

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER SECTIONS 11(1), 11(4), 11B AND 11D OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH REGULATION 3(1) OF SEBI (INVESTMENT ADVISERS) REGULATIONS, 2013

In respect of -

Sr. No.	Name of the Entity	PAN
1.	Capital Trading Cash (Proprietor – Mr. Saudan Singh)	EQGPS3663P

In the matter of Unregistered Investment Advisory Services

BRIEF BACKGROUND

1. Securities and Exchange Board of India (“**SEBI**”) conducted an examination, pursuant to receipt of a complaint dated May 24, 2021, with respect to the activities of Capital Trading Cash (hereinafter referred to as the “Noticee”), which is a sole proprietorship of Mr. Saudan Singh. The complainant had, *inter alia*, alleged that the Noticee, in the guise of providing investment advisory services had taken money from the complainant in multiple tranches. An examination was conducted to ascertain the veracity of the said complaint and to determine whether there has been any violation of the provisions of the Securities and Exchange Board of India Act, 1992 (“**SEBI Act, 1992**”), the Securities and Exchange Board of India (Investment Advisers) Regulations, 2013 (“**IA Regulations**”) and any other Rules or Regulations made thereunder, by the Noticee.
2. SEBI, *prima facie*, found that the Noticee is engaged in investment advisory services without obtaining a certificate of registration from SEBI after examining the aforesaid complaint, KYC documents, bank account statements, website and the screenshots of whatapp chats available on record. Upon examining the webpages of the website,

it was also observed that the Noticee, by holding itself as a SEBI registered intermediary was disseminating false and misleading information through its website.

SHOW CAUSE NOTICE, REPLY AND HEARING

3. A Show Cause Notice dated January 02, 2023 (“**SCN**”) was issued to the Noticee calling upon it to show cause as to why suitable directions under Sections 11(1), 11(4), 11(4A), 11B (1), 11B(2) and 11D of the SEBI Act, 1992, including direction to refund advisory fees collected from investors and imposing monetary penalty under Sections 15EB and 15HA of the SEBI Act, 1992, should not be issued against the Noticee for the alleged violation of the provisions of Section 12(1) of the SEBI Act, 1992 read with Regulation 3(1) of the IA Regulations and Regulation 4(2)(k) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices in Securities Market) Regulations, 2003 (hereinafter referred to as the “**PFUTP Regulations, 2003**”). The aforesaid SCN was issued to the Noticee at the addresses available on record by way of Speed Post and was duly delivered to the Noticee on January 07, 2023 at the address viz. “*Makan No. 66, Ward No. 16, Indira Colony, Railway Station Ke Pass, Ranthbhanwar, Shahapur, Madhya Pradesh – 465110*”. The following documents were enclosed as annexures to the SCN dated January 02, 2023:

Annexures to SCN	
Annex. No.	Particulars
A.	Complaint against the Noticee dated May 25, 2021
B.	Copy of the Noticee’s Bank Statement and KYC/ AoF received from Canara Bank, Shajapur Branch, Madhya Pradesh
C.	Copy of the Noticee’s Bank Statement and KYC/ AoF received from Axis Bank, Shajapur Branch, Madhya Pradesh
D.	Copies of webpages of the website www.capitaltradingcash.com
E.	Copies of SEBI letters dated August 04, 2021 and August 13, 2021 seeking details of investment advisory services offered by the Noticee.

4. The details of the allegations made in the SCN are as under:

- 4.1 SEBI had received a complaint dated May 25, 2021 against the Noticee (Proprietor – Mr. Sadan Singh) wherein it was, *inter alia*, alleged that the Noticee had offered investment advisory services, on the promise of providing assured profit and

collected Rs. 2,50,000 in multiple tranches from the complainant. The complainant had also provided screenshots of payments made by him to the bank account of the Noticee through IMPS.

