

SECURITIES AND EXCHANGE BOARD OF INDIA
FINAL ORDER

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

In respect of:

NOTICEE	SEBI REGISTRATION No.
Investment Visor (Proprietor Praveen Verma)	INA000003411 PAN No.AISPV5820B

BACKGROUND

1. Investment Visor, having Praveen Verma as its Proprietor, (**‘Noticee’**) is registered with Securities and Exchange Board of India (hereinafter referred to as **‘SEBI’**) as an Investment Adviser (hereinafter referred to as **‘IA’**) having SEBI registration number INA000003411 since August 28, 2015.
2. SEBI ordered an inspection of the Noticee to verify whether the books of accounts, records and other documents were being maintained in the manner specified by the provisions of the Securities and Exchange Board of India Act, 1992 (**‘SEBI Act’**), Securities and Exchange Board of India (Investment Advisers) Regulations, 2013 (**‘IA Regulations’**), circulars made thereunder and whether adequate steps for redressal of grievances of the investors were being taken and the conditions of registration were complied with.
3. SEBI vide letter and email dated February 11, 2020 advised the Noticee to send information, as mentioned in pre-inspection questionnaire, latest by

February 26, 2020. The Noticee vide email dated February 26, 2020 submitted part reply to the pre-inspection questionnaire but failed to submit information related to write-up on details of advisory services provided, write-up on procedure/process for risk profiling and suitability assessment, rationale for arriving at investment advice duly signed and dated, Audited Financial Statements, etc.

4. SEBI vide letter no. WRO/ILO/IMD/Insp/8584/1/2020 and email dated March 06, 2020 informed the Noticee that inspection of its books of accounts and other records would commence from March 16, 2020 onwards.
5. On March 16, 2020 at about 11A.M., the inspection team of SEBI reached at the office of the Noticee at Plot no. 09, PU-04, Scheme No. 54, Vijay Nagar, Indore 452010 and noticed that the proprietor of Investment Visor i.e. Mr. Praveen Verma was not present in the office but the employees of the Noticee present in the office were tele calling and running investment advisory activities. One of the team member of the inspection team contacted Mr. Praveen Verma and informed about the inspection team visit. Mr. Praveen Verma reached at 02:30 p.m. and stated that he was not aware about the inspection team visit. When the inspection team showed SEBI email dated March 06, 2020 to Mr. Praveen Verma, he confirmed receipt of the email and stated he might have ignored it due to oversight. The inspection team advised the Noticee to furnish all the documents sought in the pre-inspection questionnaire by March 17, 2020. On March 17, 2020, the Noticee failed to provide any of the documents sought in the pre-inspection questionnaire. Further, the Noticee failed to provide computer systems and documents to commence the inspection process. As required documents and support from the Noticee was not forthcoming, the inspection team left the premises of the Noticee.
6. SEBI vide email dated March 17, 2020 advised the Noticee to submit information/documents sought on March 16, 2020 and additional information detailed in the said email. In response thereto, the Noticee vide email dated

March 18, 2020 informed that various data sought by SEBI were attached in the email. It was noted that no such attachments were available in the said email but for the employee data. SEBI vide emails dated August 13, 2020, August 14, 2020 and August 19, 2020 advised the Noticee to furnish the information. However, the Noticee did not provide the required information.

7. SEBI examined the limited information/documents provided by the Noticee and other publicly available information and observed certain irregularities or violations on part of the Noticee. Accordingly, SEBI initiated enquiry proceedings against the Noticee under Chapter V of the SEBI (Intermediaries) Regulations, 2008 ("**Intermediaries Regulations**") and appointed a Designated Authority ("**DA**") to enquire into and recommend whether the alleged violations by the Noticee warranted cancellation or suspension of the certificate of registration granted by SEBI or any other action provided in Chapter V of the Intermediaries Regulations.
8. The DA issued show cause notice dated March 29, 2022 ("**SCN-I**"), inter-alia, alleging : -
 - a. That the Noticee continued to give free trials to its clients after January 01, 2020.
 - b. That the Noticee failed to cooperate with the inspection team. Failed to furnish information sought before, during and after inspection.
 - c. That the Noticee failed to redress investor complaints and upload Action Taken Report ("**ATR**") within prescribed time.
 - d. That the Noticee promised assured profit/unrealistic returns from securities market on investments made by the clients and luring them to avail its services.
 - e. That the Noticee`s employees were carrying out activities pertaining to risk profiling, suitability of advisory products/service and selling the

same to the clients. However, they did not possess requisite qualification or certification.

- f. That the Noticee failed to do risk profiling of clients as stipulated in the IA Regulations. The risk profile did not contain all requisite questions to determine the objective and purpose of the investment. The Noticee carried out risk profiling of the clients telephonically but did not keep record for the same. In most cases, risk profiling of the clients was not done. The risk profiling records were undated and unsigned. The Noticee has not followed process for assessing the risk a client is willing and able to take and allotted/sold services to the clients prior to communication of risk profile or completion of risk profiling. The Noticee did not communicate risk profiles to the clients. The Noticee misrepresented about the clients by categorizing them as 'very aggressive investor, who is ready to take higher risk' while based on the internal risk assessment mechanism of the Noticee, the client should have been classified as having 'low risk appetite'. The Noticee has stated false information about the clients in the Risk Profiling Form ("**RPF**") to categorize the risk profile of the client having 'high risk' appetite.
- g. That the Noticee failed to provide service/product to the clients which is appropriate to the risk profile of the client. The Noticee sold same service multiple times to the same client for the same period or overlapping period. Before completion of one service, the Noticee sold another service to the same client. In some cases, the Noticee has charged fees which is more than the investment amount. The Noticee charged disproportionate amount of fees/charges towards its services as compared to clients investment.
- h. That the Noticee has not maintained record of communication with clients during risk profiling and record of suitability assessment of advice/selection of advisory product/services and rationale for arriving at investment advice.

- i. That website of the Noticee featured fake testimonials and false information regarding qualification of its team.
- j. That the Noticee continued to collect GST on advisory fees from its clients despite suo moto cancellation of GSTN with effect from December 27, 2018.

In view of the above, it was alleged that the Noticee violated SEBI circular no. SEBI/HO/IMD/DF1/CIR/P/2019/169 dated December 27, 2019, circular no. CIR/OIAE/2014 dated December 18, 2014 read with Regulation 7, 13(a), 15(1), 15(9), 15(13), 16(a)(ii), 16(b)(iii), 16(e), 17(a), 17(d), 17(e), 19(1), 19(2), 21, 24(3), 25(1), 25(2) of the IA Regulations read with clause 1, 2, 3, 4, 5, 6, 8 of the Code of Conduct specified in Third Schedule to the IA Regulations and Regulation 3(a), (b), (c), (d) and 4(1), 4(2)(k) and 4(2)(s) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (**"PFUTP Regulations"**) read with Section 12A(a), (b) and (c) of the SEBI Act

9. SCN-I was sent to the Noticee at "Plot No.09, PU-4, Scheme No. 54, Vijay Nagar, Indore, and Madhya Pradesh 452010". However, the SCN-I returned undelivered. The SCN-1 was attempted to be served on the Noticee through email dated March 30, 2022 on email address available on record. In the interest of principles of natural justice, the SCN-1 along with hearing notice was served on the Noticee through email available on record. The Noticee was granted an opportunity of personal hearing on June 27, 2022. Vide email dated July 14, 2022, the Noticee requested for additional time to submit reply to the SCN-I. Thereafter, the Noticee vide email dated July 22, 2022 submitted reply through a letter bearing the same date. Hearing was rescheduled to July 25, 2022 on which date the Noticee availed the hearing.

10. On completion of the proceedings, the DA submitted a report dated September 30, 2022 (**"DA's Report"**) recommending cancellation of

certificate of registration (registration number INA00003411) granted by SEBI to the Noticee. Pursuant to this, a post enquiry SCN dated October 25, 2022 (“**SCN-II**”) was issued to the Noticee, under Regulation 27 (1) of Intermediaries Regulations, to show cause as to why action, as recommended by the DA or any other penalty in terms of Regulation 27 of Intermediaries Regulations, should not be taken and/or imposed against the Noticee. A copy of the DA’s Report was also forwarded to the Noticee along with an advice to file reply, if any, within 21 days from the date of receipt of the SCN-II. The Noticee vide reply email dated November 30, 2022 submitted reply to the SCN-II.

11. As the DA had recommended cancellation of the certificate of registration of the Noticee, a personal hearing in terms of Regulation 27(4) of the Intermediaries Regulations was granted to the Noticee on January 12, 2023, wherein, Abhishek Mishra, Company Secretary appeared for the Noticee and made submissions on lines of reply dated July 22, 2022 and November 30, 2022. Subsequent to hearing dated January 12, 2023, the Noticee filed additional submissions dated January 17, 2023.
12. I have considered the Report submitted by the DA, the allegations in SCN- I and SCN -II issued to the Noticee, replies and submissions of the Noticee and other material available on record.
13. The scope of the present proceedings before me is restricted to the enquiry initiated against the Noticee under Chapter V of the Intermediaries Regulations to determine whether the alleged violations by the Noticee warrants cancellation or suspension of the certificate of registration granted by SEBI or any other action provided under Regulation 23 of the Intermediaries Regulation.
14. Before moving forward, it will be appropriate to refer to the relevant provisions of the SEBI Act, the PFUTP Regulations, Intermediaries Regulations and the SEBI circulars alleged to have been violated by the Noticee:

Provisions of the SEBI Act

“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;”*

Provisions of 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.*

4. Prohibition of manipulative, fraudulent and unfair trade practices

- (1) Without prejudice to the provisions of regulation 3, no person shall indulge in a manipulative, fraudulent or an unfair trade practice in securities markets.*
- (2) Dealing in securities shall be deemed to be a manipulative fraudulent or an unfair trade practice if it involves any of the following:—*
 -*
 - (k) disseminating information or advice through any media, whether physical or digital, which the disseminator knows to be false or misleading and*

which is designed or likely to influence the decision of investors dealing in securities;

(s) mis-selling of securities or services relating to securities market;

Explanation- For the purpose of this clause, "mis-selling" means sale of securities or services relating to securities market by any person, directly or indirectly, by—

- (i) knowingly making a false or misleading statement, or*
- (ii) knowingly concealing or omitting material facts, or*
- (iii) knowingly concealing the associated risk, or*
- (iv) not taking reasonable care to ensure suitability of the securities or service to the buyer};"*

Provisions of IA Regulations

Qualification and certification requirement.

