

QJA/SP/WRO/WRO/25017/2022-23

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

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

In Respect of:

Sr. No.	Name of the Noticee	Registration Number
1.	Money Secure Investor (Proprietor: Ms. Alka Shrivastava) PAN: CBPPS2075D	INA000008817

1. The present matter emanates from a show cause notice dated September 14, 2022 (hereinafter referred to as “**SCN**”) issued by the Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) to Money Secure Investor, Proprietor, Alka Shrivastava (hereinafter referred to as “**Noticee**”) under Regulation 27(1) of the SEBI (Intermediaries) Regulations, 2008 (hereinafter referred to as “**Intermediaries Regulations, 2008**”) calling upon it to show cause as to why the measures recommended by the Designated Authority (hereinafter referred to as “**DA**”) or any other action as contemplated in the Intermediaries Regulations, 2008, should not be taken against it. The SCN enclosed with it the Enquiry Report dated July 29, 2022 (hereinafter referred to as “**Enquiry Report**” or “**ER**”) of the DA.
2. The Noticee is registered as an Investment Adviser under the provisions of the Securities and Exchange Board of India (Investment Advisers) Regulations, 2013 (hereinafter referred to as ‘**IA Regulations, 2013**’) with effect from November 02, 2017 bearing SEBI Registration No. INA000008817 and is a proprietary firm. I note that pursuant to receipt of various complaints against the Noticee, SEBI had conducted an examination in the matter which prima facie revealed violations of provisions of the IA Regulations, 2013, SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter

referred to as '**PFUTP Regulations, 2003**'), SEBI circular No. CIR/OIAE/2014 dated December 18, 2014 and SEBI/HO/IMD/DF1/CIR/P/2019/169 dated December 27, 2019 (hereinafter referred to as '**SEBI circulars**') and SEBI Act, 1992 (hereinafter referred to as '**SEBI Act, 1992**'). Accordingly, Enquiry proceedings under the provisions of Intermediaries Regulations, 2008 was initiated against the Noticee. The DA appointed under Regulation 24 of the Intermediaries Regulations, 2008 issued a show cause notice dated August 25, 2021 under Regulation 25 of the Intermediaries Regulations, 2008, calling upon the Noticee to show cause as to why appropriate recommendation should not be made against it under Regulation 27 of the Intermediaries Regulations, 2008 for the alleged violations of the provisions of SEBI Act, 1992, IA Regulations, 2013 and PFUTP Regulations, 2003.

3. After considering the facts and circumstances of the case, the reply filed by the Noticee and material available on record, the DA vide its Enquiry Report dated July 29, 2022 *inter alia* made the following observations:

- i. **Allegation 1: Noticee failed to inform about material change – Violation of Regulation 13(b) of IA Regulation**

The ER observed that the FIR dated March 4, 2020 was filed against the Noticee for violation of SEBI Regulations. The FIR alleged the following:

(i) 72 employees of the Noticee are providing stock market tips to the clients without having necessary qualifications, adequate knowledge and proper guidance (ii) On the basis of advice given by the employees, the clients are sending money into the accounts of the Noticee, maintained at ICICI Bank and HDFC Bank. (iii) As per the instructions of the Noticee, the employees of the Noticee are assuming different names while speaking to clients (iv) By promising unrealistic returns, employees of the Noticee are cheating clients (v) Noticee has not placed any sign board outside its premises to indicate that Noticee is conducting its business from said premise.

The information regarding filing of FIR and subsequent sealing of the Noticee's premises was initially intimated by the police to SEBI. In the context of allegations in FIR and the action taken by police, was a material

change in the already submitted information. Sealing of its premises/equipment affected the working of the Noticee and Regulation 13(b) of IA Regulations requires that an IA shall inform SEBI about material change in the information which has already been submitted. The DA noted that, it is only when SEBI sought certain documents from the Noticee, that the Noticee informed vide email dated August 10, 2020 about filing of FIR against it and that its office was seized by Crime Branch. The Noticee failed to inform SEBI about this change in material information (filing of FIR against it and subsequent sealing of its premises/equipment) thus violation of Regulation 13(b) of IA Regulations.

ii. **Allegations 2 and 3: Assured profits and unrealistic returns by false and misleading representation to clients – Violation of Regulation 15(1) of IA Regulations and Clauses 1 and 2 of Code of Conduct as mentioned in Schedule III read with Regulation 15(9) of IA Regulations and Regulation 3(a);(b); (c); (d) of PFUTP Regulations read with Section 12A (a); (b); (c) of SEBI Act**

It was alleged that, the Noticee promised assured profits and unrealistic returns by false and misleading representation to its clients. The DA noted that as an Investment Adviser, it is expected that the advice given by the Noticee must relate to only shares, derivatives, commodity derivatives etc. which are listed on exchanges and therefore, returns on these investments are subject to market risks which cannot be assured by way of unrealistic misleading representation and that the Noticee is required to deal with its clients fairly without any representation about returns. ER noted that SEBI had received complaints and call recordings between employees of Noticee and investors wherein it was observed that the Noticee was promising unrealistic returns to the investors. The DA, hence concluded that the Noticee had indulged in making promises for assured profits / unrealistic returns by false and misleading representation to its clients which is also against the fiduciary relationship the Noticee has with its clients.

iii. **Allegation 4: Execution of trades on behalf of its clients – Violation of Regulations 15(3), 22 of IA Regulations and Clause I of Code of Conduct as mentioned in Schedule III read with Regulation 15(9) of IA Regulations**

The ER stated the allegation, that the Noticee had indulged in trade execution services to its clients. The Noticee's employees obtained user ID and password from clients and executed the trades on behalf of clients assuring some profit. The information received from the Noticee's clients included conversations and call recordings from which it was observed that the employees of the Noticee obtained login details of trading account of investor for trading. One of the investors submitted a copy of the Whatsapp conversation where the executive of the Noticee obtained login details of trading account of investor for trading. Further, upon incurring of losses due to such trades, Noticee promised them to trade in the stock market to recover such losses. DA noted that the Noticee indulged in the service of execution of trades for its clients which is different from the activity of an investment adviser. The Noticee is required to act in fiduciary capacity and maintain arm-length relationship between its activities as an IA and other activities.

iv. **Allegation 5: Noticee failed to carry out appropriate process of risk of profiling for its clients – Violation of Regulation 16(b), 17, Regulation 15(1) read with clauses 1, 2, 4, 5 & 8 of Code of Conduct for Investment Advisers as specified under Third Schedule read with Regulation 15(9) of IA Regulations.**

The ER observed that the noticee has been providing investment advice to its clients without having appropriate process of risk profiling and promised assured returns on the investment. Regulation 16 of IA Regulations requires that the Investment Adviser shall obtain necessary information from its clients for the purpose of giving investment advice. Investment Adviser shall communicate the client's risk profile with the client and the Investment Adviser should have in place a process for assessing the risk a client is able to take. Further, Regulation 17 of IA Regulations refers that the Investment Adviser should ensure that the investment advice provided is appropriate to

the client's risk profile and that a documented process should be followed for selecting investments based on the client's objectives. From the copies of the risk profiling forms it has been observed that the noticee has no process in place to assess the risk a client is willing to take. The Noticee had no system in place for suitable assessment to identify the products/services which are appropriate for the clients. Since the risk profiling was done through phone, the information provided was not verified with the actual documents. It has been noted that for client, Mr. Mohammad Salahuddin the annual income mentioned in the KYC is Rs.1 lakh to 5 lakhs, whereas the risk profiling form showed an income of Rs. 5 lakhs to 10 lakhs. Even the fee payment was done by this client to the Noticee before the risk profiling and KYC was carried out for the client. Further, it was also noted that the above referred client is over 70 years of age and the Noticee failed to categorise the client in terms of his risk appetite and also promised him a return of Rs.22 lakhs on the investment made by him without disclosing the complete product details/charges. In view of the above, the EO noted that the Noticee had been providing investment advice to the clients without having appropriate process for risk profiling.

- v. **Allegation 6: Charging fees arbitrarily for the same package of service and charging for products which are not offered by it – Violation of Regulation 15(1) of IA Regulations and Clause I of Conduct as mentioned in Schedule III 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.**

The ER observed that the Noticee has been alleged to be charging different fees from its clients for the same package and has been levying fees for the product which are not even offered by it and hence the Noticee has not been honest and fair in its dealings with its clients and has acted in a manner to maximize its service fees. The DA noted that the Noticee has not been disclosing the complete charges prior to offering of service to the clients. There have been instances whereby the noticee has been charging fees for the same package with the same duration for multiple times and sometimes

different fees on each occasion. Further, certain packages have been noted, the names of which are not even part of the website of the Noticee. Instances were also noted whereby the invoices issued by the Noticee against fee received did not mention the duration for which fees was being charged. The DA has hence concluded that the Noticee has not been honest and fair in its dealings with its clients and acted in a manner to maximize its service fees and that the Noticee did not act in fiduciary capacity with its clients.

