

## SECURITIES AND EXCHANGE BOARD OF INDIA

## ORDER

Under Section 12(3) of Securities and Exchange Board of India Act, 1992 read with Regulation 23 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:

Name of the Noticee(s)	SEBI Registration No.	PAN
Flanking Research and Investment Advisor (Proprietor – Mr. Tarun Chandani)	INA000010195	BBDPC8554N

## Background:

1. Flanking Research and Investment Advisor (Proprietor - Mr. Tarun Chandani) (hereinafter referred to as “**Noticee**”) is registered as an Investment Adviser (hereinafter referred to as “**IA**”) with Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) with effect from April 02, 2018 having registration number INA000010195. As per the records, its registered office is at Office No. 208-209, 2<sup>nd</sup> Floor, Apollo Premier, Plot No. 1, Scheme No. 54, PU-4, Vijay Nagar, Indore, Madhya Pradesh - 452010.
2. SEBI had initiated inspection of the Noticee to look into the compliance of regulatory requirements stipulated under SEBI Act, 1992, SEBI (Investment Advisers) Regulations, 2013 (hereinafter referred to as “**IA Regulations**”), and other circulars and guidelines framed thereunder. The period of inspection was from April 1, 2019 till the scheduled date of inspection.

3. The findings of the inspection report, which were based on the complaints received against the Noticee, led to initiation of enquiry proceedings against the Noticee in terms of the SEBI (Intermediaries) Regulations, 2008 (hereinafter referred to as “**Intermediaries Regulations**”) and a Designated Authority (hereinafter referred to as “**DA**”) was appointed under Regulation 24 of the Intermediaries Regulations to enquire into the following violations alleged against the Noticee:
- a. Regulation 13(a), 15(12), 25(1) and 25(2) read with Regulation 24(3) and Clause 8 of Code of Conduct specified under Third Schedule read with Regulation 15(9) of IA Regulations for failing to furnish complete information and discharge its obligations during inspection conducted by SEBI.
  - b. Regulation 13(b) of IA Regulations for failing to inform SEBI regarding material information related to its activities.
  - c. SEBI Circular no. CIR/OIAE/1/2014 dated December 18, 2014 and Regulation 21(1) read with Regulation 28(f) of IA Regulations for non-redressal of SCORES complaints.
  - d. Clause 1(iv) of SEBI Circular SEBI/HO/IMD/DF1/CIR/P/2019/169 dated December 27, 2019 for displaying incorrect information about SCORES complaints.
  - e. Regulation 4(2)(k) and 4(2)(s) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as “**PFUTP Regulations**”) for misleading clients about number of pending SCORES complaints.
  - f. Regulation 3 (a), (b), (c), (d) of the PFUTP Regulations read with Section 12A(a), (b) and (c) of SEBI Act, 1992 for engaging in acts to defraud clients.
  - g. Regulation 15(1), Clause 1, 2 and 8 of Code of Conduct as specified in Third Schedule read with regulation 15 (9) of IA Regulations for failing to act in a fiduciary capacity to its clients and honest manner to its clients.
  - h. Regulation 15(3) and 15(4) of IA Regulations for engaging in activities other than investment advisory.

- i. Regulation 15(1), 17(a), (c) and (d) of IA Regulations, Clauses 1, 2, 5, 6, and 8 of Code of Conduct as specified in Third Schedule of IA Regulations read with regulation 15(9) of IA Regulations, Regulation 3(a), (b), (c), (d) of PFUTP Regulations read with section 12A(a), (b) and (c) of SEBI Act, 1992 for improper risk profiling and suitability assessment of clients and engaging in acts to defraud clients.
- j. Schedule II of Intermediaries Regulations read with Regulation 7(2)(e) of Intermediaries Regulations and Regulation 6(f) and 13(a) of IA Regulations for failing to satisfy the criteria of 'fit and proper person'.

#### **Enquiry by the Designated Authority:**

- 4. The DA had issued a Show Cause Notice dated December 23, 2021 (hereinafter referred to as "**SCN**") under Regulation 25(1) of the Intermediaries Regulations, calling upon the Noticee to show cause as to why appropriate recommendations for the alleged violations should not be made against him. The delivery of the SCN to the Noticee was attempted on the addresses available on record i.e. (a) Office No. 208-209, 2<sup>nd</sup> Floor, Apollo Premier, Plot No. 1, Scheme No. 54, PU-4, Vijay Nagar, Indore, Madhya Pradesh – 452010; and (b) 601, Pearl Palm, Scheme No. 136, Niranjapur, Indore, Madhya Pradesh – 452010. The SCN returned undelivered from both the aforesaid addresses. The attempts to serve SCN through Affixture also failed. Thus, in the interest of principle of natural justice, the SCN along with hearing notice was served on the Noticee through publication in two newspapers having nationwide circulation i.e. The Times of India (English) and Nav Bharat (Hindi) (both dated June 29, 2022). Personal Hearing was granted by the DA to the Noticee on July 25, 2022. However, the Noticee neither filed any reply/objections to the SCN nor appeared for personal hearing.
- 5. Accordingly, the DA proceeded ex-parte on the basis of material available on record and submitted an Enquiry Report dated August 29, 2022 (hereinafter referred to as "**Enquiry Report**") recommending cancellation of the registration of the Noticee as an IA.

### **Post Enquiry Proceedings:**

6. A post-enquiry Show Cause Notice dated September 30, 2022 (hereinafter referred to as “**Post Enquiry SCN**”) was issued to the Noticee enclosing a copy of the Enquiry Report submitted by the DA and calling upon him to show cause in terms of Regulation 27 of the Intermediaries Regulations as to why actions as recommended by the DA should not be imposed against the Noticee in terms of the said Regulations.
7. I note that the attempts to deliver Post Enquiry SCN to the Noticee through post failed. It was delivered to the Noticee on the email id - chandani.disha@gmail.com. However, no reply to the SCN was received from the Noticee. In terms of Regulation 27(4) of the Intermediaries Regulations, an opportunity of personal hearing to the Noticee was granted on November 24, 2022. Since the Noticee failed to appear on the scheduled date of hearing, in order to ensure principles of nature justice, another opportunity of personal hearing was granted on December 09, 2022. The Noticee did not make any appearance on the said date as well. I note that the hearing notices were delivered on November 07, 2022 and December 02, 2022 to the email id - chandani.disha@gmail.com.

### **Consideration of Issues and Findings:**

8. I note that considerable attempts have been made to serve the SCN to the Noticee and two hearing opportunities have been granted to the Noticee. Despite the same, no response or appearance has been made by the Noticee. Under the circumstances, I observe that sufficient steps have been taken to ensure principles of natural justice for the Noticee.
9. I also note that the Hon’ble High Court of Madhya Pradesh, vide its order dated November 04, 2020 in the matter of bail application filed by one Alok Kumar has declared that Tarun Chandani, the main owner of Flanking Research and Investment Advisor is still absconding.

10. Accordingly, I am compelled to deal with the matter on the basis of the material available on record.
11. I note that multiple allegations have been alleged against the Noticee, and for the sake of convenience and clarity, I shall deal with each of the allegations independently in the following paragraphs.
12. Before dealing with the same, the following basic facts pertaining to the matter are noted:
  - a. Flanking Research and Investment Advisor (Proprietor - Mr. Tarun Chandani) is registered as an IA with SEBI with effect from April 02, 2018 having SEBI Registration no. INA000010195. Flanking Research and Investment Advisor is a proprietorship firm whose proprietor is Mr. Tarun Chandani.
  - b. As per the records, its registered office is at Office No. 208-209, 2<sup>nd</sup> Floor, Apollo Premier, Plot No. 1, Scheme No. 54, PU-4, Vijay Nagar, Indore, Madhya Pradesh - 452010. Its website address is <https://www.flankingresearch.com>. Contact details are 9977431313/ 9009746226/ 9111931313/ 9111654999 and email ids are tarunchandani1304@gmail.com, chandani.disha@gmail.com and info@flankingresearch.com.
  - c. SEBI had initiated inspection of Noticee, which was ordered, vide order no. HO/07/2021-2021 dated September 17, 2020. The focus of the inspection was to look into the compliance of regulatory requirements stipulated under SEBI Act, 1992, IA Regulations, and other circulars and guidelines framed thereunder. The period of inspection was from April 1, 2019 till the date of scheduled inspection.
  - d. The Inspection Report was prepared based on the information such as Risk Profiling Forms, Know Your Client Forms, invoices, emails, audio call recordings, received from complainants, who had lodged complaints on SEBI SCORES against the Noticee, as detailed below:

Sl. No.	Name of Complainant	SCORES Regn. No
1.	Subhransu Dash	SEBIE/MP20/0002020/1
2.	Anirudha Gade	SEBIE/MP20/0001578/1
3.	NV Subba Rao	SEBIE/MP20/0001120/1
4.	Sandhan Sahani	SEBIE/MP20/0001986/1
5.	Rajiya Kathat	SEBIE/MP20/0000523/1
6.	Namdev R Gawde	SEBIE/MP20/0000598/1
7.	Gurdas Singh	SEBIE/MP20/0000284/1
8.	Anil Kumar Singh	SEBIE/MP19/0002252/1

13. I note that the allegations stated in the SCN emanate from the observations / findings of the said inspection report. I now proceed to deal with each of the allegations contained in the SCN hereunder.