7(1) An individual registered as an investment adviser under these regulations and partners and representatives of an investment adviser registered under these regulations offering investment advice shall have the following minimum qualifications, at all times:

(a) A professional qualification or post-graduate degree or post graduate diploma 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 recognised foreign university or institution or association; or

(b) A graduate in any discipline with an experience of at least five years in activities relating to advice in financial products or securities or fund or asset or portfolio management.

(2) An individual registered as an investment adviser and partners and representatives of investment advisers registered under these regulations offering investment advice shall have, at all times, a certification on financial planning or fund or asset or portfolio management or investment advisory services:

(a) from NISM; or

(b) from any other organization or institution including Financial Planning Standards Board India or any recognized stock exchange in India provided that such certification is accredited by NISM:

Provided that the existing investment advisers seeking registration under these regulations shall ensure that their partners and representatives obtain such certification within two years from the date of commencement of these regulations:

Provided further that fresh certification must be obtained before expiry of the validity of the existing certification to ensure continuity in compliance with certification requirements."

Conditions of certificate.

13. The certificate granted under regulation 9 shall, inter alia, be subject to the following conditions: -

(a) the investment adviser shall abide by the provisions of the Act and these regulations;

.....

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.

.....

(13) It shall be the responsibility of the investment adviser to ensure compliance with the certification and qualification requirements as specified under Regulation 7 at all times.

Risk profiling.

16.Investment adviser shall ensure that,-

(a)it obtains from the client, such information as is necessary for the purpose of giving investment advice, including the following: -

.....

(ii) investment objectives including time for which they wish to stay invested, the purposes of the investment ;

(b) it has a process for assessing the risk a client is willing and able to take, including:

.....

(iii)appropriately interpreting client responses to questions and not attributing inappropriate weight to certain answers.

.....

(e) risk profile of the client is communicated to the client after risk assessment is done;

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;

.....
(d) *It has a reasonable basis for believing that a recommendation or transaction entered into:*

(i)meets the client's investment objectives;

(ii)is such that the client is able to bear any related investment risks consistent with its investment objectives and risk tolerance;

(iii)is such that the client has the necessary experience and knowledge to understand the risks involved in the transaction.

(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.*

Maintenance of records.

19.(1) *An investment adviser shall maintain the following records,-*

(a) Know Your Client records of the client;

(b)Risk profiling and risk assessment of the client;

(c)Suitability assessment of the advice being provided;

(d)Copies of agreements with clients, if any;

(e)Investment advice provided, whether written or oral;

(f)Rationale for arriving at investment advice, duly signed and dated;

(g) A register or record containing list of the clients, the date of advice, nature of the advice, the products/securities in which advice was rendered and fee, if any charged for such advice.

(2) *All records shall be maintained either in physical or electronic form and preserved for a minimum period of five years:*

Provided that where records are required to be duly signed and are maintained in electronic form, such records shall be digitally signed.

Redressal of client grievances.

21.(1) *An investment adviser shall redress client grievances promptly.*

(2) An investment adviser shall have adequate procedure for expeditious grievance redressal.

(3) Client grievances pertaining to financial products in which investments have been made based on investment advice, shall fall within the purview of the regulator of such financial product.

(4) Any dispute between the investment adviser and his client may be resolved through arbitration or through Ombudsman authorized or appointed for the purpose by any regulatory authority, as applicable.

Notice before inspection.

24 (1).....

.....

(3) During the course of an inspection, the investment adviser against whom the inspection is being carried out shall be bound to discharge its obligations as provided in regulation 25.

Obligation of investment adviser on inspection.

25.(1) It shall be the duty of every investment adviser in respect of whom an inspection has been ordered under the regulation 23 and any other associate person who is in possession of relevant information pertaining to conduct and affairs of such investment adviser, including representative of investment adviser, if any, to produce to the inspecting authority such books, accounts and other documents in his custody or control and furnish him with such statements and information as the inspecting authority may require for the purposes of inspection.

(2) It shall be the duty of every investment adviser and any other associate person who is in possession of relevant information pertaining to conduct and affairs of the investment adviser to give to the inspecting authority all such assistance and shall extend all such co-operation as may be required in connection with the inspection and shall furnish such information as sought by the inspecting authority in connection with the inspection.

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THIRD SCHEDULE

Securities and Exchange Board of India (Investment Advisers) Regulations, 2013

[See **sub-regulation (9) of regulation 15]**

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.

3.Capabilities

An investment adviser shall have and employ effectively appropriate resources and procedures which are needed for the efficient performance of its business activities.

4.Information about clients

An investment adviser shall seek from its clients, information about their financial situation, investment experience and investment objectives relevant to the services to be provided and maintain confidentiality of such information

5.Information to its clients

An investment adviser shall make adequate disclosures of relevant material information while dealing with its clients.

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.

8.Compliance

An investment adviser including its partners, principal officer and persons associated with investment advice] shall comply with all regulatory requirements applicable to the conduct of its business activities so as to promote the best interests of clients and the integrity of the market.

Circular no. CIR/OIAE/2014 dated December 18, 2014

9. All listed companies and SEBI registered intermediaries shall review their investors grievances redressal mechanism so as to further strengthen it and correct the existing shortcomings, if any. The listed companies and SEBI registered intermediaries to whom complaints are forwarded through SCORES, shall take immediate efforts on receipt of a complaint, for its resolution, within thirty days. The listed companies and SEBI registered intermediaries shall keep the complainant duly informed of the action taken thereon.

10. The listed companies and SEBI registered intermediaries shall update the ATR along with supporting documents, if any, electronically in SCORES. ATR in physical form need not be sent to SEBI. The proof of dispatch of the reply of the listed company/SEBI registered intermediary to the concerned investor should also be uploaded in SCORES and preserved by the listed company/SEBI registered intermediary, for future reference.

12. A complaint shall be treated as resolved/disposed/closed only when SEBI disposes/closes the complaint in SCORES. Hence, mere filing of ATR by a listed company or SEBI registered intermediary with respect to a complaint will not mean that the complaint is not pending against them.

Circular no. SEBI/HO/IMD/DF-1/CIR/P/2019/169 dated December 27, 2019.

1. Securities and Exchange Board of India (Investment Advisers) Regulations, 2013 (IA Regulations) provides for code of conduct to be followed by IAs. In order to further strengthen the conduct of IAs, while providing investment advice and to protect the interest of investors seeking their advice, the IAs shall comply with the following:

(i) Restriction on free trial

As per SEBI (Investment Advisers) Regulations, 2013, investment advice can be given after completing risk profiling of the client and ensuring suitability of the product. It has come to the notice that IAs are providing advice on free trial basis without considering risk profile of the client. Hence the IAs shall not provide free trial for any products/services to prospective clients. Further, IAs shall not accept part payments (where some part of the fee is paid in advance) for any product/service.

(ii) Proper risk profiling and consent of client on risk profiling

Risk profiling of the client is essential to provide advice on suitable product based on various criteria like income, age, securities market experience etc. RIAs shall provide investment advice only after completing the following steps:

- a. Complete the risk profile of the client based on information provided by the client.
- b. Obtain consent of the client on completed risk profile either through registered email or physical document.

CONSIDERATION

Free Trial- Compliance with SEBI circular no. SEBI/HO/IMD/DF-1/CIR/P/2019/169 dated December 27, 2019

15. In this regard, SCN-I has alleged that the website of the Noticee i.e. (www.investmentvisor.com) promoted free trial, thereby, the Noticee violated SEBI circular SEBI/HO/IMD/DF-1/CIR/P/2019/169 dated December 27, 2019 read with regulation 13(a) of IA Regulations. In response thereto, the Noticee

has submitted that heading of the relevant clause of the said circular reads 'restriction on free trial' and not prohibition. The said clause also states that SEBI has observed that IAs are providing advice on free trial basis without considering risk profile of the client and hence IAs shall not provide free trial to any prospective clients. In view of literal interpretation of the said clause, Investment Adviser ("**IA**") was permitted to offer free trial after completing the risk profiling of the client and ensuring suitability of the product.

16. I note from screenshot dated October 08, 2020 of the website of the Noticee that it mentions under the head 'process investment visor flows' that *"You go for the Demo| Free trails of the respective services"*. I note that regulation 13(a) of the IA Regulations provides that certificate of registration granted to an IA is subject to the condition that IA shall abide by the provisions of the SEBI Act and IA Regulations. I note that Para 1 (i) of the circular dated December 27, 2019, which came into force w.e.f. January 01, 2020, reads *"As per SEBI (Investment Advisers) Regulations, 2013, investment advice can be given after completing risk profiling of the client and ensuring suitability of the product. It has come to the notice that IAs are providing advice on free trial basis without considering risk profile of the client. **Hence the IAs shall not provide free trial for any products/services to prospective clients.** Further, IAs shall not accept part payments (where some part of the fee is paid in advance) for any product/service.* Upon reading of the said circular in its entirety, I am of the view that SEBI vide said circular dated December 27, 2019 prohibited giving of free trials for any products/services to any prospective clients. The Noticee is baselessly hair-splitting the provisions of the Circular to contend that the said circular merely restricted free trials and did not prohibit giving of free trials. In view of the above, I find that the Noticee has violated Para 1(i) of circular no. SEBI/HO/IMD/DF-1/CIR/P/2019/169 dated December 27, 2019 and regulation 13(a) of the IA Regulations.

