WHEN INFORMATION DETERMINES LIABILITY: PROFESSIONAL CLEARING MEMBERS, CLIENT COLLATERAL AND THE *EDELWEISS* JUDGMENT

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ABSTRACT

Indian securities regulation distributes the risk of client-asset loss across a layered chain of intermediaries, including the trading member, the clearing member or Professional Clearing Member, and the clearing corporation, without always clarifying, at each layer, what an intermediary is expected to know and can therefore be expected to prevent. This tension surfaced starkly in Edelweiss Custodial Services Ltd v. NSE Clearing Ltd, decided by the Supreme Court on 2 September 2026, arising out of the collapse of Anugrah Stock & Broking Pvt Ltd and the consequent liquidation, by Professional Clearing Members, of securities pledged as collateral by a defaulting trading member. The Court held that a Professional Clearing Member owed no statutory duty to verify the individual debit or credit position of every client of a defaulting trading member before liquidating collateral, because the regulatory architecture then in force withheld the client-level visibility that such a duty would presuppose. It further held that NSE Clearing's Member and Core Settlement Guarantee Fund Committee lacked the statutory authority to direct restitution of the liquidated securities, since Section 9(3)(b) of the Securities Contracts (Regulation) Act, 1956 excludes monetary penalties from an exchange's bye-law-making power, a power Parliament instead reserved for the Securities and Exchange Board of India. This paper argues that Edelweiss is best read not as conferring a categorical immunity upon Professional Clearing Members, but as a caution against collapsing three analytically distinct ideas i.e. regulatory visibility, regulatory responsibility and remedial authority, into a single, undifferentiated notion of 'liability'. Tracing the 2016–2021 evolution of SEBI's collateral-reporting framework, the paper contends that the present daily, client-level reporting regime narrows, without eliminating, the informational gap that shielded the appellants in Edelweiss and proposes a visibility-responsibility principle to guide the next phase of statutory reform of India's clearing architecture.

I. Introduction

Consider the problem in its simplest form. An investor deposits securities with a broker. The broker places those securities, as collateral, with a clearing member one rung higher in the settlement chain. The broker defaults on its obligations to the exchange. The clearing member liquidates the collateral to make the settlement system whole. The investor, who may never herself have defaulted on anything, loses her securities. Who bears that loss?

The question appears, at first glance, to raise an elementary problem of investor protection. It is considerably more complex than that, because the Indian derivatives market deliberately fragments the functions of trading, clearing and settlement across distinct categories of intermediary. National Stock Exchange Clearing Limited admits three categories of clearing member i.e. the trading-member-clearing-member, who clears both its own trades and those of its clients; the self-clearing member, who clears only its own account and that of its clients; and the Professional Clearing Member ("**PCM**"), an entity, typically a bank or custodian that holds no trading rights of its own and clears trades exclusively for the trading members and custodial participants who constitute its clientele.[1] A PCM is, in this sense, doubly removed from the individual investor because it has no contract with her and, historically, no direct sight of her position.

This structural fact was at the centre of *Edelweiss Custodial Services Ltd v. NSE Clearing Ltd*, decided by a Division Bench of the Supreme Court on 2 September 2026.[2] The appeals arose out of the failure of Anugrah Stock & Broking Pvt Ltd, a trading member that the Court found had been running an unauthorised, assured-return scheme, using its individual clients' pledged securities as collateral with its PCM, Edelweiss Custodial Services Ltd.[3] When Anugrah defaulted between January and July 2020, Edelweiss liquidated the pledged securities to recoup the shortfall, without first determining whether each individual client whose securities were liquidated in fact owed a debit balance. NSE Clearing's Member and Core Settlement Guarantee Fund Committee ("**MCSGFC**") directed the PCMs to restore securities worth

[1] NSE Clearing Ltd, 'Professional Clearing Members' (nseclearing.in) <https://www.nseclearing.in/membership/information/professional-clearing-members> accessed 7 September 2026

[2] Edelweiss Custodial Services Ltd v NSE Clearing Ltd, 2026 INSC 941 (SC).