14. **Allegation I – Non-cooperation during SEBI inspection**

15. The provisions of IA Regulations alleged to have been violated by the Noticee read as follows:

***“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;”***

***15. (12) Investment advisers shall furnish to the Board information and reports as may be specified by the Board from time to time.***

***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 partners, directors, principal officer and persons associated with investment advice, 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.*

*24.(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.*

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

**Clause 8 of Code of Conduct**

**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.”*

16. From the documents available on record, I note that vide letter no. WRO/PLO/IMD/Insp/15746/2020 dated September 22, 2020, the Noticee was informed by SEBI that an inspection of its books of accounts / records and other documents relating to its registration as an IA for the period beginning from April 01, 2019 till the date of inspection would be undertaken by SEBI, in terms of Regulation 23 of IA Regulations. The said letter and a pre-inspection questionnaire was also sent to the Noticee vide email dated September 22, 2020. I note that the said letter advised the Noticee to send its reply to the pre-inspection questionnaire by October 06, 2020. The Noticee, vide an email dated October 06, 2020 had, *inter alia*, informed SEBI as under:
- “I am furnishing information and documents that are currently available and am unable to provide all information as stated in the inspection letter since the office is sealed and documents were seized due to raid held on July 25, 2020. Once the department releases seizure of documents, will furnish the remaining documents.*

*Please let us know of any other information to be provided to complete the investigation.”*

17. I note from the Inspection Report that the Noticee did not provide its client master data as sought by SEBI which included the list of clients, the services provided to them, the duration of service, the fees collected, the KYC and Risk Profiling Forms etc. The Noticee also did not submit the details of client fee collected year-wise and scheme/ product-wise. I note that, vide email dated November 17, 2020, the Noticee was again advised by SEBI to submit the required information. However, no further submissions were made by the Noticee in this regard.
18. I also note that on March 3, 2021, SEBI had conducted a site visit at the Registered Office Address of the Noticee to ascertain whether the Noticee is active and to deliver the Inspection Report by hand to the Noticee. The office of the Noticee was found to be closed and hence the Inspection Report could not be delivered.
19. From the material available on record, I note that a First Information Report No. 0626 dated July 25, 2020 (hereinafter referred to as “**FIR**”) has been filed by Crime Branch, Indore, against Flanking Research and Investment Advisor and others viz., Alok Kumar, under sections 418 (Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect), 419 (Punishment for cheating by personation), 420 (Cheating and dishonestly inducing delivery of property), 406 (Punishment for criminal breach of trust), 120B (Punishment of criminal conspiracy), 34 (Acts done by several persons in furtherance of common intention) of Indian Penal Code and under Section 6(1) of Madhya Pradesh Nikshepakon Ke Hiton Ka Sanrakshan Adhiniyam, 2000. The FIR, *inter alia*, contains the following allegations:
  - a) Around 114 employees are providing share market tips to clients without having necessary qualifications, adequate knowledge and proper guidance.
  - b) On the basis of advice given by the employees, the clients are sending money into bank accounts of the Noticee.



- c) Employees are assuming different names while speaking to clients as per instruction of their employer.
  - d) By promising unrealistic returns, the employees are cheating clients.
- 20. The FIR also states that the Noticee was not present when the Police visited the office premises. As per the FIR, the office premises of the Noticee was sealed by the Police and one Mr. Alok Kumar who was present in the office was taken into custody.
- 21. In view of the above, I find that the office premises of the Noticee was sealed by the Police on July 25, 2020 whereas the information regarding inspection from the Noticee was sought by SEBI later on September 22, 2020. As noted above, the Noticee had initially replied to SEBI on October 06, 2020 *inter alia* providing certain documents and informing about sealing of office premises by the Police and that documents have been seized by the Police.
- 22. From the aforesaid facts and circumstances, I find that the Noticee was aware of the events that had taken place on July 25, 2020 and had possessed certain documents related to his investment advisory activities even after the sealing of the office premises. It is pertinent to note that, subsequent to October 06, 2020, the Noticee has not co-operated or provided any further information to SEBI. Moreover, the Hon'ble High Court of Madhya Pradesh has declared that the Noticee is absconding.
- 23. I, therefore, find that the Noticee has failed to duly co-operate and furnish information/documents during inspection as required by SEBI and thus, the Noticee is found to have violated Regulation 13(a), 15(12), 25(1) and 25(2) read with Regulation 24(3) and Clause 8 of Code of Conduct specified under Third Schedule read with Regulation 15(9) of IA Regulations.
- 24. **Allegation II – Failure to inform material change to SEBI**
- 25. Regulation 13(b) of IA Regulations reads as under:

*“13. (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;”*

26. I note that a FIR was filed against the Noticee, the factual details of which have been stated in preceding parts of this order. I also note that on July 25, 2020, the Police authorities had sealed the office premises of the Noticee. The documents on records show that there were no credit transactions in the bank accounts of the Noticee after July 25, 2020. The website of the Noticee also states that the office is closed. From these facts, I infer that the investment advisory activity of the Noticee was halted from July 25, 2020.
27. From the Inspection Report, it is seen that even after July 25, 2020, while SEBI had been corresponding with the Noticee through SCORES portal, the Noticee did not disclose the fact that the office premises had been sealed by the Police. The Noticee informed the same to SEBI much later on October 06, 2020 in response to SEBI's letter regarding inspection.
28. I note that in terms of Regulation 13(b), an IA is required to immediately inform SEBI if any material particular is found to be misleading or in case of any material change in the information already submitted to SEBI. On the basis of material on record, I find that the information such as filing of FIR against the Noticee, sealing of office premises and halting of its investment advisory services to clients were vital information from the perspective of an IA which should have been immediately informed as envisaged under the IA Regulations. I, therefore, find that Noticee has violated Regulation 13(b) of IA Regulations.
29. **Allegation III – Non-redressal of investor grievances**
30. Clauses 9 and 13 of SEBI Circular no. CIR/OIAE/1/2014 dated December 18, 2014 read as follows:

*“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.*

*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.”*

31. Regulation 21(1) and 28(f) of IA Regulations read as follows:

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

*28. An investment adviser who –*

*(f) fails to resolve the complaints of investors or fails to give a satisfactory reply to the Board in this behalf,  
shall be dealt with in the manner provided under the Securities and Exchange Board of India (Intermediaries) Regulations, 2008.”*

32. From the available material on record, I note that, as on November 30, 2020, 13 complaints from unique complainants were pending against the Noticee in SCORES portal for more than 30 days. I also note that the Noticee did not submit Action Taken Report in respect of these complaints.

33. I note that the aforesaid provisions mandate resolution of investor complaints and filing of Action Taken Report within 30 days of receipt of the complaint. Failure to do so is deemed to constitute non-redressal of investor grievance in terms of Regulation 21(1) read with Clause 13 of the Circular cited above.

34. Accordingly, I find that the Noticee has violated SEBI Circular no. CIR/OIAE/1/2014 dated December 18, 2014 and Regulation 21(1) read with Regulation 28(f) of IA Regulations.

