

BEFORE SECURITIES AND EXCHANGE BOARD OF INDIA

FINAL ORDER

UNDER SECTIONS 11 (1), 11(4), 11(4)(A) 11B, 11B(1), 11B (2) READ WITH  
SECTION 15EB OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

In respect of:

Noticee's Name	PAN
Mr. Indrajeet Dey (Proprietor of Tradex Incorporation )	BATPD5150Q

**In the matter of Unregistered Investment Advisory by Mr.Indrajeet Dey (Proprietor of Tradex Incorporation).**

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**Background:**

1. Securities and Exchange Board of India ("SEBI") conducted an examination on receipt of an email reference complaining against Mr. Indrajeet Dey (Proprietor of Tradex Incorporation) (hereinafter referred to as "**Noticee**") and prima facie found that the Noticee was carrying out unregistered investment advisory activities. During the course of examination, vide various letters and email, the Noticee was asked to submit, inter alia, details of activities being carried out by him. However, no response was received from the Noticee. Subsequently, a show cause notice dated August 28, 2023 (hereinafter referred to as "**the SCN**") was issued to the Noticee, calling upon the Noticee to show cause as to why suitable directions including directions as to refund of fees collected, debarment, non-association with listed entities, intermediaries, etc. should not be issued against the Noticee under Sections 11(1),11(4), 11(B),11B(1) and 11(2) read with Section 15 EB of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act**") for violations of Section 12(1) of the SEBI Act read with Regulation 3(1) of SEBI (Investment Advisers) Regulations, 2013 ("**IA Regulations**").

## **FACTS OF THE CASE:**

2. SEBI received a complaint vide e-mail dated May 22, 2021, in respect of the Noticee, claiming that it is an unregistered Investment Advisor (IA), who caused him a loss of Rs.15,000/- and in order to examine the complaint, SEBI, vide emails/letters sought certain additional information from the complainant in the matter. The following observations and allegations were noted from the aforesaid references against the Noticee which contained in the aforesaid SCN:

- a) The Noticee did not respond to any of the queries sought by SEBI in 2021.
- b) The Noticee's website was active and appeared that the Noticee was providing the trading tips.
- c) NSE and BSE had confirmed that the Noticee was not registered with them in the capacity as an authorized entity.
- d) Analysis of the Bank account statements of the Noticee, it showed that the Noticee was regularly receiving funds from the clients for the various packages offered in the website.
- e) Further, there were active credits in the bank account which are similar to the package details provided by the entity on the website.
- f) The phone number given by the entity in the account opening form of was the same as the number with which the UPI Id was linked. The said phone number was searched on [findandtrace.com](https://findandtrace.com), wherein its status was shown to be active, during the examination. However as on July 04, 2023, the said number got deactivated.
- g) Similarly, the website of the entity was active during the course of examination. However as on July 04, 2023, the website of the entity was also not accessible.

## **SERVING OF SCN**

3. The aforesaid SCN was issued to the Noticee by SPAD at the last known address as available on record, however, it had returned undelivered. Affixture of the SCN was also attempted, on the said address, however, the same could not be carried out due

to incomplete/incorrect address. Thereafter, a copy of the SCN was uploaded on the website under the head, 'unserved Notices/Summons'. Further, a public notice was also issued in the "Times of India" (English Edition), New Delhi and "Navbharath Times" (Hindi Edition), New Delhi, on November 16, 2023. Vide the said public notice, the Noticee was also given an opportunity of personal hearing on November 30, 2023 at 11.00 a.m. However, the Noticee failed to appear for the scheduled hearing.

4. I note that the Noticee has neither filed any reply in the matter nor appeared for hearing. Hence, it is presumed that Noticee has nothing to submit in respect of the allegations levelled in the SCN. In this regard, it is pertinent to note that the Hon'ble Securities Appellate Tribunal (SAT) in the matter of Classic Credit Ltd. vs. SEBI (Appeal No. 68 of 2003 decided on December 08, 2006) has, inter alia, held that,  
*".....the appellants did not file any reply to the second show-cause notice. This being so, it has to be presumed that the charges alleged against them in the show cause notice were admitted by them".*
5. Further, in view of the aforesaid observation made by the Hon'ble SAT, I find no reason to take a different view and accordingly, therefore, I deem it appropriate to proceed against the Noticee ex-parte, based on the material available on record.

