

ED/SP/WRO/WRO/21445/2022-23

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER SECTION 12(3) OF SEBI ACT, 1992 AND REGULATION 27(5) OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (INTERMEDIARIES) REGULATIONS, 2008.

In Respect of:

Sr. No.	Name of the intermediary	Registration Number
1.	Money Desire Research PAN: AAYFM6388F	INA000002454

1. The present matter emanates from a show cause notice dated September 09, 2022 (hereinafter referred to as **“SCN”**) issued by the Securities and Exchange Board of India (hereinafter referred to as **“SEBI”**) to Money Desire Research (hereinafter referred to as **“Noticee”**) under Regulation 27(1) of the SEBI (Intermediaries) Regulations, 2008 (hereinafter referred to as **“Intermediaries Regulations, 2008”**) calling upon it to show cause as to why the measures recommended by the Designated Authority (hereinafter referred to as **“DA”**) or any other action as contemplated in the Intermediaries Regulations, 2008, should not be taken against it. The SCN enclosed with it the Enquiry Report dated July 28, 2022 (hereinafter referred to as **“Enquiry Report”** or **“ER”**) of the DA.
2. The Noticee is registered as an Investment Adviser under the provisions of the Securities and Exchange Board of India (Investment Advisers) Regulations, 2013 (hereinafter referred to as **‘IA Regulations, 2013’**) with effect from December 05, 2014 bearing SEBI Registration No. INA000002454. The Noticee is a partnership firm having Mr. Anoop Kumar Tiwari and Mr. Raghvendra Singh as partners. I note that pursuant to receipt of various complaints against the Noticee, SEBI had conducted an examination in the matter which prima facie revealed violations of provisions of the IA Regulations, 2013, SEBI (Prohibition of Fraudulent and Unfair

Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as '**PFUTP Regulations, 2003**') and SEBI Act, 1992 (hereinafter referred to as '**SEBI Act, 1992**'). Subsequently, on January 15, 2020, an exparte Interim Order (hereinafter referred to as '**Interim Order**') was passed by SEBI under Sections 11(1),11(4),11B and 11D of the SEBI Act, 1992 against the Noticee and its partners with *inter alia* the following directions.

47.1. Money Desire Research (PAN: AAYFM6388F) and its partners Mr. Anoop Kumar Tiwari (PAN: ALLPT5927F) and Mr. Ragvendra Singh (PAN:CHPPS6375C) are directed:-

47.1.1. to cease and desist from acting as an investment advisor including the activity of acting and representing through any media (physical or digital) as an investment advisor, directly or indirectly, and cease to solicit or undertake such activity or any other activities in the securities market, directly or indirectly, in any matter whatsoever, until further orders;

47.1.2. not to access the securities market and buy, sell or otherwise deal in securities or associate themselves with securities market, either directly or indirectly, in any manner whatsoever, until further orders; If Money Desire Research and its partners, named in this order have any open position in any exchange traded derivative contracts, they are permitted to close out/ square off such open positions within one month from the date of receipt/knowledge of this order.

47.1.3. not to divert any funds raised from investors, kept in bank account(s) and/or in their custody until further orders;

47.1.4. to provide a full inventory of all assets held in their name, whether movable or immovable, or any interest or investment or charge on any of such assets, including details of all bank accounts, demat accounts and mutual fund investments, immediately but not later than 5 working days from the date of receipt of this order.

47.1.5. not to dispose of or alienate any assets, whether movable or immovable, or any interest or investment or charge on any of such assets

held in their name, including money lying in bank accounts except with the prior permission of SEBI

47.2. Banks including HDFC Bank Limited, ICICI Bank, Axis Bank and Bank of India, wherein Money Desire Research (PAN: AAYFM6388F) and its partners Mr. Anoop Kumar Tiwari (PAN: ALLPT5927F) and Mr. Raghvendra Singh (PAN: CHPPS6375C) are holding bank accounts, are directed not to allow any debits / withdrawals and credits from the said accounts, without the permission of SEBI, until further orders. The Banks are also directed to ensure that all the above directions are strictly enforced.

47.3. Any person while working under MDR or under its instructions as employee or otherwise, shall cease and desist from undertaking the activity of investment advisory services, including the activity of acting and representing through any media (physical or digital) as an investment advisor, directly or indirectly, till further orders.

47.4. The Depositories are directed to ensure that till further directions no debits are made in the demat accounts of MDR, and its partners named in this order, held jointly or severally.

47.5. The Registrar and Transfer Agents are also directed to ensure that till further directions the securities, including Mutual Funds held in the name of MDR, and its partners named in this order, jointly or severally, are not transferred or redeemed.

3. Pursuant to passing of Interim Order, the examination in the matter was concluded and a common Show Cause Notice dated March 17, 2022 was issued to the Noticee and its partners which culminated in passing of Final Order (hereinafter referred to as '**Final Order**') dated October 17, 2022 by SEBI against the Noticee and its partners with *inter alia* the following directions.