35. **Allegation IV – Wrong disclosure of complaints’ status on website**

36. Clause 1(iv) of SEBI Circular No. SEBI/HO/IMD/DF1/CIR/P/2019/169 dated December 27, 2019 reads as follows:

***(iv) Display of complaints status on website***

*In order to bring more transparency and enable the investors to take informed decision regarding availing of advisory services, IAs shall display the following information on the homepage (without scrolling) of their website/mobile app. The information should be displayed properly using font size of 12 or above and made available on monthly basis (within 7 days of end of the previous month):*

Number of complaints				
At the beginning of the month	Received during the month	Resolved during the month	Pending during the month	Reasons for pendency

37. From the records available before me, I note that, as on November 30, 2020, 14 complaints were pending against the Noticee on the SCORES portal. I also note that the Noticee, as on December 15, 2020, has displayed the following information regarding status of complaints on his website:

No. of complaints				
At the Beginning of the month	Received during the month	Resolved during the month	Pending at the end of the month	Reasons for pendency
10	00	01	09	In communication with client

38. From the above, I find that while 14 complaints were pending against the Noticee, he has wrongly displayed the number of pending complaints as 9. Accordingly, I find that by displaying incorrect number of pending complaints on its website, it is established that the Noticee has violated Clause 1(iv) of SEBI Circular SEBI/HO/IMD/DF1/CIR/P/2019/169 dated December 27, 2019.

39. **Allegation V – Dissemination of false information and mis-selling to clients**

40. It is alleged in the SCN that the Noticee has violated Regulations 4(2)(k) and 4(2)(s) of PFUTP Regulations by disseminating false information on its

website regarding number of pending complaints and thereby, misleading the clients and influencing their decision regarding dealing in securities.

41. Regulation 4(2)(k) and 4(2)(s) of PFUTP Regulations read as follows:

***“4. Prohibition of manipulative, fraudulent and unfair trade practices***

*(1) ....*

*(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 in a reckless or careless manner and which is designed to, 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;”*

42. I note that in terms of Regulations 4(2)(k) and 4(2)(s) of PFUTP Regulations, dealing in securities is deemed to be a manipulative, fraudulent or an unfair trade practice if the person knowingly makes a false or misleading statement so as to influence the decision of investors or mis-sells securities or services related to securities market.

43. It has been established above that the Noticee has wrongly displayed the number of pending complaints as 9 instead of 14 on his website. However, upon a reading of the provisions of Regulations 4(2)(k) and 4(2)(s) of PFUTP Regulations, I am convinced that the act of wrongful disclosure of complaints alleged against the Noticee cannot bring it within the ambit of fraudulent trade practice while dealing in securities, as envisaged therein and thus, the said allegation does not stand established.

44. **Allegation VI – Irregularities in Risk Profiling and Suitability Assessment**

45. It is alleged in the SCN that by failing to do proper risk profiling and suitability assessment of clients and by engaging in such acts to defraud clients, the Noticee has violated Regulation 15(1), 17(a), (c) and (d) of IA Regulations, Clauses 1, 2, 5, 6, and 8 of Code of Conduct as specified in Third Schedule of IA Regulations read with regulation 15(9) of IA Regulations and Regulation 3(a), (b), (c), (d) of PFUTP Regulations read with section 12A(a), (b) and (c) of SEBI Act, 1992.

46. While other provisions as stated in the allegations have been reproduced in preceding parts of this order, Regulation 15(1), 17(a), (c) and (d), Clauses 1, 2, 5 and 6 of Code of Conduct for IA as specified in Third Schedule of IA Regulations read as follows:

*“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.*

*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.*

**Clause 1, 2, 5 and 6 of Code of Conduct**

**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”*

**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.”*

47. Regulation 3(a), (b), (c), (d) of PFUTP Regulations reads as follows:

**“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.”*

48. Section 12A(a), (b) and (c) of SEBI Act, 1992 reads as follows:

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

*12A. No person shall directly or indirectly—*

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

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

49. From the material available on record, I note that as per the Risk Profile Form (hereinafter referred to as “RPF”) for the clients of the Noticee, the risk classification score range is as under:

S. No.	Risk Score Range	Risk Status
1	0 – 159	Low Risk
2	160 – 320	Medium Risk
3	320+ above	High Risk

50. I note that the question of ‘investment goal’ in RPF has three options as answer, namely, (a) Capital Appreciation, (b) Regular Income and (c) Capital Appreciation and Regular Income. The weightages assigned to these options are 10, 30 and 20, respectively. By assigning such weightages, the Noticee has considered an investor opting for Regular Income at a higher risk than an investor opting for Capital Appreciation. This, in my opinion, is contrary to basic financial understanding since Regular Income products would be sought by risk averse investors seeking fixed cash flows with focus on preserving their capital rather than taking on more risks with their investments. I, thus, find that the Noticee has misrepresented to clients by not attributing appropriate weights to investment goals while considering risk profile of clients.

51. The available records show that the website of the Noticee displayed the charges for the products offered to the clients as under:

Product	Monthly	Quarterly	Half yearly
Signature cash	20,000	50,000	75,000
Intraday cash	NA	20,000	35,000
HNI cash/future	110,000	280,000	510,000
Basic Commodity	20,000	55,000	100,000
Future premium	25,000	70,000	130,000



Product	Monthly	Quarterly	Half yearly
Cash premium	12,000	30,000	45,000
Customized equity future	160,000	390,000	680,000

52. I note that multiple complaints have been received against the Noticee wherein the complainants, who were clients of the Noticee, have provided supporting documents such as RPF, suitability report, invoices etc. to allege wrongdoings by the Noticee. Few such instances and the observations on the same are discussed hereunder.

**Client Name: Mr. Subhransu Sekhar Dash**

53. I note that risk profiling of a client named Mr. Subhransu Sekhar Dash (hereinafter referred to as “**Client1**”) was done by the Noticee on February 03, 2020. Client1 had a risk rating score of 240 and was thus rated under ‘Medium Risk’ category in terms of the RPF. As per the invoices provided by Client1, following payments were made to the Noticee:

Invoice No.	Invoice date	Package	Service duration Opted	Service Charge	Amount paid (incl. taxes) (in Rs.)
3447	Feb 03, 2020	Intraday cash	Quarterly	20,000	2,000
3459	Feb 04, 2020	Intraday cash	Quarterly	20,000	18,000
3500	Feb 06, 2020	Signature Cash	Half Yearly	75,000	27,000
3625	Feb 15, 2020	Intraday Future	Quarterly	40,000	40,000
3630	Feb 15, 2020	Nifty Option	Quarterly	15,000	10,000
3687	Feb 19, 2020	Nifty Option	Half Yearly	25,000	20,000
3689	Feb 19, 2020	Future premium	Quarterly	70,000	45,000
3733	Feb 19, 2020	Cash premium	Half Yearly	45,000	40,000
3724	Feb 20, 2020	HNI Option	Quarterly	40,000	10,000
3884	Feb 29, 2020	Cash premium	Half Yearly	45,000	38,700
<b>TOTAL</b>					<b>2,50,700</b>

54. From the above, I note that Client1 paid a total of Rs. 2,50,700/- to the Noticee for 7 different services offered to him within the first month of becoming a client. The RPF shows that the annual income of Client1 as well as the

proposed investment amount was less than Rs. 1 lakh. I, thus, find that, Noticee has disregarded such responses of Client1 by collecting Rs. 2,50,700/- from Client1 as fees which in itself is more than the proposed investment amount of Client1.

55. I further note that the RPF states that Client1 has no experience with equity, commodity and forex investments. It is also mentioned that Client1 prefers low risk and low return over high risk and high return. As per the suitability report, 'Intraday Cash' service is stated to be most appropriate as per his risk profile. On the contrary, within a short span of one month, the Noticee has offered various other services such as 'Intraday Future', 'Nifty Option' etc., which are in the segment of futures and options and generally considered risky in nature. I find that such services were not suitable for Client1 as per his risk profile. I, thus, find that the Noticee has not been honest and fair in its dealings with its client and provided investment advice which is not appropriate to the risk profile of the client.
56. From the invoices (nos. 3733 and 3884) provided by Client1, I note that he was charged Rs. 78,700/- as 'Half Yearly' fee for 'Cash Premium' service which was quoted at Rs. 45,000/-. I note that Client1 was also offered 'Nifty Option' service twice within a period of four days, wherein paid amount is different from the quoted service charge and the period for which services were offered is not mentioned. I note that, in most instances, the service charge mentioned and the amount paid by Client1 are not the same. I, therefore, do not find any rationale and consistency in the amount of fee charged by the Noticee.