[3] Raw Law, 'Supreme Court Quashes ₹460-Crore Securities Restitution Against Clearing Members' (4 September 2026) <https://rawlaw.in/supreme-court-quashes-%E2%82%B9460-crore-securities-restitution-against-clearing-members-holds-nse-clearing-lacked-power-and-pcms-had-no-duty-to-verify-individual-investors-positions-before/> accessed 7 September 2026.

approximately ₹460.32 crore; the Securities Appellate Tribunal ("**SAT**") affirmed.[4] The Supreme Court reversed on both principal questions: it held that the PCMs owed no statutory duty of client-level verification, and that the MCSGFC lacked the power to order restitution at all.

Through the judgment, this paper aims to understand how liability should be allocated within a regulatory architecture in which an intermediary's obligations cannot exceed the information that architecture actually gives it. The Court's own account traces a shift from monthly, to weekly, to daily and client-disaggregated collateral reporting.[5] That regulatory evolution is the analytical spine of this paper. Its thesis is that *Edelweiss* correctly declines to impose, retrospectively, a verification duty that the pre-2021 framework never created, but that the judgment's deeper contribution lies in separating three ideas that Indian securities-law discourse tends to conflate, which are, visibility, responsibility and remedial power. Aligning these three concepts expressly, rather than leaving them to be inferred case by case, is the unfinished business that *Edelweiss* leaves for the regulator.

II. The Architecture of Clearing: Who Actually Holds the Risk?

A. The client–TM–PCM–CC chain

The chain begins with the individual client and ends with the clearing corporation and each link redistributes both risk and information. Under the framework that preceded the reforms discussed in Part V, a client posted collateral with her trading member; the trading member, in turn, posted an aggregated pool of client collateral with its clearing member or PCM; and the clearing member finally posted collateral with the clearing corporation, which alone guarantees settlement of every trade on the exchange.[6] At no point in this pre-2021 architecture was a PCM statutorily required to know which securities, within the block handed to it by a trading member, belonged to which underlying client; the clearing corporation identified the entire

[4] Law Trend, 'Clearing Corporation Cannot Order Restitution of Collaterals; PCMs Not Obligated to Verify End-Client Balances: Supreme Court' (3 September 2026) <https://lawtrend.in/clearing-corporation-cannot-order-restitution-of-collaterals-pcms-not-obligated-to-verify-end-client-balances-supreme-court/> accessed 7 September 2026.

[5] Verdictum, 'Professional Clearing Members Owe No Statutory Duty To Verify Debit/Credit Positions For Trading Member On Default: Supreme Court' (3 September 2026) <https://www.verdictum.in/supreme-court/edelweiss-custodial-services-limited-v-nse-clearing-ltd-2026-insc-941-professional-clearing-members-trading-member-1621235> accessed 7 September 2026.

[6] SEBI, Consultation Paper on Segregation and Monitoring of Collateral at Client Level (10 May 2021) <https://www.sebi.gov.in/reports-and-statistics/reports/may-2021/consultation-paper-on-segregation-and-monitoring-of-collateral-at-client-level_50090.html> accessed 7 September 2026.

margin received from a member simply as belonging to that member, without disaggregation to client level.[7]

Superimposing the contractual structure upon this informational one clarifies the design further. The client contracts with the trading member; the trading member contracts with the clearing member or PCM; the PCM contracts with the clearing corporation. Before 2021, there was, in practical terms, no contract and no reliable data feed, connecting the PCM at the top of this chain to the client at its bottom.[8] That double absence, of privity and of information, is not an accident of drafting. It is how the architecture was designed to allocate operational responsibility, a design choice this paper returns to in Part VI.

B. Why PCMs are structurally different from trading members

It is tempting to treat a PCM as merely ‘a broker without trading rights’, and therefore subject to a diminished version of the duties a trading member owes its clients. On closer examination, however, that equivalence does not hold. NSE describes a PCM as a clearing member, typically a bank or custodian, that clears and settles trades executed by its constituent trading members and custodial participants, without itself acquiring, advising or transacting for individual investors.[9] A trading member’s relationship with an investor is transactional and continuous, it opens the account, executes the order and is the first point of contact when margin is called. A PCM’s relationship, by contrast, is infrastructural. It exists to guarantee settlement for the trading members that are its actual constituents and the individual investor is, from where the PCM sits, several removes away and, before 2021, typically invisible.