- vi. **Allegation 7 and 8: Non submission of ATR in a time bound manner; Non redressal of investor grievances and display of incorrect and misleading information of investor complaints on the website- Violation of SEBI circular no. CIR/OIAE/2014 dated December 18, 2014; Regulation 21(1) read with 28(f) of IA Regulations and SEBI circular SEBI/HO/IMD/DF1/CIR/P/2019/169 dated December 27, 2019.**

The ER observed that the noticee failed to resolve investor grievances and did not submit ATR within the timelines prescribed under SEBI circular of December 18, 2014. Regulation 21 of IA Regulations specifies that an Investment Adviser shall redress client grievances promptly and shall have adequate procedure for expeditious redressal. In a particular instance, there were 7 complaints pending against the Noticee in SCORES which were more than 60 days. It was further alleged, that the status data with respect to complaints pending at the beginning of the month; received/resolved during the month and pending at the end of the month, which is displayed on the website of the Noticee, did not reconcile. Thus, the Noticee has displayed incorrect and misleading information /status of investor complaints on its website.

- vii. **Allegation 9: Receipt of cash deposits noted in bank statements – Violation of SEBI circular SEBI/HO/IMD/DF1/CIR/P/2019/169 dated December 27, 2019.**

On perusal of the Noticee's bank statements, the DA noted that the Noticee had received cash deposits. The ER noted that, the bank account statement of the Noticee showed receipt of cash deposits to the tune of Rs. 15000/- to

Rs. 3.63 lakhs after January 1, 2020. The noticee's submitted that the said payments were received from relatives of the Proprietor for her personal use. However, it was noted that the bank accounts where the money was received were opened in the name of the Noticee. Hence the submission of the Noticee for the receipt of cash in the bank accounts is questionable and further, no documentary evidence was provided in support of the submission. The Noticee's contentions appear to be an afterthought and hence cannot be accepted and thus violation of SEBI above mentioned circular of December 27, 2019.

4. The ER observed that the Noticee has failed to comply with the following provisions:

- i. Regulations 13(b), 15(1), 15(3), 15(9), 16(b), 17, 21(1), 22 and 28(f) of IA Regulations, 2013 and Clauses 1, 2, 4, 5 and 8 of Code of Conduct as mentioned in Schedule III of IA Regulations;
- ii. Regulation 3(a), (b), (c), (d) of PFUTP Regulations, 2003, Section 12A(a), (b) and (c) of SEBI Act, 1992.
- iii. SEBI circular no. CIR/OIAE/2014 dated December 18, 2014; SEBI/HO/IMD/DF1/CIR/P/2019/169 dated December 27, 2019.

5. Accordingly, the Enquiry Report has made the following recommendation:

"Considering the above facts and circumstances of the case and in terms of the provisions of Regulation 27 of the Intermediaries Regulations read with Regulation 28 of the IA Regulations, I hereby recommend that the certificate of Registration of the Noticee i.e. Money Secure Investor, Prop. Alka Shrivastava (SEBI registration number INA000008817) may be suspended for a period of one month".

The Show Cause Notice, Personal Hearing and Reply of the Noticee

6. The SCN was issued to the Noticee under Regulation 27(1) of the Intermediaries Regulations, 2008, in respect of enquiry conducted against the Noticee. The SCN dated September 14, 2022, was attempted for service upon the Noticee through

speed post and through email dated September 19, 2022. The Noticee vide email dated October 27, 2022, acknowledged receipt of SCN and requested time till November 12, 2022, for filing reply to the SCN. Further, on November 12, 2022, the Noticee submitted its reply to the SCN. An opportunity of personal hearing was granted to the Noticee on December 16, 2022, for which the Noticee requested for an adjournment. The request of the Noticee was acceded to and another date of hearing was granted for December 19, 2022, wherein, Mr. Abhishek Mishra, the Authorized representative of the Noticee, appeared via videoconferencing and made submissions. Thereafter, the Noticee filed written submissions vide letters dated December 20 and 22, 2022.

7. The Noticee, vide replies dated November 12, 2022, December 20, and 22, 2022 has *inter alia* made the following submissions-

(i) Violation of Regulation 13(b) of IA Regulation

The Noticee would like to state that in the month of March 2020, a false FIR bearing crime number 05/2020 was filed at police station Crime Branch, Indore, lodged against the Noticee on the basis of false information provided by person who was neither the client nor employee nor vendor of the Firm resulting which the office premises of the Noticee was seized by the Crime Branch based on that FIR. Also, the Noticee through his advocate was trying to challenge the said FIR in Madhya Pradesh High Court and didn't want to face the authorities as she was also a nursing mother at the relevant point with an infant child and had to avoid arrest to seek justice.

The Noticee had informed SEBI via e-mail that her office is being seized post the lodgement of FIR and hence, the operations are stopped so she is unable to resolve the complaints as of now.

The Noticee was not in the position to intimate SEBI with respect to the FIR, as she was seeking justice from MP High Court and also was a nursing mother, and it was the time of pandemic across the world and in India it was the time when very strict lockdown was enforced upon and many regulatory authorities had given exemption and/or extension on various compliances. Also, the Hon'ble Supreme Court had suspended all the limitations from 14.03.2020 to 28.02.2022 in a suo-motu writ. Despite being all that SEBI was expecting from the Noticee to inform them regarding filing of FIR against them which was totally impractical in that situation and the same was against the principle of human rights. If the Noticee wanted to violate this provision, then she would not have intimated SEBI about office address change which had happened laterwards in August 2021.

Further, as per Regulation 13(b) of the IA Regulations, the Investment Adviser shall forthwith inform the Board in writing, if there is any material change in the information already

submitted; the filing of FIR against the Noticee shall not be construed as a material change as it was not change in any information that was earlier submitted, it was just an action taken by the Crime Branch.

Furthermore, here the point is to be noted that while the office premise of the Noticee was seized, she didn't carry out any investment advisory services. Also, with respect to the office infrastructure, during the period of seizure, the infrastructure was not disposed off, it was just seized temporarily. Hence there was no material change in infrastructure.

Also, the term 'material change' is nowhere defined in the regulations; also, it is not clear that what should be termed as material and what should be termed as non-material. SEBI interprets the said clause in a way that favours them.

Furthermore, the Noticee did inform the SEBI in writing when the petition was filed with the High Court. Hence, it shall not be construed as the violation of Regulation 13(b) of the IA Regulations and also while interpreting the said clause, importance shall be given to the prevailing circumstances/context and shall be interpreted accordingly.

(ii) Violation of Regulation 15(1) of IA Regulations and Clauses 1 and 2 of the Code of Conduct as mentioned in Schedule III read with Regulation 15(9) of IA Regulations and Regulation 3(a), (b), (c) and (d) of PFUTP Regulations read with section 12A (a), (b) and (c) of SEBI Act.

The Noticee would like to state that the SEBI has highlighted few lines of service agreement, wherein word 'Approachable Profit' has been used. The Noticee would like to state that there is a difference between approachable profit and guaranteed profit, hence merely by stating approachable profit, Noticee has in no manner guaranteed any kind of returns.

Further, in the said service agreement, the Noticee has also mentioned that 'Money Secure Investor will provide complementary services for rest of the approachable profit, if required'. By interpreting this statement, any layman/novice person can understand that the Noticee meant that if the investor will not earn the approachable profit, then his service would be extended without any cost till the time he/she doesn't earn the approachable profit. Further, no time limit has been specified by the Noticee.

Also in the said agreement, after the line "Based upon the historical data (Past performance), average profit delivery tenure for services may vary between 35-410/ 30-240 trading sessions"; the Noticee has also mentioned the lined in the very same clause which has been ignored by the SEBI; "Kindly note that it is only on the basis of past performance. It does not assume or provide any kind of guarantee to any subscriber of services in any regards that the same may happen in future". Hence, by analyzing this statement, it can be understood that the Noticee has not promised any assured return.

Also, with respect to the call recordings; the SEBI has just picked few lines from the recording out of the whole conversation, which has been misinterpreted by the SEBI. All the clients, were made aware through email, website and every other communication channel that Money Secure do not provide any guarantee of returns.

Hence, it has been cleared that the Noticee has never promised any assured profits or any unrealistic returns to any of its clients. So, the alleged violations of Regulation 3(a), (b), (c) and (d), and section 12A (a), (b) and (c) of SEBI Act, Regulation 15(1) of IA Regulations shall be removed upon.

(iii) Violation of Regulations 15(3), 22 of IA Regulations of Clause 1 of Code of Conduct as mentioned in Schedule III read with Regulation 15(9) of IA Regulations

The Noticee would like to state that she has not facilitated the opening of demat / trading account of clients who did not have any rather she has just given the options to the client regarding brokers with whom they can open their accounts.

Also the noticee has not charged any referral fees for that from any of the client. The SEBI Investment Advisers regulations does nowhere restrict the individual Investment Adviser from helping out the client in opening of a demat / trading account with the third party. Also, there was no conflict of interest as there was no commission / referral fees charged from the clients and arm's length relationship was also duly maintained.

The Noticee was not engaged in any other services except for offering investment advisory services, she has just assisted the client in execution of an order for which no separate fees was charged from the client. Hence, the non compliance of Regulation 22 does not arise. Also, one of the clients of the Noticee as mentioned in the said Notice; Mr. Bhavesh Bhatt, has sent the email stating that no one is handling his demat account.

(iv) Violation of Regulation 16(b), 17, Regulation 15(1) read with clauses 1, 2, 4, 5 and 8 of Code of Conduct for Investment Advisers as mentioned under Third Schedule 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.