6.1 I, in exercise of powers conferred upon me under sections 11(1), 11 (4), 11 (4A), 11B(1), 11 B (2) of the Securities and Exchange Board of India Act, 1992 along with Regulation 35 of the Intermediaries Regulations

read with Regulation 28 of IA Regulations and in the interest of investors do hereby pass the following directions: –

- a) The Noticees, namely, Monsey Desire Research (Noticee No. 1), Anoop Kumar Tiwari (Noticee No.2) and Raghvendra Singh (Noticee No.3) are directed to resolve the complaints pending against the Firm on SCORES and otherwise, and any refunds that may be required to be made pursuant to the resolution of the complaints, within a period of thirty (30) days from the date of this Order.*
- b) The Noticees are prevented from selling their assets, properties and holdings of mutual funds/shares/securities held by them in demat and physical form except for the sole purpose of making the refunds as directed above or for the payment of penalty as imposed in this Order. Further, banks are directed to allow debit from the bank accounts of the Noticees, only for the purpose of making refunds to the clients/ investors who were availing the investment advisory services from the Firm or for the payment of penalty as imposed in this Order.*
- c) After completing the aforesaid repayments/resolution of complaints, the Noticees shall file a report of such completion with SEBI addressed to the “Division Chief, Division of Post-Inspection Enforcement Action, Market Intermediaries Regulation and Supervision Department, SEBI Bhavan II, Plot No. C7, G Block, Bandra Kurla Complex, Bandra (East) Mumbai –400051”, within a period of fifteen (15) days, after completion of thirty (30) days from the coming into force of the directions at para 6.1(a), duly certified by an independent Chartered Accountant and the direction at para 6.1(b) above shall cease to operate upon filing of such report on resolution of complaints/ completion of refunds to complainants.*
- d) Noticee Nos. 2 and 3 are debarred from accessing the securities market, directly or indirectly and are prohibited from buying, selling or*

otherwise dealing in securities, directly or indirectly in any manner whatsoever, for a period of three (3) years from the date of this Order or till the expiry of three (3) years from the date of resolution of complaints/completion of refunds to complainants as directed in para 6.1(a), whichever is later.

e) I note that vide the Interim Order dated January 15, 2020, the Noticees were restrained from accessing the securities market and prohibited from buying, selling or dealing in the securities market till further orders. In this context, I note that enquiry proceedings have been initiated against Noticee No. 1 under the SEBI (Intermediaries) Regulations, 2008. The restraint imposed on Noticee No. 1 vide the Interim Order in respect of its investment advisory business shall continue till the disposal of the enquiry proceedings.

f) The Noticees are hereby, jointly and severally, imposed with the monetary penalties, as provided hereunder:

<i>Noticee No.</i>	<i>Name of the Noticee</i>	<i>Provisions under which penalty imposed</i>	<i>Amount of Penalty (INR)</i>
<i>1</i>	<i>Money Desire Research</i>	<i>Section 15 HA</i>	<i>Five (5) lakh</i>
<i>2</i>	<i>Anoop Kumar Tiwari</i>	<i>Section 15 HB</i>	<i>Five (5) lakh</i>
<i>3</i>	<i>Raghvendra Singh</i>		
<i>Total</i>			<i>Ten (10) lakh</i>

4. Pursuant to passing of Interim Order, a simultaneous separate enforcement action in form of Enquiry proceedings under the provisions of Intermediaries Regulations, 2008 were also initiated against the Noticee. The present Order is the result of such enquiry proceedings against the Noticee under Section 12(3) of the SEBI Act, 1992 read with Intermediaries Regulations, 2008. Considering the alleged violations of the provisions of SEBI Act, 1992, IA Regulations, 2013 and PFUTP Regulations, 2003, SEBI had appointed a DA under Regulation 24 of the

Intermediaries Regulations, 2008 to conduct an enquiry in the matter. A show cause notice dated October 29, 2021 was issued by the DA under the provisions of Regulation 25 of the Intermediaries Regulations, 2008 calling upon the Noticee to show cause as to why appropriate recommendation should not be made against it under Regulations 23 and 27 of the Intermediaries Regulations, 2008 for the alleged violations. Despite the service of the show cause notice dated October 29, 2021, the Noticee did not file its reply and the DA proceeded further on the basis of material available on record in terms of Regulation 25(7) of the Intermediaries Regulations, 2008. After considering the facts and circumstances of the case and material available on record, the DA vide its Enquiry Report *inter alia* made the following observations:

- a) **Non-compliance of WTM Order:** The ER observed that SEBI had passed an interim ex parte order dated January 15, 2020 against the Noticee and its partners namely Mr. Anoop Kumar Tiwari and Mr. Raghavendra Singh under sections 11(1), 11(4), 11B and 11D read with Section 19 of the SEBI Act, 1992 and Regulation 35 of the Intermediaries Regulations, 2008 and issued certain directions. SEBI also directed the Noticee and its partners to submit reply/objections, if any, within 21 days from the date of receipt of the order. The notice was also advised to indicate as to whether they desire to avail an opportunity of personal hearing in the matter. It appears from the record that SEBI is not in receipt of any reply from the Noticee. The DA noted that there is nothing on record regarding the compliance of directions issued by SEBI. Since the notice failed to submit any reply to the interim order, the DA concluded that the Noticee failed to comply with the directions issued by SEBI.
- b) **Promising assured profit/unrealistic return to its clients:** The ER observed that the Noticee has been indicating target returns (from the investment made by the clients based on the call/tips given by it) while interacting with clients. Further, inducing clients by promising them assured unrealistic profits were observed from analysis of the complaints. It was also observed from the complaints that the Noticee also lured by promising guaranteed returns through telephonic conversation and extorting more and more amount towards service charges.