This is not to suggest that PCMs are without power. A PCM can and in *Edelweiss* did, liquidate pledged securities; it therefore exercises real control over client assets even when it cannot individually identify the client to whom a given security belongs. This is precisely the tension the Supreme Court had to resolve i.e. a party operationally proximate to an asset, yet legally and informationally distant from the person to whom that asset belongs.

[7] ibid.
[8] NSE Clearing Ltd, NSE Clearing Limited Regulations (CM Segment) reg 2.1 <https://www.nseclearing.in/sites/default/files/2021-11/NSCCLCMregulations.pdf> accessed 7 September 2026.
[9] NSE, 'Professional Clearing Members' (nseindia.com) <https://www.nseindia.com/static/nse-clearing/professional-clearing-members> accessed 7 September 2026.

C. Duty, information, and control

This distance generates a question more precise than the general one, whether the PCM owed a duty. If an intermediary (i) controls an asset, (ii) has the practical power to liquidate it, but (iii) cannot identify its beneficial attribution, should liability nonetheless follow from the bare fact of control? The established maxim that the law does not compel the impossible *(lex non cogit ad impossibilia)* supplies a ready answer where the intermediary in fact lacks the means of compliance. But the maxim only defers, rather than resolves, the more difficult question, which is, whether an intermediary that occupies a position of operational control over client assets ought to bear a residual, information-forcing obligation to acquire the visibility it presently lacks, even where no express statutory duty compels it to do so. Part IV returns to this question after *Edelweiss* itself has been examined.

III. Edelweiss: From Default to Supreme Court

A. Factual matrix

The controversy arose out of successive defaults in the Futures & Options ("**F&O**") segment of the National Stock Exchange. Between January and July 2020, Anugrah Stock & Broking Pvt Ltd, a trading member, suffered heavy trading losses and defaulted on its settlement obligations.[10] Anugrah had allegedly been operating, simultaneously, as a trading member, a depository participant and an unauthorised derivatives advisory service, promising its clients assured, fixed returns, an arrangement the Court characterised, in substance, as a Ponzi scheme in which its clients had knowingly participated.[11] To cover the resulting deficit, Edelweiss, the PCM, liquidated securities that Anugrah had furnished as collateral, securities that in fact belonged to a wide base of individual clients, several of whom, on their own account, carried no debit balance whatsoever.

The Court was candid about the moral complexity of the case, opening its judgment with the observation that the F&O segment had left individual investors 'faced with eternal damnation

[10] Law Trend, 'Clearing Corporation Cannot Order Restitution of Collaterals; PCMs Not Obligated to Verify End-Client Balances: Supreme Court' (3 September 2026) <https://lawtrend.in/clearing-corporation-cannot-order-restitution-of-collaterals-pcms-not-obligated-to-verify-end-client-balances-supreme-court/> accessed 7 September 2026.

[11] Verdictum, 'Professional Clearing Members Owe No Statutory Duty To Verify Debit/Credit Positions For Trading Member On Default: Supreme Court' (3 September 2026) <https://www.verdictum.in/supreme-court/edelweiss-custodial-services-limited-v-nse-clearing-ltd-2026-insc-941-professional-clearing-members-trading-member-1621235> accessed 7 September 2026.

and loss of valuable securities'.[12] Yet it declined to treat every affected client as straightforwardly innocent, given the extent to which they had furnished securities to Anugrah with knowledge of the illegal scheme under which those securities were being deployed.

B. The three questions before the Court

The Supreme Court framed the appeals around three principal questions, first, whether a PCM had a statutory obligation to verify the individual debit or credit position of every client of the defaulting trading member before liquidating collateral, and whether the regulatory framework then in force gave the PCM the visibility such a duty would require; second, whether the MCSGFC possessed the statutory power to direct restitution of the liquidated securities, and whether the manner of its exercise offended natural justice; and third, whether individual investors could impose liability upon the PCM for a default properly attributable to the trading member.