As a prudent Investment Adviser, the Noticee has always carried out the risk profiling of his clients and has provided the product which were suitable and appropriate to the risk profile of the client.

The Noticee used to carry out the risk profiling of the clients through a questionnaire, which was being approved by the SEBI at the time of granting her the registration in 2017. SEBI while at the time of granting him the registration didn't raise any objection regarding the process in place to access the risk taking ability of a client, and hence, the Noticee believed that the same is correct and she continued the same practice thereafter. The SEBI has granted Noticee the Registration only after understanding her complete business and compliance process which was being followed.

The Noticee has complied with the Regulation 16(a) and 16(b) of the SEBI (Investment Advisers) Regulations, 2013 by seeking all the necessary information from the clients while doing the Risk Profiling such as age, investment objective, income details, existing investments, liability details and others.

Also, the Noticee was not involved in offering, any comprehensive financial planning as she was just providing, research recommendations based on technical analysis. The Noticee has taken into consideration the risk profile of the clients and have also prioritized client request. Also, the Noticee being involved in offering research recommendations based on the technical analysis, had taken into consideration the client's (Mr. Mohammed Salahuddin) interest of providing him service in particular segment and had done the risk profiling on the later date.

Also the services offered by the Noticee is of trading nature, wherein the trading amount of an investor keeps on changing on a daily basis and the investor also gets margin/ limit from his broker for trading. Also, the clients don't fill their correct income details or they don't feel safe to disclose their correct income due to personal/taxation reasons. Further, clients were made aware that he/she needs to fill all the correct information, as filing the false information will lead in carrying out wrong risk profiling and the investment adviser will not be held liable for the same.

Since clients are able to pay high fees which do validates that client's annual income and their proposed investment amount is much higher than mentioned. The clients have paid fees with their own will and consent, they were neither forced nor were deceived in any manner whatsoever. Further, if client does not disclose correct details / information in Risk Profile, then Investment Adviser shall not be held liable.

Also clients do increase their investment amount once they start earning profits. Furthermore, the Noticee would also like to state a matter of fact that no investor / trader will ever pay higher amount of fee than their investment or their annual income.

Hence, the Noticee has always acted in the fiduciary capacity with its clients; has been honest and fair in its dealing with the clients by disclosing them each and every detail with respect to their risk and services, and has acted in their best interests and as a result has not violated Regulation 15(1) and clauses 1, 2, 4, 5 and 8 of Code of Conduct of IA as specified under Third Schedule read with regulation 15(9) of IA Regulations.

- (v) Violation of Regulations 15(1) of IA Regulations and Clause 1 of Code of Conduct as mentioned in Schedule III read with Regulation 15(9) of IA Regulation and Regulation 3(a), (b), (c), (d) of PFUTP Regulations read with section 12A (a), (b) and (c) of SEBI Act.

The Noticee would like to state that due to some software error, the invoice which was being sent to the client: Mr Joy Kiran, didn't contain any period of service, apart from that, in every invoice sent to the clients, period of service is clearly mentioned. Further, the Noticee also used to mention service details and its tenure in the mails sent to the clients. Hence, the claim of the SEBI that the Noticee didn't specify the period of service and has violated clauses of the Code of Conduct for IA does not hold tenable as client was fully aware that which service was being sold to him.

Further, in the table as mentioned by the SEBI in the said Notice, the Noticee has issued different invoices as on the payment made by the client, service sold to the client was for quarterly / half yearly / annual, but the client has chosen to make the payments in part, hence the different invoices are being issued for each payment whereas the payment is for the same service only. The rule by the SEBI for not accepting payment in parts came with effect from 01.01.2020, prior to that there were no any such guidelines.

Furthermore, the SEBI has come up with the Circular on 23rd September, 2020 regarding restrictions for advance payment for more than 2 quarters, prior to that there were no limitations for advance payment. The thing which SEBI itself has not mandated to follow earlier, then it shall not be termed as incorrect.

The Noticee has not sold same service again and again rather the services have been renewed by client by getting satisfied with the earlier subscribed services. It would have been unfair if the services were not provided to the clients when it was due. However, the services were delivered properly to the clients and clients were also agreed for the same. Further, the multiple services were sold to the clients, as the nature of the services were different and clients were made aware of the same fact. There were clients involved in trading in derivatives as well as cash segment, and hence multiple services were offered to them. Many instances as illustrated in the Notice, the Noticee has not offered same services multiple times rather the clients have paid advances for the services so the Noticee has extended the service duration. Also, the Noticee has nowhere charged any unreasonable payments from the clients as the same fees were adjusted for the next tenure. The clients have paid fees with their own will and consent, they were neither forced nor were deceived in any manner whatsoever.

Hence, the Noticee has not defrauded her clients and has in no manner violated regulation 3(a), (b), (c), (d) of PFUTP Regulations and section 12A (a), (b), (c), (d) of PFUTP Regulations and section 12A (a), (b) and (c) of SEBI Act.

(vi) Violation of SEBI Circular No. CIR/OIAE/2014 dated December 18, 2014 and Regulation 21(1) read with 28(f) of IA Regulations

As, it can be clearly in the Table of the said Noticee that all such complaints were forwarded to the Noticee in the months of May and June for which reminders were sent in July and August month, which was the period when the Noticee was not available due to filing of false FIR against her and seizure of her office.

Apart from this period, there was not a single point of occurrence when the Noticee had failed to redress to investors grievances timely.

(vii) Violation of SEBI Circular SEBI/HO/IMD/DF1/CIR/P/2019/169 dated December 27, 2019.

The SEBI Circular no. SEBI/HO/IMD/DF1/CIR/P/169 dated December 27, 2019 was in effect from January 1, 2020 and the Noticee had stopped receiving payments from Payment

Gateway and in form of cash deposits. Also the Noticee had refunded the amount which were received in cash in January month. However, few old clients who were not aware, had deposited cash suo-moto which was not in knowledge of the Noticee, as the Noticee used to check the books of account after closing of the month. The majority of cash deposits were done in the month of February 2020, of which were due to be checked in March, but however due to sudden FIR and seizure of office, the Noticee was unable to rectify the same. Further, with regard to displaying of the complaint's status on homepage of its website, the Noticee was displaying the complaints table on its website, however, it was not just updated during July 2020 due to unforeseen events such as sudden closure of the office of the Noticee and also ongoing Covid restrictions. Further, thereafter the Noticee did have timely updated the complaints table on its website regularly and it was still updated.

Hence, the claim of the SEBI that the Noticee has not complied with the clauses of the SEBI circular dated 27th December 2019, does not hold good, as the Noticee is in compliance with the said SEBI Circular.

The Noticee has not willfully not complied with the provisions of the SEBI Circular, however, she was in such a situation that she was unable to do so. So, SEBI shall not construe the same in a very strict manner and shall give the Noticee relaxation due to the circumstance in which she was. So, the SEBI shall not levy the charges of violation of SEBI Circular No. SEBI/HO/IMD/DF1/CIR/P/2019/169 and SEBI Circular CIR/OIAE/2014.

Prayer

The Noticee would hereby like to inform the SEBI that she might have inadvertently done some non-compliance of SEBI (Investment Advisers) Regulations, 2013 but was not involved in any fraudulent and unfair trade practices. Further, the Noticee has received very few numbers of complaints vis-à-vis the number of clients whom he has served during the span of the operations of 5 years, hence the proportion of dissatisfied clients is much much lower than that of satisfied clients. Further, it is a matter of fact that clients do file the complaint even if they suffer a small loss for which the Investment Advisers are not liable, but then too the Noticee has resolved all of the clients' grievances and have refunded to majority of them.

Furthermore, the Noticee has refunded the service amount to the clients who were dissatisfied with the services and even to whom who have faced losses by following the Noticee's recommendations. No one would ever refund the service amount to its clients if he has any fraudulent intentions. Hence, it does make clear that the Noticee was not having any fraudulent intentions and have not violated any provisions of PFUTP Regulations.

The Noticee would like to state that she has been in this business for around more than 7 years and have served thousands of clients, out of which only a few were dissatisfied or having grievances, which were duly solved. Further, in the said Notice, SEBI has spoken about less than 15 clients, who had filed their complaint on the SEBI SCORES Portal and

were duly resolved by the Noticee. Hence, the sample data checked/examined by the SEBI was not ideally distributed and had not taken into consideration relevant records, information and the Noticee point of view. Further, there might be some instances wherein SEBI observed non-compliances, but if they look into the information shared by the Noticee, it is very clear that the Noticee has complied with the SEBI regulation in the true letter and spirit of the law. Hence, it shouldn't be compared to the provisions of the PFUTP Regulations and linked to the fraud as the Noticee has neither done any fraudulent activities nor have violated any provisions of SEBI (Investment Advisers) Regulations, 2013; so, no such strict directions shall be issued against the Noticee.

Also, as on date the Noticee has improved his working and is in compliance with all the Circulars issued by SEBI, with regard to the quantum of fees charged, advance fees, entering into client agreements, and has also updated its website in line with the provisions of the SEBI Regulations and Circular issued thereunder.