**Client Name: Mr. Anirudha Chandrakant Gade**

57. I note that, as per RPF, a client named Mr. Anirudha Chandrakant Gade (hereinafter referred to as "**Client2**") was assessed under 'medium risk' category. As per the invoices provided by Client2, following payments were made to the Noticee:

Invoice No.	Invoice date	Package	Service duration Opted	Service Charge	Amount paid (incl. taxes) (in Rs.)
3167	Jan 21, 2020	Cash premium	Monthly	12,000	9,000
3335	Jan 28, 2020	Cash premium	Half yearly	45,000	15,500
3401	Jan 31, 2020	Future premium	Quarterly	70,000	15,500
3697	Feb 20, 2020	HNI Future	Quarterly	2,80,000	20,000
<b>TOTAL</b>					<b>59,000</b>

58. I note that as per the suitability assessment report, 'Cash Premium' was the most appropriate service for Client2. I note that while the Noticee had initially offered 'Cash Premium' service to Client2, other services viz. 'Future Premium' and 'HNI Future' which were not suitable to the client's risk profile were later provided and the Noticee also collected a fees of Rs. 35,500/- in lieu of these services. Such products dealing in futures segment of securities market are considered leveraged products and would generally be not meant for investors having 'medium risk' appetite. I, thus, find that the Noticee has offered services that were not appropriate to the risk profile of the client.
59. From the above, I also note that the Noticee has sold same service to Client2 before completion of the earlier service i.e. 'Cash Premium' service having duration of one month was sold on January 21, 2020 and again sold on January 28, 2020 for a duration of six months. Further, from the RPF of Client2, I note that it is stated that the client has an extensive experience in response to a question regarding *"What is your experience with Equity, Commodity, Forex investment"*. I find this to be in contradiction to the experience of less than 3 years as responded by the same client in response to another question in RPF. I, therefore, find that the Noticee has not appropriately interpreted client responses to questions in order to correctly determine the risk profile of the client.

**Client Name: Mr. N.V. Subba Rao**

60. I note that the Noticee has undertaken risk profiling of a client named Mr. N.V. Subba Rao (hereinafter referred to as "**Client3**") on November 27, 2019. The

client obtained a risk rating score of 200 and was categorized as 'medium risk' client. As per the invoices provided by Client3, following payments were made to the Noticee:

Invoice No.	Invoice date	Package	Service duration Opted	Service Charge	Amount paid (incl. taxes) (in Rs.)
2270	Nov 27, 2019	Intraday Cash	Quarterly	20,000	3,000
2294	Nov 28, 2019	Intraday Cash	Quarterly	20,000	17,000
2316	Nov 29, 2019	HNI Option	Half Yearly	70,000	74,100
2425	Dec 06, 2019	Customized Equity Future	Half Yearly	5,70,000	2,95,900
3262	Jan 25, 2020	Future Premium	Half Yearly	1,30,000	1,22,000
<b>TOTAL</b>					<b>5,12,000</b>

61. I note that the Noticee initially sold 'Intraday cash' service to Client3 as per his suitability assessment. However, within 2 days, Client3 was sold 'HNI Option' service and also offered 'Customized Equity Future' and 'Future Premium' services subsequently within a period of two months. I find that such services related to futures and options segment are considered to be of 'high risk' in nature. I also note from the RPF of Client3, that he falls within the age bracket of 55 – 60 years, has 4+ dependents to financially support, more than 50% of his monthly income is allocated to pay off debt and has proposed investment amount between Rs. 1 - 2 lakhs. I note that the Noticee has sold 'high risk' products and collected fees of Rs. 5,12,000/- within two months from Client3.
62. I, therefore, find that the Noticee has charged unreasonable fees which is itself much more than the proposed investment amount of Client3 and provided services which were not appropriate to the risk profile of the client.

#### Other clients

63. I further note other clients of the Noticee, namely, Mr. Sandhan Sahani, Mr. Rajiya Kathat, Mr. Namdev Gawde, Mr. Gurdas Singh and Mr. Anil Kumar Singh have also filed complaints against the Noticee. On perusal of the documents submitted by these clients, I find that the amounts collected by the Noticee are different from the service charge quoted on the invoices. I also

note that in some instances, same service has been offered and charged for different duration within a few days.

64. In view of the aforesaid observations made on the basis of documents submitted by the complainants, I find that the Noticee has not been fair and transparent in its dealing with clients. The Noticee has offered and collected fees for such services which were inappropriate to the respective risk profile of clients. I also find that the fees received by the Noticee is not consistent and reasonable and in some instances, more than the investment amount proposed by a client. I also find that the Noticee has failed to properly assess the risk profile of clients by wrongly interpreting client's responses and not attributing appropriate weights to certain answers in the RPF. I find that the Noticee has provided services which were inconsistent with clients' experience, investment objectives and risk appetite. I find that such acts of Noticee are in complete disregard of the responsibility entrusted upon him under the provisions of IA Regulations to act in a fiduciary capacity and in the best interest of its clients.
65. From the bank statements available on record, I note that the Noticee has received a total of Rs. 13,46,41,183/- in its bank accounts during the period May 05, 2018 to August 26, 2020, as detailed hereunder:

Sl. No.	Bank Name & Account No.	Period	Last Entry date	Total Credits (in Rs.)
1.	Axis Bank 918020042121125	May 05, 2018 to August 26, 2020	August 26, 2020	8,87,00,000
2.	HDFC Bank 50200032060721	June 30, 2018 to July 25, 2020	July 25, 2020	1,80,00,000
3.	Bank of India 885320110000377	May 10, 2018 to July 24, 2020	July 24, 2020	4,41,183
4.	State Bank of India 38011522560	October 12, 2018 to July 26, 2020	July 25, 2020	2,75,00,000
<b>TOTAL AMOUNT</b>				<b>13,46,41,183</b>

66. I, therefore, find the Noticee to be in violation of Regulation 15(1), 17(a), (c), (d), Clauses 1, 2, 5, 6 and 8 of the Code of Conduct for IA as specified in Third Schedule read with regulation 15(9) of IA Regulations. A registered IA is expected to ensure suitability of the service offered to its clients. I find that the

Noticee dealt with the clients in a deceitful and fraudulent manner, with the purpose of augmenting his income, by engaging in acts such as providing advice contrary to the risk profile of clients, without proper rationale and charging arbitrary and unreasonable fees. Since these violations have been committed by the Noticee while acting as an IA and in the course of his advisory business, I find that the Noticee has committed the 'fraud' while associating himself with the securities market. Accordingly, I also find the Noticee to be in violation of Regulation 3(a), (b), (c) and (d) of PFUTP Regulations read with section 12A (a), (b) and (c) of SEBI Act, 1992.

67. **Allegation VII – Violation of provisions of PFUTP Regulations, Code of Conduct for IA and Engagement in activities other than investment advisory**

68. While the other alleged provisions have been reproduced in preceding parts of this order, Regulation 15(3) and 15(4) of IA Regulations read as follows:

*“15. (3) An investment adviser shall maintain an arms-length relationship between its activities as an investment adviser and other activities.*

*(4) An investment adviser which is also engaged in activities other than investment advisory services shall ensure that its investment advisory services are clearly segregated from all its other activities, in the manner as prescribed hereunder.”*

69. From the material available on record, I note that Mr. Sandhan Sahani (hereinafter referred to as “**Complainant**”), had lodged a complaint having SCORES Regn. No. SEBIE/MP20/0001986/1 against the Noticee on SCORES portal, *inter-alia*, alleging that the Noticee has not returned his money. The following allegations have been made by Complainant, vide his SCORES complaint and other communications with SEBI:

- a) A man posing as Tarun Chandani on phone no. 9926904215 had taken fees from the Complainant on behalf of Flanking Research and Investment Advisor but no service was provided and to cover losses, the Complainant had to use credit card.