- c) **Selling multiple services and collecting unreasonable amount of fees:** The ER observed that the Noticee has not been fair and transparent in its dealing with clients regarding the fees charged to the client. It was observed that the Noticee has sold the same product/service to client again for the period of which fees/charges have already been collected. The ER observed that to the client Mr. Amar Ghosalkar, stock option service was repeatedly sold for the same or overlapping period for which service charges have already been collected through earlier invoices. Further, it was observed that the same product was sold multiple times to its client Mr. Tabish Khan and Mr. Rathva Maheshbhai and the Noticee had sold the same services/products before the expiration of the earlier service to these clients.
- d) **Noticee failed in doing risk profiling of the clients properly:** The ER observed that in SCORES complaint of Mr. Dhananjay Vaid, it was mentioned by the complainant that Noticee advised him to buy premium services since his risk appetite is high and also informed that after making payment his KYC shall be forwarded to SEBI. From the records, it was observed that the Noticee had submitted risk profiling form and KYC documents through SCORES as part of final ATR. On the perusal of the risk profiling form it was observed that Noticee did not assess the risk capacity of the client correctly. It was observed that in the risk profiling form of the clients, Noticee had merely recorded contradictory answers of the risk assessment questions.
5. The ER observed that the Noticee has violated Regulation 15(1), 16(d), 17(a) and 17(e) of the IA Regulations, 2013, Clauses 1, 2 and 6 specified under Schedule III of Code of Conduct read with Regulation 15(9) of IA Regulations, 2013 and Regulation 3 (a), (b), (c) and (d) of the PFUTP Regulations, 2003 read with Section 12A(a), (b) and (c) of the SEBI Act, 1992 read with Regulation 6(f) and 28(a) of IA Regulations, 2013, and made the following recommendation:

“...in terms of the provisions of regulation 27 of the Intermediaries Regulations read with regulation 28 of the IA Regulations, I hereby recommend that the certificate of registration of the Noticee i.e. Money Desire Research (SEBI registration number INA000002454) may be cancelled.”

6. Thereafter, the SCN came to be issued to the Noticee under Regulation 27(1) of the Intermediaries Regulations, 2008, in respect of enquiry conducted against the Noticee. The SCN was served upon the Noticee through speed post acknowledgement due and through email dated September 12, 2022. Mr. Raghvendra Singh, one of the partners of the Noticee filed its reply dated September 29, 2022 to the SCN vide its email dated September 30, 2022. An opportunity of personal hearing was also granted to the Noticee on November 01, 2022, wherein, Mr. Abhishek Mishra, the Authorized representative of Mr. Raghvendra Singh, appeared via videoconferencing and made submissions. Thereafter, Mr. Raghvendra Singh filed written submissions vide dated November 02, 2022.
7. Mr. Raghvendra Singh, vide replies dated September 29, 2022 and November 02, 2022 has *inter alia* made the following submissions on behalf of the Noticee.
 - a) *Non-Compliance of WTM Order: The Noticee would like to inform SEBI that at the time of passing of the interim order on January 15, 2020, he was not in town as his wife was in hospital to deliver the baby and he was sooner to become a father. The same can be verified through the birth certificate of his child enclosed as Annexure-2. As a result, the Noticee could not reply to the interim order. Further from March 2020 onwards lockdown was imposed in the entire country, so the Noticee was stuck in the hometown and was facing financial crisis as his bank accounts were freeze by the SEBI. Then in April 2020, partner of the firm, Mr. Anoop Tiwari, who was having major control over the affairs of the firm and all the relevant documents, GST registrations, signatory to bank accounts, client's documents were under him got arrested by Indore police in the matter of alleged murder case of his wife. The FIR of which is attached as Annexure-3. As a result, police seized the house of Mr. Anoop along with his laptop, mobile and other devices in which all the data was stored and maintained and took in the police custody. Further due to the arrest of Mr. Anoop and office closure in the Noticee's absence, he did not had any record of any documents or systems, as all the records were in the custody of Mr. Anoop. Hence, he could not reply to the Interim Order.*
 - b) *Promising assured profit/unrealistic return to its clients: The Noticee has nowhere made any assurance of guaranteed return rather have just provided expected return. Prior to taking subscription, clients used to ask that what returns they should expect*

and hence they have provided them the expected returns. Further, the clients were made aware that investment in securities market is subject to market risk and the Noticee do not provide any kind of guaranteed returns. Also, the Noticee has nowhere made any representation on the website for any guaranteed return, rather they have just mentioned accuracy level of the recommendations. The accuracy levels were shown was just a marketing/ advertising which is done by every entity to sell its product. The Noticee have no way guaranteed the returns. Further, on the website, it was clearly mentioned that: they do not provide any guaranteed returns. Furthermore, the Noticee was not aware about the false promises made by the employees on behalf of the firm, when they came across this thing, they had refunded all such clients their service amount.

- c) *Selling multiple services and collecting unreasonable amount of fees:* The Noticee would hereby like to inform the SEBI that the multiple services were sold to the clients, as the nature of the services were different and clients were made aware of the same fact. The clients were involved in trading in derivatives as well as cash segment, and hence multiple services were offered to them viz. stock option, futures and cash simultaneously. Many instances as illustrated in the order and notices; the Noticee have not offered multiple services rather the clients have paid advances for the services so they have extended the service duration. Further, as alleged by the SEBI that the service has been repetitively sold for the same or overlapping period is incorrect as the invoice has not been updated for the extended period due to typo error. Hence there was no overlap of same service. Also, there were many instances where client itself has requested the Noticee for providing different services (stock options, futures, cash, index) at a time and hence they have provided them the requisite services as requested by the clients. Noticee has nowhere charged any unreasonable fees from the clients as the same fees were adjusted for the next tenure. The clients have paid fees with their own will and consent, they were neither forced nor were deceived in any manner whatsoever.
- d) *Noticee failed in doing Risk Profiling correctly:* In this regard the Noticee would like to state that medium risk clients were sold high risk products as they insisted for it and they were having past experience of trading in the same segment. Further, the Noticee was not involved in offering any comprehensive financial planning as the firm was just providing intraday recommendations based on the research. Noticee have also taken into consideration the risk profile of the clients but have prioritized client request over their risk profile

- e) *I, Raghavendra Singh, Partner of Money Desire Research hereby request the SEBI to not to take any adverse action against me. Further, I am not planning to practice as an investment adviser going forward as one of my partners is no longer a fit and proper person under SEBI Intermediaries Regulations. Further, also request you to not take any enforcement action against me and you may suspend/cancel the registration certificate of Money Desire Research as we are no longer into the operations.*