Hence, SEBI should also take into the consideration that few lapses have occurred during the period when she was not available due to filing of false FIR against her and ongoing Covid Pandemic which were not in her control, else in rest 54 months she has duly complied with the SEBI Regulation in true letter and spirit of the law, and was still complying with all the regulation.

The Noticee deserves another opportunity as she has improved her working in line with all the provisions of SEBI Act, Regulations and Circulars issued thereunder and hence, her certificate of registration shall not be suspended.

Hence, the Noticee should be given another chance and no proceedings shall be initiated against him as any action taken against her will impact her family severely. Also, the SEBI has already passed an Order against the Noticee by Shri Ashwani Bhatia, Whole Time Member, SEBI on August 30, 2022 vide Order No. WTM/AB/WRO/WRO/18823/2022-23; wherein a monetary penalty of Rs.15 lakhs has been imposed and the Noticee has been debarred from accessing the securities market for the period of 3 years. The said order of the SEBI has been challenged before the Hon'ble SAT and the matter is pending for hearing. It is therefore prayed that directions may please be given:

1. The Hon'ble SEBI may be pleased to not suspend the certificate of registration of the Noticee.
2. This Hon'ble SEBI may be pleased to not to impose any other penalty in terms of Regulation 27 of the SEBI (Intermediaries) Regulations, 2008.
3. This Hon'ble SEBI may be pleased to not to take any action in this matter.
4. This Hon'ble SEBI may be pleased to dispose of the proceedings without any adverse action;

Consideration of submissions and findings

8. I have gone through the SCN, the Enquiry Report, reply of the Noticee, its submissions made before me during the hearing and additional submissions filed thereafter. I note that the allegation against the Noticee is that the Noticee:
- a) failed to inform SEBI about change in material information;
 - b) had promised assured profit/unrealistic returns to its clients;
 - c) executed trades on behalf of clients;
 - d) failed in doing proper risk profiling of clients;
 - e) sold multiple services and collected unreasonable amount of fees from clients;
 - f) Non submission of ATR in a time bound manner, non redressal of SCORES complaints and incorrect status of complaints displaced on the website
 - g) Receipt of cash deposits noted in its bank statements.
9. The aforesaid activities of the Noticee were allegedly in violation of Regulation, 13(b), 15(1), 15(3), 15(9), 16(b), 17, 21(1), (22) and 28(f) of the IA Regulations, 2013, Clauses 1, 2, 4, 5 and 8 specified under Schedule III of Code of Conduct of IA Regulations read with Regulation 3 (a), (b), (c) and (d) of the PFUTP Regulations, 2003 read with Section 12A(a), (b) and (c) of the SEBI Act, 1992 and SEBI circular no. CIR/OIAE/2014 dated December 18, 2014 and SEBI circular SEBI/HO/IMD/DF1/CIR/P/2019/169 dated December 27, 2019. The relevant extracts of the provisions of law allegedly violated by the Noticee are mentioned as under:

SEBI Act

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

12A. No person shall directly or indirectly—

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

PFUTP Regulations

3. Prohibition of certain dealings in securities

No person shall directly or indirectly—

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

IA Regulations

13. Conditions of certificate

- (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;

15. General Responsibility

- (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.
- (3) An investment adviser shall maintain an arms-length relationship between its activities as an investment adviser and other activities.
- (9) An investment adviser shall abide by Code of Conduct as specified in Third Schedule.

16. Risk Profiling - Investment adviser shall ensure that-

- (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.

17. Suitability - 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.

21. Redressal of client grievances

(1) An Investment adviser shall redress client grievances promptly.

22. Client level segregation of advisory and distribution activities

(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 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.

(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 guidance specified by the Board.

28. Liability for action in case of default – 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.

THIRD SCHEDULE

CODE OF CONDUCT FOR INVESTMENT ADVISER

1. Honesty and fairness

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

2. Diligence

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

4. Information about clients

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

5. Information to its clients.

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

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 interest of clients and the integrity of the market.

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

a) Failed to inform SEBI about change in material information;

- b) Promised assured profit/unrealistic returns to its clients and misleading representation to clients;
- c) Executed trades on behalf of clients
- d) Failed in doing proper risk profiling of clients
- e) Sold multiple services and collected unreasonable amount of fees from clients;
- f) Non submission of ATR in a time bound manner; Non redressal of SCORES complaints and incorrect status of complaints displaced on the website.
- g) Receipt of cash deposits noted in its bank statements

A. Failed to inform SEBI about change in material information

- i. The ER observed that the Noticee, being a registered intermediary was required to comply with the conditions of certificate provided in Regulation 13(b) of IA Regulations. The filing of FIR by Crime Branch, Indore on March 4, 2020 against the Noticee and subsequent sealing of its premises/equipment is material information and the Noticee has failed to inform SEBI regarding this material information. It was only when certain documents were sought by SEBI that the Noticee informed vide email dated August 10, 2020 about filing of FIR and its office being seized by Crime Branch. The ER has observed that the Noticee failed to inform SEBI about this change in material information and thus violated Regulation 13(b) of IA Regulations.
- ii. The Noticee submitted that it was not in a position to intimate SEBI on the FIR as she was seeking justice from the Hon'ble High Court of Madhya Pradesh. Further during the period of lockdown many regulatory authorities had given extension on various compliances. Also the Hon'ble Supreme Court had suspended all the limitations for the period from March 14, 2020 to February 28, 2022 in a suo-moto writ. That despite all this, SEBI was expecting the Noticee to inform regarding the filing of FIR which is totally impractical and against the principle of human rights. The Noticee has submitted that as the office premises was seized, it could not carry out any investment advisory services. The Noticee claims that the filing of FIR should not be construed as

material information as it was not a change in information that was already submitted.

- iii. In this regard and from the material on record, I note that the Noticee has not provided any factual submission for substantiating its claim regarding reasons for not intimating SEBI on the filing of FIR. Further, with respect to the reference given by the Noticee on the Hon'ble Supreme Court order, as has been observed in the ER, I note that the Hon'ble Supreme Court had provided extension of period of limitation specifically for instituting proceedings, outer limits and termination of proceedings and not with regard to compliance requirements of registration under the Securities laws, which includes the provisions of IA Regulations. Therefore, the requirement of intimation to SEBI about change in material information is not covered by the said Order of the Hon'ble Supreme Court. The Noticee has contended that the filing of FIR should not be construed as material information as it was not a change in information that was already submitted. However, I note that the filing of FIR and sealing of its premises/equipment by the Crime Branch, Indore Police on March 04, 2020 has resulted in the Noticee not being able to carry out any of its activities as an Investment Adviser which by itself is a 'material change in information already been submitted'. The Noticee had informed SEBI about the same only vide email on August 10, 2020 which is more than five months from the date of occurrence of the event. Pertinently, I note that the information provided by the Noticee vide email dated August 10, 2020, is only after SEBI sought certain information/documents with respect to SCORES complaints from the Noticee. Hence, I agree with the observations of the Enquiry Report that the Noticee by failing to inform SEBI about the change in material information (filing of FIR and sealing of its premises/equipment by Crime Branch) has violated Regulation 13(b) of IA Regulations.

B. Promised assured profit/unrealistic returns to its clients and misleading representation to clients:

- i. The ER had observed that the Noticee promised assured profits and unrealistic returns by false and misleading representation to its clients. From the complaints

received and call recordings between the employees of Noticee and investors it was observed that the noticee indulged in making promises for assured profits/unrealistic returns. The ER observed that the Noticee as an Investment Adviser is expected to advise its clients only with respect to shares, derivatives, commodity derivatives etc. which are listed on Exchanges and therefore the returns on these investments are subject to market risk which cannot be assured by way of unrealistic misleading representation about returns which is also against the fiduciary relationship the Noticee has with its clients.

- ii. In this regard, the Noticee has submitted that, SEBI has highlighted few lines of service agreement, wherein word 'Approachable Profit' has been used. Merely by stating 'approachable profit', the Noticee claims, has in no manner guaranteed any kind of returns. The Noticee submits that the service agreement includes the clause that 'data provided is based on past performance and it does not assume or provide any kind of guarantee to any subscriber of services in any regards that the same may happen in future'. The Noticee submits that with respect to call recordings, SEBI has just picked few lines from the recording out of the whole conversation which has been misinterpreted by SEBI. All clients have been made aware through email, website and every other communication that Money Secure does not provide any guarantee of returns.
- iii. In this regard, the transcripts of the call records of the Noticee and its employees promising assured profits/unrealistic returns to its clients Mr. Mohammed Salahuddin and Mr. Bhavesh Bhatt, are reproduced below:

Call records of Money Secure employee with Mohammad Salahuddin
MSI Raj Malhotra 11 07 2019 16 46 50

'00.13:

Money Secure: May 2019 se December 2019 tak chalegi aap ka scheme, jisme December 19 tak ... profit rahega, sara cheezon ka confirm email aayega Theyeez se pesat ke beech mein kuch bhi ho sakta hai. Teeyeez se kam nahi, pesat se jyaada nahi.

Client- Service agreement ka copy milega?

Money Secure: wahi toh mein aapko bata rahe hoon...sab likke aayega... aapka Rs.494 ka amount aayega profile mein, six month ka service mein 23 to 35 ke beech mein profit rahega...Company ka seal ke saath aapko email. aayega...yeh service email.hain, itgne se itne ke beech mein milega, dependency of market...