4.2 From the information provided in the complaint, it was noticed that the following two bank accounts were used by the Noticee to carry out the said activities:

- (i) Canara Bank Account No. xxxxxxxxxx9683
- (ii) Axis Bank Account No. xxxxxxxxxx8389

4.3 The account statements, Account Opening Form (AOF) and KYC documents of the above mentioned bank accounts were obtained from the respective banks and the details that were noted from the examination of the same are given below:-

(i) Details of **Canara Bank Account – xxxxxxxxxx9683** are summarized as under:

Name of the Bank Account holder	Shri. Saudan Singh
Address	Makan No. 66, Ward No. 16, Indira Colony, Railway Station Ke Pass, Ranthbhanwar, Shajapur, Madhya Pradesh - 465110
PAN	EQGPS3663P
Account opening date	March 04, 2021
Last transaction	June 25, 2021
Current status of bank account	'Frozen'

(i) As per the bank account statement forwarded by Canara Bank, Shajapur Branch for the period from March 04, 2021 to June 25, 2021, the Noticee had received Rs. 33,22,151 during the said period and there were no transactions in the said bank account after June 25, 2021.

(ii) Details of the relevant credit entries in the aforesaid account bearing no. xxxxxxxxxx9683 are as under:

Date	Particulars (Narration)	Amount credited (Rs.)

March 18, 2021	UPI/CR/107716038498/P NEERAJA/KKBK/**i8511@okicici/Capital //IClbe2f841edd7c4c7195acbe7855aeb9ac/18/03/2021 16:51:26	5,000.00
March 18, 2021	UPI/CR/107717454847/P NEERAJA/KKBK/**i8511@okicici/capital //ICl2cf50d6dea764e869dea58f000c993f9/18/03/2021 17:31:54	10,000.00
March 20, 2021	UPI/CR/107915504071/PALLETI N/UTIB/**i8511@okaxis/capital //AXl1edf0f092b174fc1abab19dd9b83dc12/20/03/2021 15:23:29	5,000.00
March 22, 2021	NEFT Cr-ICIC0SF0002-SUHASINI R G-CAPITAL TRADING-73552351	5,000.00
March 22, 2021	UPI/CR/108123589524/PALLETI N/UTIB/**i8511@okaxis/capital //AXl1ea49b0b2d3ea4097811f84d3d6a2e117/22/03/2021 23:06:59	5,000.00
March 23, 2021	UPI/CR/108218237228/PALLETI N/UTIB/**i8511@okaxis/capital //AXlf0f539e275524296bbcbef6cf8c24732/23/03/2021 18:24:30	5,000.00
March 25, 2021	NEFT Cr-ICIC0SF0002-SUHASINI R G-CAPITAL TRADING-75693758	10,000.00
March 26, 2021	UPI/CR/108506783087/PALLETI N/UTIB/**i8511@okaxis/capital //AXl310131add3674817b0d234581a41caff/26/03/2021 06:11:16	9,000.00
March 27, 2021	NEFT Cr-IBKLONEFT01-SANJAY PUNDALIK PATIL-CAPITAL TRADING-0327i26712834161	15,000.00
March 30, 2021	NEFT Cr-IBKLONEFT01-SANJAY PUNDALIK PATIL-CAPITAL TRADING-0330i26716246341	25,000.00
April 20,2021	UPI/CR/111008806328/MAHAVEER /BARB/**er999@okaxis/capital //AXl790dd8b6c2394550aab5a3bdf47efb64/20/04/2021 08:40:43	25,000.00
April 26, 2021	UPI/CR/111612846014/BHUSHAN B/HDFC/**kheyb@okaxis/capital	10,000.00

	//AXI00827bc4ba5545ce9685912456d6c5a0/26/04/2021 12:40:41	
April 26, 2021	UPI/CR/111621731248/BHUSHAN B/HDFC/**kheyb @okaxis/capital //AXI4f538b2b092b455fa48e0cd0d784dafb/26/04/2021 21:44:39	11,000.00
May 15, 2021	NEFT Cr-JAKA0CHITRA-ABDUL ALEEM KHAN-CAPITAL TRADERS-NEFTSDC14479612	5,000.00
May 19, 2021	NEFT Cr-JAKA0CHITRA-ABDUL ALEEM KHAN-CAPITAL TREADERS-NEFTSDC14547764	4,000.00
June 01, 2021	NEFT Cr-JAKA0CHITRA-ABDUL ALEEM KHAN-CAPITAL TRADERS-NEFTSDC14735641	1,300.00
June 03, 2021	NEFT Cr-JAKA0CHITRA-ABDUL ALEEM KHAN-CAPITAL TRADERS-NEFTSDC14775970	1,600.00

