

SECURITIES AND EXCHANGE BOARD OF INDIA
FINAL ORDER

UNDER SECTIONS 11(1), 11(4), 11(4A), 11B(1) AND 11B(2) OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH REGULATION 35 OF SECURITIES AND EXCHANGE BOARD OF INDIA (INTERMEDIARIES) REGULATIONS, 2008 AND REGULATION 28 OF SECURITIES AND EXCHANGE BOARD OF INDIA (INVESTMENT ADVISERS) REGULATIONS, 2013

In respect of:

| NOTICEE | PAN |
|---------------------|------------|
| Star World Research | BBEPG7803F |

BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) had received various complaints against Star World Research, the proprietorship firm of Manish Kumar Gour (hereinafter referred to as “**Noticee**”). The Noticee is registered with SEBI as an Investment Adviser (hereinafter referred to as “**IA**”) with effect from September 1, 2016 having SEBI registration number INA000005499.
2. Pursuant to examination of complaints, SEBI issued a Show Cause Notice dated May 27, 2022 (hereinafter referred to as the “**SCN**”) against the Noticee. The present proceedings emanate from the said SCN wherein the Noticee has been *prima facie* alleged to have violated the provisions of SEBI Act, 1992, SEBI (Investment Advisers) Regulations, 2013 (hereinafter referred to as “**IA Regulations**”), SEBI (Prohibition of Fraudulent and Unfair Trade Practices

Relating to Securities Market) Regulations, 2003 (hereinafter referred to as **“PFUTP Regulations”**) and circulars issued by SEBI. In short, the SCN alleged as follows:

- a. Products meant for “High Risk” bearing clients sold to “Medium Risk” bearing clients;
- b. Unfair and unreasonable amount of fees charged from clients;
- c. Improper Risk Profiling;
- d. Charged arbitrary fees from clients, sold multiple services to client;
- e. Promised assured / guaranteed unrealistic returns to its clients;
- f. Received fees through Paytm wallet;
- g. Received fees through cash / hawala system;
- h. Non-redressal of investor grievances;
- i. Threatening complainant(s) to close complaints on SCORES;
- j. Collecting GST from clients even after suo-moto cancellation of GSTN;
- k. Misrepresentation to clients; and
- l. Handling client demat accounts.

3. The SCN was delivered to the Noticee. However, no reply was received. In order to proceed with the matter, a hearing was granted to the Noticee on November 4, 2022. Vide email dated November 2, 2011, the Noticee sought an adjournment of the scheduled hearing. The request of the Noticee was granted and the hearing was rescheduled to November 14, 2022. On the said date the Authorized Representative (“AR”), of the Noticee, Shri Manish Gupta, Advocate, appeared for the hearing and made submissions. The AR also sought time to file written submissions, which was granted. The Noticee filed written submissions dated November 14, 2022. For the sake of brevity, the

submissions of the Noticee are not being listed below, and will be taken up for consideration issue-wise in the later part of this order.

CONSIDERATION OF ISSUES AND FINDINGS

4. I note that in the SCN, it is alleged that the Noticee has violated the provisions of Regulations 13(b), 15(1), 16 (a) and (b), 17 (a) (c) (d) and (e), 21, 22 (1) of the IA Regulations, Clauses 1, 2, 6, 8 and 9 of the Code of Conduct for Investment Advisers as specified in the Third Schedule of the IA Regulations read with Regulation 15(9) of IA Regulations as well as the provisions of Regulation 3 (a) (b) (c) and (d) of PFUTP Regulations read with Sections 12(A) (a), (b) and (c) of the SEBI Act, 1992 and clause 1 (iii) of SEBI Circular SEBI/HO/IMD/DF1/CIR/P/2019/169 dated December 27, 2019 and Circular /OIAE/2014 dated December 18, 2014. The relevant extracts of the aforesaid regulations are reproduced below for ease of reference:

IA Regulations.

Conditions of certificate.

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

(a) ...xxxxxxxxxxxx.....

(b) the investment adviser shall forthwith inform the Board in writing, if any information or particulars previously submitted to the Board are found to be false or misleading in any material particular or if there is any material change in the information already submitted;

.....xxxxxxxxxxxxxxxx.....

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.

.....xxxxxxxxxxxxxxxx.....

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

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:-

(i) age

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

(iii) income details;

(iv) existing investments/ assets;

(v) risk appetite / tolerance;

(vi) liability / borrowing details.

(b) it has a 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.

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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;

(b) It has a documented process for selecting investments based on client's investment objectives and financial situation;

(c) It understands the nature and risks of products or assets selected for clients;

(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.

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.

Client level segregation of advisory and distribution activities.

22. *(1) An individual investment adviser shall not provide distribution services.*

(2) The family of an individual investment adviser shall not provide distribution services to the client advised by the individual investment adviser and no individual investment adviser shall provide advice to a client who is receiving distribution services from other family members.

(3) A non-individual investment adviser shall have client level segregation at group level for investment advisory and distribution services.

Explanation. –

- (i) The same client cannot be offered both advisory and distribution services within the group of the non-individual entity.*
 - (ii) A client can either be an advisory client where no distributor consideration is received at the group level or distribution services client where no advisory fee is collected from the client at the group level.*
 - (iii) Group' for this purpose shall mean an entity which is a holding, subsidiary, associate, subsidiary of a holding company to which it is also a subsidiary or an investing company or the venturer of the company as per the provisions of Companies Act, 2013 for non-individual investment adviser which is a company under the said Act and in any other case, an entity which has a controlling interest or is subject to the controlling interest of a non-individual investment adviser.*
- (4) Non-individual investment adviser shall maintain an arm's length relationship between its activities as investment adviser and distributor by providing advisory services through a separately identifiable department or division.*
- (5) Compliance and monitoring process for client segregation at group or family level shall be in accordance with the guidelines specified by the Board.*

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.

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, if any. The

investment adviser shall ensure that fees charged to the clients is fair and reasonable.

8. Compliance

An investment adviser including its representative(s) 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.

9. Responsibility of senior management

The senior management of a body corporate which is registered as investment adviser shall bear primary responsibility for ensuring the maintenance of appropriate standards of conduct and adherence to proper procedures by the body corporate.