- b) Tarun Chandani was not willing to return him his money. The Complainant alleged that he has not received any service from the Noticee till date.
- c) The Complainant was asked to pay as investment amount, say Rs.10 lakhs from credit card, from which the Noticee would pay profits along with reversal and after certain days the Noticee kept on increasing the amounts. Thus, the Noticee would take huge sums as subscription fees, then ask for more and more money without being transparent about things and run away at the end with people's hard earned money.
- d) All payments were made by the Complainant to the Noticee from PayU Money link.
- e) The email id of the aforesaid person, who claimed to be representative of Flanking Research and Investment Advisor and who had communicated with Complainant, is priyank.sharma8269@gmail.com.

70. I note that following transactions between the Complainant and the Noticee took place through Axis Bank account of the Noticee and PayU money wallet:

**Table No. 1:**

<b>Transaction Date and Time</b>	<b>Particulars</b>	<b>Credit</b>	<b>Debit</b>
2019-02-07 11:00:38.0	SANDHAN SAHANI	8000	
2019-02-08 13:44:14.0	SANDHAN SAHANI	4000	
2019-02-13 08:09:55.0	SANDHAN SAHANI	3000	
2019-02-25 22:37:19.0	SANDHAN SAHANI	49000	
2019-03-14 11:40:59.0	SANDHAN SAHANI	203236	
2019-03-14 17:51:07.0	SANDHAN SAHANI	416382	
2019-03-14 21:26:23.0	SANDHAN SAHANI	90000	
2019-03-14 21:28:39.0	SANDHAN SAHANI	42646	
2019-03-14 21:30:45.0	SANDHAN SAHANI	100000	
2019-04-04 09:54:49.0	SANDHAN SAHANI	100000	

<b>Transaction Date and Time</b>	<b>Particulars</b>	<b>Credit</b>	<b>Debit</b>
2019-04-16 14:26:44.0	SANDHAN SAHANI	400000	
2019-04-16 14:31:03.0	SANDHAN SAHANI	200000	
26/04/2019	NEFT/MB/AXMB191160547298/Sandhan		1060000
2019-04-28 11:57:17.0	SANDHAN SAHANI	400000	
2019-04-28 12:04:21.0	SANDHAN SAHANI	200000	
2019-04-28 12:06:57.0	SANDHAN SAHANI	103600	
2019-04-28 12:41:31.0	SANDHAN SAHANI	87000	
29/05/2019	NEFT/MB/AXMB191491885883/Sandhan		970000
2019-05-30 21:40:02.0	SANDHAN SAHANI	500000	
2019-05-30 21:42:20.0	SANDHAN SAHANI	400000	
2019-05-30 21:45:35.0	SANDHAN SAHANI	300000	
2019-05-30 21:48:17.0	SANDHAN SAHANI	200000	
2019-05-30 21:51:14.0	SANDHAN SAHANI	160000	
01/07/2019	NEFT/MB/AXMB191822524410/Sandhan		464000
2019-07-02 12:51:12.0	SANDHAN SAHANI	200000	
2019-07-02 12:54:39.0	SANDHAN SAHANI	164000	
2019-07-02 12:58:38.0	SANDHAN SAHANI	100000	
01/08/2019	IMPS/P2A/921312334687/Sandha/HDFCBAN/X531223/		200017.7
01/08/2019	IMPS/P2A/921312335085/Sandha/HDFCBAN/X531223/		150017.7
01/08/2019	NEFT/MB/AXMB192133395364/Sandhan		1000000
01/08/2019	IMPS/P2A/921317518140/Sandha/HDFCBAN/X531223/		200017.7
2019-08-02 23:34:59.0	SANDHAN SAHANI	400000	
2019-08-02 23:39:50.0	SANDHAN SAHANI	500000	
2019-08-02 23:44:35.0	SANDHAN SAHANI	160000	
2019-08-02 23:54:12.0	SANDHAN SAHANI	200000	
2019-08-02 23:56:11.0	SANDHAN SAHANI	200000	
2019-08-03 00:04:45.0	SANDHAN SAHANI	100000	
26/08/2019	IMPS/P2A/923815216001/Sandha/HDFCBAN/X531223/		200017.7



<b>Transaction Date and Time</b>	<b>Particulars</b>	<b>Credit</b>	<b>Debit</b>
26/08/2019	IMPS/P2A/923815216128/Sandha/HDFCBAN/X531223/		200017.7
26/08/2019	IMPS/P2A/923815216214/Sandha/HDFCBAN/X531223/		200017.7
26/08/2019	IMPS/P2A/923815216337/Sandha/HDFCBAN/X531223/		80005.9
31/08/2019	IMPS/P2A/924317433538/Sandha/HDFCBAN/X531223/		150017.7
04/09/2019	IMPS/P2A/924719347901/Sandha/HDFCBAN/X531223/		200017.7
04/09/2019	IMPS/P2A/924719349090/Sandha/HDFCBAN/X531223/		200017.7
04/09/2019	IMPS/P2A/924719349406/Sandha/HDFCBAN/X531223/		200017.7
04/09/2019	IMPS/P2A/924719349748/Sandha/HDFCBAN/X531223/		200017.7
04/09/2019	IMPS/P2A/924719349983/Sandha/HDFCBAN/X531223/		200017.7
2019-09-04 12:15:59.0	SANDHAN SAHANI	500000	
2019-09-04 12:20:21.0	SANDHAN SAHANI	200000	
2019-09-04 12:28:08.0	SANDHAN SAHANI	200000	
2019-09-04 12:30:13.0	SANDHAN SAHANI	50000	
2019-09-09 12:01:07.0	SANDHAN SAHANI	300000	
2019-10-02 22:46:41.0	SANDHAN SAHANI	200000	
2019-10-02 22:49:31.0	SANDHAN SAHANI	200000	
2019-10-02 22:51:30.0	SANDHAN SAHANI	200000	
03/10/2019	NEFT/MB/AXMB192764992582/Sandhan		500000
03/10/2019	IMPS/P2A/927623116441/Sandha/HDFCBAN/X531223/		200017.7
05/10/2019	IMPS/P2A/927810929043/Sandha/HDFCBAN/X531223/		200017.7
05/10/2019	IMPS/P2A/927810929255/Sandha/HDFCBAN/X531223/		200017.7
05/10/2019	IMPS/P2A/927810929422/Sandha/HDFCBAN/X531223/		200017.7
20/10/2019	IMPS/P2A/929321683370/Sandha/HDFCBAN/X531223/		50005.9
2019-10-20 21:49:54.0	SANDHAN SAHANI	1000000	
01/11/2019	IMPS/P2A/930518331453/Sandha/HDFCBAN/X531223/		200017.7
01/11/2019	IMPS/P2A/930518331900/Sandha/HDFCBAN/X531223/		200017.7
01/11/2019	IMPS/P2A/930518332171/Sandha/HDFCBAN/X531223/		200017.7
01/11/2019	IMPS/P2A/930518332580/Sandha/HDFCBAN/X531223/		200017.7
01/11/2019	IMPS/P2A/930518332773/Sandha/HDFCBAN/X531223/		200017.7
04/11/2019	IMPS/P2A/930820728693/Sandha/HDFCBAN/X531223/		200017.7
04/11/2019	IMPS/P2A/930820728884/Sandha/HDFCBAN/X531223/		200017.7
04/11/2019	IMPS/P2A/930820729072/Sandha/HDFCBAN/X531223/		200017.7
04/11/2019	IMPS/P2A/930820729191/Sandha/HDFCBAN/X531223/		200017.7
04/11/2019	IMPS/P2A/930820729372/Sandha/HDFCBAN/X531223/		200017.7
2019-11-04 10:16:43.0	SANDHAN SAHANI	500000	

