

ED/SP/WRO/WRO/21099/2022-23

**SECURITIES AND EXCHANGE BOARD OF INDIA
FINAL ORDER**

Under Sections 11(1), 11(4) and 11B(1) of the Securities and Exchange Board of India Act, 1992.

In respect of –

NOTICEE	PAN
Investment Academy (Proprietor: Mr. Vijay Mourya)	BSBPM6572P

In the matter of Unregistered Investment Advisory Services by Investment Academy

1. The present proceedings emanate from Show Cause Notice (“**SCN**”), dated January 24, 2022, issued by the Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) against Investment Academy and its Proprietor Vijay Mourya (hereinafter collectively referred to as “**Noticee**”) as the unregistered investment advisor activities of the Noticee were prima facie found in violation of the provisions of Section 12(1) of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as “**SEBI Act, 1992**”) read with Regulation 3(1) of SEBI (Investment Advisers) Regulations, 2013 (“**IA Regulations, 2013**”).
2. I note that the SCN alleges the following:
 - (i) SEBI on June 21, 2018, received a complaint dated June 13, 2018, from one Shri Vivek Soni (hereinafter referred to as “**Complainant**”) against Investment Academy and its Proprietor Vijay Mourya, wherein it was alleged that the complainant received calls from the Noticee with respect to investment in the securities market and was advised to visit the website of the Noticee. Subsequently, the complainant paid a total amount of Rs.8,00,000/- to the Noticee on various dates as retainer ship fees. Thereafter, the Noticee stopped responding to the communications made by the complainant.

(ii) On examination of the matter by SEBI, it was observed that the website of Investment Academy i.e. www.investmentacademy.in is not active. The archive pages of the website were downloaded from web.archive.org. The downloaded pages of the Investment Academy website disclosed the following:

- a) It was observed from the said webpages that Investment Academy was providing share market tips and advices through its website: www.investmentacademy.in. The address mentioned on the website was: 332/3, A-Block, E-Sector, Sukh Niwas Road, Gumasta Nagar, M.P.452009.
- b) The following were inter-alia disclosed on the website www.investmentacademy.in by Investment Academy (as observed from the downloaded web pages):

“Investment Academy is a pioneering Research Advisory and Coaching having a team of specialized financial market analysts having massive experience in carrying out capital market research. We deliver reliable tips and advices for stocks, future and options (F&O) traded in NSE and BSE, commodities such as bullion, agri and metals traded in the MCX and NCDEX. We quality financial recommendations and tips accessible to all traders and investors in India. The financial advice we offer connects all factors of financial planning and assists traders in taking holistic and merit based financial decisions to acquire their financial objectives. Investment Academy have fully committed team of business analysts that take full care of customers individually online and through telephonic support round the clock.

Our Mission: To provide best value for money to clients through personalized service, best trading and investment strategies and selling and funding techniques and today's technologies. We at Investment

Academy believe that our services combined with our investors trust will lead to a prosperous Investment Academy family.

Our Vision: To be a prominent destination to strengthen the Prosperity of its Clients, Investors, Associates and Employees always.

Our Goal: Maximize our clients capital by giving them best services and assistance and reach highest number of clients. We want to earn and be worthy of our customers trust and provide them with the finest Indian Stock Market Tips.”

- c) From the above, it is observed that Investment Academy was providing various services; recommendations and tips relating to investments in securities stocks, futures, options etc.
- (iii) ICICI Bank, vide emails dated March 12 & 27, 2020, submitted the KYC, Account Opening form and account statement of the Noticee, as sought by SEBI. On examination of the same, the following were noted:
- Investment Academy is the proprietorship firm and Vijay Mourya is the proprietor.
 - Multiple credit transactions were done through PayU Money Payments Private Limited
 - PAN: BSBPM6572P (Vijay Mourya)
 - ICICI Bank Account No. 004105501351 opened on March 3, 2017. Total amount credited in the said bank account from March 8, 2017 to December 20, 2017 is Rs.36,47,590.33.
 - Type of Profession: Coaching Classes
- (iv) Based on the transaction details in the bank account statement, the KYC details, account statement were sought from PayUMoney. On analysis of the same, the following details were noted:
- Account Holder Name: Investment Academy
 - PAN: BSBPM6572P (Vijay Mourya)