Securities and Exchange Board of India Act, 1992

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;*

SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003

- 2(1) (c)** *“fraud” includes any act, expression, omission or concealment committed whether in a deceitful manner or not by a person or by any other person with his connivance or by his agent while dealing in securities in order to induce another person or his agent to deal in securities, whether or not there is any wrongful gain or avoidance of any loss, and shall also include—*
- (1) a knowing misrepresentation of the truth or concealment of material fact in order that another person may act to his detriment;*

- (2) *a suggestion as to a fact which is not true by one who does not believe it to be true;*
- (3) *an active concealment of a fact by a person having knowledge or belief of the fact;*
- (4) *a promise made without any intention of performing it;*
- (5) *a representation made in a reckless and careless manner whether it be true or false;*
- (6) *any such act or omission as any other law specifically declares to be fraudulent,*
- (7) *deceptive behaviour by a person depriving another of informed consent or full participation,*
- (8) *a false statement made without reasonable ground for believing it to be true.*
- (9) *the act of an issuer of securities giving out misinformation that affects the market price of the security, resulting in investors being effectively misled even though they did not rely on the statement itself or anything derived from it other than the market price.*

And “fraudulent” shall be construed accordingly;

Nothing contained in this clause shall apply to any general comments made in good faith in regard to—

- (a) the economic policy of the government*
- (b) the economic situation of the country*
- (c) trends in the securities market;*
- (d) any other matter of a like nature*

whether such comments are made in public or in private;

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.

Circular 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.

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13. Failure by listed companies and SEBI registered intermediaries to file ATR under SCORES within thirty days of date of receipt of the grievance shall not only be treated as failure to furnish information to SEBI but shall also be deemed to constitute non-redressal of investor grievance.

SEBI Circular SEBI/HO/IMD/DF1/CIR/P/2019/169 dated December 27, 2019

“Receiving fees through banking channel only

It is observed that investment advisors are receiving advisory fee in the form of cash deposit in their bank accounts or through payment gateways which does not provide proper audit trail of fees received from the clients. To bring the transparency in dealing with the clients, IAs shall accept fees strictly by account payee crossed cheques/ demand draft or by way of direct credit into their bank account through NEFT/RTGS/IMPS/UPI. It is clarified that, IAs shall not accept cash deposits”.

5. Having noted the provisions cited above, I will now proceed with consideration of the issues.

I Sale of products unsuitable to the risk profile of clients:

6. The SCN alleges that the Noticee sold products meant for High Risk bearing Clients to Medium Risk bearing clients. I note that the Noticee had categorized various investment products according to the risk involved in those products as under:

Table no.1

| Products for High Risk Bearers | Products for Medium Risk Bearers |
|--|---|
| Equity future Stock Future Golden Stock Future Rhodium Stock Option Stock Option Golden Stock Option Rhodium Nifty Option Nifty Future BTST STBT MCX HNI | Stock Cash Stock Cash Golden Stock Cash Rhodium Stock Cash SIP |

7. Certain clients like Ashutosh Kumar who had a 'Medium Risk' profile were sold products/services like "HNI" meant for clients categorized as 'High Risk' bearers. The Noticee had not offered any products for low risk category clients, while offering products for medium risk category clients and 11 products for high risk bearing clients.
8. In its reply, the Noticee has contended that the same is a mere human error because on a careful perusal of the Risk Profiling Form (hereinafter referred to as "**RPF**") it can be understood that the risk profile score of Ashutosh Kumar was 67 and any score above 66 is considered as high risk. The Noticee has stated that Ashutosh Kumar was categorised as medium risk due to an error, though he was actually in the high risk category. Ashutosh Kumar was sold high

risk category products, which is in line with his correct risk profile score. Having considered the submission of the Noticee, I am inclined to give the benefit of doubt to the Noticee regarding the incorrect categorization as it has not caused any prejudice to Ashutosh Kumar and appears to be a human error. I note that the SCN does not bring out any other instances in this regard.

II Unfair and unreasonable amount of fees charged from clients.

9. The next issue for consideration is whether the Noticee was charging unfair and unreasonable fees from its clients. It is alleged that the fees charged exceeded the annual income and proposed investment of the client as disclosed in the RPF. The details of the same are as under:

Table no.2

| Sl. no | Name of client | Fees received from client (Rs.) | Proposed investment by client as per RPF (Rs.) | Annual income as per RPF (Rs.) |
|---------------|-------------------------|--|---|---------------------------------------|
| 1 | Suraj Bhan | 24,42,000 | 1-2 Lakh | 1-3 Lakh |
| 2 | Ashutosh Kumar | 15,34,070 | Less than 1 lakh | 1-3 Lakh |
| 3 | Syamal Biswas | 14,33,660 | 1-2 Lakh | More than 10 Lakh |
| 4 | G Durairaj | 12,31,000 | 1-2 Lakh | 1-3 Lakh |
| 5 | Amrit Pal Singh Bagga | 10,11,407 | 1-2 Lakh | Below 2 Lakh |
| 6 | Yogesh Vasant Khond | 9,14,000 | 1-2 Lakh | 2-5 Lakh |
| 7 | Pravin Punjahari Dighe | 5,18,000 | 1-2 Lakh | 1-3 Lakh |
| 8 | Santosh Hanamant Patil | 4,75,900 | 1-2 Lakh | 1-3 Lakh |
| 9 | Dushyant Jivanlal Desai | 4,41,000 | 1-2 Lakh | 2-5 Lakh |
| 10 | Megharam Kanaram Suthar | 3,66,000 | 1-2 Lakh | 2-5 Lakh |
| 11 | Vijay Singh | 3,19,729 | 1-2 Lakh | 1-3 Lakh |
| 12 | Sahil Kalariya | 2,95,556 | 1-2 Lakh | 1-3 Lakh |
| 13 | Muthyam Reddy Vemula | 2,91,516 | 1-2 Lakh | 2 Lakh |
| 14 | Kiran Oza | 2,50,508 | 1-2 Lakh | 1-3 Lakh |

| | | | | |
|----|-----------------|----------|----------|----------|
| 15 | Nirmal Singh | 2,35,920 | 1-2 Lakh | 2-5 Lakh |
| 16 | Italiya Ashwin | 1,48,500 | 1-2 Lakh | 1-3 Lakh |
| 17 | Kiran Kondawale | 1,15,500 | 1-2 Lakh | 1-3 Lakh |
| 18 | Sunny Mishra | 1,10,616 | 1-2 Lakh | 1-3 Lakh |

10. In its submissions, the Noticee has stated capping of fees was mandated by SEBI only in 2020 and before that there was no cap on the fees chargeable by an investment adviser. Fees were charged with the consent and demand of the customer for multiple services spread over several months and years at times. The Noticee has also stated that in case of the client Suraj Bhan, the entire amount received was refunded as the Noticee found that the same was not in line with the client's Risk Profile Form (RPF). The Noticee has stated that it had no malafide intention. The Noticee has stated that all complaints have been resolved to the satisfaction of the clients.