<b>Transaction Date and Time</b>	<b>Particulars</b>	<b>Credit</b>	<b>Debit</b>
2019-11-04 10:21:32.0	SANDHAN SAHANI	500000	
05/11/2019	IMPS/P2A/930919507655/Sandha/HDFCBAN/X531223/		200017.7
05/11/2019	IMPS/P2A/930919507788/Sandha/HDFCBAN/X531223/		16005.9
2019-11-05 09:02:30.0	SANDHAN SAHANI	800000	
2019-11-05 09:04:50.0	SANDHAN SAHANI	200000	
2019-11-06 16:22:54.0	SANDHAN SAHANI	200000	
2019-11-07 11:42:26.0	SANDHAN SAHANI	16000	
20/11/2019	IMPS/P2A/932409575337/Sandha/HDFCBAN/X531223/		200017.7
20/11/2019	IMPS/P2A/932409575782/Sandha/HDFCBAN/X531223/		200017.7
01/12/2019	IMPS/P2A/933518999682/Sandha/HDFCBAN/X531223/		200017.7
01/12/2019	IMPS/P2A/933518000115/Sandha/HDFCBAN/X531223/		200017.7
01/12/2019	IMPS/P2A/933518000668/Sandha/HDFCBAN/X531223/		100005.9
04/12/2019	IMPS/P2A/933816125765/Sandha/HDFCBAN/X531223/		200017.7
04/12/2019	IMPS/P2A/933816126150/Sandha/HDFCBAN/X531223/		200017.7
04/12/2019	IMPS/P2A/933816126742/Sandha/HDFCBAN/X531223/		200017.7
04/12/2019	IMPS/P2A/933816127365/Sandha/HDFCBAN/X531223/		200017.7
04/12/2019	IMPS/P2A/933817216392/Sandha/HDFCBAN/X531223/		200017.7
05/12/2019	IMPS/P2A/933918700151/Sandha/HDFCBAN/X531223/		200017.7
05/12/2019	IMPS/P2A/933918700525/Sandha/HDFCBAN/X531223/		200017.7
05/12/2019	IMPS/P2A/933918700646/Sandha/HDFCBAN/X531223/		200017.7
05/12/2019	IMPS/P2A/933918700757/Sandha/HDFCBAN/X531223/		200017.7
05/12/2019	IMPS/P2A/933919779657/Sandha/HDFCBAN/X531223/		200017.7
2019-12-05 13:10:09.0	SANDHAN SAHANI	600000	
2019-12-05 13:18:13.0	SANDHAN SAHANI	400000	
2019-12-05 13:46:16.0	SANDHAN SAHANI	500000	
06/12/2019	IMPS/P2A/934011331911/Sandha/HDFCBAN/X531223/		200017.7
2019-12-06 14:35:52.0	SANDHAN SAHANI	700000	
01/01/2020	IMPS/P2A/000116816558/Sandha/HDFCBAN/X531223/		200017.7
01/01/2020	IMPS/P2A/000116817036/Sandha/HDFCBAN/X531223/		200017.7
01/01/2020	IMPS/P2A/000116817579/Sandha/HDFCBAN/X531223/		200017.7
01/01/2020	IMPS/P2A/000116818476/Sandha/HDFCBAN/X531223/		200017.7
01/01/2020	IMPS/P2A/000116819572/Sandha/HDFCBAN/X531223/		200017.7
02/01/2020	IMPS/P2A/000219113222/Sandha/HDFCBAN/X531223/		200017.7
02/01/2020	IMPS/P2A/000219114055/Sandha/HDFCBAN/X531223/		200017.7
02/01/2020	IMPS/P2A/000219114344/Sandha/HDFCBAN/X531223/		200017.7
02/01/2020	IMPS/P2A/000219114656/Sandha/HDFCBAN/X531223/		200017.7

<b>Transaction Date and Time</b>	<b>Particulars</b>	<b>Credit</b>	<b>Debit</b>
02/01/2020	IMPS/P2A/000219114883/Sandha/HDFCBAN/X531223/		200017.7
2020-01-03 23:28:53.0	SANDHAN SAHANI	500000	
2020-01-03 23:33:15.0	SANDHAN SAHANI	500000	
06/01/2020	IMPS/P2A/000620690592/Sandha/HDFCBAN/X531223/		200017.7
06/01/2020	IMPS/P2A/000620691402/Sandha/HDFCBAN/X531223/		200017.7
06/01/2020	IMPS/P2A/000620692066/Sandha/HDFCBAN/X531223/		200017.7
06/01/2020	IMPS/P2A/000620693971/Sandha/HDFCBAN/X531223/		200017.7
06/01/2020	IMPS/P2A/000620695233/Sandha/HDFCBAN/X531223/		200017.7
2020-01-08 12:43:21.0	SANDHAN SAHANI	500000	
13/01/2020	IMPS/P2A/001318769952/Sandha/HDFCBAN/X531223/		200017.7
13/01/2020	IMPS/P2A/001318770884/Sandha/HDFCBAN/X531223/		200017.7
13/01/2020	IMPS/P2A/001318771590/Sandha/HDFCBAN/X531223/		100005.9
30/01/2020	IMPS/P2A/003010572621/Sandha/HDFCBAN/X531223/		200017.7
30/01/2020	IMPS/P2A/003010572970/Sandha/HDFCBAN/X531223/		200017.7
30/01/2020	IMPS/P2A/003010573963/Sandha/HDFCBAN/X531223/		200017.7
30/01/2020	IMPS/P2A/003011611916/Sandha/HDFCBAN/X531223/		200017.7
30/01/2020	IMPS/P2A/003011612496/Sandha/HDFCBAN/X531223/		200017.7
	<b>Total</b>	<b>14756864</b>	<b>17046768.2</b>

71. On the basis of aforementioned transactions, it is alleged in the SCN that the Complainant has made payments at regular intervals to the Noticee through PayU Money and the Noticee has made payment of fixed amount every month at regular intervals through his Axis bank account to the Complainant. Based on the WhatsApp conversations provided by the Complainant to SEBI, the SCN alleges that the person on behalf of the Noticee has confirmed return of the money along with profit to the Complainant, which indicates that the Noticee is assuring profits to its clients.
72. The SCN alleges that the analysis of the account statements of the Noticee shows that similar fixed payments were being made to other persons by the Noticee and cites following transactions in this regard:

**Table No. 2:**

<b>Transaction Date</b>	<b>Chq. no.</b>	<b>Particulars</b>	<b>Debit (in Rs.)</b>
29/08/2019	-	IMPS/P2A/924119525283/Incusp/YESBANK/X001133/	50,005.90