- Linked Bank Account : ICICI Bank : 004105501351

3. From the above, I note that the Noticee through its website www.investmentacademy.in claimed to be pioneer research advisory, having a team of specialized financial market analysts carrying out capital market research plus delivering tips and advices for stock, futures and commodities traded on the MCX and NCDEX. The statement received from PayUMoney, shows various payments made by the complainant to the Noticee.
4. The Noticee was called upon to show cause as to why suitable directions under Sections 11(1), 11(4) and 11B(1) of the SEBI Act, 1992 should not be issued /imposed against the Noticee for the violations alleged in the SCN.
5. The SCN was delivered to the Noticee through registered post and the Noticee vide letter and email dated February 17, 2022, sought for an opportunity for personal hearing. An opportunity of personal hearing was granted to the Noticee on May 25, 2022 before the then quasi-judicial authority, however, the Noticee sought for an adjournment citing personal reasons for the same. Thereafter, the matter was re-allocated to the undersigned in August 2022 and accordingly, another opportunity of personal hearing was granted to the Noticee on October 11, 2022. The Noticee vide letter dated October 10, 2022 filed its written submission. On October 11, 2022, the authorized representatives of the Noticee appeared via video conferencing and made his submissions. The Noticee sought 10 days' time to file further submissions and the same was granted to him. Thereafter, vide letter dated November 07, 2022, the Noticee filed additional submissions in the said matter.
6. The Noticee vide his letters dated October 10, 2022 and November 07, 2022 has *inter alia* submitted the following:
 - a) *With the object of spreading technical and financial awareness in the securities market, I commenced Investment Academy in March 2017.*
 - b) *In November 2017, when I realized that the activity I was rendering alongwith education in securities market, may falls under the purview of IA Regulations*

and I may have required to obtain registration under Reg.3(1) of IA Regulations, I immediately ceased the entire operations of Investment Academy.

- c) The intentions of Investment Academy were never malafide or to defraud any of its clients and I, suo moto, even before receiving any notice or instructions from the appropriate authorities, ceased the operations of Investment Academy which itself reveals my bonafide.*
- d) As far as complaint of Mr. Vivek Soni is concerned we would like to state that Mr. Vivek Soni never approached me for any sort of grievance. The advise given to him was purely of technical in nature. The complaint was driven by greed and he kept on trading recklessly, due to which he suffered losses.*
- e) The Respondent believes that the default, if any, made was in nature of non-compliance and there was no malafide intention of the Respondent against any of its clients. It is pertinent to note that except Mr. Soni no other students or clients made any complaint against me, which itself shows that there was no lacuna in quality of my services.*
- f) The knowledge imparted and advises given to the clients or students were purely on the basis of 'technical analysis' with the bonafide intention to make them aware the technical aspects of the securities market which may be used by them as a tool to optimize their gains in the securities market.*
- g) It is observed in the SCN that the total receipts from alleged Investment Advisory activity is Rs.36,47,590.30. In this regard, I would like to submit that the amount also contains academic fees received from client.*
- h) The revenue received by me from all my students/clients consist of non-advisory (education) as well as advisory revenue. Giving advice was incidental to education/training services provided by me to my students/clients. Thus, all fee collected comprises of non-advisory as well as advisory component.*
- i) Consequently, it is difficult for us to bifurcate fees collected for advisory from non-advisory services. Since all clients who have received training have also received advisory services.*

- j) *Therefore, while determining the amount of fees for advisory services and in the best interest of justice; amount equal to half of the total amount received from clients/students be assumed non-advisory services.*

Consideration of submissions and findings:

7. I have considered the allegations made in the SCN alongwith the replies filed by the Noticee vide letters dated October 10, 2022 and November 07, 2022 as well as all the material available on record. The SCN has alleged that the Noticee had carried out investment advisory activities without obtaining registration from SEBI in violation of the provisions of Section 12(1) of the SEBI Act, 1992 and Regulation 3(1) of the IA Regulations, 2013. I note that the aforementioned provisions of law read as under:

Provisions of the SEBI Act, 1992:

“Section 12 of the SEBI Act – Registration of stock brokers, sub-brokers, share transfer agents, etc.