Non-compliance of SEBI directions with respect to Inspection

17. SCN-1 has alleged that SEBI, vide letter dated February 11, 2020 informed the Noticee that an inspection of its books of accounts/ records and other documents pertaining to its registration as an IA would be carried out by SEBI and advised the Noticee to send its reply to the pre-inspection questionnaire latest by February 26, 2020. Vide email dated February 11, 2020, letter containing pre-inspection questionnaire was sent to the Noticee. The Noticee vide email dated February 26, 2020 submitted part reply and failed to submit information related to write-up on procedure/process for risk profiling and suitability assessment; rationale for arriving at investment advice duly signed and dated; Audited Financial Statements for the inspection period; etc., Further, it has alleged that SEBI vide letter and email dated March 06, 2020 informed the Noticee that inspection of its books of accounts and other records would commence from March 16, 2020 onwards.
18. As stated at paragraph Nos. 5 and 6 above, during inspection in March 2020, the Noticee failed to furnish complete information that was sought by SEBI and misled SEBI by stating that some of the information was contained in the attachments to its reply email dated March 18, 2020. However, only the employee data was attached. Due to non-availability of sufficient documents and information, multiple emails dated August 13, 2020, August 14, 2020 and August 19, 2020 were sent to the Noticee to furnish the information (including the information sought earlier and not provided by the Noticee) for which there was no response.
19. The Noticee has submitted during the personal hearing that it cooperated with inspection team in the best possible manner. At the time of SEBI inspection team's visit, it was unaware of the same as it missed the email sent by SEBI. Prior to the said inspection, the Noticee had provided all requisite information/documents sought in the pre-inspection questionnaire. As the Noticee was unaware about the visit of inspection team, requisite documents could not be produced to the inspecting authority. On 2nd day of inspection, the Noticee had kept data/documents ready in computer system. However,

the operating system in the computer was of Linux. The inspection team required windows operating system. To arrange a computer system with windows operating system, the Noticee took few hours by which time the inspection team had left. The Noticee had sent documents over email. With respect to SEBI emails sent in August 2020, the Noticee has submitted that it had closed down operations and the Noticee could not reply to it due to pandemic and lockdown.

20. I note that regulation 15(9) of the IA Regulations provide that an IA shall abide by Code of Conduct as specified in Third Schedule to the IA Regulations. I note that regulation 24(3) of the IA Regulations casts an obligation on IA, against whom the inspection is being carried out, to discharge obligations as provided in regulation 25 of the IA Regulations. Regulation 25 (1) of the IA Regulations casts a duty on every IA, in respect of whom an inspection has been ordered under regulation 23, and any other associated person, who is in possession of relevant information pertaining to the conduct and affairs of such IA, to provide to the inspecting authority such books, accounts and other documents in his custody or control and furnish him with such statements and information as the inspecting authority may require for the inspection. Regulation 25(2) of the IA Regulations on every such IA and associated person to give to the inspecting authority all such assistance and extend all such co-operation as may be required in connection with the inspection and shall furnish such information as sought by the inspecting authority in connection with the inspection. In terms of Clause 8 of Code of Conduct laid down in Third Schedule to the IA Regulations, an IA shall comply with all regulatory requirements applicable to the conduct of its business activities so as to promote the best interests of clients and the integrity of the market.

21. As seen from the narration above, despite seeking information vide several emails on several dates (i.e. March 17, 2020, August 13, 2020, August 14, 2020 and August 19, 2020), the Noticee failed to provide requisite information and documents.

22. The plea of onslaught of pandemic and lockdown to justify its failure to provide information and documents is not acceptable, as it involved merely forwarding of information that existed before the pandemic. In the circumstances, I find that the Noticee by failing to extend cooperation to the inspection team and by failing to provide information and documents prior to, at the time of and after inspection has violated regulation 13(a), 15(9), 24(3), 25(1), 25 (2) of the IA Regulations read with clause 8 of Code of Conduct as specified in Third Schedule to the IA Regulations.

Non-Redressal of SCORES complaints

23. SCN-1 has alleged that, as on August 20, 2020, 9 unique complaints were pending against the Noticee at SEBI Complaints Redress System (“SCORES”) portal. Out of 9 complaints, 8 complaints were pending for more than 60 days. Details of pending complaints against the Noticee are tabulated as follows: -

Table-1

Sl. No	SCORES complaint number	Name of the Complainant	Date of receipt of complaint	Date of forwarding complaint to IA	Date of reminders	Date of reply by IA	Excess time above 30 days
1	SEBIE/M P18/00018 95/1	Pradeep Kumar Agarwal	16/06/2018	21/06/2018	13/05/2020	NA	766
2	SEBIE/M P18/0002 034/1	A. Sureshch and Lunkar	03/07/2018	10/07/2018	20/11/2018; 13/05/2019; 24/12/2019;	29/12/2018; 10/01/2020	747
3	SEBIE/B H18/0000 070/1	Rajesh Kumar	16/08/2018	26/10/2018	13/05/2019; 24/12/2019;	10/01/2020	639
4	SEBIE/M P18/0004 064/1	Neelam Sharma /Self	07/08/2018	12/09/2018	20/11/2018; 13/05/2019; 16/10/2019; 09/03/2020	30/10/2018; 22/11/2018; 19/03/2019;	683

Sl. No	SCORES complaint number	Name of the Complainant	Date of receipt of complaint	Date of forwarding complaint to IA	Date of reminders	Date of reply by IA	Excess time above 30 days
5	SEBIE/MP18/0004352/1	Subramanian TN	08/10/2018	09/10/2018	20/11/2018; 13/05/2019; 16/10/2019; 22/04/2020	NA	656
6	SEBIE/MP19/0000934/1	Rakesh Prasad	15/04/2019	15/04/2019	21/06/2019; 24/12/2019;	30/05/2019	468
7	SEBIP/MP19/0000361/1	Shiv Baran	30/08/2019	02/09/2019	24/12/2019;	NA	328
8	SEBIP/MP19/0000484/1	Parmanad Koushik	20/12/2019	26/12/2019	09/03/2020;	16/03/2020	213

24. Further, it has been alleged that the Noticee failed to submit the ATR in a time bound manner, as prescribed by SEBI, and has also not resolved investors' grievance, thereby, the Noticee failed to comply with SEBI Circular CIR/OIAE/2014 dated December 18, 2014 read with regulation 21 of the IA Regulations.

25. The Noticee has submitted that it used to promptly respond to each of its client's complaint. However in some cases the clients were not responding to the calls/e-mails, and in some cases the final negotiations took several days and he could not file the ATR in a time bound manner. The Noticee vide email dated August 08, 2022 submitted that as on that date it had zero complaints pending against it.

26. I note that Regulation 21 of the IA Regulation, inter-alia, provides that an investment adviser shall redress client grievances promptly. SEBI has issued circular dated December 18, 2014 governing redressal of investor grievances through SCORES. Clause 9 of the said circular provides that SEBI registered intermediaries to whom complaints are forwarded through SCORES, shall

take immediate efforts on receipt of a complaint, for its resolution, within thirty days. SEBI registered intermediaries shall keep the complainant duly informed of the action taken thereon. Clause 10 of the said circular provides that SEBI registered intermediaries shall update the ATR along with supporting documents, if any, electronically in SCORES. The proof of dispatch of the reply of SEBI registered intermediary to the concerned investor should also be uploaded in SCORES and preserved by SEBI registered intermediary, for future reference. Further, Clause 11 of the said circular provides that action taken by SEBI registered intermediaries will not be considered as complete if the relevant details/ supporting documents are not uploaded in SCORES and consequently, the complaints will be treated as pending.

27. I note that the purpose of SCORES is to provide a platform for connecting the aggrieved investors with the concerned registered intermediary so as to elicit a response from the intermediary. From Table No. 1, I note that there was substantial delay on the part of the Noticee in taking steps to resolve the complaints. The Noticee has also admitted that there was delay on its part in certain cases in resolving the complaints ranging from 213 to 766 days. In view of the above, I find that the Noticee failed to resolve the complaints within the prescribed time. Thus, I find that the Noticee violated SEBI circular dated December 18, 2014 and regulation 21 of the IA Regulations.

Promising assured profit/unrealistic returns to its clients

28. SCN-1 has alleged that the Noticee was promising assured profit/unrealistic returns from securities market on the investment made by the clients and luring them to avail its services. The high returns were promised by the Noticee to the clients knowing fully well that investment in equity, equity derivatives, and commodity derivatives are subject to market risk. The Noticee is alleged to have violated regulation 15 (1), 15(9) of the IA Regulations read with Clause 1 and 2 of Code of Conduct as specified in Third Schedule to the IA Regulations and regulation 3 (a), (b), (c), (d) and 4 (1) (2) (k) and (s) of the PFUTP Regulations read with Section 12A(a), (b) and (c) of SEBI Act.

29. I note that SEBI received a complaint from one Mr. Shiv Baran Singh, under SCORES Regn. no. SEBIP/MP19/0000361/1 dated August 30, 2019, stating that employees of the Noticee had assured that Rs. 5 to 6 lakhs profit would be given within a month. However, after a lapse of four months, the complainant incurred a loss of approximately Rs. 5 - 6 lakh. Mr. Shiv Baran Singh vide email dated August 17, 2020, forwarded an email dated April 22, 2019 received by him from email id investmentvisor.in@gmail.com, wherein, it was mentioned as follows: -

“As you had words with Mr. S.B. Singh about the Slot Services, we would like to offer you the same on your Portfolio. In the Slot Services, we basically take care of all the liabilities of your finance apart from the invested Hard Cash in Dmat Account. In this particular service you will get a good amount of return with a minimum risk of losing money. As per the plan details we would like to highlight about one of our wonderful feature of the Slot Service, which has been mentioned below.