<b>Transaction Date</b>	<b>Chq. no.</b>	<b>Particulars</b>	<b>Debit (in Rs.)</b>
30/08/2019	-	IMPS/P2A/924215844072/Incusp/YESBANK/X001133/	2,00,017.70
30/08/2019	-	IMPS/P2A/924215844315/Incusp/YESBANK/X001133/	2,00,017.70
30/08/2019	-	IMPS/P2A/924215844591/Incusp/YESBANK/X001133/	1,00,005.90
30/08/2019	-	IMPS/P2A/924215846545/Incusp/YESBANK/X001133/	26,775.90
17/09/2019	195869	BRN-CLG-CHQ PAID TO INCUSPAZE SOLUT/YES BANK LTD	9,09,583.00
11/10/2019	-	IMPS/P2A/928420560574/Incusp/YESBANK/X001133/	2,00,017.70
11/10/2019	-	IMPS/P2A/928420560804/Incusp/YESBANK/X001133/	2,00,017.70
11/10/2019	-	IMPS/P2A/928420561227/Incusp/YESBANK/X001133/	2,00,017.70
11/10/2019	-	IMPS/P2A/928420561395/Incusp/YESBANK/X001133/	2,00,017.70
11/10/2019	-	IMPS/P2A/928420561915/Incusp/YESBANK/X001133/	2,00,017.70
21/10/2019	-	IMPS/P2A/929414010657/Incusp/YESBANK/X001133/	92,005.90
10/12/2019	-	NEFT/MB/AXMB193448659036/Incusp	10,00,000.00
13/12/2019	-	IMPS/P2A/934715631770/Incusp/YESBANK/X001133/	91,005.90
13/12/2019	-	IMPS/P2A/934715636027/Incusp/YESBANK/X001133/	502.95
26/12/2019	-	IMPS/P2A/936020185290/Incusp/YESBANK/X001133/	2,00,017.70
26/12/2019	-	IMPS/P2A/936020185542/Incusp/YESBANK/X001133/	2,00,017.70
26/12/2019	-	IMPS/P2A/936020186702/Incusp/YESBANK/X001133/	1,00,005.90
17/01/2020	-	IMPS/P2A/001719729389/Incusp/YESBANK/X001133/	1,00,005.90
21/01/2020	-	IMPS/P2A/002120763917/Incusp/YESBANK/X001133/	1,00,005.90
22/01/2020	-	IMPS/P2A/002219436409/Incusp/YESBANK/X001133/	1,00,005.90
23/01/2020	-	IMPS/P2A/002316843354/Incusp/YESBANK/X001133/	1,00,005.90
23/01/2020	-	IMPS/P2A/002320300463/Incusp/YESBANK/X001133/	1,00,005.90
28/01/2020	-	IMPS/P2A/002809604096/Incusp/YESBANK/X001133/	3.95
13/02/2020	-	IMPS/P2A/004416377213/Incusp/YESBANK/X001133/	2,00,017.70
14/02/2020	-	IMPS/P2A/004516764531/Incusp/YESBANK/X001133/	1,00,005.90
15/02/2020	-	IMPS/P2A/004615204219/Incusp/YESBANK/X001133/	1,50,017.70
18/02/2020	-	IMPS/P2A/004915461672/Incusp/YESBANK/X001133/	1,50,017.70
18/02/2020	-	IMPS/P2A/004918698530/Incusp/YESBANK/X001133/	50,005.90
19/02/2020	-	IMPS/P2A/005012587559/Incusp/YESBANK/X001133/	1,00,005.90
19/02/2020	-	IMPS/P2A/005018124729/Incusp/YESBANK/X001133/	1,00,005.90
20/02/2020	-	IMPS/P2A/005119071616/Incusp/YESBANK/X001133/	1,00,005.90
23/03/2020	-	IMPS/P2A/008312075995/Incusp/YESBANK/X001133/	2,00,000.00
23/03/2020	-	IMPS/P2A/008312076310/Incusp/YESBANK/X001133/	1,00,000.00
23/03/2020	-	IMPS/P2A/008312077560/Incusp/YESBANK/X001133/	1,50,000.00
18/06/2020	-	IMPS/P2A/017018579891/Incusp/YESBANK/X001133/	50,005.90
30/06/2020	-	IMPS/P2A/018215580498/Incusp/YESBANK/X001133/	50,005.90
01/07/2020	-	IMPS/P2A/018312158446/Incusp/YESBANK/X001133/	40,005.90
06/07/2020	-	IMPS/P2A/018817869773/Incusp/YESBANK/X001133/	2,00,017.70
08/07/2020	-	IMPS/P2A/019018155791/Incusp/YESBANK/X001133/	50,005.90
16/07/2020	-	IMPS/P2A/019810545682/Incusp/YESBANK/X001133/	50,005.90
17/07/2020	-	IMPS/P2A/019910133463/Incusp/YESBANK/X001133/	1,00,005.90
21/07/2020	-	IMPS/P2A/020311354714/Incusp/YESBANK/X001133/	50,005.90
22/07/2020	-	IMPS/P2A/020415031683/Incusp/YESBANK/X001133/	50,005.90

<b>Transaction Date</b>	<b>Chq. no.</b>	<b>Particulars</b>	<b>Debit (in Rs.)</b>
22/07/2020	-	IMPS/P2A/020415046358/Incusp/YESBANK/X001133/	50,005.90
<b>TOTAL</b>			<b>67,60,237.50</b>

73. It is alleged in the SCN that since performance/ return on investments in securities cannot be predicted and is subject to market risk, this act of providing fixed guaranteed returns from securities market is, *prima facie*, fraudulent and appears to have been done with the intention to bring in more customers and thereby increasing the income of the Noticee. It has, thus, been alleged in the SCN that the above act of Noticee is fraudulent in terms of the definition of 'fraud' under Regulation 2(1)(c) of PFUTP Regulations and the Noticee has violated the provisions of Regulation 3(a), (b), (c) and (d) of the PFUTP Regulations read with Section 12A(a), (b) and (c) of SEBI Act, 1992.
74. It is alleged in the SCN that the aforesaid conduct shows that the Noticee acted in a dishonest manner and did not act in the best interest of the clients. Thus, it is alleged that the Noticee failed in his responsibility to act in fiduciary capacity to its clients which is in violation of Regulation 15(1) of IA Regulations. It is, thus, also alleged that the Noticee has violated Clause 1, 2 and 8 of Code of Conduct for IA as specified in Third Schedule read with Regulation 15(9) of IA Regulations.
75. The SCN also alleges that the aforesaid bank transactions of the Noticee indicate that he has engaged in activities other than providing investment advice and, thereby, has violated Regulation 15(3) and 15(4) of IA Regulations.
76. I note that the allegation in SCN relates to the Noticee having made assured returns to clients and that this was done to defraud the clients, thereby violating the provisions of Regulation 3(a), (b), (c) and (d) of PFUTP Regulations read with Section 12A(a), (b) and (c) of SEBI Act, 1992. Upon a perusal of Table No. 1 (i.e. the transactions between Complainant and the Noticee through Axis Bank account of Noticee and PayU money wallet) and Table No. 2 (showing debits on various dates of varying amounts from

29/08/2019 to 22/07/2020) above, it appears that the Noticee has been directly dealing with the funds of the clients. The outflow of money reflected in the bank account of the Noticee on various dates in favour of the Complainant evidences this. In my view, the real issue for consideration is not whether the Noticee made promises or paid assured returns to his clients but whether he engaged in activities that were outside the scope of investment advisory.

77. In this connection, I note that the SCN has alleged violation of Regulation 15(3) and 15(4) of IA Regulations which, in my view, is found substantiated in the facts of the matter. An IA is supposed to engage in the business of providing investment advice to clients for consideration and the IA Regulations do not contemplate an IA to act as a portfolio manager or in other capacity, such that he would directly deal with the funds and securities of clients. Therefore, I find the Noticee to be primarily in violation of Regulation 15(3) and 15(4) of IA Regulations. Considering the same, the Noticee is also found to be in violation of Clause 1, 2 and 8 of Code of Conduct for IA as specified in Third Schedule read with Regulation 15(9) of IA Regulations.
78. Further, from the conversations held between the Complainant and the Noticee via Whatsapp, screenshots of which have been provided by the Complainant, it is observed that the conversations basically revolved around money transfers without any reference to investment in securities market. A few such instances are reproduced below:
- (i) *“Uncle ek 1 ka bana dijiye aur ek 56k ka bana dijiye  
Par 20<sup>th</sup> July ko positively 1.56 return kar dijiye”*
  - (ii) *“Ye uncle investment amount 10 lakhs ka ho gaya home loan ke liye”*
  - (iii) *“Aur 22.66 1<sup>st</sup> ko reversal ho jayega  
With profit”*
  - (iv) *“Uncle next 12 mahine tak aur kuch paise mat mangiye  
4.5 fix hai mera EMI aur tax ke liye  
Usse zyada nahi chahiye”*

79. The tone and tenor of these conversations point towards certain clandestine understanding between the two of them with respect to certain money transfers including transfer towards purposes like home loans etc. Ex-facie the transactions referred to in the conversations do not have the semblance of investment in securities market.
80. It is also noticed from the complaint that the Noticee was directly taking Complainant's money and investing himself and transferring returns to the Complainant from time to time. I find that the allegation regarding the Noticee being engaged in making guaranteed or fixed returns is misplaced as it undermines the main violation committed by the registered IA which is that of directly dealing with client funds. Hence, I am not inclined to examine the allegation of making assured returns being in violation of Regulation 3(a), (b), (c), (d) of the PFUTP Regulations read with Section 12A(a), (b) and (c) of SEBI Act, 1992 on merits.
81. On the other hand, in my view, the Noticee appears to have utilized his registration as an IA to convince the clients to transfer their funds into his account which constitutes "fraud" on the clients in the larger sense, for which I find that other actions of State Government are in motion. However, the linkage of Noticee's dealings in the securities market is not available on record. To put it in perspective, if the Noticee has taken 'deposits' or made other investments utilizing the client funds, the allegation of violation of PFUTP Regulations may not lie. Adequate proof with respect to commission of 'fraud' in connection with dealing in securities market is absent in the matter. I also note that the grievance contained in the complaint does not fall within the scope of IA Regulation.
82. **Allegation VIII – Non-compliance with 'fit and proper person' criteria**
83. In view of the alleged non-compliances, the SCN alleges that the Noticee is not 'fit and proper person' as provided under Schedule II of the Intermediaries Regulations read with Regulation 7(2)(e) of Intermediaries Regulations and Regulation 6 (f) and 13(a) of the IA Regulations.