- (iii) From the above table, it was observed that there are 17 credit transactions wherein the name of the Noticee i.e. Capital / Capital Trading / Capital Traders finds mention in the narrations. The total amount credited by way of the aforesaid 17 transactions wherein Capital Trading was mentioned in the narrations is Rs.1,51,900. Further, details of relevant credit entries in the aforesaid Canara bank account wherein narrations included the term 'trading' are mentioned in table below-

Date	Particulars (Narration)	Amount credited (Rs.)
April 06, 2021	UPI/CR/109609273730/SUNIL SIR/YESB/**i8696 @okicici/trading//ICI73c5ab652bd847d992e5994aeb9be1ba/06/04/2021 09:47:51	4,998.00
April 13, 2021	UPI/CR/110316168472/ARUN KUMA/SBIN/**m1592 @oksbi/trading//SBI3b99cf0f0a00457690c523d66bf6ad66/13/04/2021 16:16:20	17,000.00
April 17, 2021	UPI/CR/110719598158/ARUN KUMA/SBIN/**m1592 @oksbi/trading//SBId41e8697f01b4ac08e514db363596051/17/04/2021 19:02:04	21,170.00
April 26, 2021	INET-IMPS-CR/YASHAPALSI/AXB /912010048031708/trading/9780899216/26/04/2021 10:01:34	5,000.00

May 26, 2021	UPI/CR/114609229129/PRATAP CH/ICIC/**cbkdh@okicici/trading //IC154cb4b6593f042c3845e7a94e162cc84/26/05/2021 09:44:40	6,000.00
May 31, 2021	UPI/CR/115111413593/NAIR PRAK/PUNB/**ashnp@upi/Trading//UPle2aaa2f3d1254f2abc2 2bba6ae2bbfa1/31/05/2021 11:44:48	10,000.00
June 01, 2021	IB ITG 3499200 1682101004262 OTH-For trading	10,000.00
June 02, 2021	UPI/CR/115313095668/NAIR PRAK/PUNB/**01234@oksbi/Trading//SBIdef697e698884e9f9 7955c54a2c62765/02/06/2021 13:22:59	10,000.00

- (iv) Further, the payment of Rs. 2,50,000 in multiple tranches (i.e. Rs. 25,000, Rs. 50,000, Rs. 25,000, and Rs. 1,00,000) made by the complainant to the Noticee, details of which had been provided by the complainant, were reflected and identified in the Canara bank account statement (A/c no. xxxxxxxxx9683).
- (v) Also, from the Canara Bank account statement, certain transactions were noticed whereby transfers were made from the said Bank Account to an account held with Axis Bank in the name of the Noticee.
- (vi) In view of the same, details were sought from Axis Bank, Shajapur Branch and the details of the account no. **xxxxxxxxxxx8389** are as under:

Name of the Bank Account holder	Shri. Saudan Singh
Address	Makan No. 66, Ward No. 16, Indira Colony, Railway Station Ke Pass, Ranthbhanwar, Shajapur, Madhya Pradesh - 465110
PAN	EQGPS3663P
Account opening date	March 03, 2021
Last transaction	January 11, 2022
Current status of bank account	'Closed'

(vii) As per the aforesaid bank account statement, the Noticee has received Rs. 48,49,421/- in the said account during the period from March 08, 2021 to January 14, 2022. The following are the credit entries from Axis Bank account statement shows the transfer of money from the Canara Bank Account no. **xxxxxxxxxx9683** of Noticee to aforesaid Axis Bank account number **xxxxxxxxxxxx8389**:

Date	Particulars (Narration)	Amount credited (Rs.)
15/03/2021	UPI/P2A/107420004935/SAUDAN SI/Canara Ba/Payment	1000
16/03/2021	UPI/P2A/107556639228/SAUDAN SI/Canara Ba/Payment	13000
19/03/2021	UPI/P2A/107877817548/SAUDAN SI/Canara Ba/Payment	20000
20/03/2021	UPI/P2A/107908085456/SAUDAN SI/Canara Ba/Payment	50000
22/03/2021	IMPS/P2A/108115141440/SAUDANSI/CANARABA/	40000
24/03/2021	UPI/P2A/108367576711/SAUDAN SI/Canara Ba/Payment	50000
03/04/2021	UPI/P2A/109349601450/SAUDAN SI/Canara Ba/Payment	10000
08/04/2021	UPI/P2A/109881831335/SAUDAN SI/Canara Ba/Payment	20000
22/04/2021	UPI/P2A/111200751160/SAUDAN SI/Canara Ba/Payment	50000
26/04/2021	UPI/P2A/111665573608/SAUDAN SI/Canara Ba/Payment	50000
06/05/2021	UPI/P2A/112682757496/SAUDAN SI/Canara Ba/NA	10
10/05/2021	UPI/P2A/113003764470/SAUDAN SI/Canara Ba/Payment	30000
26/05/2021	UPI/P2A/114645997852/SAUDAN SI/Canara Ba/Payment	50000
26/05/2021	IMPS/P2A/114621591908/SAUDANSI/CANARABA/	30000
01/06/2021	UPI/P2A/115249675136/SAUDAN SI/Canara Ba/Payment	31000
05/06/2021	UPI/P2A/115652424119/SAUDAN SI/Canara Ba/Payment	50000
17/06/2021	UPI/P2A/116891936017/SAUDAN SI/Canara Ba/Payment	20000

(viii) The following credit entries in the Axis Bank account include certain narrations which mention the terms such as 'trading', 'brokerage', and 'capital': -

Date	Particulars (Narration)	Amount credited (Rs.)
08/05/2021	IMPS/P2A/112815775843/DREAMPLU/YESBANKL/brokerag	58928

05/07/2021	UPI/P2A/118615269344/SANDEEP K/ICICI Ban/Trading	50000
06/07/2021	UPI/P2A/118724919837/SANDEEP K/ICICI Ban/capital	25000

- (ix) The above narrations of credit entries *prima facie* suggest that the Noticee was receiving payments, which are in the nature of investment advisory fees, in its Axis bank account.

4.4 It was also gathered from the complaint that a website, www.capitaltradingcash.com was being used by the Noticee. Upon perusal of the said website, the following details were observed –

- (a) The Noticee claimed to be a registered investment advisor having registration number INA000002679. From the search carried out in the website of SEBI i.e. www.sebi.gov.in, no registration in the name of the Noticee was found with the aforesaid registration number (i.e. INA000002679) and therefore, the said registration number displayed by the Noticee in its website is invalid.
- (b) The Noticee claimed to provide recommendations in Cash, F&O and Commodities segments.
- (c) The Noticee provided login credentials to its clients through email ID and password after asking the client to provide certain information such as name, bank account no., mobile no. etc.
- (d) The Noticee also displayed information regarding price movement in various scrips (eg.-Asian paints 3200.75 (94.05) (3.03%) highlighted in green colour on the website).

4.5 In view of the above observations, vide letters dated August 04, 2021 and August 13, 2021, the Noticee was advised to provide information regarding the details of the clients who had availed the investment advisory services from the Noticee and the amounts collected in the aforesaid two bank accounts. However, no reply was received from the Noticee.