11. In this regard, I note that SEBI Circular SEBI/HO/IMD/DF1/CIR/2020/182 was issued in September 23, 2020. The said Circular set out guidelines *inter alia* with respect to maximum fees to be charged by an IA. Though the relevant period pertaining to the allegations is prior to the issuance of the aforesaid Circular, Clause 6 of the Code of Conduct under the IA Regulations mandated that an IA shall ensure that fees charged to clients is *fair and reasonable*. I note that as shown in Table no.2 above, the fees charged by the Noticee was exorbitant. On several occasions, the fee charged was more than the annual income of the clients. The fees charged by the Noticee in some instances also exceeded the proposed investment disclosed by clients in their risk profiling form. The charging of such exorbitant fees by the IA is a failure to abide by Clause 6 of the Code of Conduct under the IA Regulations. Further, the Noticee has also failed to comply with Clause 1 and 2 of the Code of Conduct under the IA Regulations as it did not act in a fair manner and in the best interests of the clients. The Noticee also failed to discharge the duty to act in fiduciary capacity towards clients, as required under Regulation 15 of the IA Regulations. Despite having details with respect to annual income and risk profile of the clients, the Noticee charged exorbitant fees from its clients.

12. Further, the Noticee has claimed to have refunded fees to certain clients. Even assuming that the fees has been refunded as a remedial action, the same does not absolve the Noticee of its the non-compliance. Therefore, I find that the Noticee has violated the provisions of Regulations 15(1), Clauses 1, 2 and 6 of the Code of Conduct as specified in the Third Schedule read with regulation 15(9) of IA Regulations.

III **Improper Risk Profiling**

13. The next allegation is that the Noticee had not carried out proper risk profiling of the following clients:-

Table no.3

| Sl. No | Name of client | DOB as per KYC | Age group mentioned in Risk Profile | Difference in years | Fees charged from clients (Rs.) |
|--------|------------------------|----------------|-------------------------------------|---------------------|---------------------------------|
| 1 | G Durairaj | 14-07-1960 | Under 35 | 24 | 1,231,000 |
| 2 | Suraj Bhan | 15-05-1971 | Under 35 | 13 | 2,95,556 |
| 3 | Santosh Hanamant Patil | 31-08-1979 | Under 35 | 5 | 24,42,000 |
| 4 | Kamlesh Kumar | 02-11-1980 | Under 35 | 4 | NA |
| 5 | Syamal Biswas | 01-04-1972 | 35-45 | 2 | 4,75,900 |
| 6 | Dipak Mali | 10-03-1983 | Under 35 | 1 | 1,433,660 |

14. The SCN alleged that the Noticee lessened the age of the clients in order to categorize them as capable of bearing higher risk. It is alleged that the Noticee did so to earn higher amount of fees by selling maximum number of products. I note that the difference in age of two clients is as large as 24 and 13 years while for other clients the difference ranges from 5 years to 1year.

15. In this regard, the Noticee has submitted that the RPF is filled by the clients themselves. Any inconsistency therein is attributable to the client and not to the Noticee. The Noticee has stated that none of the clients mentioned in the SCN have any pending grievance with the company. All grievances have been resolved to the satisfaction of the clients and fees were refunded wherever such

discrepancy was found. Hence, it has been submitted that the Noticee has not unlawfully benefitted by such mistakes, if any.

16. I note that Clause 2 of the Code of Conduct as specified in the Third Schedule read with Regulation 15(9) of IA Regulations requires an IA to act with due skill, care and diligence in the best interests of its clients and to ensure that its advice is offered after thorough analysis and taking into account available alternatives. Further, as per Regulation 15(1), the IA while discharging its duties acts in a fiduciary capacity towards its clients. As per Regulation 16(a), it is the IA who has to ensure that it obtains from the client such information as is necessary for the purpose of giving investment advice, including the age and risk appetite/tolerance of each client. In view of the same, the submission of the Noticee that the RPF was filled in by the clients and so the mistakes therein are attributable to the clients is not tenable. The Noticee cannot contend that he relied on the clients for filling of the form. The Noticee is required to ensure that the products offered to its clients are suitable according to their respective risk profiles. Moreover, it is highly unlikely that clients would make mistakes in filling in their ages, and that too with a gap of 15 years or 24 years as was noted in some cases. These differences should have come to its notice, even assuming the clients had provided the same. Hence, the Noticee cannot hold the clients responsible for these matters. It appears that the Noticee intentionally decreased the age of the clients, to categorize them under a higher risk category so that the Noticee is able to receive higher amount of fees by selling maximum number of products. In my view, as an IA, the Noticee ought to know its customers properly before selling any securities market product. In view of the same, I find that the Noticee has violated Regulations 15(1) and 16(a) and Clause 2 of the Code of Conduct for IA as specified in the Third Schedule read with Regulation 15 (9) of IA Regulations.

17. With regard to improper risk profiling, the SCN also alleges that the following 4 clients, were categorized as Medium Risk clients, even though their risk

profiling score is more than 66 and hence should have been classified as High Risk. The details of the same are as under:

Table no.4

| Name of client | Risk Profile Score | Risk category |
|------------------------|---------------------------|----------------------|
| Kiran Oza | 71 | Medium |
| Santosh Hanamant Patil | 71 | Medium |
| Sunny Mishra | 71 | Medium |
| Ashutosh Kumar | 67 | Medium |

18. In this regard, the Noticee has stated that these were purely human and clerical errors. Further, as noted above in paragraphs 7 and 8 of this order, while Ashutosh Kumar was categorised incorrectly, the right products were offered to him. Due to the same, the Noticee has already been accorded the benefit of doubt.

19. With respect to the other 3 clients, I am of the view that the Noticee ought to have exercised care. However, in light of the fact that the SCN does not bring out any benefit accrued to the client due to the said misclassification, I am inclined to take a lenient view with respect to the said allegation.

IV Charging arbitrary fee from clients and selling them multiple products/services.

20. The SCN alleges that the Noticee repeatedly sold the same product/service to its clients for the period for which fees/charges had already been collected. As a result, the client paid multiple times for the service that he/she would have got by paying only once. The Noticee has submitted that the allegations have arisen due to a misunderstanding of its invoicing pattern by SEBI. The Noticee has stated that the invoices belong to the same duration because the client made payments in instalments after being satisfied by the services of the Noticee and the Noticee issued invoices for the amounts received. The Noticee has also stated that the complaints have been resolved.