Client: Demat account activate hoga? Usme mein kuch dekh sakhta hoon?

Money Secure: demat usi din activate hua hai...terminal se transactions jo hota hai, wo aapke demat account se through hota hai...kyonki abhi account ke pe direct jaayega paisa..

Money Secure: Aap Sunday sepehle; ek lakh das hazaar kar do.

12MSI RajMalhotra 17_07_2019 12_59_33

"00:37

Client: Abhi yeh email jo nai, mein aapko ek baar padke suna deta hoon, aap confirm kardijiye mujhe. 'I Mohammad Salahuddin, taken service from MS/, Money Secure Investor, in Equity All plan for six months. Earlier I had mailed mandatory profit commitment which was my mis communication. 'So please ignore my last email. I am happy and satisfied from this service. Thank You. '

Money Secure: yeh email aap mujhe karke batayie...

"5.32

Money Secure: ok, koi dikat to nahi ek lakh chosat gyaara rupee ke liye. Ek mahine ka time aap le sakte he aaram se

Client: bahut mushkil hain...humara business mein itna profit itna jaldi nahi aata hain..

Money Secure... December 2019 tak aapka service complete ho jayegi, tab tak aapke paas poora paisa proper aajayega.

Client: So minimum 23 lakhs hogaya usme?

Money Secure: Min 23 lakhs and maximum 35 lakhs.

Client: ok.

Money Secure: yeh profit rahega aapka..

Call Recording - 13MSI.RajMalhotra 11_02_2020 11_12_56

5:32

Client: mujhe kya likna hai...

Money Secure...mujhe office jaana hai abhi...toh aapke profile ke baarein mein questions pe questions shuru hojayenge ki yeh kaise aapne de diya, kya kar diya...;toh pehle aap mail kar do, phir mein office jaunga toh mein uska clearance kar sakhun.

Client...kya humara job kaam hai, who legal nahin hain kya?

Money Secure... legal hain.lekin usme kya hain ki kuch aiselog hai job company ke . saath 8-10 years kam kar rahe hain..sirf unko woh working milta hain, melne aapko starting se who play karvaya:...aapne job mail kiya hain, woh Company aur alka ko kiya hain..isiliye aap woh kardijiye "miscommunication hua hain..mujhe Sir ne clarify kiya hain...mein apna email vapas le rahan hoon, aur mujhe koi bhi issues nahi hai. ,

Client: ••aise Likhne ke baad...toh Company ko iska connection nahi hain, legal nahi hain?

Money Secure: ..iska connection direct USA se rahata hain...Money Secure ka toh utna matter nahi hain, main matter USA ka, jahan se aapke profile generate hote ha/;

Client: toh aap mujhe ek screenshot to bejiye, kam se kam. Mere paas koi record nahi hain,..joh app bolraha hoon na ki aap ne Terminal mein invest ki hain, uska toh screenshot to aap bhej skatha hoon na,

Money Secure...bilkul...

Client...aap mere saath video call nahi kar saktha hain kya? I want to see your face.

Money Secure...nahi Sir, mein nahi kar saktha. Clearance nahi hain.

Call records of Money Secure employee with Bhavesh Bhatt

20191015113906

Client.:I borrowed money from my brother and when you lost my capital and didn't pick up my phone so he would have send the complaint to SEBI.....

Executive (Ph no. 9685164790):"It's ok. I will send a complaint withdrawal format. You fill that and send it. And.you don't have to make any more payments to us today. Hereafter,.do not do such things as sending complaint to SEBI, since this will..ruin our long-term relationship. Now the Company has asked me to no longer handle your demat account. .I will keep supporting you, but you will have to handle the account yourself.

Client: ...so in future, you will not handle my account?

Executive: Account you will have to handle because your brother complained to SEBI. This is not in accordance with SEBI guidelines. Your brother created a problem, otherwise this problem would not have occurred...Now you withdraw the complaint, and then I will find a solution to this, and I'll speak to the company•

20191015115008

Client... if you are not going to handle my account, then what about the charges you took for software?

Executive:..I will be giving you call worth Rs.25 lakhs. I am trying to give you benefit, and your brother is creating problems.... You do as I instruct you toand withdraw he complaint.

21910151 3646

Excecutive:... You talk to your brother and withdraw the complaint...Whatever loss you have incurred, I shall do loss recovery for you...From now on,you operate your.account and I will give you calls. From now on, you don't have to make any payment, I'll do your loss recovery. You ask you brother to withdraw the complaint.

2019101514 810

Client ...You are asking me to write a letter to SEBI whe'rein you are saying that henceforth,I will not write any complaint against you. If later on lam in a fix,what wil I DO?

Executive: You don't worry, nothing will happen?

Client: Have you given me receipt for even one single payment that I have made to you? I haven't received a single invoice, inspite of making payment of Rs. 70,000/-.

20191011173718

Executive: Lets talk about profit sharing. Whatever profit is made, it will be 50-50 sharing.

Client: ... Who will bear the tax? I will have to pay tax right? ..And what about loss?

Executive... there will be loss recovery. First, there will be loss recovery, then whatever profit you make, that you need to pay.

Client: So if there is a loss, the next day, you would make profit and recover that loss. Then, the subsequent profit you make, out of that I need to pay you 50% Is that so?

Executive: Yes.

20191012111139

Executive: how much do you have in your demat account now? Its 15,000 right? Out of this, you take payout of Rs.5,000/-. And it's the b'day of the company's owner, and on this day, we are offering a special offer to clients. Using the Rs.10,000/ in your demat account, we will work for three days, i.e., Monday, Tuesday, and Wednesday. On these three days, whatever profit we make, you'll need to give it to the company....Further, for the next nine days, that is from Thursday till Danteras, whatever profit you make, you can keep it. Are you ok with it?

Client: Ok. But you won't keep asking for more money in between like last time?

20191012111722

"00.31. Executive: Aap ko pacheez lakh rupay ki service ki call milegi our yeh pacheez lakh ki service apko 9 din tak free rahegi jisme koi bhi charge nahi lagega kyonki pacheez lakh ka service mein accuracy aap ko 100% dijayengi. Ismein aapko kisi bhi prakar ka loss nahi hoga, jisse appka who 10,000 teek rahega.

Client: loss hoga tok kaun uska responisibilty lega?

Executive: nahi hoga loss kyunki mein batato hoon. Humne aap keliye joh trade hoga, who 1-2 lots ka hoga. Matlab aap ka zero zero trade hoga, aapka heavy loss ka trade nahi hoga, jismein market volatility badthi bhi haina appko kisi prakar ka loss nahi hoga. Aapko zero zero kaam karaya jaayega. Pehla zero zero kaam karake aapka investment pachaaz hazaar mein convert kardi jaayenga, phir aap ki lot quantity badayi jaayegi. Matlab pehle 10,000 ka investment hain, oh appko paanch se saath hazaar ka profit ki jaayenge. Jsmein aapka investment teen din mein badke pachaaz hazaar tak hojayega. Phir aapko pachaaz hazaar par 5-7 Lots par kaam kiya jayega, jisme investment aapka loss mein jaane ka chances total katam kar diya jayega. .

Loss will not happen because we will do 1-2 lots of trading for you...heavy loss trading will not be done for you...zero zero work will be done..this way, your investment will be converted to Rs.50,000/-...daily Rs.5000/-Rs.7,000/- profit will be made, and within three days, the investment amount will be Rs.50,000/-, and then Rs.5-7 lakh work will be done for you. Any issues?

Client: So I will have to pay Rs.5,000/- now?

Executive: First, you take payout from your demat account, and then pay us before Monday morning only. Any issues?... I won't let you have any loss.

- iv. From the above, I note that the employee of the Noticee through its conversations with the client Mr. Mohammad Salahuddin has been assuring a profit amount between Rs. 23 to 35 lakhs. Further, from the call records with the client Mr. Bhavesh Bhatt, I note that the employee of the Noticee was assuring guaranteed returns including assuring the client of no losses on the trades based on the services provided by the Noticee. I also note from the above transcripts that the employee of the Noticee is compelling its client, Bhavesh Bhatt to withdraw the complaint filed with SEBI. With respect to the aforesaid call recordings, I note that the Noticee has only submitted that SEBI has just picked few lines from the recording and the same has been misinterpreted. With regard to the said contention, I note that from the transcripts, as reproduced above, it is clearly evident that the Noticee was promising guaranteed and unrealistic profits to its clients. Further, I note that the Noticee has not denied or disputed the contents of the transcript or that such calls have been made by her employees with their clients. By promising assured profits and unrealistic returns being fully aware that assured profits in securities market is not possible, the Noticee has deliberately misrepresented the truth and misled its clients and induced them into availing its services/products. Such a misrepresentation is therefore fraudulent and is covered within the definition of 'fraud' under 'PFUTP Regulations'. In view of the above, I agree with the observations of the Enquiry Report that the Noticee has violated Regulation 15(1) of IA Regulations and Clauses 1 and 2 of Code of Conduct as mentioned in Schedule III read with Regulation 15(9) of IA Regulations and Regulation 3(a), (b), (c) and (d) of PFUTP Regulations read with Section 12A (a), (b) and (c) of SEBI Act.