#### **CONSIDERATION OF ISSUES AND FINDINGS:**

6. I have carefully perused the documents available on record and the following issue requires consideration:

*Whether the acts of the Noticee as imputed in the SCN, have resulted in the violation of the provisions of SEBI Act, 1992 read with IA Regulations, 2013 while providing the services related to Investment Advisory without having proper registration?*

7. Before I further proceed in the matter, it is pertinent to refer to the relevant provisions of the SEBI Act and IA Regulations, alleged to have been violated by the Noticee, as per the SCN. The same are reproduced herein below:

**SEBI Act, 1992**

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

**SEBI (Investment Adviser) Regulations, 2013**

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

8. I now proceed to consider the matter on merits.
9. I note that SEBI received a complaint vide e-mail dated May 22, 2021, in respect of the Noticee, claiming that it is an unregistered IA, who caused the complainant a loss of Rs.15,000/- and in order to examine the complaint, SEBI, vide emails/letters sought certain additional information from the complainant in the matter. The details of the communication, information sought and details regarding the response of the Noticee are as under;

S.No.	Date of letter/communication	Letter vide SPAD/E-mail	Information sought	Response given/Not given
1	03.06.2021	e-mail	Additional information in the matter/ information regarding	Response not given

			the general nature of the Noticee's business	
2	23.08.2021	e-mail	Reminder for additional information sought on 03.06.2021	Response not given
3	26.08.2021	Letter vide SPAD	information regarding the details of the Noticee's clients who had availed investment advisory and/or portfolio management services sought from the Noticee and amounts collected from them in its bank accounts	Response not given
4	09.09.2021	Letter vide SPAD	information regarding the details of the Noticee's clients who had availed investment advisory and/or portfolio management services sought from the Noticee and amounts collected from them in its bank accounts	Response not given

10. From the above table, I note that SEBI had made several attempts to communicate with the Noticee, however, no response was received from the Noticee at all in the matter.

11. Further, I note that during the examination, the website was operational and inter-alia it contained disclaimers stating that the Noticee was providing trading tip calls about the Indian Stock Markets to his various clients using various methods. Further, the pricing table for the investment advisory service provided by the Noticee in the said website is as under;

<b>Basic Stock Cash</b>		<b>Nifty Pack</b>	
Intro Pack Weekly	5000/-	Intro Pack Weekly	4000/-
Monthly	20000/-	Monthly	15000/-
Quarterly	45000/-	Quarterly	35000/-
Half yearly	80000/-		
<b>Basic Stock Future</b>		<b>Premium Stock Cash</b>	
Intro Pack Weekly	5000/-	Intro Pack Weekly	5000/-
Monthly	20000/-	Monthly	30000/-
Quarterly	45000/-	Quarterly	50000/-

Half yearly	80000/-	Half yearly	80000/-
<b>Basic Stock Option</b>		<b>Premium Stock Option</b>	
Intro Pack Weekly	5000/-	Intro Pack Weekly	5000/-
Monthly	20000/-	Monthly	30000/-
Quarterly	45000/-	Quarterly	50000/-
Half yearly	80000/-	Half yearly	80000/-
<b>Basic Metal and Energy</b>		<b>Commodity Premium</b>	
Intro Pack Weekly	5000/-	Intro Pack Weekly	5000/-
Monthly	20000/-	Monthly	30000/-
Quarterly	45000/-	Quarterly	50000/-
Half yearly	80000/-	Half yearly	80000/-
<b>Bullion</b>			
Intro Pack Weekly	5000/-		
Monthly	20000/-		
Quarterly	45000/-		
Half yearly	80000/-		

12. Besides, I also note that during the examination it was found that the Noticee was not registered with the Stock exchanges in the capacity of an Authorized Person and further, BSE did not have any trade details on the PAN of the Noticee, while NSE vide email dated January 13, 2022 shared the trade details of the Noticee with SEBI.

13. From the KYC and two bank account statements (for the period between April 02, 2021 to January 12, 2022), associated with accounts mentioned on the website and provided by the complainant, the following was observed;

**Axis Bank A/c No. 921020011530857**

<b>Trade Name</b>	Tradex Incorporation
<b>Legal Name</b>	Mr. Indrajeet Dey
<b>Constitution of Business</b>	Proprietorship
<b>Details of Activity</b>	Investments and Trading
<b>Date of Account Opening</b>	25.03.2021

<b>Amount credit</b>	<b>of</b>	Rs. 2,48,77, 740/-
<b>Status account</b>	<b>of</b>	closing balance of Rs 75,524.08/- as on January 09, 2022.