21. In this regard, I note that as per the SCN, a service named “cash” had been repeatedly sold to the client Ashutosh Kumar for an overlapping period of time. The Noticee charged Rs. 5000 on December 19, 2020 for a 6 month period. Thereafter, on December 27, 2020 for the same product and duration, the Noticee charged Rs. 2,90,000 (58 times higher). The product “Cash” was offered 10 times during the period from December 19, 2019 to December 27, 2019. The duration of service was same 6 months for all services. The details of these transactions are shown in the table below:

Table no.5

| Sr. No. | Invoice Date | Invoice number | Product | Duration of service | Invoice Amount Rs.) |
|----------------|---------------------|-----------------------|----------------|----------------------------|----------------------------|
| 1 | 19-12-2019 | INV2952 | Cash | 6 months | 5000 |
| 2 | 20-12-2019 | INV2963 | Cash | 6 months | 55000 |
| 3 | 20-12-2019 | INV2964 | Cash | 6 months | 60000 |
| 4 | 20-12-2019 | INV2965 | Cash | 6 months | 30000 |
| 5 | 20-12-2019 | INV2966 | Cash | 6 months | 150000 |
| 6 | 23-12-2019 | INV2973 | Cash | 6 months | 180000 |
| 7 | 27-12-2019 | INV3012 | Cash | 6 months | 100000 |
| 8 | 27-12-2019 | INV3013 | Cash | 6 months | 152000 |
| 9 | 27-12-2019 | INV3023 | Cash | 6 months | 290000 |
| 10 | 21-12-2019 | INV3062 | Cash | 6 months | 10000 |
| 11 | 09-01-2020 | INV3155 | HNI | 2 months | 255555 |
| | | | | Total | 1287555 |

22. As noted above, the Noticee has stated that these were instalments and that different invoices were issued for each instalment. However, I note that four different invoices have been issued on the same date, i.e., December 20, 2019 and three different invoices have been issued for December 27, 2019. It is obvious that different instalments would not be paid on the same date. Further, if the aforesaid submission is to be accepted, it would mean that 11 instalments have been paid in the space of 10 days. Hence, I am of the view that the

contention that the different invoices pertained to instalments and the same product was not sold multiple times for the same period, is not tenable.

23. Further, the client Durairaj was charged Rs. 11,000 on November 15, 2019 (for 1 month service) and Rs. 1,00,000 on November 18, 2019 for the product named “option”. Further, the product “option” was sold 7 times from November 15, 2019 to November 22, 2019 to the said client, with different durations which ranged from 1 month to 2 years. The details of the same are as under:

Table no.6

| Sr. No. | Invoice Date | Invoice number | Product | Duration of service | Invoice Amount (Rs.) |
|----------------|---------------------|-----------------------|----------------|----------------------------|-----------------------------|
| 1 | 15-11-2019 | INV2702 | Option | 1 month | 11000 |
| 2 | 15-11-2019 | INV2703 | Option | 1 month | 20000 |
| 3 | 18-11-2019 | INV2717 | Option | 1 month | 70000 |
| 4 | 18-11-2019 | INV2718 | Option | 1 month | 100000 |
| 5 | 21-11-2019 | INV2733 | Option | 2 years | 500000 |
| 6 | 19-11-2019 | INV2763 | Option | 2 years | 430000 |
| 7 | 22-11-2019 | INV2772 | Option | 2 years | 100000 |
| | | | | Total | 1231000 |

24. I note that for the client Durairaj too, multiple invoices have been issued for the same date or very proximate dates. This makes the argument that these payments were in the nature of instalments untenable, as noted above.

25. I note that a product named “Equity Option” was offered by the Noticee to the client Italian Ashwin. The details of the same are as under:

Table no.7

| Sr. No. | Invoice Date | Invoice number | Product | Duration of service | Invoice Amount (Rs.) |
|----------------|---------------------|-----------------------|----------------|----------------------------|-----------------------------|
| 1 | 18-09-2019 | INV2120 | Equity Option | 6 months | 30000 |

| | | | | | |
|---|------------|---------|---------------|--------------|---------------|
| 2 | 18-09-2019 | INV2121 | Equity Option | 6 months | 5500 |
| 3 | 18-09-2019 | INV2125 | Equity Option | 6 months | 63000 |
| 4 | 21-09-2019 | INV2187 | Equity Option | 6 months | 50000 |
| | | | | Total | 148500 |

26. As seen in the above table, on the same day for the same product, the Noticee had charged the client Rs. 5500 and Rs. 63,000 by two different invoices. Further, the product “Equity Option” was offered four times from September 18, 2019 to September 21, 2019 and the duration of all the products was 6 months. As noted above, the proximate/ identical date of invoices makes it apparent that these payments were not instalments as argued by the Noticee.

27. Further, the Noticee charged Rs. 50,000 on July 24, 2019 and again charged Rs. 15,500 on July 29, 2019 to the client Kiran Gangadhar Kondawale, for the product “Rhodium Cash”. Details of the same are given in the table below:

Table no.8

| Sr. No. | Invoice Date | Invoice number | Product | Duration of service | Invoice Amount (Rs.) |
|----------------|---------------------|-----------------------|----------------|----------------------------|-----------------------------|
| 1 | 24-07-2019 | INV638 | Rhodium Cash | 1 month | 50000 |
| 2 | 29-07-2019 | INV686 | Rhodium Cash | 1 month | 15500 |
| | | | | Total | 65500 |

28. Here too, the invoices were of proximate dates along with differential amounts, which indicate that the same were not instalments, as contended by the Noticee.

29. The client Kiran Ojha was charged Rs. 3,450 for a product named “Equity Cash” on July 31, 2019, for a 10 day service by the Noticee. On August 7, 2019, the client was again charged Rs. 63,000 for the same service. Further, the product

called “Equity Cash” was sold four times from August 20, 2019 to September 16, 2019, for the same duration of 1 month. The details are as under:

Table no.9

| Sr. No. | Invoice Date | Invoice number | Product | Duration of service | Invoice Amount (Rs.) |
|----------------|---------------------|-----------------------|----------------|----------------------------|-----------------------------|
| 1 | 31-07-2019 | INV750 | Equity cash | 10 days | 3450 |
| 2 | 06-08-2019 | INV794 | Equity cash | 10 days | 55100 |
| 3 | 07-08-2019 | INV828 | Equity cash | 10 days | 63000 |
| 4 | 20-08-2019 | INV913 | Equity cash | 1 Month | 60000 |
| 5 | 27-08-2019 | INV987 | Equity cash | 1 Month | 42858 |
| 6 | 30-09-2019 | INV2274 | Equity cash | 1 Month | 22000 |
| 7 | 16-09-2019 | INV2291 | Equity cash | 1 Month | 4100 |
| | | | | Total | 250508 |

30. From the above table, I note that for a ten day service, three separate invoices have been raised and for a one month service four separate invoices have been raised. I am of the view that such frequent invoices for such short durations and at an interval of a few days cannot be for instalments. Hence, the submission of the Noticee is not tenable.

31. The client Sahil Kalariya was charged Rs. 10,000 on August 30, 2017 for a 6 month period service for the product “Stock Option & Stock Future” and on August 19, 2017 was again charged Rs. 1,00,000 for the same. Further, during the period from August 10, 2017 to September 11, 2017, this product was sold six times and the duration of the products was the same. The details are as under:

Table no.10

| Sr. No. | Invoice Date | Invoice number | Product | Duration of service | Invoice Amount (Rs.) |
|----------------|---------------------|-----------------------|-------------------------------|----------------------------|-----------------------------|
| 1 | 10-08-2017 | INV500 | Stock Option and Stock Future | 6 months | 50000 |
| 2 | 17-08-2017 | INV501 | Stock Option and Stock Future | 6 months | 50000 |
| 3 | 19-08-2017 | INV509 | Stock Option and Stock Future | 6 months | 100000 |
| 4 | 21-08-2017 | INV515 | Stock Option and Stock Future | 6 months | 20000 |
| 5 | 30-08-2017 | INV520 | Stock Option and Stock Future | 6 months | 10000 |
| 6 | 11-09-2017 | INV544 | Stock Option and Stock Future | 6 months | 10000 |
| | | | | Total | 240000 |

32. Within a space of one month, the client above was charged 6 times. As noted above, the proximate dates of the invoices make it apparent that these were not instalments.