12. (1) No stock broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market shall buy, sell or deal in securities except under, and in accordance with, the conditions of a Certificate of registration obtained from the Board in accordance with the regulations made under this Act:

Provided that a person buying or selling securities or otherwise dealing with the securities market as a stock broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market immediately before the establishment of the Board for which no registration certificate was necessary prior to such establishment, may continue to do so for a period of three months from such establishment or, if he has made an application for such registration within the said period of three months, till the disposal of such application:

Provided further that any certificate of registration, obtained immediately before the commencement of the Securities Laws (Amendment) Act, 1995, shall be deemed to have been obtained from the Board in accordance with the regulations providing for such registration.”

Provisions of the IA Regulations, 2013:

“Regulation 3 of the IA Regulations – Application for grant of certificate.

3.(1) On and from the commencement of these regulations, no person shall act as an investment adviser or hold itself out as an investment adviser unless he has obtained a certificate of registration from the Board under these regulations:

8. I note that the Noticee in its reply to the SCN has not denied the allegations that he was providing investment advisory services. The Noticee has submitted that he had commenced an Investment Academy in March 2017 and in November 2017, he realized that the activity rendered by him alongwith the education imparted in securities market may fall under the purview of IA Regulations, 2013 and he was required to obtain registration under Reg. 3(1) of IA Regulations, 2013. The Noticee has submitted that the knowledge imparted and advise given to clients were purely on the basis of technical analysis with a bonafide intention to make them aware of the technical aspects of the securities market which may be used by them as a tool to optimize their gains in the securities market. Further, the Noticee submitted that the total receipts of Rs.36,47,590.33 as stated in the SCN contains both advisory and non-advisory revenue and that it is difficult to bifurcate fees collected for advisory from non-advisory services, since all clients who received training have also received advisory services.
9. From the aforesaid submissions of the Noticee, I note that, the Noticee has neither denied nor disputed the allegations made against him in the SCN that he was providing investment advisory service. I note that the Noticee has in fact submitted that all the clients who had received training from his investment academy had also received advisory services. Further, the Noticee has not denied or refuted the website www.investmentacademy.in of Investment Academy.

10. In this regard, I note that the website www.investmentacademy.in inter alia claimed as follows:

a) The following were inter-alia disclosed on the website www.investmentacademy.in by Investment Academy:

“Investment Academy is a pioneering Research Advisory and Coaching having a team of specialized financial market analysts having massive experience in carrying out capital market research. We deliver reliable tips and advices for stocks, future and options (F&O) traded in NSE and BSE, commodities such as bullion, agri and metals traded in the MCX and NCDEX. We quality financial recommendations and tips accessible to all traders and investors in India. The financial advice we offer connects all factors of financial planning and assists traders in taking holistic and merit based financial decisions to acquire their financial objectives. Investment Academy have fully committed team of business analysts that take full care of customers individually online and through telephonic support round the clock.

Our Mission: To provide best value for money to clients through personalized service, best trading and investment strategies and selling and funding techniques and today's technologies. We at Investment Academy believe that our services combined with our investors trust will lead to a prosperous Investment Academy family.

Our Vision: To be a prominent destination to strengthen the Prosperity of its Clients, Investors, Associates and Employees always.