84. Schedule II of the Intermediaries Regulations reads as under:

**“SCHEDULE II  
SECURITIES AND EXCHANGE BOARD OF INDIA (INTERMEDIARIES)  
REGULATIONS, 2008  
[See regulation 7]**

(1) *The applicant or intermediary shall meet the criteria, as provided in the respective regulations applicable to such an applicant or intermediary including:*

- (a) the competence and capability in terms of infrastructure and manpower requirements; and*
- (b) the financial soundness, which includes meeting the net worth requirements.*

(2) *The ‘fit and proper person’ criteria shall apply to the following persons:*

- (a) the applicant or the intermediary;*
- (b) the principal officer, the directors or managing partners, the compliance officer and the key management persons by whatever name called; and*
- (c) the promoters or persons holding controlling interest or persons exercising control over the applicant or intermediary, directly or indirectly:*

*Provided that in case of an unlisted applicant or intermediary, any person holding twenty percent or more voting rights, irrespective of whether they hold controlling interest or exercise control, shall be required to fulfill the ‘fit and proper person’ criteria.*

**Explanation–** *For the purpose of this sub-clause, the expressions “controlling interest” and “control” in case of an applicant or intermediary, shall be construed with reference to the respective regulations applicable to the applicant or intermediary.*

(3) *For the purpose of determining as to whether any person is a ‘fit and proper person’, the Board may take into account any criteria as it deems fit, including but not limited to the following:*

- (a) integrity, honesty, ethical behaviour, reputation, fairness and character of the person;*
- (b) the person not incurring any of the following disqualifications:*
  - (i) criminal complaint or information under section 154 of the Code of Criminal Procedure, 1973 (2 of 1974) has been filed against such person by the Board and which is pending;*
  - (ii) charge sheet has been filed against such person by any enforcement agency in matters concerning economic offences and is pending;*
  - (iii) an order of restraint, prohibition or debarment has been passed against such person by the Board or any other regulatory authority or enforcement agency in any matter concerning securities laws or financial markets and such order is in force;*
  - (iv) recovery proceedings have been initiated by the Board against such person and are pending;*
  - (v) an order of conviction has been passed against such person by a court for any offence involving moral turpitude;*



- (vi) any winding up proceedings have been initiated or an order for winding up has been passed against such person;
- (vii) such person has been declared insolvent and not discharged;
- (viii) such person has been found to be of unsound mind by a court of competent jurisdiction and the finding is in force;
- (ix) such person has been categorized as a wilful defaulter;
- (x) such person has been declared a fugitive economic offender; or
- (xi) any other disqualification as may be specified by the Board from time to time.

(4) Where any person has been declared as not 'fit and proper person' by an order of the Board, such a person shall not be eligible to apply for any registration during the period provided in the said order or for a period of five years from the date of effect of the order, if no such period is specified in the order.

(5) At the time of filing of an application for registration as an intermediary, if any notice to show cause has been issued for proceedings under these regulations or under section 11(4) or section 11B of the Act against the applicant or any other person referred in clause (2), then such an application shall not be considered for grant of registration for a period of one year from the date of issuance of such notice or until the conclusion of the proceedings, whichever is earlier.

(6) Any disqualification of an associate or group entity of the applicant or intermediary of the nature as referred in sub-clause (b) of clause (3), shall not have any bearing on the 'fit and proper person' criteria of the applicant or intermediary unless the applicant or intermediary or any other person referred in clause (2), is also found to incur the same disqualification in the said matter:

*Provided that if any person as referred in sub-clause (b) of clause (2) fails to satisfy the 'fit and proper person' criteria, the intermediary shall replace such person within thirty days from the date of such disqualification failing which the 'fit and proper person' criteria may be invoked against the intermediary:*

*Provided further that if any person as referred in sub-clause (c) of clause (2) fails to satisfy the 'fit and proper person' criteria, the intermediary shall ensure that such person does not exercise any voting rights and that such person divests their holding within six months from the date of such disqualification failing which the 'fit and proper person' criteria may be invoked against such intermediary.*

(7) The 'fit and proper person' criteria shall be applicable at the time of application of registration and during the continuity of registration and the intermediary shall ensure that the persons as referred in sub-clauses (b) and (c) of clause (2) comply with the 'fit and proper person' criteria."

85. Regulation 7(2)(e) of Intermediaries Regulations reads as under:

**"Consideration of application.**

**7. (2) Any application for grant of certificate:-**

...

*(e) where the applicant is not a 'fit and proper person' as stated in Schedule II; ...shall be rejected by the Board for reasons to be recorded by the Board in writing."*

86. Regulation 6 (f) and 13(a) of the IA Regulations read as under:

***"Consideration of application and eligibility criteria.***

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

*.....*

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

***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;"*

87. As noted in preceding parts of this order, the Noticee has been found to have violated various provisions of IA Regulations, PFUTP Regulations and Circulars issued by SEBI. The Noticee, as a registered IA, has not furnished complete information and failed to discharge his obligations during inspection proceedings of SEBI. The Noticee has not informed SEBI regarding material information related to its investment advisory activities. It is also established that the Noticee failed to redress complaints and also displayed incorrect information regarding complaints. More significantly, the Noticee engaged in activities other than investment advisory, which apparently involved receipt of funds from public. The Noticee has also acted in a fraudulent manner while dealing with clients as the risk profiling and suitability assessment of clients were done with the motive of enhancing his income and not in an honest and fair manner with the clients. I also note that the Noticee has not responded to the instant proceedings. Further, there are State level actions initiated against the Noticee under various sections of Indian Penal Code and under Section 6(1) of Madhya Pradesh Nikshepakon Ke Hiton Ka Sanrakshan Adhiniyam, 2000. The Hon'ble High Court of Madhya Pradesh has declared the Noticee to be absconding. Considering these factors, I find that the Noticee does not

satisfy the criteria of 'fit and proper person' as provided under Schedule II of the Intermediaries Regulations read with Regulation 7(2)(e) of Intermediaries Regulations and Regulation 6 (f) and 13(a) of the IA Regulations.

**Conclusion:**

88. I note that, in terms of Sections 11(1), 11(4), 11(4A), 11B(1) and 11B(2) read with Section 19 of SEBI Act, 1992, vide an order dated November 30, 2022, directions have been passed against the Noticee.
89. An IA, being a securities market intermediary is required to act honestly and fairly in the best interests of his clients and ensure that the advice is offered after thorough analysis. I observe that the material available on record unequivocally highlight the lapses by the Noticee while conducting his operations as a registered IA, including the manner in which the Noticee has indulged into fraudulent dealings with his clients. Further, the violations committed by the Noticee, as discussed above in this order, are considered serious in nature and make the Noticee not 'fit and proper person' to act as an intermediary in the securities market. I find that, at the very least, an intermediary, who does not respond to the communication sent by the regulator or is not available at the address given to the regulator, is not entitled to hold the authorization issued to it. Thus, considering the gravity of the breaches of statutory provisions committed by the Noticee, the conduct of the Noticee is not in the interest of investors in the securities market. I am, therefore, of the view that cancellation of certificate of registration, as recommended by DA, would meet the ends of justice in the facts and circumstances of the case.

**Order:**

90. In view of the foregoing, I, in exercise of the powers conferred upon me in terms of Section 12(3) of SEBI Act, 1992 and Section 19 of SEBI Act, 1992 read with Regulation 23 of SEBI (Intermediaries) Regulations, 2008 and Regulation 28 of SEBI (Investment Advisers) Regulations, 2013 do hereby cancel the certificate of registration granted to Flanking Research and

Investment Advisor (Proprietor - Mr. Tarun Chandani) having SEBI  
Registration number - INA000010195.

91. This order comes into force with immediate effect.
92. A copy of this order shall be forwarded to the Noticee.

**Date: December 19, 2022**

**Place: Mumbai**

**Sd/-**

**GEETHA G.**

**CHIEF GENERAL MANAGER**

**SECURITIES AND EXCHANGE BOARD OF INDIA**