33. The client Sunny Mishra was charged Rs.20672/- for the product “Stock Cash” (for 1 month service sold on September 23, 2019). For same service sold on September 27, 2019, the client was charged Rs.34000/-. Further, from September 23, 2019 to September 27, 2019, the product “Stock Cash” was sold 4 times and the duration was the same for all products. The details are as shown below:

Table no.11

| Sr. No. | Invoice Date | Invoice number | Product | Duration of service | Invoice Amount (Rs.) |
|----------------|---------------------|-----------------------|----------------|----------------------------|-----------------------------|
| 1 | 23-09-2019 | INV2214 | Stock cash | 1 month | 20672 |
| 2 | 23-09-2019 | INV2216 | Stock cash | 1 month | 24444 |
| 3 | 27-09-2019 | INV2245 | Stock cash | 1 month | 34000 |
| 4 | 27-09-2019 | INV2253 | Stock cash | 1 month | 32500 |
| | | | | Total | 111616 |

34. As noted above, multiple invoices of the same/ proximate dates for the exact same service makes it apparent that these were not instalments.

35. The Noticee sold a product named “HNI Option” to a client, Suraj Bhan, for a 2 year service on December 21, 2018 for Rs.22,000. On the same date, for the same service, the Noticee had charged Rs.2,00,000/- which is 9 times higher. On December 22, 2018 the client was again charged Rs.200000/-. Further, “HNI Option” product was sold 11 times from August 25, 2018 to December 22, 2018. The details of the same are as under:

Table no.12

| Sr. No. | Invoice Date | Invoice number | Product | Duration of service | Invoice Amount (Rs.) |
|----------------|---------------------|-----------------------|----------------|----------------------------|-----------------------------|
| 1 | 25-08-2018 | INV1000 | HNI Option | 1 Month | 41000 |
| 2 | 27-08-2018 | INV1001 | HNI Option | 6 Month | 40000 |
| 3 | 28-08-2018 | INV1002 | HNI Option | 6 Month | 40000 |
| 4 | 29-08-2018 | INV1003 | HNI Option | 1 Year | 100000 |
| 5 | 30-08-2018 | INV1004 | HNI Option | 1 Year | 220000 |
| 6 | 30-08-2018 | INV1005 | HNI Option | 1 Year | 100000 |
| 7 | 03-09-2018 | INV1006 | HNI Option | 1 Year | 50000 |
| 8 | 05-09-2018 | INV1012 | HNI Option | 2 Year | 76400 |
| 9 | 21-12-2018 | INV1020 | HNI Option | 2 Year | 200000 |
| 10 | 21-12-2018 | INV1021 | HNI Option | 2 Year | 22000 |
| 11 | 22-12-2018 | INV1022 | HNI Option | 2 Year | 200000 |
| | | | | Total | 1089400 |

36. The Noticee’s submission that these were not instances of the client being charged multiple times for the same service, but rather payments in instalments offers no explanation as to why different invoices for different amounts were raised on the same date or very next date. Hence, I am of the view that the submission of the Noticee is not tenable.

37. From the above instances, I find that the Noticee was not acting in a fair and transparent manner while offering services and charging fees. I note that in the same service was being sold to the clients multiple times for the same period. The clients were charged huge amounts multiple times for the same service. The responsibility entrusted on an IA is fiduciary in nature. An IA must act in the best interest of its clients. Charging of arbitrary fees from clients and selling them the same service multiple times shows failure of the Noticee in its responsibility to act in fiduciary capacity to its client as required under Regulation 15 (1) of IA Regulations. The Noticee also failed to abide by Clauses 1 and 6 of the Code of Conduct for Investment Advisors as specified in the Third Schedule of IA Regulations read with Regulation 15 (9) of IA Regulations. Therefore, I find that the Noticee has violated the provisions of Regulation 15 (1) and Clauses 1 and 6 of the Code of Conduct for Investment Advisors as specified in the Third Schedule of IA Regulations read with Regulation 15 (9) of IA Regulations.

V Promised/assured/guaranteed unrealistic return to the clients.

38. The next allegation against the Noticee is that it had promised unrealistic returns on the investments made by the clients. Details of the same are given below:

- (a) Complaint of one Suraj Bhan received in SCORES provides the copies of the emails transacted between him and the Noticee. The extracts of the said e-mails are as under:

Table no.13

| Date of email | Content of email |
|---------------|---|
| 29-08-2018 | <i>"Dear Suraj Ji, Greetings from Star World Research. Welcome to Star World Research. We are looking forward to long term relationship with you. As per as</i> |

| | |
|------------|---|
| | discussion with Mr. Maheshwari your <u>PDP Plan</u> charge is INR. 7,20,000/-. After offer your plan amount is INR 4,40,000/- & your <u>profit slab is INR 9 lakh (Duration 25 days)</u> Your paid amount is INR 1,20,000/- and your remaining amount is INR 3,20,000/- Kindly complete your remaining amount. Than your service will be activate within 24 hours” |
| 20-12-2018 | “As per as discussion with Mr. Rohan your HNI service is INR 22,42,000 (with GST) your plan has been approved. For this plan total paid amount is INR 20,20,000/-. As per company policy you have to pay remaining amount INR 2,22,000/- This is your final due amount. After complete this amount your profile will be fully activated. <u>Profit slab amount INR 45,00,000/- (on your dmat investment) Profit Duration 6 months.</u> So kindly complete this profile and enjoy your HNI service. Than your service will be activate with in 24 hour” |
| 25-12-2018 | “As per discussion with Mr. Maheshwari your HNI service is INR 22,42,000/- (with GST) your plan has been approved. As per the company policy your HNI plan is fully approved. Your plan amount is fully completed. <u>Your profit slab amount INR 50,00,000/- profit duration 6 month</u> so enjoy your HNI service. Than your service will be activate with in 24 hours” |

- (b) The SCN alleged that vide emails dated August 29, 2018, December 20, 2018 and December 25, 2018 the Noticee had mentioned profit slabs with specific duration like 25 days, 6 months and so on, within which such promised profit is assured to the client as seen in the above table. The PDP plan as mentioned in email dated August 29, 2018 had not been

shown as part of product/ service list mentioned in its website. The same product is also not part of the list of services sold to medium and high risk category clients.

