

#### **DISCLAIMER**

**This proposal and its annexure have been issued by Financial Technologies (India) Limited (“FTIL”) with a view to end litigation and pursue a result oriented resolution path. This proposal has been issued on a “Without Prejudice” basis which cannot and should not be construed as an acceptance by FTIL of any liability towards any trading client or their brokers or otherwise. FTIL reserves the right to pursue legal remedies and recourse and nothing contained in this proposal shall have the effect of diluting or impinging any of FTIL’s rights, contentions and submissions in any proceedings before any authority, whether pending or otherwise.**

## **FTIL'S 'WITHOUT PREJUDICE' PROPOSAL FOR SETTLEMENT OF THE PAYMENT DEFAULT BY THE DEFAULTERS AT NSEL TRADING PLATFORM**

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FTIL through its legal advisors, Amarchand Mangaldas & Suresh C. Shroff and Co. (AMSS) has submitted a “without prejudice” proposal to Ministry of Finance, Government of India on 13<sup>th</sup> March, 2015. The proposal is made in the spirit of being fair, equitable and just to all parties and in the interest of 63,000+ shareholders of the FTIL. The proposal is subject to the approval by not just all the parties but also FTIL’s Board and shareholders.

### **PRINCIPLES ON THE CONSTRUCT OF THE PROPOSAL**

- The without prejudice proposal is an attempt by FTIL to take step to move away from a conflict-path and into a resolution path.
- The proposal only works if all parties’ viz. brokers, trading clients, government and others come forward with a resolution oriented mindset. “**The pain**” is to be shared appropriately by NSEL & BROKERS and various trading clients.
- The proposal is submitted by FTIL without any consultation with any BROKERS, trading clients and government and is a step by itself as a goodwill gesture on a “without prejudice basis”.

### **BRIEF OF THE WITHOUT PREJUDICE PROPOSED SETTLEMENT:**

- The structure of the proposal envisages an escalating waterfall with the small claimants (below Rs.10 lakhs, being 7,053 in number constituting 55.38% of the total claimants) receiving 100% of their claim. The mid-level claimants (between Rs. 10 lakhs and Rs. 1 crore, being 4901 in number constituting 38.48% of the total claimants) receiving 50% of their claim (aggregating to 11,954 in number constituting 93.86% of the total claimants).
- The PSUs receiving 100% of their claim.
- High Net-worth trading clients (781 in number constituting 6% of the total claimants) receiving 50% of their claim.

### **RECOVERY PROCESS FROM DEFAULTERS & DISTRIBUTION:**

- With the support of the government and other regulatory agencies brokers & trading clients under the supervision of Hon’ble High Court appointed Committee (HCC), recovery from the “defaulters” can be further expedited, who owe the money ultimately to the trading clients and their attached assets can be auctioned expeditiously under the supervision of HCC .

- The recovery process, with further acceleration will first make payout to the above 6% high net-worth trading clients and if any monies are received over and above all trading clients receiving 100% pay out, then the same will be distributed between the contributors (i.e. NSEL and the brokers) in the proportion of their contribution.
- The without prejudice proposal assumes that all trading clients who are approximately 13,000 in number are genuine. NSEL is in the process of collecting data from trading clients to ascertain their genuineness.

**BROKER'S CONTRIBUTION IS ALSO CRITICAL (WHY THE BROKERS SHOULD CONTRIBUTE?):**

- The privity of contract of the trading clients is with their BROKERS. The trading clients traded on NSEL's exchange platform through their brokers under a CLIENT-BROKER agreement. Their grievance should first be against their respective BROKERS.
- The BROKERS have, over the years advised and brokered on behalf of their respective trading clients and have earned their brokerages, fees and C&F charges. It is known that some brokers have also funded their clients and have made money through NBFCs either owned by them or by their sister concerns/ associates, subject to all such funding being carried out as per RBI norms.
- BROKERS have signed agreement with NSEL, as per which they are bound by NSEL's bye-laws.
- We believe that rather than taking a path that is consumed with conflicts, allegations and very long, it is better that all adversely affected parties join their hands and follow a much shorter resolution path. Based on the above, on newspaper reports and on EOW remand notes, the trading clients are claiming that their respective BROKERS have misrepresented, mis-sold, used their name and mis-used the CLIENT-BROKER Agreement and funded trading clients beyond their capacity despite knowing their KYC, then the trading clients may initiate civil and criminal proceedings against the BROKERS which will take a long time and defocus the recovery effort from the Defaulters. Besides, any adverse findings in such proceedings may have regulatory consequences.