C. Executed trades on behalf of clients :

- i. The ER observed that the Noticee provided trade execution services to its clients which was different from investment advice service. The Noticee's employees obtained user ID and password from clients and executed the trades

on behalf of clients assuring some profit. The information received from clients included conversations and call recordings. One of the clients Mr. Joy Kiran submitted a copy of the WhatsApp conversation where an executive of the Noticee obtained login details of trading account from him for trading on his behalf. Further, upon incurring losses due to such trades, Noticee promised them to trade in the stock market to recover such losses. It is therefore alleged that the employees of the Noticee obtained User ID and password of its clients and executed trades on behalf of their clients and also failed to act in fiduciary capacity to its clients. The Noticee was required to maintain arm-length relationship between its activities as an IA and other activities.

- ii. The Noticee submitted that it has not facilitated the opening of demat / trading account of clients, rather she has just given the options to the clients regarding brokers with whom they can open their accounts. The Noticee claims to have not charged any referral fees for this from any of the clients. The Noticee submits that it was not engaged in any other services except for offering investment advisory and had just assisted the client in the execution of an order.
- iii. I note that the Enquiry Report has observed that as per Regulation 22 of IA Regulations, only IA's which are banks, NBFCs and body corporates are allowed to provide execution and distribution services. However, that the Noticee, despite being a proprietary concern had provided execution services to its clients. In this regard, I note that the transcript of WhatsApp chats of Mr. Joy Kiran with the executive of the Noticee, has been provided to the Noticee and reproduced below:

Executive/Noticee: *Fund daal kar msg kar digiye*

Client: *Ok*

Client: *10,000/- Rs. Funded in Zerodha*

Client: *NM8746*

Password anithXXX

Pin 628XXX

Mera separate trading hai. Please don't touch it.

Executive/Noticee: *GM sir*

Client: *Aaj kuch hoga kya sir*

Executive/Noticee: *Ha sir*

Executive/Noticee: *RBI ki policy hai*

Executive/Noticee: *12 baje uske baad hi trade hogi*

Client: *Ok sir*

Executive/Noticee: *12 December ki trade li hai, 2 lot avrg karne ke liye abhi amount hai*

- iv. From the above WhatsApp chats, it is clear that the login user ID and password of the client Mr. Joy Kiran was shared with the executive of the Noticee for carrying trades on behalf of the client. From the above, it is clear that the Noticee was not giving referral of brokers to the clients, as the user ID and password of the client is not required for referral purposes. Further, I note from the complaint of Mr. Joy Kiran, which has been provided to the Noticee, that the Noticee had used his user ID details to trade on BSE. I note that the Noticee has not addressed or made any specific submission with regard to the complaint or aforesaid Whatsapp chat with Mr. Joy Kiran, wherein, the login user ID and password of the client was provided to the Noticee. I note that the Noticee has also not disputed the said Whatsapp chat between his executive and the client or even its contents. Hence, the Noticee's submission that it was not engaged in any other services except for offering investment advisory and had just assisted the client in the execution of an order cannot be accepted and is untenable. In view of the above, I agree with the observations of the Enquiry Report that the Noticee has indulged in executing trades on behalf of its clients which is different from the investment advisory services. The Noticee, has thus violated Regulations 15(3) and 22 of the IA Regulations and Clause I of Code of Conduct as mentioned in Schedule III read with Regulation 15(9) of IA Regulations.

D. Failed in doing proper risk profiling of clients

- i. The ER observed that the Noticee has been providing investment advice to its clients without having appropriate process for risk profiling. The Risk Profiling Forms (RPFs) had no process in place for suitability assessment to identify the products/ services which are appropriate to its clients. That the risk profiling in certain cases has been done through phone without carrying out verification

with the actual documents. IA Regulation stipulates that the IA shall communicate the clients risk profile to him/her and the IA should have a process for assessing the risk a client is able to take. Further, the IA should ensure that the investment advice provided is appropriate to the clients' risk profile and should have a documented process for selecting investments based on the clients' objectives. With respect to a client, Mr. Mohammad Salahuddin, the annual income referred in the KYC is 1-5 lakhs, whereas the RPF showed annual income as 5-10 lakhs, further the Noticee had received payment even before the risk profiling and KYC was carried out. This client is over 70 years of age, however the notice has failed to categorize the client based on his risk appetite. Hence, it is alleged that the Noticee has been providing investment advice to the clients without having appropriate process for risk profiling.

- ii. The Noticee submitted that it had always carried out the risk profiling of its clients and has provided the product which were suitable and appropriate to the risk profile of the client. The Noticee claims to have carried out risk profiling of the clients through a questionnaire which was being approved by SEBI at the time of granting her the registration in 2017 and that SEBI did not raise any objection regarding the process followed by the Noticee and hence the Noticee continued with the same practice. The Noticee states that SEBI granted registration only after understanding the Noticee's business and compliance process. Further, the Noticee submitted that being involved in offering research recommendations based on the technical analysis, considered the client's interest for providing him service in particular segment and had done the risk profiling on the later date. The Noticee has also submitted that the clients don't fill their correct income details or they don't feel safe to disclose their correct income due to personal / taxation reasons.
- iii. With regard to the Noticees submission that she had carried out risk profiling of the clients through a questionnaire which was being approved by the SEBI at the time of granting her the registration and that SEBI did not raise any objection regarding the process followed by the Noticee, I note that that the requirement for such a questionnaire during registration is only to ascertain as to whether

the prospective IA had in place a process for assessing the risk bearing ability of the clients, as mandated under the IA Regulations. I note that the grant of a certificate of registration cannot be considered as an approval of the questionnaire's contents or its merits as it is left to the IA to frame the risk profiling questionnaire as per the necessary requirements. Further, I note that Regulation 16 (a) of the IA Regulations, which deals with risk profiling, states that an IA is to ensure that *"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."* Furthermore, Regulation 16 (b) of the IA Regulations requires that an IA shall ensure that *"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"* and Regulation 16 (d) of the IA Regulations requires an IA to ensure that *"any questions or description in any questionnaires used to establish the risk a client is willing and able to take are fair, clear and not misleading, and should ensure that: (i) questionnaire is not vague or use double negatives or in a complex language that the client may not understand; (ii) questionnaire is not structured in a way that it contains leading questions."* Hence, I note that the IA Regulations clearly provides for the information that is to be sought from such questionnaire and the requirement for such a questionnaire during registration is only to ascertain as to whether the prospective IA had in place a process for assessing the risk bearing ability of the clients, as mandated under the IA Regulations. In view of the above, the contention of the Noticee that the questionnaire was approved by SEBI at the time of granting of registration, is erroneous and untenable.

- iv. With regard to the submissions made with respect to the risk profiling of Mr. Mohammad Salahuddin, I note that the Noticee has submitted that being involved in offering research recommendations based on the technical analysis,

the Noticee had taken into consideration the client's interest for providing him service in particular segment and had done the risk profiling on the later date. I find no merit in the submission made by the Noticee, except for the fact that she has admitted in doing the risk profiling of the client on a later date as she involved in the regular course of her work as an IA. Be that as it may, the fact that the Noticee had admittedly done the risk profiling at a later date after giving investment advice, defeats the very purpose of requiring risk profiling of clients/investors, as mandated under the IA Regulations. I note that the Noticee has also submitted that the clients don't fill their correct income details or they don't feel safe to disclose their correct income due to personal / taxation reasons. In this regard, I note that the annual income of Mr. Mohammad Salahuddin as mentioned in the KYC is 1-5 lakh, whereas the annual income mentioned in the RPF is Rs. 5-10 lakh. Hence, I note that firstly it is not the case of disclosing the correct income due to taxation reasons but that the client has given different annual incomes and such discrepancy has not been corrected by the Noticee. Secondly, not disclosing the correct income due to taxation reasons is not an acceptable rationale to be accepted by the Noticee and defeats the entire purpose of risk profiling as mandated under the IA Regulations. It is the fiduciary duty of the IA under the IA Regulations to ensure that the investment advice provided to the clients is appropriate to the risk profile of the client and there has to be a documented process for selecting investments based on client's investment objectives and financial situation. Hence, by accepting the clients reason for not disclosing the correct income for taxation reasons, I note that the Noticee has knowingly failed to document the correct income of the clients. Further, the Noticee has submitted that the clients have paid fees with their own will and consent and were not forced or deceived as it is a matter of fact that no investor will pay higher amount of fee than their investment or annual income. I find that the aforesaid submission only goes further to prove that the Noticee was hand in glove with its clients in disclosing incorrect income details in the clients risk profiling and the Noticee has not acted in its fiduciary capacity as required under the IA Regulations and was carrying out investment advisory services for its clients even after understanding that the information given by the clients in their RPF is incorrect and that the trades

carried out by them based on the advise given by the Noticee does not commensurate with the details given in the RPF.

- v. From the above, it is clear that the Noticee being a registered Investment Adviser was mandated to comply with the provisions/obligations as laid down in the IA Regulations. In view of the above, I agree with the observations made in the Enquiry Report that the Noticee has been providing investment advisory services without acting in fiduciary capacity with its clients and proper due diligence and appropriate process of risk profiling has not been carried out by the Noticee while dealing with her clients. Thus, I find that the Noticee has violated Regulation 16(b) and 17, Regulation 15(1) read with clauses 1, 2, 4, 5 & 8 of Code of Conduct for Investment Advisers as specified under Third Schedule and Regulation 15(9) of IA Regulations.