- (c) Further, with respect to G Durairaj, the SCN alleged that the Noticee had guaranteed assured returns to the client based on call data records. Details of the same are shown in the table below:

Table no.14

| Recording | Duration | Details communicated |
|-----------|----------------|--|
| Call-1 | 00.00 to 00.10 | <i>your profile was transferred to me only to make you profit and recover your amount</i> |
| | 00:35 to 00:45 | <i>the amount doesn't matter we are here to give the profit we are here to give the profit, we are here to recover your amount you have lost</i> |
| | 01:40 to 02:00 | <i>are you giving me 40 lakh, are you giving me 40 lakh send me 40 lakh immediately I will give you guarantee sir, within two minutes I will give you guarantee. I will give it on stamp paper of Rs. 1000. Pay me 40 lakhs right now.</i> |
| | 06:57 to 07:05 | <i>within next ten trading session you will be in the profit of 10 lakhs after recovering every single penny you have lost</i> |
| Call-2 | 09:24 to 09:35 | <i>sir how much fund is there in your dmat? Even if you are putting one lakh also on a intra day basis we can recover Rs. 30,000 to Rs. 40,000 easily and we are taking the responsibility.</i> |
| | 10:05 to 10:17 | <i>now what the management is going to write a mail management is writing a mail, that sir we are ready to recover your losses we are taking the responsibility of recovering your losses and we provide good services.</i> |
| Call-3 | 00:00 to 00:30 | <i>The market we are going to earn very big ok. That's why I called you. Today I am going to make you profit of minimum 1 lakh. Today we will make it.</i> |

(d) Complaint of Mr. Yogesh Vasant Khond (SEBIE/MP19/0000078) received on SCORES provided the emails between the Noticee and the client. On the basis of the emails, the SCN alleges that the Noticee promised the client assured returns within a specific time period. The details of emails are as under:-

Email dated September 21, 2018

“As per discussion with Mr. Sourabh your ASBP Plan charge is INR 5,00,000/- for this plan total paid amount is INR 5,00,000/-. As per the company policy you have to pay your service remaining GST amount INR 90,000/-. This is your final due amount. After complete this amount your service will be fully activated.

Profit slab amount INR 15,00,000/- profit duration 45 working days. So kindly complete this profile and enjoy your ASBP Plan. Than your service will be activate within 24 Hours.”

Email dated September 27, 2018

“As per discussion with Mr. Maheshwari your ASBP Plan is approved. Your plan amount is INR 9,20,000/- for this plan total paid amount is INR 5,90,000/-. As per the company policy your remaining amount INR 3,30,000/-adjust buy your executive and you have to pay your remaining GST amount INR 1,65,600/-. After complete this amount your profile will be transfer Mr. Sumit Gupta.

Profit slab amount INR 18,50,000/- profit duration 35 to 45 working days. So kindly complete this profile and enjoy your ASBP Plan. Than your service will be activate within 24 Hours.”

39. Copies of the emails and Call Data Records were made available to the Noticee. In this regard the Noticee submitted that the call records do not belong to the Noticee or any of its representatives. Without forensic verification the said recordings could not be attributed to any employee of the Noticee. The Noticee also specifically denied that the Noticee or any person associated with it has sent these emails. The Noticee has also stated that the invoices sent to clients and welcome mail clearly and unequivocally mentions that "Investments are subjected to market risk". With regard to complaint of Yogesh Vasant and emails attributed to the Noticee, the Noticee submitted that the Noticee or any person associated with the Noticee had not sent the said emails. Further, the Noticee submitted that email starworldrch@gmail.com and star.world@gmail.com were never used by it and they are fake ids made by one Bharat.

40. I note that the Noticee was not using a common email address to send welcome email to its clients. The emails mentioned above were received from email ids starworldrch@gmail.com and star.world@gmail.com. I note that there is no material/ analysis on record to show that the aforesaid email addresses belonged to the Noticee. In addition to the same, the call recordings are not supported by any further examination. In view of the same, I am unable to rely on these to arrive at a finding that the Noticee made promises of assured or unrealistic returns to its clients, as alleged.

VI Receiving fees through Paytm wallet

41. It is alleged on the basis of a complaint received through SCORES (SEBI/MP20/0000090/1), that the Noticee received fees through Paytm wallet. I note that an amount of Rs. 3480/- was received by the Noticee from the complainant on January 8, 2020. I also note that the Noticee has submitted that the amount received was immediately returned to the client's account and that the same was a mistake of the client.

42. In this regard, I note that as per the SEBI's circular dated December 27, 2019, IAs were *inter alia* advised to receive fee through banking channels only. The relevant portion of the said Circular reads as “.....it is observed that investment advisors are receiving advisory fee in the form of cash deposit in their bank accounts or through payment gateways which does not provide proper audit trail of fees received from the clients. To bring the transparency in dealing with the clients, IAs shall accept fees strictly by account payee crossed cheques/ demand draft or by way of direct credit into their bank account through NEFT/RTGS/IMPS/UPI. It is clarified that, IAs shall not accept cash deposits”.
43. I note that the Noticee has admitted that it received fee through Paytm App, but has stated that the amount was instantly refunded. However, the Noticee has not submitted any reliable material to show that the amount was refunded to the client. Therefore, I am of the view that the Noticee has violated clause 1(iii) of SEBI Circular SEBI/HO/IMD/DF1/CIR/P/2019/169 dated December 27, 2019.

VII Receiving fees through cash/hawala system

44. I note that certain complaints were received against the Noticee, alleging that it accepted money through cash. For instance, the complainant Ashutosh Kumar, vide email dated June 19, 2020, stated that a total of Rs. 18,89,070/- was paid to the Noticee through various channels including the above cash payment. However, as per the complaint invoices of only Rs. 12,87,555/- were issued to the said client.
45. It was alleged that the Noticee received cash through hawala. Further, it was alleged that through WhatsApp communication on January 10, 2020, the Noticee had sent the following text to the complainant for receiving cash through hawala:

"1~55B 670289 Pandit 9155953411

Photo bhejiye note ki urgent".

46. The Noticee has denied having made the WhatsApp communication with the complainant. The Noticee has stated that the conversation does not depict a phone number and therefore cannot be verified. I am of the view that to make such serious allegations, sufficient proof is required. Hence, I am inclined to accept the submission of the Noticee. The allegation is therefore dropped in favour of the Noticee.

VIII Non redressal of Investor grievances.

47. It is alleged that 5 unique complaints were pending against the Noticee as on July 17, 2020 on SCORES. Of these, in 4 complaints, the Noticee had failed to file Action Taken Report (**ATR**) within the prescribed timeline of 30 days. The complaint of Suraj Bhan was pending for more than one year with the Noticee. In view of the same, it is alleged that the Noticee violated SEBI Circular CIR/OIAE/2014 dated December 18, 2014 and the provisions of Regulation 21 of IA Regulations.