Being as an company we will take care of all your trade, as we deliver more than 85% accuracy on our given calls.

Earlier you have paid 55000/- service for your trading, We are switching out your profile from the current service to the Slot Service. As you had understood the requirements of Slot Service, we will activate the SCALE LEVEL 1 with the below mentioned mentioned details on your portfolio.

*Risk Percentage = 13 % @ 200000/-
Profit Percentage = 45 % @ 200000/-
Average Percentage = 15 % @ 200000/-
Hedging Percentage = 2.5 % @ 200000/-*

The above mentioned key factors has been calculated with the initial investment amount of 500000/- as hard cash in your portfolio. We would like to tell you that for the activation of Slot Service(Scale Level 1), you need to make the payment of 111000/-.

Overall service amount is 675000/- where you will get 1775000/- return from the market, please check the below payment method.

<i>Payment</i>	<i>Return</i>
<i>111000/-</i>	<i>250000/- to 300000/-</i>
<i>100000/-</i>	<i>250000/- to 300000/-</i>
<i>100000/-</i>	<i>250000/- to 300000/-</i>
<i>100000/-</i>	<i>250000/- to 300000/-</i>

100000/-
100000/-

250000/- to 300000/-
250000/- to 300000/-

30. I note that screenshot dated October 8, 2020 of the website of the Noticee mentioned, inter-alia, as follows: -

"Stock Cash Premium Tips:

*This is our "Flagship Premium Service in the Stock Cash Segment where a high accuracy level is maintained for Intraday as well as Positional calls with a better Risk-Reward Ratio. The calls will be of Stock Cash with a **bigger profit margin** than what is provided in the regular segment specific service. The Calls may be Intraday or Positional in this pack. "Less Calls More Profit" is the motto of this Service."*

Stock cash Tips:

*" Trading stocks is a risky and complex occupation because the direction of the markets is generally unpredictable and lacks transparency. In addition, the financial markets are usually subjected to speculation. But we at IV simplify the process of trading which ultimately results in **profit earning**. In this Stock Cash Tips service we provide our Clients stock tips with more than 85% accuracy which drives them to **profit**. "*

31. I note that the SCN-1 has alleged that, on April 19, 2018, a call was received by one of the Officers of SEBI's Indore Local Office ("**ILO**") from one of the employee (KrishnaKant) of the Noticee. During the call, the employee, inter alia, informed that daily average return being delivered or given by the calls of the Noticee on the invested amount of the clients is around 20 to 30%. The above statement was confirmed by Mr. Praveen Verma, proprietor of Investment Visor, in his letter dated April 19, 2018.

32. The Noticee has submitted that email id investmentvisor.in@gmail.com, from which the complainant –Mr. Shiv Baran Singh received the above mentioned email dated April 22, 2019, is not the official email id of the Noticee and the same was sent to the client from some unauthorized personal email id of an employee. However, the Noticee admitted the fact that as the proprietor he has the liability for conduct of its employees, therefore, refunded the service fee charged from the client. The employee who was involved in this activity was expelled with immediate effect.

33. The Noticee has also submitted that it always informed clients through e-mail communications and through the website that they do not provide any guaranteed returns. The Noticee had disclosed on its website i.e. www.investmentvisor.com that they do not provide any guaranteed returns and investment in share and commodity market is subject to market risk. With respect to details of services mentioned on the website of the Noticee, the Noticee has submitted that it was just trying to illustrate accuracy levels and benefits of its services which was just a marketing/advertising tool which is done by every entity to sell its product. With respect to the telephone call made by the Noticee's employee, the Noticee has submitted that the said employee was just illustrating accuracy levels and returns one might get while investing. The Noticee has submitted that letter dated April 19, 2018 was written under coercion/undue influence of SEBI officer as they had visited the Noticee's office and made him write all such points.

34. Further, the Noticee has submitted that adequate disclosures about risks related to investing in securities market were disclosed by it under various sections of its website. Welcome note shared by it with its clients on their onboarding stated that it does not provide any kind of guaranteed returns. In this connection, the Noticee relied on SEBI, Whole Time Member ("**WTM**") Order in the matter of GRS Solutions.

35. I note that vide email dated April 22, 2019, it was represented that profit or unrealistic return can be earned by availing slot service. It mentioned the return range which can be earned by making different payments. I find that the email dated April 22, 2019 offered assured profit/return. As per the Noticee, the said email dated April 22, 2019 was sent by the employee of the Noticee without authorization. Admittedly, the complainant -Mr. Shiv Baran Singh was client of the Noticee. I note that the Noticee is blowing hot and cold at the same time. On one hand, the Noticee is claiming that the email dated April 22, 2019 was sent by an unauthorized person. On other hand, the Noticee is

owning liability for its employee and stated to have refunded service fees charged from Mr. Shiv Baran Singh. I note that email dated April 22, 2019 also mentioned that “Earlier you have paid 55000/-service for your trading,”. I find that information regarding earlier fees paid and service being availed by Mr. Shiv Baran Singh from the Noticee could not have been available with any unauthorized person. Further, the Noticee has not placed on record any police complaint or document evidencing steps taken by the Noticee against alleged false and unauthorized representation by an alleged unauthorized person on behalf of the Noticee. In view of the above, I find that email dated April 22, 2019 was sent, in all probabilities, by an employee of the Noticee on behalf of the Noticee and not by any unauthorized person.

36. I note that a SEBI employee received call from an employee (KrishnaKant) of the Noticee offering assured profit/return. I note that the Noticee has not raised the issue of coercion allegedly exerted by SEBI officials prior to these proceedings.

37. From the Noticee`s letter dated April 19, 2018, email dated April 22, 2019 and the disclosures in the website, I find that the Noticee was offering assured profit/unrealistic returns to the clients on the investments. I find that facts of the instant case are distinguishable from the facts of the case of GRS Solutions. In the matter of GRS Solutions, allegations were made on the basis of representations made on the website of the Noticee therein and conversation between the client and representative of the Noticee therein. In that context, SEBI-WTM Order in the matter of GRS Solutions observed that “I further note that phrases like “high return on investment”, “high accurate 1-2 calls”, “maximize profit” and “promise of high success rates” without mention of any specific rate of return is mere representation about quality / accuracy of his tips and does not amount to promising assured returns”. However, in the present case, the email dated April 22, 2019 mentioned that profit percentage of ‘45% @ 200000/-’. Further, it mentioned that “Overall service amount is 675000/- where you will get 1775000/- return from the market”. Upon

consideration of the above facts in its entirety, I am of the view that the Noticee was offering assured profit/return to the clients on the investments made the clients with indicative range of returns. Accordingly, I find that the Noticee violated regulation 15 (1), 15(9) of the IA Regulations read with Clauses 1 and 2 of Code of Conduct as specified in Third Schedule to the IA Regulations.

38. I note that Regulation 3(a) of the PFUTP Regulations prohibits any person from buying, selling or otherwise dealing in securities in a fraudulent manner and Regulation 3(d) of the PFUTP Regulations prohibits a person from engaging in any course of business which operates as fraud or deceit upon any person in connection with any dealing in securities. As noted above, the Noticee assured profit/returns by way of email dated April 22, 2019 (which mentioned that profit percentage of '45% @ 200000/-' can be earned and return of Rs.1775000/- can be earned by paying service amount of Rs.675000/- where you will get 1775000/-). Further, the employee of the Noticee by way of call to employee of SEBI ILO represented that return of 20 to 30% was being given to the clients on the invested amount. I find that the Noticee was promising profits or returns to the clients on the investments. In my view, promising assured profit in securities market amounts to misrepresentation and misleading the investors. Such reckless conduct intended to induce investors to deal in securities constitutes 'fraud' under the PFUTP Regulations. I also note that making promises of "assured returns" has been held to attract the said provisions in terms of Order of the Hon'ble SAT dated December 12, 2022 in the matter of MSS Trading System Centre, which was providing unregistered portfolio management services without obtaining the certificate of registration. Extending the same analogy, I find that the Noticee has violated Regulation 3(a), 3(d), 4(2)(k) and 4(2)(s) of the PFUTP Regulations read with Section 12A(c) of SEBI Act, 1992.

Non-Compliance with the qualification requirement

39. In this regard, the SCN-1 has alleged that information regarding complete business process, procedure/ process undertaken by the Noticee with regard to risk profiling and suitability assessment was sought from the Noticee. However, no details were provided by the Noticee. In absence of the information, the complaints were analyzed and complainant was asked to provide the process of risk profiling. The complainants, Rakesh Prasad and Shiv Baran Singh, vide email dated August 20, 2020 and August 21, 2020 informed that risk profiling was done by the employees of the Noticee over telephone.
40. Further, it is alleged that the Noticee operated its advisory activities/business by selling advisory products/services in the form of package. Such packages were sold or marketed by the employees of the Noticee to the prospective clients. Employees of the Noticee got in touch with the client to fill Risk Profile Questionnaire over telephone of which no call recording was maintained by the Noticee. Employees of the Noticee were, in terms of the IA Regulations, carrying out activities pertaining to risk profiling, suitability of advisory product/service and consequently selling the same to the client. However, the employees of the Noticee did not possess necessary qualifications prescribed in the IA Regulations.
41. SEBI vide email dated March 17, 2020 asked the Noticee to provide, inter alia, complete employee data, NISM certificates of employees of research team, etc. However, the Noticee vide email dated March 18, 2020 submitted the list of employees along with their qualification. As per information provided by the Noticee, none of its team members had requisite qualification or certification as required under regulation 7 of IA Regulations. The Noticee is alleged to have violated regulation 7, 15(13), 15(9) read with clause 1, 2, 3 and 8 of the Code of Conduct as specified in Third Schedule to the IA Regulations.