**Kotak Mahindra Bank A/c. No. 3145697715**

<b>Name</b>	Tradex Incorporation/Indrajeet Dey
<b>Constitution of Business</b>	Proprietorship
<b>Date of Account Opening</b>	27.09.2021
<b>Amount credit</b>	Rs. 45,35,638/-
<b>Status account</b>	closing balance of Rs 17,564.58/-.
<b>Transaction tracing</b>	In this case the complainant paid in 02 instalments i.e. Rs 3000 on April 26, 2021 and Rs 15,000 on May 05, 2021.
<b>Withdrawal</b>	Further it was also observed that, multiple withdrawal entries with the narration of "Indrajeet Dey" and '1 ONN Enterprises" was observed.

14. In respect of the above, I note from the observation of the examination report that the UPI Id shared by the Noticee on the website is linked to Kotak Bank A/c. No. 3145697715, as confirmed by National Payments Corporation of India (NPCI) to SEBI.

**Analysis of Bank Statements**

15. Upon perusal of the two above mentioned bank account statements of the Noticee, the following were observed;

- a) Both the bank accounts (i.e. Axis Bank A/c No.921020011530857 and Kotak Bank A/c No. 3145697715) mentioned on the Noticee's website, belong to Tradex Incorporation whose proprietor was the Noticee.

- b) Both the above mentioned bank accounts revealed that several credits to the tune of Rs 5000, Rs 10000, Rs 15000 and Rs 20000, were found to be matching with the package pricing tables as observed on the website.
- c) Further, there have been multiple cross-transfers between the above mentioned two bank accounts during the period of October 2021 to till January 12, 2022 and also to the personal bank account of the Noticee.
- d) As per the statements of the Axis Bank account, it was observed that there were multiple transfers made to M/s '1 ONN Enterprises', which is another proprietorship concern of the Noticee which was based in Ujjain as per the details of the counter-party provided by Axis Bank.
- e) As per the statements of Axis Bank account, with reference to the complainant payment for the packages, there was no single transfer of Rs.18,000/- however, the complainant had made 2 transfers of Rs 3,000/- and Rs.15,000/- on April 26, 2021 and May 05, 2021, respectively to the Noticee.

#### **Examination of available Phone Number.**

- 16. During the examination period, it was observed that the phone number (9643301880) of the Noticee as available in his account opening form was linked to his UPI Id and when searched on findandtrace.com., the status of the said phone number was shown to be active, however, as on July 04, 2023, the number got deactivated.
- 17. From the above, I find that, the website of the Noticee and phone number linked with the UPI Id were active during the course of examination and subsequently, got deactivated as on July 04, 2023, implying that the same was deactivated on purpose. Further, I find that there were active credits in the bank account which are similar to the package details provided by the Noticee on the website. Also, from the examination and analysis of Bank statements carried out, I note that, the



Noticee has been regularly receiving fund transfers as offered in the website for various packages. Hence, I find that the Noticee has been receiving money against the unregistered investment advisory business being conducted by him.

18. Therefore, I find that, the Noticee in the name of his proprietary firm Tradex Incorporation, was providing investment advice for which he was charging fees from his clients and acted as unregistered Investment Advisor. Further, the services offered by the Noticee to the complainant are in nature of Investment Advise since fees was charged from the complainant and other clients.

19. The said acts clearly establish that the Noticee was carrying out the investment advisory service in the trade name of Tradex Incorporation without obtaining registration from SEBI. In this regard, I would like to refer to the terms “investment advice” and investment adviser’ defined under Regulation 2(1)(l) and 2(1)(m) of IA Regulations, 2013 respectively, which reads as under:

**2(1)(l).** *“investment advice” means advice relating to investing in, purchasing, selling or otherwise dealing in securities or investment products, and advice on investment portfolio containing securities or investment products, whether written, oral or through any other means of communication for the benefit of the client and shall include financial planning.”*

**2(1)(m).** *“investment adviser means any person who for consideration, is engaged in the business of providing advice to clients or other persons or group of persons and includes any person who holds out himself as an investment adviser, by whatever name called”.*

20. From the aforesaid facts, I find that the Noticee was engaged in giving advice relating to investing in, purchasing, selling or otherwise dealing in securities or

investment products in lieu of consideration. Therefore, I find that in terms of Regulation 2(1)(l) of the IA Regulations, the Noticee was providing “investment advice”. I note that if an entity is engaged in providing advice relating to investing in, purchasing, selling or otherwise dealing in securities or investment products, and advice on investment portfolio containing securities or investment products, whether written, oral or through any other means of communication for the benefit of the client in lieu of consideration, including entities which are holding themselves out as investment advisers, are covered by the definition of “Investment Adviser” as given in Regulation 2(1)(m) of the IA Regulations.