48. Regulation 21 of IA Regulations requires the Noticee to redress clients' grievances promptly. Further, SEBI's Circular CIR/OIAE/2014 dated December 18, 2014 also states that registered intermediaries, to whom complaints are forwarded through SCORES, shall take immediate efforts on receipt of a complaint, for its resolution, within thirty days.

49. The Noticee has submitted that the Hon'ble Supreme Court had suspended all limitations in view of COVID-19 and that no statutory limitation of any kind can be enforced from the period of 14/3/2020 to 3/10/2021 and holding an IA responsible for a delay of 15 days during such an emergency is abuse of power and contempt of the order of the Hon'ble Supreme Court.

50. I note that the order of the Hon'ble Apex Court pertains to petitions/ applications/ suits/ appeals/ all other proceedings with respect to the respective courts/ tribunals. The DA has noted that the Noticee was not applying for some relief to any court or tribunal. However, before me the Noticee has reiterated submission and prayed that in view of the horrors of the Covid-19 a lenient view may be taken for the delay of 15 days. I note that the complaint of Suraj Bhan was pending for more than one year. SCORES being an online portal, this delay is substantial. Even if a lenient view is taken for the other complaints, the delay of one year cannot be viewed lightly. In view of the same, I find that the Noticee has failed to comply with SEBI's Circular CIR/OIAE/2014 dated December 18, 2014 and the provisions of Regulation 21 of IA Regulations.

IX Threatening the Complainant to close the complaint on SCORES

51. I note that multiple complaints were received against the Noticee. Details of the complaints filed by one Ashutosh Kumar are shown under:-

Table no.15

| Complaint reg. no | Date of complaint |
|--------------------------|--------------------------|
| SEBIE/MP20/0000987/1 | 06-05-2020 |
| MINPA/E/2020/00099 | 14-02-2020 |
| CBOEC/E/2020/00796 | 14-02-2020 |
| DOCAF/E/2020/00712 | 14-02-2020 |
| PMOPG/E/2020/0073779 | 13-02-2020 |
| DARPG/E/2020/03138 | 14-02-2020 |
| SEBIE/MH20/0000934/1 | 18-01-2020 |
| SEBIE/MP20/0000188/1 | 18-01-2020 |

52. SEBI forwarded these complaints to the Noticee. It is alleged that instead of resolving the said complaints, the Noticee threatened the complainant to withdraw the complaints. In this regard, reliance was placed upon call data

records as received from the complainant. The Noticee has denied the allegations and contended that without a proper forensic verification of the said call recordings they cannot be attributed to the Noticee. I am inclined to accept the contention made by the Noticee as there is no material available on record that would show that the calls were made by the Noticee.

X Collection of GST from clients even after suo-moto cancellation of GSTN

53. Invoices issued by the Noticee to its clients showed the amount charged as fees and GST from such fees separately. However, the Noticee had, suo-moto, cancelled the GSTN number 23BBEPG7803F1Z3 on April 03, 2019, as observed during SEBI's examination. As per the Client Master provided by the Noticee, it had received fee of Rs. 24,437,161/- (including GST amount) even after the GSTN mentioned above was cancelled. Hence, it was alleged that the Noticee was collecting fees including GST amount on cancelled GSTN.

54. The Noticee has submitted that the matter is subject to the jurisdiction of the GST department. The Noticee has also contended that, GST is dependent on net sales done by a service provider and in this case, SEBI has not considered the refunds made by the IA to clients in the subjected periods. Also, SEBI is not empowered under the Act to take cognisance of violations, if any, of GST Act as it is completely out of SEBI's jurisdiction.

55. 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 him 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. Hence, 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 IA Regulations.

XI Misrepresentation/ wrong guidance to clients

56. It is alleged that the Noticee was giving certain incorrect information to its clients as is noted from the complaint of one client named Durairaj. The complainant has submitted records of calls exchanged with the purported representative of the Noticee, wherein the Noticee is giving false information related to its address and regarding the number of directors.

57. The Noticee, in this regard, has stated that the call records do not belong to the Noticee or any its employee. Further the phone number in any of these call recordings do not belong to the Noticee and without forensic report these allegations cannot be substantiated and cannot be attributed to it.

58. I note that there is no material on record that would substantiate the veracity of the call recordings and in view of the same, I am inclined to accept the submission of the Noticee and drop the allegations.

XII Handled client demat account and promised assured returns to the client

59. Based on the complaint of Gourish Dwivedi lodged on SCORES (complaint ref no. SEBIE/MP20/0000638/1), it is alleged that the Noticee had handled the demat account of the clients. The complainant had also provided various WhatsApp communications that purportedly took place between the Noticee and the complainant. The Noticee has denied the aforesaid conversations. The Noticee also stated that the screenshot of the chats do not display the phone number of the Noticee.

60. On perusal of the copies of WhatsApp communication, it is noted that the said chat screenshots do not display the phone number of the Noticee. Hence, there is no evidence on record based on which the chats are attributable to the

Noticee. In view of the same, I am inclined to accept the submission made by the Noticee in this regard and drop the allegations in this regard.

Violation of PFUTP Regulations

61. I note that it is alleged that the acts/omissions of the Noticee as discussed above resulted in “fraud” as defined in Regulation 2(1)(c) of the PFUTP Regulations. Such acts/omissions include selling products meant for High Risk Category clients to clients having Medium Risk profile, charging of unfair, unreasonable and exorbitant fee from the clients and also selling the clients multiple products/services, improper risk profiling of the clients, promising/assuring unrealistic return to clients and collection of GST from the clients even after suo motu cancellation of the GST number. Thus, it was alleged in the SCN that the acts of the Noticee and its proprietor are “fraud” as defined in Regulation 2(1)(c) of the PFUTP Regulations which provides as under:

- “(c) “fraud” includes any act, expression, omission or concealment committed whether in a deceitful manner or not by a person or by any other person with his connivance or by his agent while dealing in securities in order to induce another person or his agent to deal in securities, whether or not there is any wrongful gain or avoidance of any loss, and shall also include -*
- (1) a knowing misrepresentation of the truth or concealment of material fact in order that another person may act to his detriment;*
 - (2) a suggestion as to a fact which is not true by one who does not believe it to be true;*
 - (3) an active concealment of a fact by a person having knowledge or belief of the fact;*
 - (4) a promise made without any intention of performing it;*
 - (5) a representation made in a reckless and careless manner whether it be true or false;*
 - (6) any such act or omission as any other law specifically declares to be fraudulent,*
 - (7) deceptive behaviour by a person depriving another of informed consent or full participation,*
 - (8) a false statement made without reasonable ground for believing it to be true.*
 - (9) the act of an issuer of securities giving out misinformation that affects the market price of the security, resulting in investors being effectively*

misled even though they did not rely on the statement itself or anything derived from it other than the market price.