E. Sold multiple services and collected unreasonable amount of fees from clients;

- i. The ER observed that the Noticee has been charging fees for the products which are not even offered by it. Further, that the Noticee has not been disclosing the complete charges prior to offering of services to the clients. Hence, the Noticee has been alleged with charging his clients arbitrarily. From the invoices issued to one of the Noticee's client, Mr. Mohammad Salahuddin, it was noted that the client had made payments in 11 installments for the same product and fees was arbitrarily charged repeatedly. Instances were observed wherein, invoices being issued for the same package with same duration on multiple times and in certain cases the invoices did not reflect the service duration. Accordingly, the ER observed that the Noticee has not been honest and fair in its dealings with its clients and had acted in a manner to maximize its service fees and the Noticee did not act in fiduciary capacity with its clients.
- ii. The details of the invoices issued by the Noticee to Mr. Mohammad Salahuddin with regard to the 11 installments for the same product and fee being charged arbitrarily and repeatedly, are detailed below:

Table: (a)

Invoice No.	Invoice Date	Package	Duration	Amount (In Rs.)
MSI/EQ-8564	15.05.2019	Equity Cash	15.05.2019 to 31.06.2019	10,500
MSI/EQ-8564	16.05.2019	Equity All	15.05.2019 to 30.07.2019	30,800
MSI/EQ-8564	13.06.2019	Equity All	15.05.2019 to 30.11.2019	15,000
MSI/EQ-8564	15.06.2019	Equity All	15.05.2019 to 30.12.2019	24,000
MSI/EQ-8564	16.06.2019	Equity All	15.05.2019 to 30.11.2019	24,000
MSI/EQ-8564	18.06.2019	Equity All	15.05.2019 to 30.12.2019	20,000
MSI/EQ-8564	22.06.2019	Equity All	15.05.2019 to 30.12.2019	10,620
MSI/EQ-8564	12.07.2019	Equity All	15.05.2019 to 31.12.2019	80,000
MSI/EQ-8564	12.07.2019	Equity All	15.05.2019 to 31.12.2019	45,000
MSI/EQ-8564	16.07.2019	Equity All	15.05.2019 to 31.12.2019	38,000
MSI/EQ-8564	23.07.2019	Equity All	15.05.2019 to 31.12.2019	25,112
MSI/EQ-8564	31.07.2019	Equity All	15.05.2019 to 31.12.2019	25,000

- iii. Further, it is also noted that there is no product in the name of “Equity All” on the website of the Noticee. The table of list of products as per the website of Money Secure is as given below:

Table: (b)

Equity	Commodity	Special HNI Service	FOREX
Stock Cash Package	Bullion/Metals	MSI Equity HNI 3G	Forex Services
Stock Nifty Future Package	Bullion Metals Package	MSI Commodity HNI 3G	MSI Forex Premium
Stock Nifty Option Package	MSI Commodity Premium	MSI NCDEX HNI 3G	
MSI Share Premium Package	MSI Bullion BTST		
MSI Holding Package	NCDEX Package		
MSI Equity BTST/STBT package	NCDEX BTST / STBT Package		

- iv. Further, the ER has observed that from the invoices issued to Mr. Joy Kiran, no service duration is mentioned in the invoice. Details of these invoices is as given below:

Table: (c)

Invoice No.	Invoice Date	Package	Duration	Amount (In Rs.)
INV-MS5113	19.08.2019	Equity Cash	--	19,800
INV-MS5112	18.10.2019	Equity Option	--	43,200

- v. Further, the ER observed from the invoices issued to Mr. Dipak Mendhe mentioned the same package with the same duration on multiple times but charged different fees on each occasion. It was noted from the website of the Noticee that the service fee for any HNI product is more than Rs.20,000/- per week, however the same does not tally with the invoice issued by the Noticee. The details of the invoices are given below:

Table : (d)

Invoice No.	Invoice Date	Package	Duration	Amount (Rs.)
DAFS/18-19/2019/Nov/14	21.11.2019	HNI Cash	3 month service 21.11.2019 to 31.12.2019	3,840
DAFS/18-19/2019/Dec/6	04.12.2019	HNI Cash	1 Year Service 21.11.2019 to 31.12.2019	7,100
DAFS/18-19/2019/Dec/7	04.12.2019	HNI Cash	1 Year Service 21.11.2019 to 31.12.2020	13,560

- vi. With regard to the aforesaid observations in the ER, the Noticee submitted that due to a software error, the invoice which was being sent to the client Mr. Joy Kiran (details given at table (c)), did not contain any period of service and apart from that, every invoice sent to clients, the period of service is clearly mentioned. That the service details and its tenure are mentioned in the mails sent to the clients. Further, the Noticee submitted that the clients have been making part payments for the same service and hence different invoices are being issued for each payment. That SEBI had come up with the rule for not accepting payment in parts with effect from January 01, 2020, prior to which there were no such guidelines. Further, the Noticee has submitted that SEBI

had come up with a Circular dated September 23, 2020, regarding restrictions for advance payment for more than 2 quarters, prior to this there were no limitations on advance payment. The Noticee claims that, it has not sold the same service again, rather the services have been renewed by clients by getting satisfied with the earlier subscribed services. Further, that the services were delivered properly to the clients and clients had also agreed for the same. Furthermore, that multiple services were sold to the clients, as the nature of the services were different and clients were made aware of the same fact.

- vii. In this regard, from the aforesaid table no. (a), I note that the Noticee has sold the package "Equity All" on multiple occasions to his client Mr. Mohammad Salahuddin. However, I note from the Table no. (a), that the product "Equity All" is not a package/product, as advertised on its website. I note that the Noticee in its reply to the SCN has not made any submission on this. Further, I note that the Noticee has sold the same product "Equity All" for the same duration i.e. '15.05.2019 to 30.11.2019' on two occasions. Further, the Noticee has sold the same product "Equity All" for the same duration i.e. '15.05.2019 to 30.12.2019' on 3 occasions. Furthermore, the Noticee has sold the same product "Equity All" for the same duration i.e. '15.05.2019 to 31.12.2019' on 5 occasions. In this regard, the Noticee has submitted that she has issued different invoices as on the payment made by the client, service sold to the client was for quarterly/half yearly/annual but the client has chosen to make the payments in part, hence, the different invoices are being issued for each payment whereas the payment is for the same service only. With regard to the aforesaid submission of the Noticee, I note from the aforesaid table no. (a) that the invoice number i.e. MSI/EQ-8564 is the same for all invoices even though the product is different, the dates are different and the duration of the products are different. It is not practical or possible to have the same invoice number for different products sold on different days for different durations. I also note that none of the invoices have any particulars or description or details stating that the same are part payments or installments for a particular product. Further, I note that the Noticee has not provided any documents or evidence to prove that these are payments in part for the same service. I also note from the Table no. (a) that for the same

product “Equity All”, the Noticee has arbitrarily charged different amounts to the client Mr. Mohammad Salahuddin and no rationale has been provided for the same. Hence, the aforesaid submission of the Noticee that these are payments in part for the same service is without any merit and appear to merely be unsupported statements and is therefore, untenable. Further, the same applies in the case of Mr. Dipak Mendhe, wherein, the Noticee has sold the same package i.e. “HNI Cash” with the same duration on multiple times but has charged different fee on each occasion. The same is evident from Table no. (d) above.

- viii. The ER observed that in two invoices issued on different dates of Mr. Joy Kiran, no service duration was mentioned, for which the Noticee has merely stated in its submission that it was a software error. However, I note that the Noticee has not submitted any revised invoice that was sent to the client to correct the same. Further, I note that in the case of Mr. Sathish Kumar, the ER observed that the client paid Rs.1,19,555 for “Equity Future & Option”. However, it was observed from the website of the Noticee that no such product is offered. I note that the products offered by the Noticee on its website has been tabled at Table no. (b) and from the same it is evident that there is no product as “Equity Future & Option”. Hence, I note that the Noticee has been selling products that are not offered by it on its website.
- ix. I note that the Noticee has submitted that the clients were intimated regarding service details and tenure of service through emails. However, the same is not acceptable as no supporting documents have been provided by the Noticee in support of this claim. Further, from the complaints filed by the clients, it is apparent that no such details of service details and tenure of service through emails have been provided by the Noticee to its clients. Hence, the aforesaid submission appears to be mere unsupported statements and is therefore, untenable.
- x. In view of the above, I agree with the observations of the Enquiry Report that the Noticee has not been honest and fair in its dealings with its clients. The acts of the Noticee to charge its clients for the same product and for the same

duration have been in a manner to maximize its service fees. Further, the Noticee has made misrepresentations to its clients by selling the same product with the same duration on multiple times but has charged different fee on each occasion and sold products not offered on its website. Such misrepresentation is fraudulent and is covered within the definition of 'fraud' as defined under SEBI(PFUTP) Regulations. Thus, I find that the Noticee has violated Regulation 15(1) of IA Regulations and Clause I of Conduct as mentioned in Schedule III read with Regulation 15(9) of IA Regulations and Regulation 3(a), (b), (c) and (d) of PFUTP Regulations read with Section 12A (a), (b) and (c) of SEBI Act.