42. In this regard, the Noticee has submitted that it had not appointed any employee as his representative. Its employees were not involved in assessing risk profile of the clients before rendering investment advice. They just collated the data from the clients and used to deliver the services. The risk profile of the clients was analyzed by the Noticee, being qualified and certified as per Regulation 7 of the IA Regulations. Prior to September 30, 2020, there was requirement of only IA and its representative to get qualified as per Regulation 7 of the IA Regulations. So, the Noticee being the only IA was duly qualified and certified as per the IA Regulations.

43. I note that the Noticee failed to submit information regarding its business process, procedure/ process undertaken by it with regard to risk profiling and suitability assessment. The complainants, Rakesh Prasad and Shiv Baran Singh, vide email dated August 20, 2020 and August 21, 2020 have informed that risk profiling was done by the employees of the Noticee over telephone. I do not find any reason to disbelieve submissions of the complainant- Rakesh Prasad and Shiv Baran Singh that risk profiling of the clients was done by the employees of the Noticee.

44. I note that the Noticee on its website –investmentvisor.com provided details about its research team, wherein, it claimed that “.....*our team who prepares and delivers free and paid content and trading and **investing advice** have following degrees and educational qualifications. They include MBA finance, Certificate in taxation, International Banking and International finance master degree, ICWA degree holder, intermediate CAs, intermediate CSs, CAs, CSs, CFAs, NCFM (NSE's Certification in financial markets) capital markets, NCFM derivatives market, NCFM depositories operations, MCX Certified Commodity Professional and more.*” In view of the above claims made by the Noticee on its website and submissions of the complainant, I reject the contention of the Noticee that risk profile of the clients was analyzed by the Noticee only and its employees were not involved in assessing risk profile of the clients and rendering investment advice.

45. I note that Regulation 7 of the IA Regulations was amended w.e.f. September 30, 2020. Prior to September 30, 2020, Regulation 7 required that an individual registered as an IA under the IA Regulations, partner of such an IA and representatives of such IA offering investment advice to possess at all times qualification i.e. professional qualification or post graduate degree or diploma in finance, accountancy, business management, commerce, economics, capital market, banking, insurance or actuarial science from a university or institution recognized by the central government or any state government or a recognized foreign university or institution or association or graduation in any discipline with at least five years of experience in activities relating to advice in financial products or securities or fund or asset or portfolio management. Further, regulation 7(2) of the IA Regulations required such an IA, partner of such an IA and representatives of such IA offering investment advice to possess at all times certification on financial planning or fund or asset or portfolio management or investment advisory services from NISM or any other organization or institution including FPSB or any recognized stock exchange in India, subject to NISM accreditation. Such certifications have stipulated validity period and before expiry of the same, fresh certification is mandated to ensure continuity. In absence of proof of qualification, I find that the Noticee has failed to ensure compliance with the certification and qualification requirements specified under Regulation 7 of the IA Regulations. Failure of the Noticee to ensure compliance with stipulated certification and qualification is reflective of lack of diligence and due care on part of the Noticee in performance of its role as an investment adviser. I note that Regulation 15(13) emphasizes that the Investment Adviser shall be responsible to ensure compliance with the certification and qualification requirements as specified under Regulation 7 at all times. In view thereof, I find that the Noticee violated Regulation 7, 15(9), 15(13), Clause 1, 2, 3 and 8 of the Code of Conduct specified under the Third Schedule to the IA Regulations.

Improper Risk Profiling of Clients.

46. In this regard, the SCN-1 has alleged that examination of risk profile form of the complainant – Rakesh Prasad and Shiv Baran Singh revealed that risk profile form was not dated or signed and there is no evidence to suggest that the same was communicated to the clients. Compliance audit report for FY 2018-19 and for period April 01, 2019 to January 30, 2020, submitted by the Noticee, noted that risk profiles of 31 clients during FY 2018-19 and 41 clients for the period April 01, 2019 to January 30, 2020 were not available. One of the complainant, Pradeep Kumar Agarwal, informed that neither risk profile was done nor was it communicated to him.

47. Further, it was alleged that risk profile questionnaire did not contain any question which would provide the investment objective or the purpose of the investment of the clients. In most of the cases, services were being allotted to the clients prior to the communication of risk profile. Sample of such cases is as follows: -

Table-2

Sl.No.	Name of the client	Date allotment of service	Date of Risk Profile
1	Shiv Baran Singh	April 10, 2019	April 11, 2019
2	Rakesh Prasad	January 16, 2019	January 17, 2019
3	V Athmanathan	July 12, 2017	On July 12, the Noticee sought details of PAN, Aadhar for carrying out KYC

48. The complainant viz., V. Athmanathan vide email dated July 20, 2017 communicated to the Noticee as follows: -

“Dear Ji, I was not interested to enter into share market but your company side I received persistent/consistent call promising of getting good return within 20 days in which with minimal investment in which I deposited 30,000 in the end of Mar 2017 but after that I was asked deposit within short time in one or other reason without getting assured amount. After a month I was asked to deposit rs2,00,000 as service charge to get the assured amount 20,00,000 to be transferred to my account but after difficulty when I deposited money I was told to deposit again rs90,000 so that the assured amount will be transferred to my account in which I was forced to deposit till such time of Rs around

6,00,000 but still I was asked only to deposit money repeatedly now again I have been assured of enhanced amount with repeated been asked to deposit stress fully within short period of half hour to bank account but with the prevailing different situation in this respect. This is the situation occurring in respect of me which I put to your end now. Athmanathan”

In the instant case, the invoice no. 741 was for the period of April 05, 2017 till May 19, 2017. However, the said invoice was dated May 20, 2017, i.e. after completion of the service period.

49. As per the risk profiling adopted by the Noticee, the risk appetite assessment on the basis of risk score was *"Maximum total score one can obtain is 90, if client scores upto 30 then he/she is a low risk appetite client. If client scores between 31 to 60 then he/she is a medium risk appetite client and if he/she scores more than 61 then he/she is a high risk appetite client."*

50. The Noticee had clients whose risk profiling had not been done properly and multiple services were sold to them to extract advisory fees. Two of such clients are Pradeep Kumar Agarwal and Umakant Kushwaha. In the case of Pradeep Kumar Agarwal, he had not replied to most of the questions and his total score worked out to 11 based on scores assigned in the risk profile. However, he was assigned total score of 28 points. As per risk score, the client had low risk appetite, yet, in the risk profile he was categorized as 'very aggressive investor who is ready to take high risk'. Similarly, in the case Umakant Kushwaha, he had not replied to most of the questions and his total score worked out to 06, based on scores assigned in the risk profile. However, he was assigned total score of 22 points. As per risk score, he had low risk appetite, yet, in the risk profile he was categorized as 'very aggressive investor who is ready to take high risk'.

51. In view of the above, it was alleged that risk profiling of clients was carried out by the Noticee without following the stipulations of the IA Regulations. The risk profile did not include all the requisite questions to determine the objective and purpose of the investment of the client. The Noticee carried out risk profiling

telephonically but did not keep any records for the same. In most of the cases, risk profiling of the clients was not done by the Noticee. The risk profiling records provided by the Noticee were not signed and dated. The Noticee has not followed the process for assessing the risk a client is willing and able to take and has allotted and sold the services to the clients prior to communication of risk profile or completion of risk profiling. The Noticee misrepresented about the clients by categorizing them as 'very aggressive investor who is ready to take higher risk' while based on the internal risk assessment mechanism of the Noticee, the clients should have been classified as having low risk appetite. The Noticee has stated false information about the clients in the RPF to somehow categorize the client having 'high risk' appetite. The Noticee knowingly misrepresented the risk profile of the client and deceived its clients. The Noticee is alleged to have violated regulation 3(a), (b), (c) and (d) of the PFUTP Regulations read with Section 12A(a), (b) and (c) of the SEBI Act and Regulation 15 (1) and clauses 1, 2, 4, 5, and 8 of Code of Conduct specified in Third Schedule to the IA Regulations read with Regulation 15 (9) of the IA Regulations, as well as Regulations 16(a)(ii), 16 (b) (iii) and 16 (e) of the IA Regulations.

52. In this regard, the Noticee vide reply dated November 30, 2022 has submitted that it relied on the Risk Profiling Questionnaire("RPQ") of the clients, approved by SEBI at the time of granting registration, in order to provide its clients with a suitable investment advice. The said RPQ contained questions pertaining to both ability of the client to absorb the risk and willingness to absorb risk which was not just limited to Gross Annual Income and existing or proposed investment. Risk assessment conducted by the Noticee included question to assess financial ability of the clients such as – total net worth, annual income, emergency funds, surplus amount, portfolio held, liquid assets available, insurance and goals to achieve, etc., Other questions included willingness aspect of the client to ascertain how much risk the client is willing to take in order to achieve desired financial goal/returns while taking advice from it.

53. I note that the Noticee in its reply dated November 30, 2022 has made submissions addressing allegation that Risk Profile Questionnaire (“RPQ”) did not contain question for assessing ability and willingness of the client to take risk. Regarding other allegations, the Noticee has not made any submission in its reply dated November 30, 2022.