5. From the contents of the website, www.capitaltradingcash.com, complaint filed by the complainant, bank account entries, etc., it was *prima facie* observed that Noticee was carrying out activities which are in the nature of investment advisory services for which fees have been charged as consideration and further, has held itself out as a SEBI registered investment adviser. Further, as the Noticee had failed to furnish the information sought by SEBI in respect of nature of the transactions reflected in the said bank accounts, it was alleged in the SCN that the Noticee was engaged in the act of providing investment advisory services without obtaining any certificate of registration and by disseminating false and misleading information through its website that it is a SEBI registered Advisor has violated the provisions of the SEBI Act, 1992, the IA Regulations and the PFUTP Regulations, 2003.
6. From the available records, it is noted that the Noticee did not file any reply to the SCN. Therefore, in order to comply with the principles of natural justice, an opportunity of personal hearing was granted to the Noticee on February 17, 2023. On the scheduled date, Mr. Saudan Singh, Proprietor of the Noticee, appeared from SEBI's office located at Indore by way of Video Conferencing. During the hearing, he submitted that he has received the SCN and the hearing notice dated February 07, 2023. However, has not understood the allegations made in the matter. Upon explaining the charges levelled against the Noticee, Mr. Saudan Singh was asked to explain on the credit entries in bank accounts held by him with Canara Bank and Axis Bank. Mr. Saudan Singh stated that the account with Canara Bank is held by him but he is unaware of the credit entries in the said account. Further, it was submitted by him that he has no knowledge about the Axis Bank Account. He stated that he had joined some deposit collection scheme, which he addressed to be a "*samuha*" in Hindi and the account opened with Canara Bank was for the said purpose. People running the said scheme had visited his village when he had given his documents to them. He has no knowledge about the unregistered investment advisory services mentioned in the SCN and money which is getting credited in the said accounts. On the said date, the Noticee submitted his handwritten reply to the SCN in Hindi which was taken on record by the SEBI officials at Indore office and is available in the file. The submissions made by Mr. Saudan Singh in the reply dated February 17, 2023 are summarized as under:

- (a) Two accounts were opened in his name. One with Canara Bank and another with Axis Bank.
- (b) The said bank accounts were opened for the purpose of 'samuha' / deposit collection scheme and the documents were given to one Subhash Sir from Shajapur. The account number is "xxxxxxxxx9683".
- (c) With respect to the second bank account with Axis Bank bearing no. xxxxxxxxxxx8389, he submitted that he has no knowledge about the same. He does not know who has opened the said account and / or used it.
- (d) Mr. Saudan Singh submitted that he has not opened any advisory company as alleged in the SCN and he is not related to the transactions undertaken in the said bank accounts.

CONSIDERATION OF ISSUES AND FINDINGS

- 7. I have carefully considered the allegations made in the SCN along with the findings of examination by SEBI stated therein, submissions made by the Noticee in his reply to the SCN and the documents available on record.
- 8. I note that the issue that arises for consideration in the present proceeding is whether the Noticee has acted as an unregistered investment adviser in violation of the provisions of the SEBI Act, 1992 and the IA Regulations and whether by disseminating false and misleading information through its website that it is a SEBI registered Advisor the Noticee has violated the provisions of PFUTP Regulations, 2003.
- 9. In this regard, I note that the definition of 'Investment Adviser' as given under Regulation 2(1)(m) of the IA Regulations is as follows:

"investment adviser means any person, who for consideration, is engaged in the business of providing investment 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;"

- 10. Further, Regulation 2(1)(l) of the IA Regulations, which defines 'investment advice', reads as follows:

"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:

Provided that investment advice given through newspaper, magazines, any electronic or broadcasting or telecommunications medium, which is widely available to the public shall not be considered as investment advice for the purpose of these regulations;”

11. For ease of reference, the provisions of the SEBI Act, 1992, IA Regulations and PFUTP Regulations, 2003 alleged to have been violated by the Noticee are reproduced as under:

SEBI Act, 1992

“Registration of stock brokers, sub-brokers, share transfer agents, etc.

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

“Application for grant of certificate.