And “fraudulent” shall be construed accordingly

62. It was thus alleged that the Noticee has violated the provisions of Section 12A(a), (b) and (c) of the SEBI Act read with Regulations 3(a) to (d) of the PFUTP Regulations.

63. With respect to the definition of “fraud” under Regulation 2 (c), I am of the view that the same is very wide in nature. However, in the matter at hand, the violations as found against the Noticee, viz, charging of excessive fees, incorrect risk profiling and levying GST after cancellation of its GSTN, etc., are violations of the prescriptions laid down in various provisions of the IA Regulations and the Code of Conduct. I am of the view that enough material is not there on record to show that these acts fall within the definition of “fraud” under the PFUTP Regulations. These I am, therefore, inclined to drop the allegation of fraudulent and unfair trading in favour of the Noticee.

CONCLUSION:

64. To sum up, I find that the Noticee charged exorbitant fees from its clients; failed to do proper risk profiling of its customers; charged arbitrary fees and sold the same product multiple times to its clients; received money through Paytm wallet; failed in redressing complaints in a timely manner and collected GST from clients even after suo moto cancellation of its GSTN. Such acts of the Noticee are in violation of the provisions of the IA Regulations and a poor reflection on the conduct of the Noticee, that was expected to act as a responsible fiduciary for the clients. I, therefore, find these violations by the Noticee to be serious in nature which makes the Noticee liable for penalty under Sections 11B(2) and 11(4A) of SEBI Act, 1992 and related directions under Sections 11(1), 11(4) and 11B(1) of SEBI Act, 1992. I also note that as undertaken during the personal hearing, the Noticee had submitted a certificate by a Chartered Accountant to show the refunds made by it to some clients.

However, as the circumstances do not warrant the issuance of refund directions, the same is not material for consideration.

65. I shall now proceed to consider the directions that would be commensurate with the aforesaid violations committed. The instant proceedings also provide for imposition of monetary penalty, apart from the issuance of directions, in terms of relevant provisions of laws as reproduced below:

“Penalty for failure to redress investors’ grievances.

15C. *If any listed company or any person who is registered as an intermediary, after having been called upon by the Board in writing, to redress the grievances of investors, fails to redress such grievances within the time specified by the Board, such company or intermediary shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees.*

Penalty for contravention where no separate penalty has been provided.

15HB. *Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.*

Penalty for default in case of investment adviser and research analyst.

15EB. *Where an investment adviser or a research analyst fails to comply with the regulations made by the Board or directions issued by the Board, such investment adviser or research analyst shall be liable to penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees.”*

66. I find that the Noticee has been found to have failed in redressing investor grievances in a timely manner and thus, becomes liable for appropriate penalty under Section 15C of SEBI Act, 1992. For other violations found against the Noticee, in view of the amendment of Chapter VI A of the SEBI Act, 1992 with effect from March 08, 2019, the violations committed by an IA would attract penalty both under Section 15HB and 15EB, as the case may be, depending

on the period of violation, i.e. Section 15HB of SEBI Act, 1992 (for violations prior to March 08, 2019) and Section 15EB of SEBI Act, 1992 thereafter.

67. In consideration of the above, I shall now proceed with the issuance of suitable directions and imposition of monetary penalty.

ORDER:

68. In view of the foregoing, I, in exercise of the powers conferred upon me in terms of Sections 11(1), 11(4), 11(4A), 11B(1) and 11B(2) read with Section 19 of the SEBI Act, 1992, in the interest of securing market integrity and protection of investors' interest, do hereby direct that:

- a. The Noticee shall not undertake, either directly or indirectly, investment advisory services or any activity in the securities market, for a period of six months from the date of this order;
- b. The Noticee is restrained from accessing the securities market, directly or indirectly and is prohibited from buying, selling or otherwise dealing in the securities market, directly or indirectly in any manner whatsoever, for a period of six months from the date of this order;
- c. The Noticee is also restrained for a period of six months from holding any position of Director or key managerial personnel in any listed company or any intermediary registered with SEBI, and from associating with any listed public company or a public company which intends to raise money from the public or any intermediary registered with SEBI;
- d. The Noticee is directed to resolve all complaints pending against it in the SCORES portal or otherwise within a period of one

month from the date of this order and furnish a compliance report to SEBI.

- e. The Noticee shall be liable to pay monetary penalty as provided hereunder:

| Violation | Provisions under which penalty imposed | Amount of Penalty (INR) |
|--|---|--|
| SEBI Circular no. CIR/OIAE/2014 dated December 18, 2014 and Regulation 21 of the IA Regulations. | 15C of SEBI Act, 1992 | Rs.2,00,000 (Rupees Two Lakh only) |
| Regulations 15(1), 16(a) Clauses 1, 2, 6 and 8 of the Code of Conduct as specified in the Third Schedule read with Regulation 15(9) of IA Regulations and SEBI Circular SEBI/HO/IMD/DF1/CIR/P/ 2019/169 dated December 27, 2019. | 15HB/15EB of SEBI Act, 1992* | Rs.4,00,000 (Rupees Four Lakh only) |
| Total | Rs.6,00,000 (Rupees Six Lakh only) | |

* Section 15HB of SEBI Act, 1992 for violations prior to March 08, 2019 and Section 15EB of SEBI Act, 1992 thereafter

- f. The Noticee shall remit / pay the said amount of penalties within forty- five days from the date of receipt of this order. The Noticee shall remit / pay the said amount of penalties through either by way of Demand Draft in favour of “SEBI - Penalties Remittable to Government of India”, payable at Mumbai, or through online payment facility available on the website of SEBI, i.e. www.sebi.gov.in on the following path, by clicking on the payment link: ENFORCEMENT > Orders > Orders of ED/CGM > PAY NOW. In case of any difficulties in online payment of penalties, the Noticee may contact support at portalhelp@sebi.gov.in. The demand draft or the details/ confirmation of e-payment should be sent to “The Division Chief, Division of Post-Inspection Enforcement Action,

Market Intermediaries Regulation and Supervision Department,
Securities and Exchange Board of India, SEBI Bhavan II, Plot no. C-7, “G” Block, Bandra Kurla Complex, Bandra (E), Mumbai -400 051”
and also to e-mail id:-tad@sebi.gov.in in the format as given in table below:

| | |
|--|--|
| Case Name | |
| Name of Payee | |
| Date of Payment | |
| Amount Paid | |
| Transaction No. | |
| Payment is made for : (like penalties /disgorgement/recovery/settlement amount/legal charges along with order details) | |

69. This order shall come into force with immediate effect.

70. A copy of this order shall be sent to the recognized Stock Exchanges, Depositories and Registrar and Transfer Agents to ensure necessary compliance with above directions.

Date: February 27, 2023

Place: Mumbai

GEETHA G.
CHIEF GENERAL MANAGER
SECURITIES AND EXCHANGE BOARD OF INDIA