Our Goal: Maximize our clients capital by giving them best services and assistance and reach highest number of clients. We want to earn and be worthy of our customers trust and provide them with the finest Indian Stock Market Tips.”

b) The website of the Noticee was providing the following services and plans:

STOCK TIPS	BTST-STBT Futures
	BTST-STBT MCX
	BTST-STBT Cash
	Nifty Banknifty Futures
	Option Premium
	Stock Option
	HNI Future
	Future Premium
	Basic Cash
	Positional Cash
	Premium Cash
	HNI Cash
COMMODITY TIPS	NCDEX Agri
	MCX HNI Pack
	Energy Pack
	Base Metals
	Bullions
CURRENCY TIPS	Domestic Currency
CUSTOMISED SERVICE	Commitment Plan

11. From the above, I note that the website www.investmentacademy.in provided various services; recommendations and tips relating to investments in stocks, future and options (F&O) traded in NSE and BSE, commodities such as bullion, agri and metals traded in the MCX and NCDEX, and offering various plans in this regard. Further, I find that the Noticee were running the website and receiving the consideration in lieu of the investment advice rendered on the website by offering various services/plans as tabled above. In this regard, I note that no bank account details were seen from the downloaded webpages of the Noticee's website. However, I note that the complainant had provided the following bank details of the Noticee to which he had transferred money. The bank details are as under:

Bank Name - ICICI Bank

Name of the account holder: Investment Academy

Account No: 004105501351

12. Based on the above information, I note that KYC details, Account opening Form and bank account statements were obtained from ICICI bank with regard to the said bank account. From the documents obtained, the following details were noted for the period March 08, 2017 to December 20, 2017:

Name of the account holder	Investment Academy
Authorized Signatory (proprietor)	Vijay Mourya
Date of account opened	03/03/2017
Total amounts received in said account during the statement period	Rs. 36,47,590.33
Status of account	Closed
Date of last transaction (during the statement period)	20/12/2017

13. From the bank statements received from ICICI Bank, I note that numerous credit transaction entries were observed in the said bank account during the relevant period. Majority of the credit transactions came through PayU Money gateway and from the account statement received from PayU Money for the merchant Investment Academy, I note that the payments made by the complainants on various dates were also reflected in the said statement. In this regard, I note that the Noticee has not denied or disputed the aforesaid bank account or that the various credits in the bank account were for investment advisory services provided by the Noticee. I note that the Noticee has only submitted that it is difficult for him to bifurcate fees collected for advisory from non-advisory services since all clients who have received training have also received advisory services. In this regard, I note that the Noticee has not submitted any supporting or documentary evidence to prove that he was providing educational or technical and financial awareness in the securities market, as claimed by him. Hence, I find the submission of the Noticee that he was providing educational/training

services in the securities market, is untenable. Further, I find that the Noticee has failed to submit any bifurcation of the amounts received in the aforesaid bank account of the Noticee, in which the Noticee has admittedly received fees/payments for rendering investment advisory services. In view of the same, I find that the aforesaid amount of Rs.36,47,590.33 shall be treated as the fees/payments received by the Noticee, towards rendering investment advice.

14. From the aforesaid facts and submissions made by the Noticee, I find that the Noticee was engaged in giving advice relating to investing, purchasing, selling or otherwise dealing in securities or investment products, through the website, www.investmentacademy.in in lieu of consideration. I note that, if an entity is engaged in providing advice relating to investing in, purchasing, selling or otherwise dealing in securities or investment products, and advice on investment portfolio containing securities or investment products, whether written, oral or through any other means of communication for the benefit of the client *in lieu* of consideration, including entities which are holding themselves out as investment advisers, will be covered by the definition of “Investment Adviser” as given in Regulation 2(1)(m) of the IA Regulations, 2013. I find that in terms of Regulation 2(1)(l) of IA Regulations, 2013, the Noticee was providing “investment advice” through the aforesaid website. As noted above, the Noticee received Rs.36,47,590.33 in its ICICI bank account no. 004105501351. Hence, I find that these services were being offered by the Noticee *in lieu* of the consideration, as noted above. Therefore, I find that the Noticee was engaged in the business of providing investment advice to their clients, for consideration, and thus, acting as an investment adviser, as defined under Regulation 2(1)(m) of the IA Regulations, 2013.
15. I also note that, it is imperative that any person carrying out investment advisory activities has to necessarily obtain registration from SEBI and conduct its activities in accordance with the provisions of SEBI Act, 1992 and Regulations framed thereunder. Section 12(1) of SEBI Act, 1992 reads as under:

“No stock broker, sub broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market shall buy, sell or deal in securities except under, and in accordance with, the conditions of a certificate of registration obtained from the Board in accordance with the regulations made under this Act.”