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:*

SEBI (PFUTP) REGULATIONS, 2003

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

(1) a knowing misrepresentation of the truth or concealment of material fact in order that another person may act to his detriment;

(2) a suggestion as to a fact which is not true by one who does not believe it to be true;

(3) an active concealment of a fact by a person having knowledge or belief of the fact

(4) a promise made without any intention of performing it

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

And "fraudulent" shall be construed accordingly;

4(2). *Dealing in securities shall be deemed to be a manipulative fraudulent or an unfair trade practice if it involves any of the following:*

(k) *Disseminating information or advice through any media, whether physical or digital, which the disseminator knows to be false or misleading in a reckless or careless manner and which is designed to, or likely to influence the decision of investors dealing in securities.*

Provided that a person acting as an investment adviser immediately before the commencement of these regulations may continue to do so for a period of six months from such commencement or, if it has made an application for a certificate under sub-regulation (2) within the said period of six months, till the disposal of such application."

12. I note that SEBI, upon receipt of the complaint alleging that the Noticee was providing investment advisory services in lieu of consideration, conducted an examination into the activities of the Noticee. Upon examining the bank account statements, the AoF and the KYC documents (as received from the banks) it was noted that both the bank accounts i.e. one with Canara Bank and another with Axis Bank, Shajapur Branch, in which credit entries have been found to have been made, have been opened in the name of Mr. Saudan Singh. Further, the complainant in his complaint with SEBI had alleged that he had paid an amount of Rs. 2,50,000/- to the Noticee in multiple tranches. The credit entries for the said amount from the complainant have also been identified and reflected in the bank account bearing no. xxxxxxxxx9683 held by the Noticee with Canara Bank. I note from the bank statements of both the accounts held with Canara Bank and Axis Bank, respectively, that a total of Rs. 81,71,572/- (i.e. Rs. 33,22,151/- received in Canara Bank account during the period from March 04,

2021 to June 25, 2021 plus Rs. 48,49,421/- received in Axis Bank account during the period from March 08, 2021 to January 14, 2022) was credited in the said bank accounts towards consideration for the unregistered investment advisory services carried out by the Noticee during the relevant period.