C. Holding

The Court answered all three questions in favour of the PCMs. It held that neither the SEBI circulars nor NCL's F&O regulations nor the standard clearing agreement imposed upon a PCM a duty to ascertain every individual investor's position, and that the reporting architecture then in force did not, in any event, furnish the PCM the information such verification would require.[13] It held that Section 9(3)(b) of the Securities Contracts (Regulation) Act, 1956[14] confines a stock exchange's bye-law-making power to penalties that do not involve the payment of money, so that the MCSGFC's restitution direction, in substance a monetary remedy, fell outside NSE Clearing's statutory authority. And it held that, on the facts, no claim could be maintained by the investors directly against the PCM for a default that was, in law, the trading member's. Four appeals by the PCMs were accordingly allowed and the concurrent orders of the MCSGFC and the SAT were set aside; a connected appeal by an individual investor was rejected as not maintainable once the orders it relied upon had themselves fallen.[15]

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[12] Law Trend (n 4), quoting Edelweiss (n 2).
[13] Verdictum (n 6).
[14] Securities Contracts (Regulation) Act 1956, s 9(3)(b).
[15] Raw Law, 'Supreme Court Quashes ₹460-Crore Securities Restitution Against Clearing Members' (4 September 2026) <https://rawlaw.in/supreme-court-quashes-%E2%82%B9460-crore-securities-restitution-against-clearing-members-holds-nse-clearing-lacked-power-and-pcms-had-no-duty-to-verify-individual-investors-positions-before/> accessed 7 September 2026.

Importantly, the Court did not extinguish investors' remedies altogether: it left them free to pursue their claims against the defaulting trading member itself.[16]

IV. The Four Doctrinal Fault Lines

A. Privity: is absence of contract enough?

The Court accepted the PCMs' position that they had no privity of contract with the individual clients of the trading member, and no statutory obligation to verify those clients' positions.[17] The more difficult question is whether privity alone can determine the existence of a regulatory duty in a market which is as heavily regulated as securities clearing. Three distinct sources of obligation are in play here, and they do not necessarily travel together: a contractual duty, arising from privity and they are a statutory or regulatory duty, arising from a specific legislative or circular-based command; and an asset-control responsibility, arising simply from the practical fact of holding and being able to dispose of another's property. Securities regulation exists precisely because the ordinary law of contract, built on privity, is thought inadequate to protect investors who transact through intermediary chains they neither choose nor fully understand, which is why Parliament vested SEBI, under Section 11(1)[18] of the SEBI Act, 1992, with a general mandate to protect the interests of investors and to regulate the securities market, independent of any particular contractual relationship. Privity is, on this view, decisive for ordinary contractual liability, but it does not by itself exhaust the inquiry into regulatory responsibility, which is a point *Edelweiss* is best read as accepting only because, on these facts, no independent regulatory duty had in fact been created.

B. Possession versus visibility

This is the most original strand in the Court's reasoning, and the one on which this paper places most weight. The Court examined the regulatory chronology in detail from SEBI circulars of 2008, 2016 and 2019 progressively required trading members and clearing members to report client fund and security balances, first monthly and then weekly, but none of these circulars gave a Professional Clearing Member real-time, disaggregated visibility of an individual

[16] ibid.
[17] Verdictum, 'Professional Clearing Members Owe No Statutory Duty To Verify Debit/Credit Positions For Trading Member On Default: Supreme Court' (3 September 2026) <https://www.verdictum.in/supreme-court/edelweiss-custodial-services-limited-v-nse-clearing-ltd-2026-insc-941-professional-clearing-members-trading-member-1621235> accessed 7 September 2026.
[18] Securities and Exchange Board of India Act 1992, s 11(1).

client's debit or credit position before a liquidation decision had to be made.[19] The complete pledge/re-pledge trail that would have allowed a Professional Clearing Member to trace a security back to its individual owner became operative only from 30 June 2020, after the liquidations in issue had already occurred.[20] The Bench stated this directly, accepting that the PCMs 'had no visibility of the debit/credit positions of individual clients whose securities were furnished as collaterals by the TM', contrasting this with the position created by SEBI's 2021 circular, under which an obligation to segregate client collateral and liquidate only debit positions now exists because those positions are visible in daily reports.[21]

The argument this supports is a narrow, but important, one: a duty that the governing legal architecture makes impossible to perform, because it withholds the information performance would require, cannot fairly be inferred from an intermediary's bare physical or functional control of an asset. The same logic, however, operates in reverse once the regulatory position changes. If visibility is what is doing the work in *Edelweiss*, then an intermediary that does possess client-level information, as PCMs now do, under the post-2021 reporting regime discussed in Part V that stands on a materially different footing. The judgment, read this way, is not a permanent rule about Professional Clearing Member immunity but it is a time-bound application of an information-sensitive principle to a regulatory framework that has since been substantially superseded.