16. It is relevant to note that in order to protect the interest of investors and to preserve the integrity of the securities market, IA Regulations, 2013 has been framed by SEBI which provide various safeguards to ensure that the interest of the investors who receive investment advice are protected. One such safeguard provided under the said Regulations is that any person carrying out investment advisory activities has to first obtain a certificate of registration from SEBI as mandated under Regulation 3(1) of the IA Regulations, 2013, which, inter alia, provides that, no person shall act as an investment adviser or hold itself out as an investment adviser unless he has obtained a certificate of registration from SEBI and it has to conduct its activities in accordance with the provisions of IA Regulations, 2013. Further, safeguards provided under IA Regulations, 2013 include continued minimum professional qualification and compliance with net-worth requirement for acting as an investment adviser, prior disclosure of all conflicts of interest, prohibition on entering into transactions which are contrary to advice given to the clients at least for 15 days from the date of giving advice to the clients, mandatory risk profiling of investors, maintaining documented process for selecting investment products for clients based on client's investment objective and risk profile and understanding of the nature and risks of products or assets selected for such client, etc.
17. I note that for seeking a certificate of registration for acting as an investment adviser, an entity is required to satisfy *inter alia* the following requirements, as provided under IA Regulations, 2013:

- (i) An application for seeking certificate of registration to be made to Local Office, Regional Office or Head Office, of SEBI, as the case may be, in Form A as specified in the First Schedule to IA Regulations, 2013 along with requisite non-refundable application fee;
- (ii) The applicant, in case of an individual investment adviser or its principal officer in case of a non-individual investment adviser shall be appropriately qualified and certified as under:
 - a) A professional qualification or post-graduate degree or post graduate diploma (minimum two years in duration) in finance, accountancy, business management, commerce, economics, capital market, banking, insurance or actuarial science from a university or an institution recognized by the Central Government or any State Government or a recognized foreign university or institution or association or a professional qualification by completing a Post Graduate Program in the Securities Market (Investment Advisory) from NISM of a duration not less than one year or a professional qualification by obtaining a CFA Charter from the CFA Institute;
 - b) An experience of at least five years in activities relating to advice in financial products or securities or fund or asset or portfolio management;
 - c) Applicant in case of individual investment adviser or its principal officer in case of a non-individual investment adviser, and persons associated with investment advice shall have, at all times a certification on financial planning or fund or asset or portfolio management or investment advisory services, from (a) NISM; or (b) any other organization or institution including Financial Planning Standards Board of India or any recognized stock exchange in India provided such certification is accredited by NISM.

- (iii) Individual applicant must have net worth of not less than 5 lakh rupees and non-individual applicant must have net worth of not less than 50 lakh rupees.
18. The activities engaged in by the Noticee, as brought out from the various materials described above, seen in the backdrop of the aforesaid regulatory provisions show that the Noticee was holding itself out and was acting as an investment adviser, although the Noticee was not registered with SEBI in the capacity of an investment adviser. Hence, I find that these activities/representations as were being made by the Noticee without holding the mandatory certificate of registration as investment adviser, are in violation of Section 12(1) of SEBI Act, 1992 read with Regulation 3(1) of the IA Regulations, 2013.
19. Moreover, as stated above, SEBI Act, 1992 and IA Regulations, 2013 mandate that an investment advisor has to hold a certificate of registration to act as such. However, as already pointed out above, I find that the Noticee was not holding any certificate of registration from SEBI to act as an investment advisor.
20. The SCN had called upon the Noticee to show cause as to why a direction for refund of the money received from any complainants /investors, as fees or consideration in respect of their unregistered investment advisory activities, be not issued against it. As per the material available on record, the amount of fees collected by the Noticee in the bank account, as a result of providing '*Investment Advice*' to investors, amounted to Rs.36,47,590.33. I note that the Noticee has failed to submit any bifurcation in terms of the said amount. In light of the findings in the preceding paragraphs, I am of the considered view that the Noticee is liable to refund the aforementioned amount to its clients /investors.