Consideration of submissions and findings

8. I have gone through the SCN, the ER, replies of the Noticee and its submissions made before me during the hearing. I note that the allegation against the Noticee is that the Noticee has not complied with the WTM Order dated January 15, 2020, that the Noticee had promised assured profit/unrealistic returns to its clients, sold multiple services and collected unreasonable amount of fees from clients and failed in doing proper risk profiling of clients. The aforesaid activities of the Noticee were allegedly in violation of Regulation 15(1), 15(9), 16(d), 17(a) and 17(e) of the IA Regulations, 2013, Clauses 1, 2 and 6 specified under Schedule III of Code of Conduct read with Regulation 3 (a), (b), (c) and (d) of the PFUTP Regulations, 2003 read with Section 12A(a), (b) and (c) of the SEBI Act, 1992 read with Regulation 6(f) and 28(a) of IA Regulations, 2013. The relevant extracts of the provisions of law allegedly violated by the Noticee are mentioned as under:

SEBI Act

Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.

12A. No person shall directly or indirectly—

(a) use or employ, in connection with the issue, purchase or sale of any securities listed or proposed to be listed on a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of this Act or the rules or the regulations made thereunder;

(b) employ any device, scheme or artifice to defraud in connection with issue or dealing in securities which are listed or proposed to be listed on a recognised stock exchange;

(c) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, dealing in securities which are listed or proposed to be listed on a recognised stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;

PFUTP Regulations

3. Prohibition of certain dealings in securities

No person shall directly or indirectly—

- (a) buy, sell or otherwise deal in securities in a fraudulent manner;*
- (b) use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made there under;*
- (c) employ any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange;*
- (d) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made there under.*

IA Regulations

Consideration of application and eligibility criteria.

6. For the purpose of the grant of certificate the Board shall take into account all matters which are relevant to the grant of certificate of registration and in particular the following, namely, —

- (f) whether the applicant, its partners, principal officer and persons associated with investment advice, if any, are fit and proper persons based on the criteria as specified in Schedule II of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008*

28. An investment adviser who -

- (a) contravenes any of the provisions of the Act or any regulations or circulars issued thereunder;*

shall be dealt with in the manner provided under the Securities and Exchange Board of India (Intermediaries) Regulations, 2008.

General Responsibility

15. (1) An investment adviser shall act in a fiduciary capacity towards its clients and shall disclose all conflicts of interests as and when they arise.

(9) An investment adviser shall abide by Code of Conduct as specified in Third Schedule.

Risk Profiling

16. Investment adviser shall ensure that-

(d) any questions or description in any questionnaires used to establish the risk a client is willing and able to take are fair, clear and not misleading, and should ensure that: (i) questionnaire is not vague or use double negatives or in a complex language that the client may not understand; (ii) questionnaire is not structured in a way that it contains leading questions.

Suitability

17. Investment adviser shall ensure that-

(a) All investments on which investment advice is provided is appropriate to the risk profile of the client;

(e) Whenever a recommendation is given to a client to purchase of a particular complex financial product, such recommendation or advice is based upon a reasonable assessment that the structure and risk reward profile of financial product is consistent with clients experience, knowledge, investment objectives, risk appetite and capacity for absorbing loss.

THIRD SCHEDULE CODE OF CONDUCT FOR INVESTMENT ADVISER

1. Honesty and fairness

An investment adviser shall act honestly, fairly and in the best interests of its clients and in the integrity of the market.

2. Diligence

An investment adviser shall act with due skill, care and diligence in the best interests of its clients and shall ensure that its advice is offered after thorough analysis and taking into account available alternatives.

6. Fair and reasonable charges

An investment adviser advising a client may charge fees, subject to any ceiling as may be specified by the Board. The investment adviser shall ensure that fees charged to the clients is fair and reasonable.

9. I note that the ER finds the Noticee in violation of provisions of the IA Regulations, 2013, the PFUTP Regulations, 2003 and the SEBI Act, 1992 on the following four counts:

- a) Non-compliance with the WTM Order dated January 15, 2020
- b) Promising assured profit/unrealistic returns to its clients
- c) Selling multiple services and collected unreasonable amount of fees
- d) Failed in doing risk profiling of the clients properly

A. Non-compliance with SEBI Order dated January 15, 2020

10. SEBI had passed an *interim ex parte* order dated January 15, 2020 against Noticee and its partners namely Mr. Anoop Kumar Tiwari and Mr. Raghvendra Singh. Vide the Interim Order, the Noticee and its partners were *inter alia* directed to:

“...provide a full inventory of all assets held in their name, whether movable or immovable, or any interest or investment or charge on any of such assets, including details of all bank accounts, demat accounts and mutual fund investments, immediately but not later than 5 working days from the date of receipt of this order.”

In this regard, the enquiry Report has observed that *“it appears from the record that SEBI is not in receipt of any reply from the Noticee. I note that there is nothing on record regarding the compliance of Directions issued by SEBI. Since the Noticee failed to submit any reply to the said interim order, therefore, it can be concluded that the Noticee failed to comply with the directions issued by SEBI.”*

11. In this regard I note that Raghvendra Singh, one of the partners of the Noticee, vide its reply dated September 30, 2022 to the SCN has submitted that at the time of passing of the Interim Order dated January 15, 2022 he was not in town as his wife was in hospital to deliver the baby and in support of this claim, he has provided birth certificate of his child bearing date of birth as February 11, 2020 issued on December 15, 2020. Further, he has submitted that from March 2020 onwards lockdown was imposed in the entire country, so he was struck in his hometown and was facing financial crisis as his bank account were frozen by SEBI. He has also submitted that in April 2020, the other partner, Anoop Kumar Tiwari who had control over the affairs of the Firm and relevant documents was arrested by the Indore police in the matter of alleged murder case of his wife and the police seized his house, along with his laptop, mobile phone and other devices in which all the data was stored and maintained. Further, Raghvendra Singh has submitted that due to the arrest of Anoop Kumar Tiwari and office closure in his absence, he did

not have any record of any of the documents or systems, as all the records were in the custody of Anoop Kumar Tiwari.