C. Can an exchange create a substantive monetary remedy through bye-laws?

The second doctrinal fault line concerns institutional competence rather than Professional Clearing Member conduct at all. Section 9(3)(b) of the SCRA empowers a recognised stock exchange to make bye-laws providing for penalties, but the provision has consistently been read as excluding penalties involving the payment of money, a power Parliament instead

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[19]Raw Law, 'Supreme Court Quashes ₹460-Crore Securities Restitution Against Clearing Members' (4 September 2026) <https://rawlaw.in/supreme-court-quashes-%E2%82%B9460-crore-securities-restitution-against-clearing-members-holds-nse-clearing-lacked-power-and-pcms-had-no-duty-to-verify-individual-investors-positions-before/> accessed 7 September 2026; see also SEBI Circular dated 26 September 2016 and Circular SEBI/HO/MRD2/DCAP/CIR/P/2019/136 dated 20 June 2019 (member-wise and client-wise weekly collateral reporting), referenced in Edelweiss.

[20]Raw Law, 'Supreme Court Quashes ₹460-Crore Securities Restitution Against Clearing Members' (4 September 2026) <https://rawlaw.in/supreme-court-quashes-%E2%82%B9460-crore-securities-restitution-against-clearing-members-holds-nse-clearing-lacked-power-and-pcms-had-no-duty-to-verify-individual-investors-positions-before/> accessed 7 September 2026.

[21] Verdictum, 'Professional Clearing Members Owe No Statutory Duty To Verify Debit/Credit Positions For Trading Member On Default: Supreme Court' (3 September 2026) <https://www.verdictum.in/supreme-court/edelweiss-custodial-services-limited-v-nse-clearing-ltd-2026-insc-941-professional-clearing-members-trading-member-1621235> accessed 7 September 2026.

conferred squarely on SEBI, whether through its adjudicatory penalty powers or through the specific disgorgement power recognised under Section 11B of the SEBI Act, 1992 and the parallel provision in Section 12A of the SCRA.[22] The Court held that the MCSGFC's direction of restoration of securities worth over ₹460 crore, coupled with a notional interest component, was, in substance, a monetary remedy that NSE Clearing had no statutory authority to impose through committee proceedings, whatever the equities of the underlying default.[23]

This raises a significant administrative-law question situated within what appears, on its face, to be an ordinary securities dispute, where Parliament has deliberately conferred a remedial power on a specialist regulator and just as deliberately withheld an equivalent power from a market-infrastructure institution's bye-law-making competence, can that institution recreate the withheld power indirectly, through disciplinary or committee proceedings, by appeal to equity or investor hardship? The doctrines of ultra vires and sub-delegation both counsel against it: a delegate cannot exercise a power the delegating statute has not given it, however sympathetic the delegate's underlying purpose. NSE Clearing's committee structure, however well-intentioned, cannot substitute for the institutional design Parliament chose, which is, SEBI as sole disgorgement authority, subject to its own procedural safeguards, merely because that design leaves a gap in a particular case.

D. Restitution, disgorgement and compensation: concepts that should not be merged

The fourth fault line is conceptual rather than purely doctrinal, and it is where the Court's treatment of precedent is most instructive. The MCSGFC and SAT had relied, in substance, on restitutionary reasoning associated with cases such as *Indian Council for Enviro-Legal Action v Union of India*, the well-known application of the polluter-pays principle,[24] and with the restitution doctrine developed in *South Eastern Coalfields Ltd v State of Madhya Pradesh*, where the Court held that any undeserved advantage obtained under an order that is later reversed must be neutralised, in keeping with the maxim *actus curiae neminem gravabit*.[25] The

[22] Securities Contracts (Regulation) Act 1956, s 9(3)(b); Securities and Exchange Board of India Act 1992, s 11B;

[23] Verdictum, 'Professional Clearing Members Owe No Statutory Duty To Verify Debit/Credit Positions For Trading Member On Default: Supreme Court' (3 September 2026) <https://www.verdictum.in/supreme-court/edelweiss-custodial-services-limited-v-nse-clearing-ltd-2026-insc-941-professional-clearing-members-trading-member-1621235> accessed 7 September 2026.
Law Trend (n 4).