F. Non submission of ATR in a time bound manner; Non redressal of SCORES complaints and incorrect status of complaints displaced on the website:

- i. The ER observed that the Noticee did not submit the ATR and has not resolved investor grievances in a time bound manner as prescribed by SEBI. As on August, 28, 2020, there were 7 complaints pending against the Noticee in SCORES which were more than 60 days. The details of the complaints is given below:

Table: (e)

Sr. No.	SCORES Complaint No.	Name of the Complainant	Date of receipt of complainant	Date of forwarding complaint to IA	Date of redminders	Date of final ATR	Excessive time of above 30 days
1	SEBIE/MP2 0/0000281/1	Subhash Chand	29.01.2020	27.05.2020	01.07.2020 23.07.2020 14.08.2020	NA	62
2	SEBIE/MP2 0/0000674/1	Gautam Ganvi	07.02.2020	27.05.2020	03.06.2020 24.06.2020 03.08.2020	NA	92
3	SEBIE/MP2 0/0000804/1	Dipak Mendhe	26.02.2020	27.05.2020	09.07.2020 03.08.2020	NA	92
4	SEBIE/MP2 0/0000890/1	Mohammad Salahuddin	12.04.2020	27.05.2020	09.07.2020 03.08.2020	NA	92
5	SEBIE/MP2 0/0001004/1	Sathishkumar	09.05.2020	12.05.2020	24.06.2020 13.07.2020 22.07.2020 14.08.2020	NA	107

6	SEBIE/MP2 0/0001007/1	Pramod Kumar	11.05.2020	27.05.2020	01.07.2020 22.07.2020 14.08.2020	NA	92
7.	SEBIE/MP2 0/0000112/1	Joy Kiran	11.06.2020	17.06.2020	10.07.2020 03.08.2020	NA	71

- ii. It was further alleged that the Noticee has displayed incorrect and misleading information of investor complaints on its website. The ER observed that the status data with respect to complaints pending at the beginning of the month; received/resolved during the month and pending at the end of the month, which is displayed on the website of the Noticee, did not reconcile. Details as displayed on the website of the Noticee as on July 31, 2020 is given below:

Table (f)

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	
15	01	03	00	NA	

- iii. It is hence alleged that the Noticee failed to submit ATR and failed to redress complaints lodged on the SCORES platform in a time bound manner. Further, the Noticee had displayed incorrect and misleading information of investor complaints on its website.
- iv. With regard to the aforesaid allegations, the Noticee submitted that all complaints referred in the SCN were forwarded to the Noticee in the month of May and June for which reminders were sent in the month of July and August, which was the period when the Noticee was not available due to filing of false FIR against her and seizure of its office. The Noticee submits that, apart from this there was not a single point of occurrence when the Noticee has failed to redress the investors grievances timely. Further, with regard to displaying of the complaint's status on the homepage of its website, the Noticee submits that, it was displaying the complaints table on the website, however, it was not updated

during July 2022 due to sudden closure of office of the Noticee and ongoing Covid restrictions. The Noticee has submitted that it has not willfully failed to comply with the provisions of the SEBI circular, however, she was in such a situation that she was unable to do so.

- v. In this regard, from the material available on record, I note that the Noticee has not denied the delay in disposal of the complaints. As seen from the details given at table (e) above regarding timelines on the SCORES complaints which are pending for redressal by the Noticee, it is noted that the complaints are pending for more than 60 days. Further, the data on complaints as on July 31, 2020 (details given at table (f)), shows a clear discrepancy in the data provided with regard to pendency at the beginning of the month; received/resolved during the month and pending at the end of the month. I note that the Noticee has cited a Hon'ble Supreme Court Order relating to relaxation in limitation due to Covid-19 pandemic for claiming that there was no delay on its part. However, as discussed in the aforesaid paras, I note that the extension of period of limitation due to covid pandemic was meant for filing petitions/ applications/ suits/ appeals and is not applicable for resolving investor grievances in a time bound manner as prescribed in SEBI circular no. CIR/OIAE/2014 dated December 18, 2014 and therefore, the Noticee was under obligation to resolve the complaints of investors and submit ATR in a time bound manner. In view of the above, I agree with the observations of the Enquiry Report that the Noticee has failed to submit ATR in a time bound manner, failed to redress the complaints within the timelines prescribed in the SEBI circular no. CIR/OIAE/2014 dated December 18, 2014.
- vi. Further, the Noticee has submitted that she was displaying the complaints table on its website, however, it was just not updated during July 2020, due to unforeseen events, such as sudden closure of the office of the Noticee and also ongoing covid restrictions. In this regard, as discussed in the aforesaid paras, I note that that the extension of period of limitation due to covid pandemic was meant for filing petitions/ applications/ suits/ appeals and is therefore, not applicable to the SEBI circular SEBI/HO/IMD/DF1/CIR/P/2019/169 dated

December 27, 2019. I agree with the observations in the ER that the Noticee has displayed incorrect and misleading information of Investor complaints on its website as on July 31, 2020 and is in violation of SEBI circular SEBI/HO/IMD/DF1/CIR/P/2019/169 dated December 27, 2019.

G. Receipt of cash deposits noted in its bank statements:

- i. The ER observed that the Noticee received cash deposits from its clients which is not in accordance with the SEBI circular SEBI/HO/IMD/CIR/DF1/CIR/P/2019/169 dated December 27, 2019. It was noted from the bank accounts operated by the Noticee that she had cash deposits to the tune of Rs.15000/- and Rs.3.63 lacs after January 01, 2020.
- ii. With regard to the aforesaid allegation, the Noticee submitted that it had stopped receiving cash payments pursuant to issuance of SEBI circular on the same. The Noticee claims to have refunded the amounts received in cash in the month of January, 2020. However, few clients had made deposits which were without the knowledge of the Noticee. The Noticee submitted that it used to check the books of account after closing of the month and majority of the cash deposits received in February 2020 were due to be checked in March were not rectified due to sudden FIR and seizure of office.
- iii. In this regard, from the material available on record, I note that the Noticee, while providing submissions to the SCN during enquiry proceedings before the Designated Authority stated that, she had received the cash deposits from her relatives in view of her maternity. Further, in its reply dated November 12, 2022, the Noticee submitted that few old clients who were not aware had deposited fees as cash deposits and the same could not be rectified due to sudden FIR and seizure of office. Therefore, I note that the Noticee has provided two different submissions on the allegation of cash deposits in her account before different authorities and has thus, been inconsistent in her submissions on the issue. Further, I note that the ER also observed that the cash has been deposited from various places such as Kahargpur, Hazira and Rajampet etc. for which no explanation has been provided by the Noticee. From the material

available on record, I note that the bank statements of the Noticee shows receipt of cash deposits from January 01, 2020 which is in violation of SEBI circular of December 27, 2019. In view of the above, I agree with the observations of the Enquiry Report that the Noticee received cash deposits from its clients which is not in accordance with the SEBI circular SEBI/HO/IMD/CIR/DF1 /CIR/P/2019/169 dated December 27, 2019.

11. I note that the Designated Authority in the ER has recommended that the certificate of registration of the Noticee may be suspended for a period of one month. However, as discussed in detail in the aforesaid paras, it has been found that the Noticee had (i) Failed to inform SEBI about change in material information; (ii) Promised assured profit/unrealistic returns to its clients and misleading representation to clients; (iii) Executed trades on behalf of clients; (iv) Failed in doing proper risk profiling of clients; (v) Sold multiple services and collected unreasonable amount of fees from clients; (vi) Non submission of ATR in a time bound manner; Non redressal of SCORES complaints and incorrect status of complaints displaced on the website; (vii) Receipt of cash deposits noted in its bank statements; in violation of the IA Regulations and SEBI circulars, including provisions of the PFUTP Regulations. The Noticee is a registered Investment Adviser and is required to act in a fiduciary capacity towards its clients with due skill, care and diligence in the best interests of its clients. As discussed above, I find that the Noticee has by promising assured profits and unrealistic returns being fully aware that assured profits in securities market is not possible, the Noticee has deliberately misrepresented the truth and misled its clients and induced them into availing its services/products. Further, I find that the Noticee has not been honest and fair in its dealings with its clients and has charged its clients for the same product and for the same duration on multiple times but has charged different fee on each occasion to maximize its service fees. I also note that there are various complaints that have been filed against the Noticee and that the Noticee has also failed to address the SCORES complaints in a time bound manner and has displayed incorrect and misleading information of Investor complaints on its website. In the given facts and circumstances of the case and the gravity of violations, I find that it is a fit case for increasing the period of suspension recommended by the DA in

the Enquiry Report and I find that a suspension of the certificate of registration of the Noticee for a period of one year is warranted in the matter.

Directions

12. I, in exercise of the powers conferred upon me in terms of Section 12(3) and Section 19 of the SEBI Act, 1992 read with Regulation 27(5) of the Intermediaries Regulations, 2008, hereby suspend the certificate of registration of the Noticee i.e. Money Secure Investor, as an Investment Adviser (Certificate of registration number INA000008817) for a period of one (1) year.

13. This order comes into force with immediate effect.

14. A copy of this order shall be served on the Noticee.

Place: Mumbai
Date: March 28, 2023

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