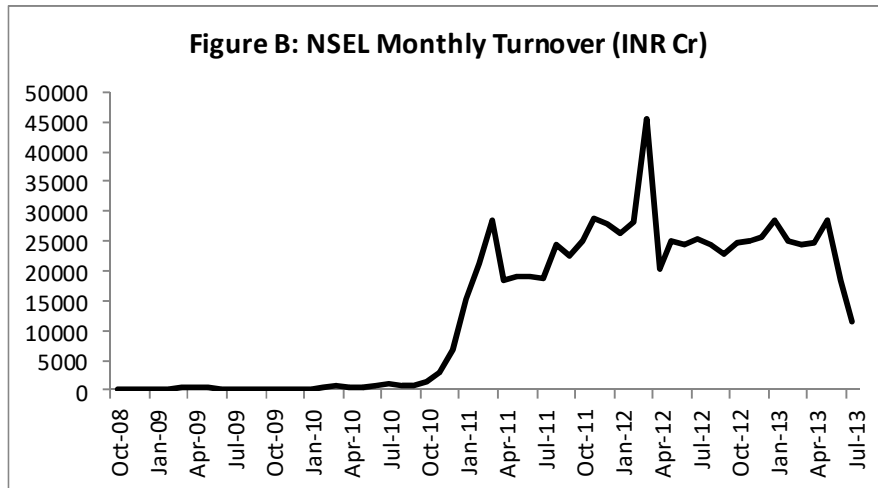
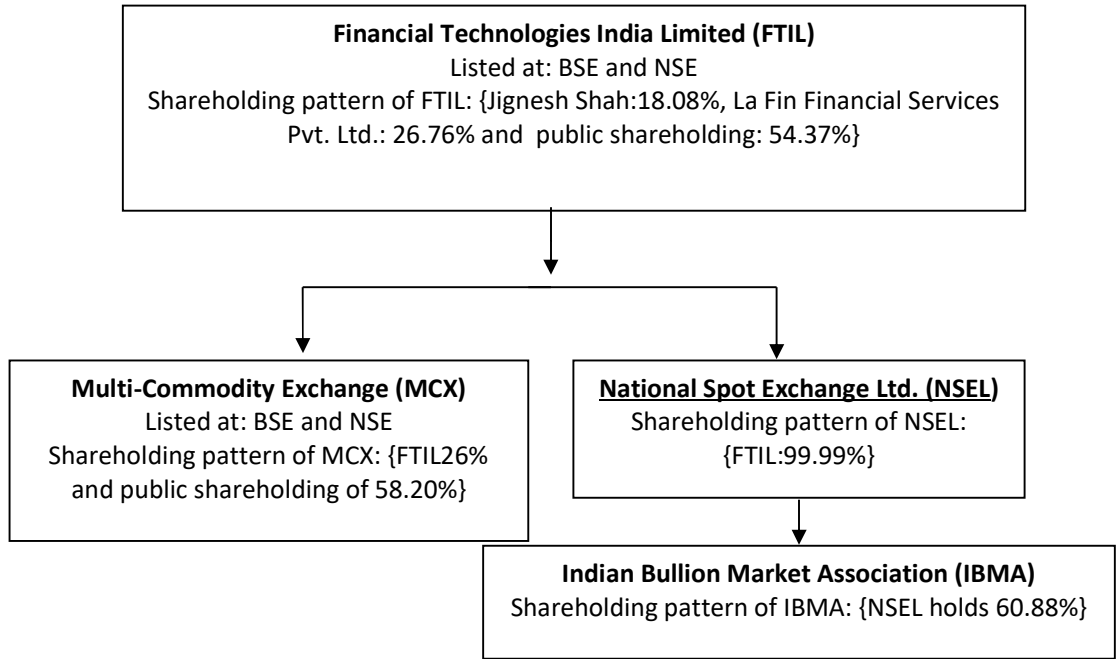


