

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 68296 / November 27, 2012**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-15106**

**In the Matter of**

**MOTILAL OSWAL**  
**SECURITIES LIMITED**

**Respondent.**

**ORDER INSTITUTING ADMINISTRATIVE  
PROCEEDINGS PURSUANT TO SECTION  
15(b) OF THE SECURITIES EXCHANGE  
ACT OF 1934, MAKING FINDINGS, AND  
IMPOSING REMEDIAL SANCTIONS AND A  
CENSURE**

**I.**

The Securities and Exchange Commission (“Commission” or “SEC”) deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted pursuant to Section 15(b) of the Securities Exchange Act of 1934 (“Exchange Act”) against Motilal Oswal Securities Limited (“Respondent” or “Motilal”).

**II.**

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”), which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Administrative Proceedings Pursuant to Section 15(b) of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions and a Censure (“Order”), as set forth below.

### III.

On the basis of this Order and Respondent's Offer, the Commission finds that:

#### A. SUMMARY

These proceedings arise out of Motilal's solicitation of and provision of brokerage services to U.S. institutional investors from at least 2007 until April 2011 without being registered as a broker-dealer as required by Section 15(a) of the Exchange Act. Motilal also failed to meet the conditions for an exemption from registration for foreign broker-dealers provided by Rule 15a-6 under the Exchange Act.

#### B. RESPONDENT

**Motilal Oswal Securities Limited** ("Motilal") is a broker-dealer registered with the Securities and Exchange Board of India and based in Mumbai, India.

#### C. FACTS

From at least 2007 until April 2011, using U.S. jurisdictional means, Motilal solicited and provided brokerage services to U.S. investors. As part of its solicitation of U.S. investors, Motilal organized and sponsored an annual conference in the United States to which Motilal brought representatives of Indian issuers and invited U.S. investors.

In addition to organizing these annual conferences in the United States, Motilal solicited U.S. investors by having its employees travel to the United States regularly to meet with U.S. investors for, among other purposes, presenting and discussing Motilal's analysts' research reports on Indian issuers and for attending corporate road shows with representatives of Indian issuers.

Further, Motilal bought and sold the securities of Indian issuers on Indian stock exchanges on behalf of U.S. investors in exchange for commissions and soft dollar payments. During the relevant period, as a result of these activities, Motilal received from at least 42 U.S. institutional investors transaction-based compensation in the amount of approximately \$13.7 million.

Motilal solicited and provided the above-referenced brokerage services to U.S. investors through U.S. jurisdictional means, such as, telephones, facsimiles, mail or email.

The brokerage services that Motilal provided required registration as a broker-dealer with the Commission pursuant to Section 15(a) of the Exchange Act. However, Motilal was not registered with the Commission as a broker-dealer. In addition, Motilal's conduct did not meet the requirements to qualify for an exemption from registration provided to foreign broker-dealers by Rule 15a-6 under the Exchange Act. In particular, Motilal could have conducted the above-referenced activities pursuant to a chaperoning agreement with a U.S. registered broker-dealer.

After being contacted by staff of the Commission, Motilal promptly undertook corrective action, including by canceling a planned conference in the United States, entering into a Rule 15a-6 chaperoning agreement with a U.S. registered broker-dealer, and initiating registration with the Commission as a broker-dealer.

#### **D. VIOLATIONS**

Absent an applicable exception or exemption, Section 15(a) of the Exchange Act generally prohibits a broker or dealer from making use of the mails or any means or instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of, any security without being registered with the Commission as a broker-dealer.

Section 3(a)(4) of the Exchange Act defines a “broker” as any person (other than a person meeting the conditions of an exception, exemption or safe harbor, such as an associated person of an issuer meeting the conditions of Rule 3a4-1 under the Exchange Act or a bank meeting the conditions of Regulation R) “engaged in the business of effecting transactions in securities for the accounts of others.” Motilal acted as a broker within this definition.

Rule 15a-6 under the Exchange Act provides conditional exemptions under which unregistered foreign broker-dealers may effect transactions with or for U.S. institutional investors and major institutional investors in certain limited circumstances. Motilal acted as a broker outside the conditions of Rule 15a-6, and its solicitation of and provision of brokerage services to U.S. investors required broker-dealer registration. Inducing or attempting to induce securities transactions constitutes solicitation requiring broker-dealer registration. Solicitation is construed broadly to include both efforts to induce a single transaction and efforts to develop an ongoing securities business relationship.<sup>1</sup>

Accordingly, as a result of conduct described above, Motilal willfully<sup>2</sup> violated Section 15(a) of the Exchange Act.

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<sup>1</sup> See *Registration Requirements for Foreign Broker-Dealers*, Exchange Act Release No. 27017 (July 11, 1989), 54 FR 30013, 30017-18 (July 18, 1989) (In the context of the Exchange Act’s broker-dealer registration requirement, solicitation includes “any affirmative effort by a broker or dealer intended to induce transactional business for the broker-dealer or its affiliates,” including “efforts to induce a single transaction or to develop an ongoing securities business relationship,” and examples of conduct considered solicitation include “telephone calls from a broker-dealer to a customer encouraging use of the broker-dealer to effect transactions,” “conducting investment seminars for U.S. investors, whether or not the seminars are hosted by a registered U.S. broker-dealer,” and “recommending the purchase or sale of particular securities, with the anticipation that the customer will execute the recommended trade through the broker-dealer.”)

<sup>2</sup> A willful violation of the securities laws means merely “that the person charged with the duty knows what he is doing.” *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting *Hughes v. SEC*, 174 F.2d 969, 977 (D.C. Cir. 1949)). There is no requirement that the actor “also be aware that he is violating one of the Rules or Acts.” *Id.* (quoting *Gearhart & Otis, Inc. v. SEC*, 348 F.2d 798, 803 (D.C. Cir. 1965)).

**E. MOTILAL'S REMEDIAL EFFORTS**

In determining to accept the Offer, the Commission considered remedial acts promptly undertaken by Respondent and cooperation afforded the Commission staff.

**IV.**

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent Motilal's Offer.

Accordingly, pursuant to Section 15(b) of the Exchange Act, it is hereby ORDERED that:

A. Respondent Motilal is censured; and

B. Respondent Motilal shall, within 30 days of the entry of this Order, pay disgorgement of \$780,000 and prejudgment interest of \$41,594 to the United States Treasury. If timely payment is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600. Payment shall be: (A) made by wire transfer, United States postal money order, certified check, bank cashier's check or bank money order; (B) made payable to the Securities and Exchange Commission; (C) if paid by money order or check, such payment shall be hand-delivered or overnight mailed to Enterprise Services Center, HQ Bldg, Room 181, AMZ-341, 6500 South MacArthur Blvd, Oklahoma City, OK 73169; and (D) submitted under cover letter that identifies Motilal as a Respondent in these proceedings, the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to Laura B. Josephs, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549-5010A.

C. Respondent acknowledges that the Commission is not imposing a civil penalty based upon its cooperation in a Commission investigation and/or related enforcement action. If at any time following the entry of the Order, the Division of Enforcement ("Division") obtains information indicating that Respondent knowingly provided materially false or misleading information or materials to the Commission or in a related proceeding, the Division may, at its sole discretion and without prior notice to the Respondent, petition the Commission to reopen this matter and seek an order directing that the Respondent pay a civil money penalty. Respondent may not, by way of defense to any resulting administrative proceeding: (1) contest the findings in the Order; or (2) assert any defense to liability or remedy, including, but not limited to, any statute of limitations defense.

By the Commission.

Elizabeth M. Murphy  
Secretary