Directions:

21. In view of the foregoing, I, in exercise of the powers conferred upon me in terms Sections 11, 11(4) and 11B(1), read with of Section 19 of the SEBI Act, 1992, hereby direct that:

- (a) The Noticee shall within a period of three months from the date of this Order, refund the money received from any complainants/investors, as fees or consideration or in any other form, in respect of their unregistered investment advisory activities;
- (b) The Noticee shall issue public notice in all editions of two National Dailies (one English and one Hindi) and in one local daily with wide circulation, detailing the modalities for refund, including the details of contact person such as names, addresses and contact details, within 15 days of coming into force of this order;
- (c) The repayments to the investors/clients shall be effected only through Bank Demand Draft or Pay Order or electronic fund transfer or through any other appropriate banking channels, which ensures audit trails to identify the beneficiaries of repayments;
- (d) After completing the aforesaid repayments, within a period of 15 days, the Noticee shall file a report detailing the amount refunded, to SEBI addressed to the Division Chief, Market Intermediaries Regulation and Supervision Department (MIRSD), Division of Registration-2, SEBI Bhavan II, Plot No. C7, G Block, Bandra Kurla Complex, Bandra (East) Mumbai – 400051. The report should be duly certified by an independent Chartered Accountant and indicate the amount, mode of payment by banking transactions, name of the parties, communication address, mobile numbers and telephone numbers etc.
- (e) The remaining balance amount shall be deposited with SEBI which will be kept in an escrow account for a period of one year for distribution to clients/ complainants/ investors who were availing the investment advisory services from the Noticee. Thereafter, remaining amount, if any, will be deposited in the Investors Protection and Education Fund maintained by SEBI;

- (f) The Noticee is restrained from selling his assets, properties and holding of mutual funds/shares/securities held by him in demat and physical form except for the sole purpose of making the refunds/depositing balance amount with SEBI, as directed above. Further, the banks are directed to allow debit only for the purpose of making refunds to the investors/clients/ complainants who were availing the investment advisory services from the Noticee and depositing balance amount with SEBI, as directed in this order, from the bank accounts of the Noticee;
 - (g) The Noticee is debarred from accessing the securities market, directly or indirectly and is prohibited from buying, selling or otherwise dealing in the securities market, directly or indirectly in any manner whatsoever, for a period of 6 (six) months from the date of this Order or till the expiry of 6 (six) months from the date of completion of refunds to investors/clients along with depositing of balance amounts, if any, as directed in para 21(a) and 21(e) above, whichever is later;
 - (h) Upon submission of report on completion of refunds to complainants/ investors to SEBI and deposit of the balance money with SEBI, if any, the direction at para 21(f) above shall cease to operate within 15 days thereafter.
 - (i) The Noticee shall not undertake, either during or after the expiry of the period of debarment/restraint as mentioned in para 21(g) above, either directly or indirectly, investment advisory services or any activity in the securities market without obtaining a certificate of registration from SEBI as required under the securities laws.
22. The direction for refund and depositing the balance amount with SEBI, as given in para 21(a) and 21(e) above, does not preclude the clients/investors to pursue the other legal remedies available to them under any other law, against the Noticee for refund of money or deficiency in service before any appropriate forum of competent jurisdiction.

23. This Order shall come into force with immediate effect.
24. A copy of this Order shall be sent to the Noticee, the recognized Stock Exchanges, Depositories, the relevant banks and Registrar and Transfer Agents of Mutual Funds to ensure that the directions given above are strictly complied with.

Place: Mumbai
Date: November 11, 2022

Sd/-
SUJIT PRASAD
EXECUTIVE DIRECTOR
SECURITIES AND EXCHANGE BOARD OF INDIA