Table A: Paired contracts trading volume to total turnover at NSEL during 2008 to July 31 2013.						
	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14 (*)
Total Turnover (INR Crore)	763	3359	14032	59981	73390	38520
Paired Contracts Turnover	0	848	6207	18100	71127	38204
% of paired contract turnover to total turnover.	0%	25%	44%	30%	97%	99%
<i>Data Source: Forward Market Commission (*): April 2013 to July 2013.</i>						

Table B1: List of defaulters who have agreed to pay 5% of their default obligations every week.			
No.	Name	No.	Name
1	Juggernauts Projects Ltd.	8	Topworth Steels & Powers Pvt. Ltd.
2	MSR Food Processing	9	Vimala Devi AgrotechPvt. Ltd.
3	PD Agro Processors Pvt. Ltd.	10	NK Corporation
4	Shree Radhe Trading Pvt. Ltd.	11	NCS sugar
5	Sankhya Investments	12	Metkore Alloys & industries Ltd.
6	Spin Cot Textiles Pvt. Ltd.	13	Ark Imports Pvt. Ltd.
7	Swatik Overseas Corporation		
<i>Data Source: NSEL Press Release</i>			

Table B2: Lists of defaulters with whom NSEL was negotiating for recovering dues.	
Sr. No	Name
1	Namdhari Food International Pvt. Ltd.
2	Namdhari Rice & General Mills
3	Lotus Refineries Pvt. Ltd.
<i>Data Source: NSEL Press Release</i>	

Table C: NSEL board of directors as on 31 st July 2013 as well as their association with NSEL after 31 st July 2013.		
Name	Designation (upto 31 st July 2013)	Association with NSEL after 31 st July 2013
Mr.Shankarlal Guru	<ul style="list-style-type: none"> Non-Executive Chairman of NSEL Board of Directors 	Continued till 7 th August 2013 and resigned from NSEL Board on 7 th August 2013
Mr. B.D. Pawar	<ul style="list-style-type: none"> Member, Board of Director of NSEL 	Resigned from NSEL Board on 7 th August 2013
Mr.Ramanathan Devarajan	<ul style="list-style-type: none"> Member, Board of Director of NSEL 	Resigned from NSEL Board on 7 th August 2013
Mr.Anjani Sinha	<ul style="list-style-type: none"> MD & CEO of NSEL Member, Board of Director of NSEL 	Removed as MD & CEO and also from board member of NSEL on 20 th August 2013
Mr.Jignesh Shah (*)	<ul style="list-style-type: none"> Vice Chairman of NSEL Board of Director. As largest shareholder of FTIL, he was also a board member of MCX. 	Continued as board member of NSEL. Resigned from MCX Board on 31 st October 2013.
Mr. Joseph Massey (*)	<ul style="list-style-type: none"> Member, Board of Director of NSEL. Member, Board of Director of MCX. 	Continued as board member of NSEL. Withdrew his re-appointment as the director of MCX on 25 th September 2013.
Mr.Sreekant Javalgekar (*)	<ul style="list-style-type: none"> Member, Board of Director of NSEL. MD & CEO of MCX Member, Board of Directors, MCX. Member Board of Directors, IBMA 	Continued as board member of NSEL. till 19 th October 2013. Resigned from MD& CEO of MCX on 19 th October 2013.
(*) : Board members of NSEL as well as MCX. Data Source: NSEL annual report FY 2012-13.		

Table D: Payment to Investors by NSEL as on 31 st July 2014		
Investment (INR)	Number of Investors	Amount received
upto 2 lakh	600	Full payment
Upto 2 lakh to 10 lakh	6000	Received nearly 55%
10 lakh to 1 crore	5500	Received around 7% of the dues
1 crore to 100 crore	777	Received around 7% of their dues
100 crore to 300 crore	4	Received around 7% of their dues
Source: Business Standard Publication earmarking “A year of the NSEL Crisis” article titled Golden Goose Dead: Investors on Wild Goose Chase, dated 30 July 2014 page 12.		