12. I find from the material available on record that pursuant to passing of Interim Order, no reply was received by SEBI either from the Noticee and/or its partners. I note that the Noticee is a registered intermediary and yet the Interim Order could not be served through speed post on the official address of the Noticee, and returned undelivered. In this regard, I note from the Final Order that the Interim Order was served upon the Noticee by affixture on February 12, 2020. The Interim Order had directed the Noticee to file its response within five working days from the receipt of the Interim Order. Thus there was sufficient time before the onset of Covid-19 lockdown imposed from March 25, 2020 and the arrest of Mr. Anoop Kumar Tiwari in April 2020, for the Noticee to comply with the directions of the Interim Order. I note that no letter/email was also filed with SEBI seeking further time or difficulty in complying with the directions. Further, the Noticee while stating that the other partner, Mr. Anoop Kumar Tiwari had major control over the affairs of the firm, has not provided any documentary proof like the partnership deed in support of his claim which may have suggested the bifurcation of the duties. In absence of any clear bifurcation and absence of any supporting documentary proof, being a partnership firm, both the partners were equally responsible for complying with the directions of the Interim Order. In view of the above, I find that the aforesaid contentions put forth by the Noticee are untenable and agree with the observations of the ER that the Noticee has not complied with the direction in the Interim Order.

B. Promising assured profit / unrealistic return to its clients:

13. The ER had observed that the Noticee was promising high, assured /unrealistic returns for the investments made by the clients and in the process, lured them to make larger investments. It was observed that the high returns were promised to the clients based on the advice/ tips/ calls given by the Noticee. It was observed that the Noticee by promising assured returns/unrealistic return to its clients had shown complete disregard to its responsibility to its client to act in fiduciary capacity entrusted upon it under IA Regulations.

14. In this regard, the Noticee has submitted that it has nowhere made any assurance of guaranteed return and have just provided expected returns. That prior to taking subscription, clients used to ask what returns they should expect and hence it has only provided them the expected returns. The Noticee submitted that the clients were made aware that the investments in securities market are subject to market risk and the Noticee do not provide any kind of guaranteed returns. The Noticee has submitted that they have nowhere made any representation on the website for any guaranteed return, rather they have just mentioned accuracy level of the recommendations, and the accuracy levels were shown was just a marketing/advertising tool.
15. In this regard, from the material available on record, I note that the Noticee was running a website with the domain name – www.moneydesireresearch.in, which is no longer active. However, from the copies of the webpages of the website available on record I note that the Noticee was offering various investment products. In the “About us” page of the website the Noticee had mentioned that *“We(MDR) assure more than 90% accuracy in our recommendations and provide second to none customer support.”* Description of some of the packages offered by the Noticee, as observed in the ER, is provided below.
- a) In premium service “Rhodium Cash” it is mentioned as *“We provide 3-4 intraday cash call in this service with accuracy of more than 90% in NSE/BSE you will get”*
 - b) In “Swing Cash+” product it is mentioned *“We provide you around 3-4 cash positional based calls in a week” “High return of 8-9% on each call”.*
 - c) In its product “Swing Future+” it is mentioned that *“We provide you around 3-4 positional Future Calls in a week, Target of Rs.8000-9000”*
 - d) In its product “Premium Swing Options+” it is mentioned that *“We provide you around 3-4 positional stock options calls in a week, Target of Rs.5000-7000”*
 - e) In its product “Premium Stock Future”, “Premium Stock Options”, “Rhodium Future” it is mentioned that *“2-3 premium positional Futures Calls per week, you will get 3-5% average return on positional calls”*

16. I also note that SEBI had received various complaints from the clients of the Noticee regarding its activities. One of the complainants, Mr. Kiran Aravalli in his complaint bearing no. SEBIP/MP18/0000300/1 filed on the SEBI-SCORES system had attached a copy of an email dated July 15, 2017, received by him from the Noticee. The said email stated as follows.

“Equity Umbrella: - Customer will get all equity product with intraday, BTST, weekly levels and short term holdings.

Required Investment: 5 Lac

Expected Return: 1 to 1.5 lac/day

Management Charges: 8 lac” (sic)

17. The complainant Mr. Kiran Aravalli in his letter dated July 16, 2018 addressed to SEBI had also stated that the Noticee had made a promise to him that he would get returns of Rs. 1 crore within 3 months and in furtherance of the claims made by the Noticee, he had made a payment of INR 18.50 lakh.
18. Further, SEBI had received an email dated September 23, 2019 from one complainant, Mr. Ajay Raj Sharma, stating that he had suffered losses of Rs. 110000 on the promise of guaranteed returns of Rs. 1000000 made by the Noticee. The said complainant has submitted an email dated May 23, 2018 received from the Noticee, wherein it has been mentioned that the Noticee was launching an “auto points plan”. The said plan has been explained in the following terms, in the said email:

“We provide 1000 Redeemed points in this plan Each point would be calculate of rs.1000.

Completing of our 1000 points You will get $1000 \times 1000 = 10,00,000/-$ (10-12 lakh.)

....

.....

Our best experience to cover these whole points within 50 to 60 trading session or whenever you will not get the whole profit according to the commitment till the time your services not going to be end.

Our charges on whole 1000 points is INR- 2,25,000/- excluding GST.”