54. I note that Regulation 16(a)(ii) of the IA Regulations requires an IA to obtain information from the client on investment objectives including time for which they wish to stay invested, the purposes of the investment. Regulation 16(b) of the IA Regulations require an IA to have process for assessing the risk a client is willing and able to take including (i) assessing a client’s capacity for absorbing loss; (ii) identifying whether client is unwilling or unable to accept the risk of loss of capital; (iii) appropriately interpreting client responses to questions and not attributing inappropriate weight to certain answers. I note that the Noticee has made mere bald submission that RPQ contained question to assess both ability of the client to absorb the risk and willingness to absorb risk. However, the Noticee has not mentioned specific question in RPQ which as per the Noticee was directed to ascertain investment objective of the clients. On sample basis, I have perused the risk analysis form of client- Rakesh Prasad, annexed as Annexure 16 to the SCN-1. I note that risk analysis form of client -Rakesh Prasad do not contain any question directed to assess investment objective of the client. In view of the above, I find that the Noticee has violated Regulation 15 (1) and clauses 1, 2, 4, 5, and 8 of Code of Conduct specified in Third Schedule to the IA Regulations read with Regulation 15 (9) of the IA Regulations, as well as Regulations 16(a)(ii), 16 (b) (iii) and 16 (e) of the IA Regulations. In this regard, I note that the aforesaid allegations by themselves cannot constitute ‘fraud’ for the purposes of the PFUTP Regulations, unless supported by evidence. I note that the Noticee should have been more careful and diligent in doing risk profiling of the clients. In view of the material on record, I find that allegation of violation of Regulation

3(a), (b), (c) and (d) of the PFUTP Regulations read with Section 12A(a), (b) and (c) of the SEBI Act against the Noticee is not substantiated.

Faulty Suitability Assessment and Inappropriate Products Sold to Clients

55. In this regard, the SCN-1 has alleged that services offered by the Noticee were either for Medium risk or high risk clients. The Noticee sold high risk services to clients with medium risk. Some of instances, where suitability of services has been completely ignored is as follows: -

Table-3

S.No.	Client name	Risk score	Risk category	Services assigned	Service category
1.	Ms. Neelam Sharma	59	Medium	Stock Option, stock cash platinum	High
2.	Satvinder Singh	58	Medium	Stock Option, Stock Options Premium, Premium Stock Future, Stock Future and Platinum Future	High
3.	Rajesh kumar	59	Medium	Stock Option	High
4.	Rakesh Prasad	59	Medium	Stock Options Premium, Platinum Future	High
5.	Shiv Baran Singh	57	Medium	Stock Options Premium, Premium Stock Future, Platinum Future	High

56. In this regard, the SCN-1 has alleged that the Noticee sold multiple products/services to its clients. Some of such instances are as follows: -

a. **Client Name: Ms. Neelam Sharma-**

Table -4

Sl. No.	Services	Invoice Date	Service start date	Service end date	Amount as per invoice
1.	Stock Option	14.11.2017	15.11.2017	15.12.2017	3,000
2.	Stock Option	06.12.2017	15.12.2017	25.12.2017	10,000
3.	Stock Option	07.12.2017	25.12.2017	05.01.2018	10,000
4.	Stock Option	08.12.2017	05.01.2018	15.01.2018	10,000
5.	Stock Option	09.12.2017	15.01.2018	25.01.2018	8,500
6.	Stock Option	20.12.2017	25.01.2018	25.03.2018	49,000
7.	Stock Option	20.12.2017	25.03.2018	25.05.2018	5,000
8.	Stock Option	20.12.2017	25.07.2018	25.09.2017	5,000
9.	Stock Option	20.12.2017	25.09.2017	25.11.2017	5,000
10.	Stock Option	22.12.2017	25.05.2019	25.07.2019	5,000
11.	Stock Option	22.12.2017	25.07.2019	25.09.2019	1,800
12.	Stock Option	25.12.2017	25.01.2020	25.05.2020	8,000
13.	Stock Option	25.12.2017	25.05.2020	25.09.2020	5,000
14.	Stock Option	25.12.2017	25.09.2019	25.01.2020	12,000
15.	Stock Option	03.01.2018	25.01.2020	25.02.2020	20,000
16.	Stock Option	04.01.2018	25.02.2020	10.03.2020	6,500
17.	Stock Option	20.01.2018	10.03.2020	03.03.2020	4,000
18.	Stock Option	31.01.2018	03.03.2020	03.03.2020	3,000
19.	Stock Option	05.02.2018	03.03.2020	08.03.2020	5,001
20.	Stock Option	13.02.2018	13.02.2018	13.02.2018	7,000
21.	Stock Option	14.02.2018	14.02.2018	14.02.2018	5,000
22.	Stock Option	14.02.2018	14.02.2018	14.02.2018	4,200

Sl. No.	Services	Invoice Date	Service start date	Service end date	Amount as per invoice
23.	Stock Option	14.02.2018	14.02.2018	14.02.2018	3,300
24.	Stock Option	16.02.2018	16.02.2018	16.02.2018	5,000
25.	Stock Option	17.02.2018	17.02.2018	17.02.2018	3,000
26.	Stock Option	28.02.2018	28.02.2018	28.02.2018	3,000
27.	Stock Option	01.03.2018	01.03.2018	01.03.2018	4,000
28.	Stock Option	05.03.2018	05.03.2018	05.03.2018	3,000
29.	Stock Option	17.03.2018	09.03.2020	19.03.2020	5,000
30.	Stock Option	17.03.2018	19.03.2020	29.03.2020	5,000
31.	Stock Option	17.03.2018	30.03.2020	10.04.2020	5,000
32.	Stock Option	17.03.2018	11.04.2020	20.04.2020	3,500
33.	Stock Option	19.03.2018	21.04.2020	30.04.2020	5,000
34.	Stock Option	19.03.2018	30.04.2020	10.05.2020	5,000
35.	Stock Option	19.03.2018	10.05.2020	15.05.2020	1,500
36.	Stock Option	21.03.2018	16.05.2020	26.05.2020	6,000
37.	Stock Option	21.03.2018	27.05.2020	07.06.2020	4,000
38.	Stock Option	24.03.2018	24.03.2018	24.03.2018	6,000
39.	Stock Option	26.03.2018	26.03.2018	26.03.2018	4,000
40.	Stock Option	31.03.2018	08.06.2020	18.06.2020	3,000
41.	Stock Cash Platinum	04.04.2018	05.04.2018	05.07.2018	4,100
42.	Stock Cash Platinum	04.04.2018	06.07.2018	06.10.2018	3,000
Total					2,73,401

b. **Client Name: Mr. A Sureshchand Lunkar**

Table-5

Sl. No.	Services	Invoice Date	Service start date	Service end date	Amount as per invoice
1.	Stock option	01.01.1970	05.06.2017	20.07.2017	6,250
2.	Stock Cash	01.01.1970	05.06.2017	20.07.2017	6,250
3.	Stock Option	01.01.1970	21.07.2017	30.09.2017	15,000
4.	Stock Cash Premium	01.01.1970	21.07.2017	30.09.2017	25,000
5.	Stock Cash	01.01.1970	21.07.2017	30.09.2017	10,000
6.	Stock Option	01.01.1970	01.10.2017	10.12.2017	6,000
7.	Stock Options Premium	01.01.1970	01.10.2017	01.01.2018	70,000
8.	Stock Cash	01.01.1970	01.10.2017	15.11.2017	8,000
9.	Stock Cash Premium	01.01.1970	01.10.2017	06.11.2017	12,000
10.	Stock Cash Premium	01.01.1970	02.01.2018	15.03.2018	25,000
11.	Stock Option	01.01.1970	11.12.2017	11.02.2018	10,000
12.	Stock Option Premium	01.01.1970	07.12.2017	15.03.2018	45,000
13.	Stock Cash Premium	01.01.1970	12.07.2017	12.03.2018	1,00,000
14.	Premium Stock Future	01.01.1970	12.07.2017	12.03.2018	1,00,000
15.	Stock Option Premium	01.01.1970	12.07.2017	12.03.2018	1,00,000
16.	Bullion HNI	01.01.1970	12.07.2017	12.03.2018	1,00,000
17.	Bullion Premium	01.01.1970	12.07.2017	12.03.2018	1,00,000
18.	MCX Combo Pack	01.01.1970	12.07.2017	12.03.2018	1,00,000
19.	Stock Cash Premium	01.01.1970	13.03.2018	12.07.2018	50,000
20.	Stock Option Premium	01.01.1970	13.03.2018	12.07.2018	50,000
21.	Premium Stock Future	01.01.1970	13.03.2018	12.07.2018	50,000

Sl. No.	Services	Invoice Date	Service start date	Service end date	Amount as per invoice
22.	Bullion Premium	01.01.1970	13.03.2018	12.07.2018	50,000
23.	Bullion HNI	01.01.1970	13.03.2018	12.07.2018	50,000
24.	MCX Combo Pack	01.01.1970	13.03.2018	12.07.2018	50,000
Total					11,38,500

c. **Client name: Mr. Subramanian TN**

Table-6

Sl. No.	Services	Invoice Date	Service start date	Service end date	Amount as per invoice
1 .	Stock Cash	06.06.2017	05.06.2017	06.06.2017	4,000
2.	Stock Cash	07.06.2017	07.06.2017	08.06.2017	5,750
3.	Stock Cash	07.06.2017	27.05.2017	27.06.2017	9,746
4.	Stock Cash	24.08.2017	28.06.2017	28.10.2017	20,700
5.	Stock Cash	27.06.2017	27.06.2017	27.06.2017	5,175
6.	Stock Cash	28.06.2017	17.06.2017	17.06.2017	5,175
7.	Stock Cash	18.07.2017	22.06.2017	22.07.2017	15,000
8.	Stock Cash	18.07.2017	24.06.2017	21.07.2017	12,535
9.	Stock Cash Premium	25.07.2017	27.06.2017	27.07.2017	20,200
10.	Stock Cash Premium	01.01.1970	28.06.2017	28.07.2017	21,500
11 .	Stock Cash Premium	29.06.2017	29.06.2017	29.06.2017	5,975
12.	Stock Cash Premium	01.01.1970	29.06.2017	29.06.2017	5,974
Total					1,31,730

57. In some of the instances, same service has been sold multiple times to the same client for the same period or overlapping period. This shows that Noticee collected advisory fees multiple times for the same service.