[24] Indian Council for Enviro-Legal Action v Union of India (1996) 3 SCC 212.

[25] South Eastern Coalfields Ltd v State of Madhya Pradesh (2003) 8 SCC 648, [26].

Supreme Court in *Edelweiss* declined to extend either line of authority, holding that what makes restitution available in such cases is that the party from whom restitution is sought has retained something unjustly or illegally, a finding conspicuously absent here, since the PCMs had liquidated collateral they were, under the regulatory regime then in force, entitled to liquidate.[26]

Compensation repairs a claimant's loss but restitution restores a prior legal position by reversing an unjust retention whereas disgorgement strips a wrongdoer of an illegal gain, and a penalty punishes and deters. These are not interchangeable labels for the same underlying impulse to 'do something' for an aggrieved investor. What the MCSGFC appears to have been attempting in *Edelweiss* was, functionally, disgorgement or compensation dressed in restitutionary language, precisely because Parliament had not given NSE Clearing an independent compensation power and SEBI's disgorgement power could not be exercised by a committee that was not SEBI. The proposition this yield is a useful one for future regulatory design, as an institution cannot cure a remedial gap in its own statutory toolkit simply by relabelling one legal remedy as another that it happens to be authorised to grant.

V. The Regulatory Evolution Test

The main claim in this article is derived from the Court's own account of regulatory change: Professional Clearing Member "responsibility," when properly interpreted, has always tracked Professional Clearing Member "visibility," even though no judgement prior to Edelweiss had said this in as many words.

Under the framework introduced from 2016, trading members and clearing members were required to upload client fund and security balances on a monthly basis which is a cadence too slow to give any clearing member a live picture of client positions at the moment a default crystallised.[27] SEBI's circular of 20 June 2019 moved the market to weekly, member-wise and client-wise collateral reporting, a meaningful improvement in frequency that nonetheless still

[26]Verdictum, 'Professional Clearing Members Owe No Statutory Duty To Verify Debit/Credit Positions For Trading Member On Default: Supreme Court' (3 September 2026) <https://www.verdictum.in/supreme-court/edelweiss-custodial-services-limited-v-nse-clearing-ltd-2026-insc-941-professional-clearing-members-trading-member-1621235> accessed 7 September 2026.
[27]Raw Law, 'Supreme Court Quashes ₹460-Crore Securities Restitution Against Clearing Members' (4 September 2026) <https://rawlaw.in/supreme-court-quashes-%E2%82%B9460-crore-securities-restitution-against-clearing-members-holds-nse-clearing-lacked-power-and-pcms-had-no-duty-to-verify-individual-investors-positions-before/> accessed 7 September 2026.

fell short of giving a Professional Clearing Member disaggregated, real-time information at the point of liquidation.[28]

The decisive shift came with SEBI's circular of 20 July 2021 on the 'Segregation and Monitoring of Collateral at Client Level'.[29] That circular requires a trading member to report disaggregated collateral information up to the level of its individual clients to its clearing member, and requires the clearing member in turn to report disaggregated, client-wise collateral information to the clearing corporation, on a daily, T+1 basis.[30] NSE Clearing has since built a client-facing web portal precisely so that an individual investor can view her own disaggregated collateral position as reported by her trading member.[31] This is not a minor compliance amendment. It is a redistribution of information within the clearing chain, and information, on the analysis offered in Part IV, is the precondition for a verification duty to be performable at all.

The conceptual shift can be summarised as a movement from a regime in which client identity was aggregated away almost as soon as collateral left the trading member's hands, and Professional Clearing Member visibility of individual positions was correspondingly low, to a regime in which client identity, collateral attribution, reporting frequency and PCM-level operational visibility have all increased together. The question that follows, and that the Court in *Edelweiss* was not required to answer because the facts predated the 2021 regime, is whether increased visibility now justifies increased responsibility, that is, whether a Professional Clearing Member operating under the 2021 framework, with daily client-level data in hand, could today be held to a verification duty that the Court has just confirmed did not exist before June 2021. Nothing in *Edelweiss* forecloses that possibility; if anything, the judgment's own reasoning invites it.