19. Thus, upon consideration of the aforesaid complaints filed by the clients of the Noticee, it is evident that the Noticee was offering packages to its client with promise of high returns and targeted profits in order to lure them into making more investments. The complainant, Kiran Aravalli, was offered expected returns of Rs. 1 to 1.5 lakhs per day for investment of Rs. 5 lakhs. Further, the complainant Mr. Ajay Raj Sharma was offered services with commitment to cover the promised points within 50 to 60 trading sessions or till the time the promised profit is not delivered. In this regard, I note that submissions made by the Noticee that it offered only expected returns and not assured/guaranteed returns is untenable and contrary to the documentary proof available on record which clearly shows that assured and unrealistic returns were offered by the Noticee to its clients.
20. Any promise of assured or guaranteed returns to the clients is misleading and antithetical to fundamental principle of investment that all investments in securities market are subject to market risk. In fact, any such promise of assured or guaranteed returns induces the investors to invest in the securities market. Thus, I am of the view that in the instant case, the promise of assured and high returns by the Noticee was misleading and an inducement to the clients to invest in the various packages offered by the Noticee which is squarely covered within the definition of fraud as provided under Regulation 2(1)(c) of PFUTP Regulations, 2003. Accordingly, I agree with the observations of the ER that the Noticee has violated the provisions of Section 12A (a), (b), (c) of the SEBI Act, 1992 and Regulations 3(a), (b), (c), (d) of the PFUTP Regulations, 2003.
21. I note that as per the code of conduct prescribed for the Investment advisers provided under IA Regulations, 2013, every Investment Adviser is required to act honestly, fairly and in the best interests of its clients and in the integrity of the

market. The Investment adviser is also required to act with due skill, care and diligence in the best interests of its clients and shall ensure that its advice is offered after thorough analysis and taking into account available alternatives. In this regard by promising assured and unrealistic returns, the Noticee has misled its clients and induced them to subscribe to its packages. Thus, I agree with the observations of the ER that the Noticee has not complied with Clause 1(honesty and fairness) and Clause 2 (diligence) as specified under Third Schedule of Code of Conduct for Investment Adviser and thus violated Regulation 15(1) and 15(9) of the IA Regulations, 2013.

C. Selling Multiple Services and Collecting unreasonable amount of fees:

22. The ER has observed that the Noticee has not been fair and transparent in its dealing with clients regarding the fees charged from them. It is observed that the Noticee has sold the same product/service to its client for the period for which fees/charges had already been collected in complete disregard to the responsibility entrusted upon it under the provisions of the IA Regulations, 2013.
23. The ER has also mentioned some of the instances wherein the Noticee has sold multiple services/products to its clients. In this regard, Mr. Amar Ghosalkar in his complaint to SEBI has provided the following payment details with respect to services offered by the Noticee to him.

Table 1

Sl. No	Invoice Date	Invoice No.	Product	Period of service	Invoice Amount (Rs.)
1	08-Jun-18	INV291	Stock Option	08-Jun-18 to 16-Jul-18	31,250/-
2	08-Jun-18	INV292	Stock Option	08-Jun-18 to 16-Jul-18	31,313/-
3	08-Jun-18	INV294	Stock Option	08-Jun-18 to 31-Aug-18	57,347/-
4	14-Jun-18	INV301	Stock Option	14-Jun-18 to 28-Sep-18	45,000/-
Total					1,64,910/-

24. Further, another complainant Mr. Tabish Khan has provided the following details with respect to payments made to the Noticee.

Table 2

Sl. No.	Invoice Date	Invoice No.	Product	Period of service	Invoice Amount (Rs.)
1	June 19, 2018	569	All Equity	1 month	7,500/-
2	June 19, 2018	570	All Equity	3 months	40,000/-
3	June 19, 2018	571	All Equity	6 months	60,000/-
4	June 20, 2018	584	All Equity	6 months	52,000/-
5	June 21, 2018	585	All Equity	1 year	1,01,011/-
6	June 21, 2018	587	All Equity	1 year	15,000/-
7	July 05, 2018	827	Stock Option + Future	1 month	7,500/-
8	July 12, 2018	836	Stock Option + Future	3 months	60,000/-
9	July 17, 2018	841	Stock Option + Future	3 months	65,100/-
10	July 28, 2018	853	Stock Option + Future	6 months	1,25,000/-
Total					5,33,111/-

25. Further, Mr. Rathva Maheshbhai, another complainant, has provided the following details.

Table 3

Sl. No.	Invoice Date	Invoice No.	Product	Period of service	Invoice Amount (Rs.)
1	April 19, 2018	INV 194	Stock Option	19-Apr-18 to 31-May-18	35,500/-
2	May 04, 2018	INV- MAY2018006	Cash	Not mentioned	20,000/-
3	May 09, 2018	INV- MAY20180013	Cash	Not mentioned	20,000/-
4	May 16, 2018	INV- MAY20180027	Cash	Not mentioned	20,000/-
5	May 18, 2018	INV- MAY20180032	Cash	Not mentioned	20,200/-
6	May 26, 2018	INV 265	Cash Premium	28-May-18 to 31-Dec-18	1,40,000/-

Sl. No.	Invoice Date	Invoice No.	Product	Period of service	Invoice Amount (Rs.)
7	May 28, 2018	INV 266	BTST/ST BT	28-May-18 to 24-Aug-18	2,10,203/-
8	May 28, 2018	INV 267	Nifty Future	28-May-18 to 23-Nov-18	1,26,202/-
9	June 29, 2018	INV- JUNE2018013 3	Cash	Not mentioned	30,000/-
Total					6,22,105/-