21. As noted above, the Noticee used to charge fee for investment advisory services ranging from ₹5,000 to ₹80,000 and received ₹2,94,13,378/- in connection with investment advisory activities in the two bank accounts mentioned on his website. The Noticee has not made any submissions to prove that these funds were earned from other source of income. Hence, I find that these services were being offered by the Noticee for the consideration, as noted above. Therefore, I find that the Noticee was engaged in the business of providing investment advice to his clients, for consideration, and thus, acting as an investment adviser, as defined under Regulation 2(1)(m) of the IA Regulations.

22. It is imperative that any person carrying out investment advisory activities has to necessarily obtain registration from SEBI and conduct his activities in accordance with the provisions of SEBI Act and Regulations framed thereunder.

23. I note that for seeking a certificate of registration for acting as an investment adviser, an entity is required to satisfy, inter alia, the following requirements, as provided under IA Regulations:

23.1. An application for seeking certificate of registration to be made to Local Office, Regional Office or Head Office, of SEBI, as the case may be, in

Form A as specified in the First Schedule to IA Regulations, 2013 along with requisite non-refundable application fee;

23.2. The applicant, in case of an individual investment adviser or its principal officer in case of a non-individual investment adviser shall be appropriately qualified and certified as under:

23.2.1. A professional qualification or post-graduate degree or post graduate diploma (minimum two years in duration) in finance, accountancy, business management, commerce, economics, capital market, banking, insurance or actuarial science from a university or an institution recognized by the Central Government or any State Government or a recognized foreign university or institution or association or a professional qualification by completing a Post Graduate Program in the Securities Market (Investment Advisory) from NISM of a duration not less than one year or a professional qualification by obtaining a CFA Charter from the CFA Institute;

23.2.2. An experience of at least five years in activities relating to advice in financial products or securities or fund or asset or portfolio management;

23.2.3. Applicant in case of individual investment adviser or its principal officer in case of a non-individual investment adviser, and persons associated with investment advice shall have, at all times a certification on financial planning or fund or asset or portfolio management or investment advisory services, from (a) NISM; or (b) any other organization or institution including Financial Planning Standards Board of India or any recognized stock exchange in India provided such certification is accredited by NISM.

23.3. Individual applicant must have net worth of not less than 5 lakh rupees and non-individual applicant must have net worth of not less than 50 lakh rupees.

24. I note that safeguards provided under IA Regulations require continued minimum professional qualification and net worth requirement for investment adviser, including disclosure of all conflicts of interest, prohibition on entering into transactions which are contrary to advice given for 15 days, risk profiling of investors, maintaining documented process for selecting investment for client based on client's objective and risk profile, understanding the nature and risks of products or assets selected for clients, etc. These requirements are aimed at protection of investor interest.

25. Section 12(1) of the SEBI Act provides as under:

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

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

27. It is noted that the Noticee was not registered with SEBI in the capacity of Investment Advisor, yet advertised on his website, for consideration and acting as an investment adviser, in addition to receiving credits in his bank accounts. Further, I also note that in the absence of any material contrary to the allegations made in the SCN, in the light of the aforesaid findings, judicial observations that

the material available on record are sufficient to reasonably conclude that the Noticee was directly involved in activities pertaining to providing unregistered investment advisory services. Hence, I find that the activities discussed hereinabove were being carried out by the Noticee without holding the certificate of registration as an investment adviser and are in violation of Section 12(1) of SEBI Act read with Regulation 3(1) of the IA Regulations.

28. I note that the SCN has called upon the Noticee to show cause as to why appropriate penalty be not imposed upon him/it under Section 15EB of SEBI Act for the violations alleged in the SCN. Section 15 EB of the SEBI Act is reproduced as under: -

**Section 15 EB - Penalty for default in case of investment adviser and research analyst**

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

29. From the above, I note that receiving fees for investment advice which is in violation of Section 12(1) of SEBI Act read with Regulation 3(1) of the IA Regulations. Therefore, I find that the Noticee is liable to be imposed with of penalty under Section 15EB of the SEBI Act.

30. I note that Section 15J of the SEBI Act provide for factors which are required to be considered for adjudging quantum of penalty. Section 15J of the SEBI Act reads as follows: -

**“Factors to be taken into account while adjudging quantum of penalty.**

**15J.** While adjudging quantum of penalty under 15-I or section 11 or section 11B, the Board or the adjudicating officer shall have due regard to the following factors, namely: —

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
- (b) the amount of loss caused to an investor or group of investors as a result of the default;
- (c) the repetitive nature of the default.”

Explanation. —For the removal of doubts, it is clarified that the power to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section.”