**DEFAULTERS HAVE TO PAY IN:**

- Investigations have established the money trail to the last paisa to 22 Defaulters. It is imperative that they honour their 'pay-in' obligations towards NSEL.
- 8 Defaulters account for Rs 4,823 cr of the pay-in constituting 86% of the total outstanding.
- Rs 513 cr worth decrees have been obtained against 5 Defaulters by NSEL from the Bombay High Court.

- Rs 2,095 cr worth of liability admitted by 11 Defaulters before various courts and fora.
- ED has seized assets worth Rs 700 cr belonging to the defaulters.
- Assets worth ~Rs 5000 cr of Defaulters has been attached by the EoW under the MPID Act, 1999.

**WHO ARE ELIGIBLE FOR CLAIM:**

- The real and genuine trading clients.
- NSEL has, through its advertisement released on March 19, 2015, raised questions and shared data that caste a doubt on the genuineness of the claims made by the trading clients.
- The genuineness of the approximately 13,000 trading clients is currently being ascertained by NSEL. So far ~ 1938 trading clients have furnished the information about their claim. Any further surplus will be distributed to the genuine trading clients.

**THE TIMELINE OF CLAIM SETTLEMENT:**

- The without prejudice proposal is based on the principles of moving on the path of resolution.
- 94% of the trading clients can receive between 50% to 100% of their claims approx. within 3-4 weeks of all legal formalities being completed.
- The balance 7% trading clients can receive their claims approx. within 3-4 months from amounts recovered from Defaulters.
- Despite this proposal, if there are trading clients and BROKERS who do not come forward to a solution, we believe their only agenda is to kill FTIL and the interest of FTIL's 63,000+ shareholders.
- FTIL has been defending all the allegations in the court of law and will continue to do so in the interest of its 63,000+ shareholders if the resolution is not acceptable to all parties. FTIL will use all the legal means at its disposal to protect and create value for its 63,000+ shareholders by implementing its Founder's Vision for FTIL 3.0 - DigitalIndia@2025 to create / enable 108 'Digital Disruptors' in 10 core industry segments

**OUR SUBMISSION:**

FTIL informs all its shareholders that the without prejudice proposal, the details of which are attached is an attempt to take the resolution path. The proposal's spirit and resolution can achieve its objective if all parties rise to the occasion and contribute. It is our belief that the industry will rise to the occasion and demonstrate its ability to resolve the situation at hand.

**FAITH:**

FTIL has the greatest of respect for India and Indian democracy that is protected by its robust judicial system. FTIL has, and will always, continue to respect all the laws of the land and India is a country that follows the rule of law. FTIL is hopeful that all the parties will look at this in the right spirit and through the lens of resolution, and not otherwise.

FTIL also states that the without prejudice proposal is open for a reasonable period of time and it reserves the right to withdraw the same thereafter.

**Without Prejudice Proposal  
for collective settlement of disputes and claims in relation to  
National Spot Exchange Limited (“NSEL”) and  
Financial Technologies (India) Limited (“FTIL”)**

**I. The defaults, the defaulters, the claims and the claimants:**

**The numbers:**

- 24 Commodity Sellers defaulted in making payment to their respective trading counterparties (allegedly **12,735** in number), (the “**Trading Clients**”) of about **Rs. 5,600 crores**.
- Of the 12,735 Trading Clients, 781 high net-worth Trading Clients (wrongly referring to themselves as ‘investors’) claim approximately 69% (Rs. 3,366 crores) of the total outstanding amount.
- The genuineness of the 12,735 clients is under question. NSEL is seeking details to verify their genuineness and entitlement.
- 22 Commodity Sellers were declared Defaulters by NSEL (out of which ONLY 8 Defaulters are liable for 90.71% (Rs. 4,823.90 crores) of the total outstanding amount).

**2. FTIL’s loan of Rs. 180 crores:**

FTIL is a public listed company with about 63,000 shareholders (Real investors, Real numbers and with full KYC). FTIL was not involved in the operations and / or management of NSEL and did not have any privity of contract with any of the parties. Despite that, as a gesture of goodwill, FTIL granted a without prejudice loan of Rs. 180 crores to NSEL which was utilised by NSEL to pay:

- 100% of the claims of 608 Trading Clients having claims upto Rs. 2 lakhs, and
- 50% of the claims of 6,445 Trading Clients having claims of Rs. 2 lakhs to Rs. 10 lakhs.