26. In this regard, I note that the Noticee has submitted that multiple services were sold to the clients as the nature of the services were different and clients were made aware of the fact. That the clients were involved in trading in derivatives as well as cash segment and hence multiple services were offered to them viz. stock option, futures and cash. The Noticee submitted that in the various instances illustrated by SEBI, the Noticee have not offered multiple services, rather the clients have paid advances for the services for the extending their service duration. Regarding the overlapping period, the Noticee has submitted that the same is typo error as the invoices have not been updated.
27. In this regard, I note that as per the details provided by the complainant Mr. Amar Ghosalkar, it is clear that the same product 'Stock Option' was sold to him on four occasions. On a same day i.e. June 08, 2018, the product 'Stock Option' was sold for overlapping period from June 08, 2018 to August 31, 2018 with varied amounts charged to him. Again on June 14, 2018 'Stock Option' was sold for a period from June 14, 2018 to September 28, 2018 which is clearly overlapping with the other period, as evident from Table 1 above.
28. With respect to the complainant Mr. Tabish Khan, the product 'all equity' was sold by the Noticee on six occasions. On June 19, 2018, the Noticee sold the product 'all equity' on three instances for a period of service for one month, three months and six months and for the amount Rs. 7500, Rs. 40,000 and Rs. 60,000 respectively. On June 20, 2021, the client paid for the product 'all equity' for six months for Rs. 52,000. Again on June 21, 2018 for the same product, the client

paid Rs. 1,01,011 and Rs. 15,000 for one-year service, which shows that varied amounts were charged by the Noticee and no explanation for the same has been provided. Similarly, I note that the Noticee sold the product 'stock option + future' to Mr. Tabish Khan on four occasions with overlapping period as evident from Table 2 above.

29. In case of Mr. Rathva Maheshbhai, I note that the Noticee has sold multiple products to him within a short period of time and before the completion of service period of the earlier product sold. In the month of May 2018, between May 04, 2018 to May 18, 2018, the same "cash" product has been sold multiple times to the client for the same amount without mentioning the period of service in the invoice. Out of 9 invoices issued by the Noticee to the client, the period of service had not been mentioned in 5 invoices although in all the invoices the product 'cash' was sold, as detailed above in Table 3 above.
30. From the above complaints, it is clear that multiple services/products were sold to the clients with overlapping period. In this regard, the Noticee's contention that multiple services were sold to the clients as the nature of the services were different and clients were made aware of the fact, is a mere statement without any justifiable proof or supporting documents and is contrary to the facts available on record. Further, the contention of the Noticee that multiple services were offered to the clients as they were involved in trading in derivatives as well as cash segment, is untenable, as in the case of Mr. Tabish Khan the same service 'all equity' had been sold twice for period of six months with difference of only one day in the invoice date. It is also noted that for the same period of service for same product, the amount charged is different without any apparent justification. Similarly, for 1-year service with same invoice date i.e. June 21, 2018, the Noticee charged contrasting amounts of Rs. 1,01,011/- and Rs. 15,000/- which is disproportionate and without any basis. It is unlikely that the same client would buy same service/product twice on the same day for the same duration and that too by paying considerably disproportionate amount twice unless the client has been induced to do so. Similarly, for the product 'stock option + future', as given in Table-2 above, fees

charged for one month was Rs. 7,500/-, whereas for three month Rs. 60,000/- and Rs. 65,100/- were charged and for six months Rs.1,25,000/- was charged.

31. The Noticee's claim that multiple services were offered by it and the clients have paid advances for the services for extending their service duration is also a mere statement and contrary to the material available on record, as shown in the aforesaid Tables. As illustrated above, for all the three complainants i.e. Mr. Amar Ghosalkar, Mr. Tabish Khan and Rathva Maheshbhai, the invoice suggests that the services/products sold were for overlapping period and not for extending the services of the clients. If the amount charged was in lieu of advance payment for extending the service period, the duration of service would have been different and not overlapping which is not the case. Further, the contention that the overlapping period is due to typo error and the invoices have not been updated is mere statement and clearly an afterthought and cannot be taken into consideration, especially given the number of instances, as shown in the aforesaid Tables.
32. Thus, from the above, I find that the clients were being sold same service for same duration multiple times and were charged unreasonable and arbitrary fees. An investment adviser owes a fiduciary duty towards its clients and to act with due skill, care and diligence in the best interests of its clients. The Investment adviser is required to act with honesty and fairly. The Noticee in the instant case by selling same service for overlapping duration multiple times has not acted fairly and honestly and has failed in its fiduciary duty towards its client and has not acted with due skill, care and diligence and thus, I agree with the observations of the ER that the Noticee has violated Regulation 15 (1) of the IA and Regulation 15(9) of the IA Regulation read with Clauses 1 and 2 of the code of conduct mentioned in third schedule. Further, by charging unreasonable and arbitrary fees from its clients, the Noticee has violated Clause 6 of the Code of Conduct for investment advisers which require the Investment adviser to charge fair and reasonable fees.
33. Further, these acts of the Noticee of selling same service multiple times and charging unreasonable fees amounts to fraud under the provisions of Regulation 2(1)(c) of the PFUTP Regulations, and thus I agree with the observations of the

ER that the Noticee has violated Section 12 A (a), (b), (c), of the SEBI Act and Regulation 3 (a), (b), (c), (d) of the PFUTP Regulations.