[28]SEBI Circular SEBI/HO/MRD2/DCAP/CIR/P/2019/136 dated 20 June 2019.
[29]SEBI, Segregation and Monitoring of Collateral at Client Level, Circular No . SEBI/HO/MRD2_DCAP/CIR/2021/0598 (20 July 2021) <https://nsearchives.nseindia.com/content/circulars/CMPT51657.pdf> accessed 7 September 2026; implementation extended by Circular No SEBI/HO/MRD2/DCAP/P/CIR/2021/667 (23 November 2021).
[30]NSE Clearing Ltd, 'Web Portal for Clients' <https://www.nseclearing.in/resources/web-portal-for-clients> accessed 7 September 2026.
[31]ibid.

VI. Reform Proposal and Conclusion

A. A visibility-responsibility principle

The clearest lesson *Edelweiss* offers for future regulation is that the scope of a PCM's duty should correspond expressly to the level of client-level information the regulatory architecture actually makes available to it. Stated as a general principle, where the architecture affords a Professional Clearing Member no client-level visibility and imposes no express verification obligation, no liability should attach retrospectively for a failure to verify; but where the architecture affords a Professional Clearing Member daily, disaggregated visibility, an express and correspondingly enforceable verification obligation becomes a coherent, and arguably necessary, complement to that visibility. This is a principled basis for allocating responsibility, rather than the ad hoc, hindsight-driven standard the MCSGFC in effect applied when it found the PCMs guilty of inadequate due diligence without identifying the specific regulatory provision that due diligence was meant to satisfy.

B. Separating investor protection from intermediary discipline

A second lesson concerns institutional design rather than substantive duty. The present architecture asks a single proceeding, which is a disciplinary committee constituted by a clearing corporation, to protect investors, compensate them, and punish regulatory wrongdoing simultaneously. *Edelweiss* suggests these functions should run on separate statutory tracks, an investor-restitution mechanism properly funded and empowered for that purpose (for instance, through the Investor Protection Fund architecture already contemplated under exchange regulations), SEBI's own enforcement and disgorgement powers, exercised under Sections 11B and 12A with their attendant procedural safeguards, and, where appropriate, a private civil claim by the investor against her own trading member, a remedy *Edelweiss* expressly preserved.[32] Keeping these tracks distinct would prevent a clearing corporation's committee from stretching its bye-law power merely because an investor, understandably, needs somewhere to turn.

[32]Raw Law, 'Supreme Court Quashes ₹460-Crore Securities Restitution Against Clearing Members' (4 September 2026) <https://rawlaw.in/supreme-court-quashes-%E2%82%B9460-crore-securities-restitution-against-clearing-members-holds-nse-clearing-lacked-power-and-pcms-had-no-duty-to-verify-individual-investors-positions-before/> accessed 7 September 2026.

C. Statutory clarification of Professional Clearing Member duties

Lastly, what Edelweiss left unanswered should be resolved by SEBI or Parliament: exactly what client-level data a Professional Clearing Member must receive under the post-2021 framework, what it must verify with that data before liquidating collateral, the situations in which liquidation must be suspended pending verification, the situations in which liquidation may proceed without individual client attribution, how any resulting shortfall between clients is to be allocated, and the precise remedial authority, if any, that the exchange or clearing corporation itself, as opposed to SEBI, because the daily, disaggregated reporting infrastructure already exists, this recommendation is significantly less burdensome than it would have been in 2020. The informational foundation for a client-level duty is now largely in place, and what is missing is only the express statutory sentence connecting that foundation to a corresponding legal obligation.

VII. Conclusion

Edelweiss should not be read as establishing that Professional Clearing Members are permanently insulated from responsibility for client assets that pass through their hands. It establishes something narrower, and more consequential: that liability must emerge from the regulatory architecture actually governing an intermediary at the relevant time, and not from hindsight about what a well-meaning intermediary ought ideally to have known. Indian securities regulation has already acknowledged the importance of informational visibility to any sensible allocation of risk in the clearing chain, as evidenced by the Supreme Court's own evolution from monthly to weekly to daily and disaggregated client-level collateral reporting. What remains is to align visibility with responsibility expressly, in statute or binding regulation, while preserving the boundary the Court has now firmly drawn between an exchange's bye-law-making competence and the regulator's reserved remedial power. On this reading, *Edelweiss* is not a final statement on the liability of Professional Clearing Members but a foundation for the statutory clarification that should now follow.