31. The activities of the Noticee, as brought out above, seen in the backdrop of the aforesaid provisions show that he was acting as an investment adviser without holding the certificate of registration as investment adviser. Therefore, I find that the Noticee has violated the provisions of Section 12(1) of SEBI Act read with Regulation 3(1) of the IA Regulations.

**Directions:**

32. In view of the foregoing, I, in exercise of the powers conferred upon me in terms Sections 11 (1), 11(4), 11(4)(A) 11B, 11B(1), 11B (2) read with Section 19 of SEBI Act, and Rule 5 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995, hereby issue the following directions:

- a) The Noticee is here imposed with penalty of Rs. 1,00,000/- (Rupees One Lakh only) under Section 15 EB of SEBI Act;
- b) The Noticee shall refund all the money collected/ received from any investors/ complainants, as fees or consideration or in any other form, in respect of his

unregistered investment advisory activities immediately, and in any case within a period of three months from the date of this order,

- c) The Noticee shall issue public notice in all editions of two National Newspapers (one English and one Hindi) and in one local newspaper in vernacular language with wide circulation, detailing the modalities for refund, including the details of contact person such as name, addresses and contact details, within fifteen days from the receipt of this order;
- d) The repayments to the investors/complainants shall be effected only through bank Demand Draft or Pay Order or electronic fund transfer or through any other appropriate banking channels, which ensures audit trails to identify the beneficiaries of repayments;
- e) The Noticee is prohibited from selling his assets, properties including mutual funds/ shares/ securities held by him in demat and physical form except for the sole purpose of making the refunds as directed above. Further, the banks are directed to allow debit from the bank accounts of the Noticee, only for the purpose of making refunds to the investors/ complainants who were availing the investment advisory services from the Noticee;
- f) After completing the aforesaid repayments, the Noticee shall file a report of such completion with SEBI addressed to the “*Division Chief, Division of Post-Inspection Enforcement Action, Market Intermediaries Regulation and Supervision Department, SEBI Bhavan II, Plot No. C7, G Block, Bandra Kurla Complex, Bandra (East) Mumbai –400051*”, within a period of fifteen days, after completion of four months from the coming into force of the directions above, duly certified by an independent Chartered Accountant and the direction at para 32 (e) above shall cease to operate filing of such report;

- g) The remaining balance amount shall be deposited with SEBI which will be kept in an escrow account for a period of one year for distribution to clients/complainants/investors who were availing the investment advisory services from the Noticee. Thereafter, remaining amount, if any, will be deposited in the 'Investors Protection and Education Fund' maintained by SEBI;
- h) In case of failure of the Noticee to comply with the aforesaid directions in subparagraph (b) and (g), SEBI, on the expiry of the stipulated time period therein from the date of coming into force of this order, may recover such amounts, from the Noticee, in accordance with Section 28A of the SEBI Act, 1992 including such other provisions contained in securities laws,
- i) The Noticee is debarred from accessing the securities market, directly or indirectly and is prohibited from buying, selling or otherwise dealing in the securities, directly or indirectly in any manner whatsoever, for a period of one year from the date of this order or till the date of filing of report as directed in para 32 (f) above, whichever is later;
- j) The Noticee shall not undertake, either during, or after, the expiry of the period of debarment /restraint as mentioned in para 32 (g) above, either directly or indirectly, investment advisory services or any activity in the securities market without obtaining a certificate of registration from SEBI as required under the securities laws.
- k) The Noticee shall remit / pay the said amount of penalty, within a period of forty-five (45) days from the date of receipt of this order, through online payment facility available on the website of SEBI, i.e. [www.sebi.gov.in](http://www.sebi.gov.in) on the following path, by clicking on the payment link: ENFORCEMENT -> Orders -> Orders of EDs/CGMs -> PAY NOW. In case of any difficulties in online payment of penalties, the Noticee may contact the support at [portalhelp@sebi.gov.in](mailto:portalhelp@sebi.gov.in)



33. For any non-compliance of this order, the Noticee shall be subject to strict action under the applicable provisions of the law, including prosecution.

34. It is clarified that the direction for refund, as given in para 32 (b) above, does not preclude the complainants /investors to pursue other legal remedies available to them under any other law, against the Noticee for refund of money or deficiency in service before any appropriate forum of competent jurisdiction.

35. This order comes into force with immediate effect.

36. A copy of this order shall be sent to the Noticee, all the recognized Stock Exchanges, the relevant Banks, Depositories, Registrar and Transfer Agents of Mutual Funds and BSE Administration and Supervision Ltd., to ensure that the directions given above are strictly complied with.

**Date: 06 December, 2023**

**Place: Mumbai**

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