D. Noticee failed in doing Risk Profiling of the clients properly:

34. The ER has observed that the Noticee did not carry out proper risk profiling of its clients before offering its services. The ER observed that one of the clients of the Noticee, Mr. Dhananjay Vaid had filed a complaint with SEBI, wherein, it was mentioned that the Noticee had advised him to avail premium services since his risk appetite is high. However, after perusal of the risk profiling form (hereinafter referred to as “**RPF**”) provided by the Noticee and available on record, the ER has observed that the complainant had mentioned his gross annual income as 2-5 lakhs and investment experience to be less than 2 years with no experience in commodity and forex investments. Further, as per the RPF, the ER has observed that the Noticee recorded contradictory answers to the risk assessment questions. Some of the questions in the RPF of Mr. Dhanajay Vaid are reproduced below:

Table 4

Question	Answer	Weightage
Risk Tolerance	High	5
How would you honestly describe yourself as a risk taker?	Low risk taking capability (I'd have a hard time tolerating any losses)	2
Assume that you have invested rupees one lac in a share that goes down by 10% the next day.	Do not bother because you have done enough research on the company	4

35. The ER observed that Mr. Dhanajay Vaid's risk appetite was assessed as 'high risk' despite the total scored assigned to him by the Notice was 81 out of 140 and the client had categorically stated that he was a low risk-taking capability person and would have a hard time tolerating any losses. This clearly suggests that the clients risk profile was not assessed properly. After perusal of the RPF of other clients of the Noticee namely Mr. Yogesh Joshi, Mr. Kiran Aravalli and Mr. Tabish Khan, a similar pattern regarding their risk assessment emerges, wherein, the Noticee had categorized them as 'high risk' clients despite the clients raising various red flags in their assessment, like lack of experience in investment, low

emergency corpus, lower risk-taking capabilities etc. This clearly demonstrates improper risk assessment of the clients by the Noticee.

36. I note that the Noticee has submitted in his reply that medium risk clients were sold as high risk products as they insisted upon it and they were having past experience of trading in the same segment. The Noticee submitted that it has taken into consideration the risk profile of the clients but had prioritized client request over their risk profile. In this regard, I find the aforesaid submissions put forth by the Noticee, as untenable, as an investment adviser owes a fiduciary duty towards its clients and is required to abide by the code of conduct which requires the Investment adviser to act with honesty, fairness and in best interest of its client. The Investment adviser is required to always prioritize the best interests of its clients and provide them investment advice after thoroughly analyzing the risk assessment of its clients. Further, the Noticee has not provided any supporting evidence to prove that the clients had sought for high risk products, as contended by it. Thus, I agree with the observations of the ER that the Noticee has violated Regulation 15(1) of IA Regulations, 2013, and has also failed to abide by Clause 2 of the Code of Conduct for Investment Advisers as specified in Schedule III of IA Regulations read with Regulation 15(9) of IA Regulations, 2013. Further, I agree with the observations of the ER that the Noticee has violated Regulation 17(a) and 17(e) of the IA Regulation, 2013, which requires the Investment adviser to ensure that all investments on which investment advice is provided is appropriate to the risk profile of the client and that the recommendation or advice of a particular complex financial product to client should be based upon reasonable assessment that the structure and risk reward profile of financial product is consistent with clients experience, knowledge, investment objectives, risk appetite and capacity for absorbing loss.
37. I further note that Regulation 16(d) of the IA Regulations *inter alia* requires that the investment adviser shall ensure that any questions or description in any questionnaires used to establish the risk a client is willing and able to take, are fair, clear and not misleading. In this regard, I agree with the observations of the ER that the Noticee by not ensuring proper process of assessment of the risk profile

of the clients and asking contradictory questions, as explained above in Table 4 above, has violated Regulation 16(d) of the IA Regulations, 2013.

38. I note that Mr. Raghvendra Singh, one of the partners of the Noticee, in his written submissions dated November 02, 2022, filed on behalf of the Noticee, has submitted that SEBI may suspend/cancel the registration certificate of the Noticee as it is no longer in operation. Further that he is not planning to practice as an investment advisor as one of his partners is no longer a fit and proper person under the Intermediaries Regulations, 2008. I also note that SEBI has passed Final Order dated October 17, 2022 against the Noticee and both its partners i.e. Mr. Raghvendra Singh and Mr. Anoop Kumar Tiwari, under the provisions of Section 11(1), 11(4), 11(4A), 11B (1) and 11B (2) of the SEBI Act, 1992 *inter alia* debarring them from securities market for three (3) years and imposing a penalty of Rs. 10 Lakh. Further, the Order dated October 17, 2022 has also *inter alia* directed that till the disposal of the present enquiry proceedings, the restraint imposed on the Noticee vide the Interim Order dated January 15, 2020 in respect of its investment advisory business shall continue.

39. The Noticee is a registered Investment Adviser and is required to act in a fiduciary capacity towards its clients and to act with due skill, care and diligence in the best interests of its clients. However, here it has been found that the Noticee has not complied with the WTM Order dated January 15, 2020, the Noticee had promised assured profit/unrealistic returns to its clients, sold multiple services and collected unreasonable amount of fees from clients and failed in doing proper risk profiling of clients. Therefore, in the given facts and circumstances of the case, I agree with the recommendation made by the DA in the ER regarding cancellation of certificate of registration of the Noticee as Investment Adviser.

Directions

40. I, in exercise of the powers conferred upon me in terms of Section 12(3) and Section 19 of the SEBI Act, 1992 read with Regulation 27(5) of the Intermediaries Regulations, 2008, hereby cancel the Certificate of Registration of Money Desire

Research, as an Investment Adviser (Certificate of registration number INA000002454).

41. Cancellation of Certificate of Registration, as directed in para 40 above, shall have the effects and obligations as given in Regulation 32(2) of Intermediaries Regulations, 2008.

42. This order comes into force with immediate effect.

43. A copy of this order shall be served on the Noticee and all recognized Stock Exchanges.

Sd/-

Place: Mumbai

SUJIT PRASAD

Date: November 28, 2022

EXECUTIVE DIRECTOR

SECURITIES AND EXCHANGE BOARD OF INDIA