Client name: Ms. Neelam Sharma

Table-7

Sl. No.	Services	Invoice no.	Invoice Date	Service start date	Service end date	Amount as per invoice
1	Stock Option	4018	14.11.2017	15.11.2017	15.12.2017	3,000
2	Stock Option	4454	20.12.2017	25.07.2018	25.09.2017	5,000
3	Stock Option	4455	20.12.2017	25.09.2017	25.11.2017	5,000
4	Stock Option	4451	20.12.2017	25.01.2018	25.03.2018	49,000
5	Stock Option	5058	13.02.2018	13.02.2018	13.02.2018	7,000
6	Stock Option	5059	14.02.2018	14.02.2018	14.02.2018	5,000
7	Stock Option	5060	14.02.2018	14.02.2018	14.02.2018	4,200
8	Stock Option	5061	14.02.2018	14.02.2018	14.02.2018	3,300
9	Stock Option	5088	16.02.2018	16.02.2018	16.02.2018	5,000
10	Stock Option	5089	17.02.2018	17.02.2018	17.02.2018	3,000
11	Stock Option	5029	28.02.2018	28.02.2018	28.02.2018	3,000
12	Stock Option	5219	01.03.2018	01.03.2018	01.03.2018	4,000
13	Stock Option	5281	05.03.2018	05.03.2018	05.03.2018	3,000
14	Stock Option	5543	24.03.2018	24.03.2018	24.03.2018	6,000
15	Stock Option	4525	25.12.2017	25.01.2020	25.05.2020	8,000
16	Stock Cash	4640	03.01.2018	25.01.2020	25.02.2020	20,000
17	Stock Option	4655	04.01.2018	25.02.2020	10.03.2020	6,500
18	Stock Option	4817	20.01.2018	10.03.2020	03.03.2020	4,000
19	Stock Option	4980	31.01.2018	03.03.2020	03.03.2020	3,000
20	Stock Option	5011	05.02.2018	03.03.2020	08.03.2020	5,001

58. In a few months of association, the Noticee sold large number of services to the clients and collected substantial amount by way of fee. Further, the Noticee sold newer products to its clients so as to receive more fees from the clients, even though the subscription period for products earlier sold was not yet over. In most of the cases, amount of advisory fees charged was more than the amount of investment by the clients. Details of some of the clients who have been charged more advisory fees than the amount of investment is tabulated as under: -

Table-8

Sl. No	Name	Period for which products/services sold	No. of products/packages sold	Current Investment Amount as per Risk Profile	Annual Income	Amount of fees collected	Investment Experience
1	Shiv Baran Singh	12/04/2019 to 16/09/2019	11	Less than 2 Lakh	2.5-5 Lakh	274,000	3-7 Year
2	Varghese TL	17/06/2019 to 30/11/2019	06	Less than 2 Lakh	2.5-5 Lakh	2,70,515	Less than 1 Year
3	Rakesh Prasad	18/01/2019 to 15/06/2019	15	Less than 2 Lakh	2.5-5 Lakh	1,99,714	Less than 1 Year
4	A Sureshchand Lunkar	05/06/2017 to 12/07/2018	24	2-5 Lakh	5-10 Lakh	11,38,500	1-3 Year
5	Pradeep Kumar Agarwal	14/03/2018 to 22/03/2018	16	Nil	Nil	2,36,298.1	Nil
6	Athmanathan	05/04/2017 to 25/05/2018	22	Less than 2 Lakh	2.5-5 Lakh	4,71,573	Less than 1 Year
7	Satvinder Singh	24/04/2019 to 15/10/2019	13	Less than 2 Lakh	Less than 2.5 Lakh		Less than 1 Year

59. It has been alleged that the Noticee has not been fair and transparent in its dealing with clients regarding the fees charged to the client. It adopted

unethical business practices to deceive the clients into buying/ subscribing multiple packages. It acted in the above manner with an objective to maximize its fees and with an objective of keeping its own interest ahead of its client's interest. These acts were in complete disregard of the responsibility entrusted on the Noticee under the provision of IA Regulations to act in fiduciary capacity and in the best interest of its clients. Further, the products sold by the Noticee to clients were not matching with the risk tolerance level of clients. It levied disproportionate amount of fees/charges towards its services as compared to clients' investment/trading capital. The Noticee, by selling multiple products with overlapping validity period and charging exorbitant fees with the sole purpose of enhancing the income, is alleged to have violated Regulations 3 (a), (b), (c), (d) of PFUTP Regulations, 2003 read with section 12A (a), (b) and (c) of SEBI Act, 1992. Further, it is alleged that the Noticee failed to act with due skill, care, diligence and in the best interests of its clients. Further, the Noticee is alleged to have failed to take due care and diligence to ascertain risk profile of the client to offer him suitable advice. The Noticee is alleged to have violated Regulation 15 (1), 17 (a), (d) and (e) of the IA Regulations, Clauses 1, 2 and 6 of the Code of Conduct as mentioned in the Third Schedule to the IA Regulations read with regulation 15 (9) of the IA Regulations.

60. In this regard, the Noticee vide reply dated November 30, 2022 has submitted that prior to 2021, there was no limit or restriction or cap on quantum of fees to be charged from the clients. It was made applicable from April 01, 2021. Further, it is submitted that the Noticee has acted in fiduciary capacity towards its clients as clients were disclosed regarding fees charged from them. No hidden fee has been charged from the clients. The clients have paid fees with their consent and without force of any kind. The fees charged by the Noticee was at arm's length and as per mutually agreeable terms. The Noticee has refunded full fees on pro rata basis to its clients, who are not satisfied with the advisory services. It has seamless refund process for any client stating dissatisfaction in services rendered by it. The Noticee has refunded fees to the

complainants and they are satisfied with the resolution. Further, it is submitted that the Noticee has taken due care of financial ability of its clients and willingness to avail advisory services before charging any fees.

61. I note that vide SEBI (Investment Advisers) (Amendment) Regulations, 2020, which came into effect from September 30, 2020, Regulation 15A was inserted in IA Regulations which provided that an investment adviser shall be entitled to charge fees for providing investment advice from a client in the manner specified by the Board. Accordingly, SEBI vide circular no. SEBI/HO/IMD/DF1/CIR/P/2020/182 dated September 23, 2020 issued guidelines for investment advisers which inter-alia provided for the manner of charging of fees. In view thereof, I find that prior to SEBI (Investment Advisers) (Amendment) Regulations, 2020, ceiling on fees was not specifically provided. However, Clause 6 of the Code of Conduct laid down in the Third Schedule of the IA Regulations, even prior to September 23, 2020, mandated investment adviser to levy *“fair and reasonable charges”*. In view thereof, the contention of the Noticee to the effect that there was no restriction on fees prior to SEBI (Investment Advisers) (Amendment) Regulations, 2020, cannot be accepted. I find that even prior to the 2020 Amendment, the investment adviser, especially having been engaged by the client in a fiduciary capacity, was mandated to charge a fees which is *“fair and reasonable”*. In view of the above finding, the contention of the Noticee that, as there was no regulation with respect to fees and therefore, he was free to charge any fees cannot be accepted.

62. I note that the IA Regulations mandate that an investment adviser shall act in a fiduciary capacity towards its clients and is required to abide by the Code of Conduct which requires him to (i) act honestly, fairly and in the best interests of its clients and in the integrity of the market, (ii) act with due skill, care and diligence in the best interests of its clients and (iii) ensure that its advice is offered after thorough analysis and taking into account available alternatives.

Further, the IA Regulations also mandate that the fees charged by the investment adviser shall be fair and reasonable. I find that the Noticee, with a view to maximize its advisory fees, sold multiple services to the clients before the completion of earlier service without having any regard for the interest of the client or suitability of product. Thus the Noticee has violated Regulation 15(1) and 15(9), Regulations 17(a), (d) and (e) of the IA Regulations read with Clauses 1, 2 and 6 of the Code of Conduct specified in Third Schedule of the IA Regulations. However, I find that allegation of violation of Regulation 3(a), (b), (c) and (d) of the PFUTP Regulations read with Section 12A(a), (b) and (c) of the SEBI Act against the Noticee is not substantiated.

Maintenance of Records

63. In this regard, the SCN-1 has alleged that website of the Noticee mentioned that salient features of the products include "Complete Follow up and support will be provided on direct mobile number". The website of the Noticee mentioned that process adopted by the Noticee included discussion with the sales executives. As per the complaints, pitching of product was done by employees of the Noticee over telephone. Also, the clients were called by the employees of the Noticee for KYC and risk profile process. Telephonic conversation between employees of the Noticee with clients formed part of the information pertaining to risk profiling of client and suitability of the product to client, which should have been maintained in terms of Regulation 19(2) of the IA Regulations. The Noticee has not maintained records of communication with clients during risk profiling and suitability assessment of advice/selection of advisory product/services and also not provided the rationale for arriving at investment advice, thereby, the Noticee has been alleged to have violated Regulation 19(1) and (2) of the IA Regulations.

64. The Noticee has submitted that it has maintained each and every record as mandated by Regulation 19(1) of the IA Regulations. However, the same could not be made available in front of the inspection authority due to

unforeseen reasons. Further, it is contended that maintaining the record of call recording was not applicable to the Noticee as advice was provided orally.

65. I note that the provisions of Regulation 19(1)(b), 19(c), (e), (f) and 19(2) of the IA Regulations require an investment adviser to maintain record, either in physical or electronic form, of risk profiling and risk assessment of the client, suitability assessment of the advice provided, investment advice provided, whether written or oral and duly signed and dated rationale for arriving at investment advice, for minimum period of 5 years. Further, Regulation 19(2) require that where records are required to be duly signed and maintained in electronic form, such record shall be digitally signed. I find that the Noticee has failed to provide record of investment advice provided to the clients along with the signed rationale for arriving at investment advice. From a reading of Regulation 19(1)(e) and 19(2), I note that even the record of oral communication is required to be maintained. In the present case, investment advice was being provided telephonically and therefore, the Noticee should have maintained telephonic records of investment advice. In view thereof, I find that the Noticee has violated Regulation 19(1) and 19(2) of the IA Regulations.