Currently there are 12,735 Trading Clients who have pending claims - against the Defaulters, amounting to **Rs. 4,875 crores**.

**The Proposal for Settlement:**

- **The settlement proposed will provide relief to 12,735 (100%) Trading Clients.**

**4. The source of funds:**

- a. Settlement of the dues of the Trading Clients with an additional payment of **Rs.2,679.50 crores**, i.e. about 50% of the total outstanding claim of Rs. 4875 crores.
- b. First round of payments made to be equally by NSEL&BROKERS, as under:

|                                |                                                      |
|--------------------------------|------------------------------------------------------|
| • NSEL:                        | Rs. 500 crores*                                      |
| • Brokers:                     | Rs. 500 crores                                       |
| • <b>Sub-Total:</b>            | <u><b>Rs.1000 crores</b></u>                         |
| • <b><u>Total Payment:</u></b> | <u><b>Rs.820 crores</b></u> (for immediate payment). |

*\*Rs.180 crores already paid through FTIL loan + Rs. 320 crores to be brought in*

- c. The amount of Rs.820 crores will be used to make payments to Trading Clients at B and C Trading Clients at D may be paid through amounts recovered from the Defaulters. The proposal for payments is, as under:

|   | Amount due to each Trading Client | No. of Trading Clients | Total Claims (Rs. crores) | Payments already made (Rs. crores) | Balance claimed (Rs. crores) | Settlement payment (Rs. crores) | % paid | Time frame post-completion of all formalities@ |
|---|-----------------------------------|------------------------|---------------------------|------------------------------------|------------------------------|---------------------------------|--------|------------------------------------------------|
| A | Upto Rs. 2 lakhs                  | 608                    | 9                         | 9                                  | NIL                          | NIL                             | 100%   | Done Already                                   |
| B | Rs. 2 – 10 lakhs                  | 6445                   | 346                       | 182                                | 164                          | <b>164</b>                      | 100%   | 3-4 weeks                                      |
| C | Rs. 10 lakhs – 1 Crore            | 4901                   | 1442                      | 97                                 | 1345                         | <b>672.5</b>                    | 50%    | 3-4 weeks                                      |
|   | <b>Total (A + B + C)</b>          | <b>11954</b>           | <b>1797</b>               | <b>288</b>                         | <b>1509</b>                  | <b>836.5</b>                    |        |                                                |
| D | More than Rs. 1 Crore             | 781                    | 3606                      | 240                                | 3366                         |                                 |        | 3-4 months                                     |
|   | HNI Trading Clients               | 779                    |                           |                                    | 3045.19                      | <b>1523</b>                     | 50%    |                                                |
|   | PSUs                              | 2                      |                           |                                    | 320.81                       | <b>320.81</b>                   | 100%   |                                                |
|   | <b>TOTAL:</b>                     | <b>12735</b>           | <b>5403</b>               | <b>528</b>                         | <b>4875</b>                  | <b>2,679.50</b>                 |        |                                                |

@ If the proposal is accepted then legal advisors AMSS and others can put up a scheme which is within the law of the land. At the current time, the industry needs to demonstrate that it can handle such unforeseen crisis situations.

**d. Trading clients A, B & C:**

- As a result of payments to A & B above, a total of 608 + 6,445 = 7,053, being 55.38% of all Trading Clients will receive 100% of their claim amount.
- As a result of payments to C above, (4901 in number and 38.48% of all Trading Clients), who will receive and accept in settlement 50% of their claim amount.
- **Thus, 608 + 6445 + 4091 = 11,954 Trading Clients (93.86%), will be paid off by virtue of the settlement amounts paid by NSEL&BROKERS.**
- 608 trading client have already been paid off of their claim.
- 6445 trading clients have already paid off 50% of amount of their claim.

e. Trading Clients D:

- A sum of Rs. 1843 crores required to be paid in settlement to Trading Clients D, will need to be recovered from properties of Defaulters attached by the ED and EOW (of approximately Rs.5,500 crores), and decrees received by NSEL (of approximately Rs. 550 crores, which is part of the Rs 2,000 cr liability admitted by the Defaulters in Court.)
  - **Amounts realized from attached assets, will be allocated to the PSUs (MMTC and PEC), to the extent of Rs. 320.81 crores. This ensures 100% recovery for the 2 PSUs.**
  - Even on a conservative basis the balance amount of Rs. 1,523 crores should be easily realized from the Defaulters / attached assets, so as to make payment (50%) to the remaining 779 Trading Clients.
- f. Any further amounts realised from the Defaulters (whether through attached assets, decrees or other recovery mechanisms), can be used to pay Trading Clients C & D, over and above the 50% settlement payments made and also towards NSEL's legitimate dues as a company.
- g. Any taxes, cesses or other duties that may be levied in respect of payments made and/or received, will be borne by the relevant Trading Clients and are not covered in the settlement.
- h. **Thus,  $608 + 6445 + 4091 + 781 = 12,735$  Trading Clients (100%), will be paid off by virtue of the proposed settlement.**
- i. **If full recovery happens from the Defaulters and all genuine trading clients get 100% of their claims and if there still exists a surplus, the surplus will be distributed between NSEL&BROKERS equally.**
- j. The path of litigation may take years while Defaulters, which are only 17 in numbers are enjoying at the cost of all of us i.e. FTIL/NSEL, BROKERS and genuine trading clients.

*Source: NSEL website/public information / civil suits etc.*

**Annexure A**

**Details of top 8 Defaulters**

| <b>S No.</b> | <b>Group</b>                  |  | <b>Amount<br/>(Rs crores)</b> |
|--------------|-------------------------------|--|-------------------------------|
| 1            | NK Proteins Ltd               |  | <b>937.89</b>                 |
| 2            | Mohan India Group             |  | <b>878.39</b>                 |
| 3            | LOIL Group                    |  | <b>720.31</b>                 |
| 4            | Ark Imports Pvt Ltd           |  | <b>719.30</b>                 |
| 5            | P D Agroprocessors Pvt Ltd    |  | <b>674.03</b>                 |
| 6            | Yathuri Associates            |  | <b>399.60</b>                 |
| 7            | Lotus Refineries Pvt Ltd      |  | <b>252.48</b>                 |
| 8            | Aastha Group                  |  | <b>241.91</b>                 |
|              | <b>TOTAL TOP 8 DEFAULTERS</b> |  | <b>4823.90</b>                |

**90% of the claims with only 8 Defaulters and the balance 10% with 14 Defaulters.**

*Source: NSEL website/public information / civil suits etc.*

**Annexure B**

**Details of decrees obtained by NSEL against Defaulters:**

| <b>S.No.</b> | <b>Defaulter Name</b> | <b>Amount<br/>(Rs. crores)</b> | <b>Order of</b>   | <b>Order Date</b> |
|--------------|-----------------------|--------------------------------|-------------------|-------------------|
| 1            | Yathuri Associates    | 264.96                         | Bombay High Court | 18/12/2014        |
| 2            | Aastha                | 12.50                          | Bombay High Court | 23/12/2014        |
| 3            | Juggernaut            | 145.00                         | Bombay High Court | 23/12/2014        |
| 4            | Swastik Overseas      | 91.19                          | Bombay High Court | 18/12/2014        |
|              | <b>TOTAL</b>          | <b>513.65</b>                  |                   |                   |

*Source: NSEL website/public information / civil suits etc.*

**Annexure C****Details of Amounts admitted to be due by Defaulters**

| <b>S.No.</b> | <b>Name of Defaulter</b>         | <b>Amounts Admitted (Rs. crores)</b> | <b>Amounts Admitted before Court / Committee / by Agreement</b>                                          |
|--------------|----------------------------------|--------------------------------------|----------------------------------------------------------------------------------------------------------|
| 1            | Ark Imports Pvt. Ltd.            | 532.00                               | Before Committee on 19 <sup>th</sup> December 2014                                                       |
| 2            | Juggernaut Projects Ltd.         | 145.00                               | Admitted in a proposal made to MPID Court in ABA No. 1749 of 2013                                        |
| 3            | Aastha Minmet India Pvt. Ltd.    | 13.00                                | admitted Rs.13 crores in a proposal made to MPID Court in ABA No. 1750 of 2013                           |
| 4            | Swastik Overseas Corporation     | 91.19                                | Settlement Agreement of 77.08, Decree Received from BHC for 91.19 and hence considered the higher amount |
| 5            | NCS Sugars Limited               | 50.00                                | settlement agreement                                                                                     |
| 6            | Spin Cot Textiles Pvt Ltd        | 34.29                                | Before High Court in Section 9 petition                                                                  |
| 7            | Tavishi Enterprises Pvt. Ltd.    | 771.00                               | In settlement agreement                                                                                  |
|              | Mohan India Pvt Ltd              |                                      |                                                                                                          |
| 8            | Yathuri Associates               | 264.96                               | Admitted liability in an application filed before the MPID Court                                         |
| 9            | Prime zone                       | 42.77                                | Agreement dated 10 <sup>th</sup> December 2013                                                           |
| 10           | White Water Foods Pvt. Ltd.      | 60.67                                | Admitted in a letter dated 23rd November 2013 addressed to EOW offering to settle liability              |
| 11           | Metkore Alloys & Industries Ltd. | 89.93                                | Admitted in a letter dated 23rd November 2013 addressed to EOW                                           |
|              | <b>TOTAL</b>                     | <b>2,094.81</b>                      |                                                                                                          |