Misrepresentation and mis-selling

66. In this regard, it is alleged that website of the Noticee i.e. investmentvisor.com provided details about its research team, which read as follows:

"Apart from rich experience, our team who prepares and delivers free and paid content and trading and investing advice have following degrees and educational qualifications. They include MBA finance, Certificate in taxation, International Banking and International finance master degree, ICWA degree holder, intermediate CAs, intermediate CSs, CAs, CSs, CFAs, NCFM (NSE's Certification in financial markets) capital markets, NCFM derivatives market, NCFM depositories operations, MCX Certified Commodity Professional and more."

67. As per the employee details submitted by the Noticee, no employee of the Noticee was NISM qualified or bearing qualifications/ certification in taxation, International Banking, ICWA, CAs, CSs, CFAs. The above claim on the website of the Noticee regarding qualification of research team was false.

68. Further, the website of the Noticee featured testimonials which are tabulated as under: -

Table-9

S.no	Name	Testimonial
1	Mr. D.K. Das	<i>Being a small trader, I want a consultant who can give me calls with more accuracy on consistent basis and on reasonable price. I want to thank you to help me earn really well.</i>
2.	Sarika Gupta	<i>MCX Recommendations by IVisors helped me in booking profits. The support team from IVisors is sending complete Entry/Exit/Book Profit SMS of each and every call. Its really helpful Thanks</i>
3.	Sumit Shrivastava	<i>"No Doubt" IV is the best advisory I have seen in India. Expertise support and services, thanks a lot for providing advice and recovering back with a good profit when I was in huge loss.</i>
4.	Amit Jain	<i>I had tried many advisories earlier but the kind of live support that i get from 'visors is amazing, they just do not feed you calls but also educate u in order to understand the in and outs of the market, its never risky when u are with Investment Visor.</i>
5.	Mr. Mappa Roy	<i>I earned huge profit in futures trading in your stock futures assured services. You are giving very good tips and return is awesome.</i>

69. On April 19, 2018, one of the employee (Krishna Kant) of the Noticee called one of the Officers of SEBI ILO during which the employee, inter alia, informed as mentioned hereunder.

- a. Daily average return being delivered or given by the calls of Investment Visor on the invested amount of the clients is around 20 to 30%.

- b. Trading of the client through their Demat account and trading account can be done by the executive of investment visor.
- c. Risk profiling of the client is being done by SEBI-Mumbai
- d. Total number of client for Investment Visor is 35000.
- e. Even though the risk appetite of the client is low, the client can trade in option, future and other risky products.

Further, the above statement was confirmed by Mr. Praveen Verma, proprietor of Investment Visor, in his letter dated April 19, 2018.

70. The above acts of making false claims on the part of the Noticee induced the clients to avail the advisory services of the Noticee, thereby, the Noticee failed in its responsibility to act in fiduciary capacity to its clients, entrusted upon it under regulation 15 (1) of the IA Regulations, failed to act with honesty and fairness in violation of clause 1 of Code of Conduct as specified under Third Schedule read with regulation 15(9) of IA Regulations. Further, on account of misrepresentation and inducement of clients, the Noticee is alleged to have violated regulation 3 (a), (b), (c), (d), 4(2)(k) and (s) of the PFUTP Regulations read with section 12A (a), (b) and (c) of SEBI Act.

71. In this regard, the Noticee has submitted that it was unaware that the said clients were misguided and as soon as it became aware it took the corrective action and expelled the said employee and has refunded the clients their service amount. With respect to the call made by employee of the Noticee, the Noticee reiterated that the Noticee was under coercion/undue influence of SEBI officers, as they had visited the Noticee's office and made him write all such points.

72. I note that the Noticee has failed to provide documents in support of testimonials made on its website. As noted above, none of the employees of the Noticee was possessing qualifications as mentioned on website of the

Noticee. Further, employee of the Noticee made false claims over the phone call made to SEBI ILO official. I note that the Noticee is responsible for acts of its employees. The Noticee cannot be allowed to escape liability for false claims on its website and telephone by claiming that the same was done by its employee without its knowledge. As noted above, excuse of coercion/undue influence exerted by SEBI officials is an afterthought. In view thereof, I find that the Noticee by posting fake testimonials, false information regarding qualification of its research team and false claims over phone has acted dishonestly, unfairly, negligently and against the interest of the investors and the integrity of the securities market. The Noticee has, thus, violated Regulation 15 (1) and Regulation 15(9) of the IA Regulations read with Clause 1 of Code of Conduct as specified under Third Schedule to the IA Regulations.

73. In light of the allegations in SCN-I, the question that arises for consideration is whether the Noticee by display of false information regarding qualification and testimonial on the website and making false claims over phone has violated the provisions of Regulations 3(a), (b), (c), (d), 4(1), 4(2)(k) and 4(2)(s) of PFUTP Regulations or not. I have held in the foregoing paragraphs that the Noticee by promising assured profit/unrealistic returns to its clients has violated Regulation 3(a), 3(d), 4(2)(k) and 4(2)(s) of the PFUTP Regulations read with Section 12A(c) of the SEBI Act. Similarly, I find that the Noticee by displaying false and misleading information on its website and by making false claims over phone has violated Regulations 3(a), 3(d), 4(2)(k) and 4(2)(s) of the PFUTP Regulations read with Section 12A (c) of SEBI Act.

Collection of GST from clients even after cancellation of GSTN

74. In this regard, the SCN-1 has alleged that the Noticee suo-moto cancelled the GSTN number with effect from December 27, 2018. Even after cancellation of registration of GSTN, the Noticee continued to charge GST from its clients. The Noticee collected fees in name of GST but failed to deposit the same with tax department. It is alleged that the Noticee violated regulation 3(a), (b),(c)

and (d) of the PFUTP Regulations read with Section 12A(a), (b), (c) of the SEBI Act and regulation 15(9) of the IA Regulations read with clause 8 of Code of Conduct as specified under Third Schedule to the IA Regulations.

75. In this regard, the Noticee in its reply dated July 22, 2022 has submitted it had paid dues of GST amount in full and the same was acknowledged by the GST department vide letter dated October 08, 2018. The Noticee was not aware that GST registration was cancelled suo-moto by the GST department as its CA failed to file returns on time, thus, the Noticee inadvertently collected GST amount from its clients. Further, the Noticee vide additional submissions dated January 17, 2023 declared that the matter with the GST Authorities has been closed and as on date no matter is pending with the GST Department.

76. I note that letter dated October 08, 2018 states that *"it is to inform that Service Tax enquiry/investigation in your matter, for the period financial year 2016-17 and 2017-2018, has been concluded and the case has been closed."* I note that period of inspection was from April 01, 2018 till March 17, 2020. I note that SEBI vide letter dated August 19, 2020 intimated Central Excise and Customs Office, Indore about cancellation of GSTN and collection of GST by the Noticee from clients even after cancellation of GSTN. I note that the Noticee vide additional submissions dated January 17, 2023 declared that the matter with the GST Authorities has been closed and as on date no matter is pending with the GST Department.

77. I find that an apparent illegality committed by an Intermediary under any other law can be taken note, to the extent it reflects the conduct of such intermediary. By charging GST amounts even after cancellation of its GSTN, the Noticee has failed to act in the manner required of it as a registered IA. I also note that as per the Code of Conduct for IAs, an investment advisor is required to comply with all regulatory requirements applicable to the conduct of its business activities. Clause 8 also requires the Noticee to promote the

best interest of its clients and integrity of the market. The administration of GST does not fall within purview of SEBI. However, levying a monetary penalty on the clients under the head of GST shows the conduct of the entity. Thus, I find that the Noticee has failed to abide by Clause 8 of Code of Conduct for Investment Advisors as specified in the Third Schedule of IA Regulations read with Regulation 15 (9) of the IA Regulations. However, in my view the violation of regulation 3(a), (b), (c) and (d) of the PFUTP Regulations read with Section 12A(a), (b), (c) of the SEBI Act are not substantiated as enough material is not available on record to show that these acts fall within the definition of “fraud” under the PFUTP Regulations.

Conclusion:

78. I note that the Noticee failed to furnish information and documents sought prior to, during and after the inspection. Due to non-cooperation of the Noticee, the inspection could not be conducted by SEBI officials. Further, the Noticee provided free trials; failed to resolve SCORES complaints and upload ATR within prescribed timelines; failed to comply with qualification requirements mandated under IA Regulations; failed to do risk profiling of clients in terms of provisions of IA Regulations; failed to do suitability assessment of clients, sold products inappropriate to risk profile of the clients; charged unreasonable fees to clients by selling multiple products/services; and failed to maintain proper records. All the above constitute violations of the provisions of SEBI circulars, Regulations and the Code of Conduct, found in the foregoing paragraphs. Besides this, the Noticee is liable for commission of violation of the provisions of PFUTP Regulations as it engaged in promising assured returns and misled the clients by displaying false information on its website. In view of all the facts and circumstances discussed above, I am convinced that this is a fit case for passing appropriate direction against the Noticee as contemplated under the Intermediaries Regulations, 2008.

79. At this juncture, I note that the Noticee vide additional submissions dated January 17, 2023 has submitted that it is not in the business of IA since 2020, to ensure compliance with new amendments. In other words, the Noticee is not acting as IA for last 3 years and therefore, no meaningful purpose is being served by allowing the Noticee to hold the Registration.

ORDER–

80. In view of the above, I, in exercise of powers conferred on me under Section 12(3) read with Section 19 of the SEBI Act and Regulation 27(5) of the Intermediaries Regulations, do hereby order that the certificate of the registration bearing number INA00003411 granted by SEBI to the Noticee to conduct the business of an investment adviser be cancelled from the date of this order.

Date: June 07, 2023

GEETHA G

Place: Mumbai

**CHIEF GENERAL MANAGER
SECURITIES AND EXCHANGE BOARD OF INDIA**