Source: NSEL website/public information / civil suits etc.

**Annexure D****MONEY TRAIL TO THE LAST PAISA HAS BEEN ESTABLISHED TO FOLLOWING DEFAULTER BROKERS Ref: Sharp and Tanon Audit Report Dt. 2nd April 2014**

Messrs. National Spot Exchange Ltd.

Exhibit A

Amounts receivable from members as on 31/8/2013 from the period commencing 01/08/2013

| Sr.          | Member Name                         | Member ID | Amount receivable<br>(Rs. crores) | Enclosure<br>ref. |
|--------------|-------------------------------------|-----------|-----------------------------------|-------------------|
| 1            | AASTHA MINMET INDIA PVT LTD         | 13960     | 23.87                             | A1                |
| 2            | ARK IMPORTS PVT LTD                 | 14070     | 719.42                            | A2                |
| 3            | BRINDA COMMODITY                    | 14730     | 14.01                             | A3                |
| 4            | JUGGERNAUT PROJECTS LTD             | 14770     | 219.20                            | A4                |
| 5            | LOIL CONTINENTAL FOOD LTD           | 14460     | 338.40                            | A5                |
| 6            | LOIL HEALTH FOODS LTD               | 14470     | 287.48                            | A6                |
| 7            | LOIL OVERSEAS FOODS LTD             | 14350     | 85.19                             | A7                |
| 8            | LOTUS REFINERIES PVT LTD            | 14180     | 252.56                            | A8                |
| 9            | METKORE ALLOYS & INDUSTRIES LTD     | 14680     | 98.08                             | A9                |
| 10           | MOHAN INDIA PVT LTD                 | 14510     | 575.08                            | A10               |
| 11           | MSR FOOD PROCESSING                 | 14260     | 9.05                              | A11               |
| 12           | N K PROTEINS LTD                    | 12510     | 964.89                            | A12               |
| 13           | NAMDHARI FOOD INTERNATIONAL PVT LTD | 13990     | 51.07                             | A13               |
| 14           | NAMDHARI RICE & GENERAL MILLS       | 14170     | 10.45                             | A14               |
| 15           | NCS SUGARS LIMITED                  | 14230     | 58.85                             | A15               |
| 16           | P D AGROPROCESSORS PVT LTD          | 13790     | 637.55                            | A16               |
| 17           | SHREE RADHEY TRADING CO             | 13780     | 34.59                             | A17               |
| 18           | SPIN COT TEXTILES PVT LTD           | 14630     | 38.26                             | A18               |
| 19           | SWASTIK OVERSEAS CORPORATION        | 13910     | 100.83                            | A19               |
| 20           | TAVISHI ENTERPRISES PVT. LTD.       | 14740     | 333.01                            | A20               |
| 21           | VIMLADEVI AGROTECH LIMITED          | 14160     | 14.02                             | A21               |
| 22           | WHITE WATER FOODS PVT LTD           | 14050     | 84.87                             | A22               |
| 23           | YATHURI ASSOCIATES                  | 14310     | 424.64                            | A23               |
| 24           | SANKHYA INVESTMENTS                 | 14270     | 6.29                              | A24               |
| 25           | TOPWORTH STEELS & POWER PVT. LTD.   | 14660     | 159.46                            | A25               |
| <b>Total</b> |                                     |           | <b>5,541.12</b>                   |                   |

Note: The amount have been rounded off to nearest rupees in crore.



Source: NSEL website/public information / civil suits etc.