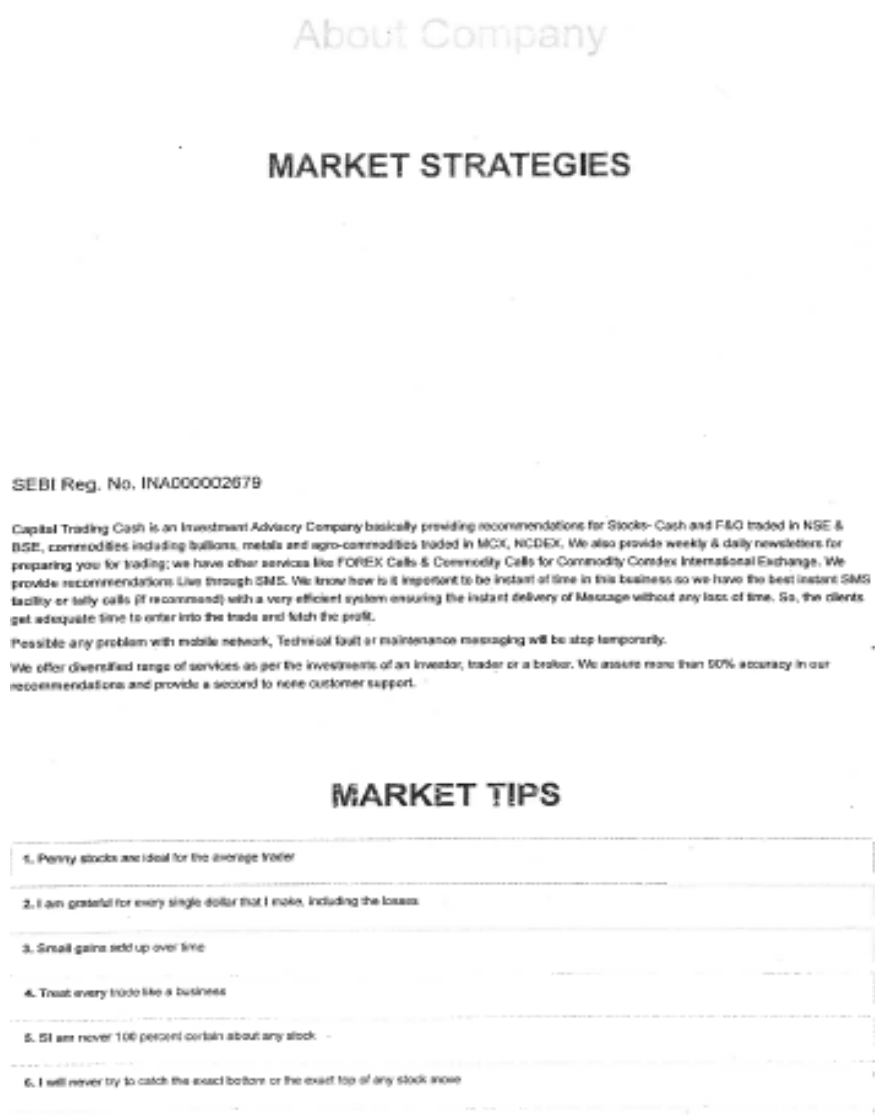
- 13.** It is noted that the Noticee has submitted that the accounts held with Canara Bank and Axis Bank were opened by him for the purpose of 'samuha' / deposit collection scheme and the documents were handed over to some other person and he has no knowledge about the credit entries in the said accounts. Further, with respect to the bank account held with Axis Bank, the Noticee has stated that he has no knowledge of the said account. Both the statements of the Noticee seem to be contradictory in nature. Therefore, in order to verify the submissions made by the Noticee, latest bank account statement of Axis bank bearing account no. xxxxxxxxxxx8389 in the name of Mr. Saudan Singh was sought from Axis Bank. Upon perusal of the said statement, I note that the said account has been closed on January 14, 2022. The Aadhar linked to the said bank account is that of Mr. Saudan Singh. Further, the bank has also confirmed that the Aadhar photo and live photo of the customer is the same. Further, it is noted from the account opening form that the mobile number linked to the said account is 7879011480. To ascertain whether the said mobile number belongs to Mr. Saudan Singh, the customer application form (CAF) was procured from the Telecom Service Provider and as per the CAF, it is noted that the said mobile number belongs to Mr. Saudan Singh, Proprietor of the Noticee as the details such as Aadhar Number in the CAF, Date of Birth and the Address matches to the details available on record. Further, on the one hand he says he has no knowledge about the bank account with Axis Bank and on the other hand he states that both the accounts were opened by him for the purpose of 'samuha' / deposit collection scheme and the documents were handed over to some other person. The said submission as stated above displays that the same is contradictory in nature. Therefore, the submission of Mr. Saudan Singh that he is unaware of any bank account in Axis Bank bearing no. xxxxxxxxxxx8389 is without any merit and is not tenable as the Axis Bank Account is mapped to the mobile number of Mr. Saudan Singh.

14. With respect to the account held with Canara Bank, Shajapur Branch, it is noted from the Account opening Form as provided by the said bank that the mobile number linked to the said account is 9294755476. To ascertain whether the said mobile number belongs to Mr. Saudan Singh or some other person, the CAF was procured from the Telecom Service Provider and as per the CAF, it is noted that the said mobile number belongs to one Mr. Ravendra Pal. However, the PAN and Aadhaar linked to the said Canara Bank Account is that of Mr. Saudan Singh. I note from the bank account statements available on record that there are series of debit entries from the Canara bank account to Axis Bank Account which clearly establishes that Mr. Saudan Singh was aware about the entries in the said bank accounts. Also, Mr. Saudan Singh has admitted opening of the said bank account himself. I also note from the screenshots of the whatsapp chats which have been produced by the complainant along with his complaint that the account name mentioned for the account no. xxxxxxxxx9683 held with Canara Bank, Shajapur Branch, is Mr. Saudan Singh. Therefore, the submissions made by the Noticee that he is unaware of the credit entries in the said account are without any merit and therefore, cannot be considered as they are incorrect.

15. I also note that in order to ascertain the details of the services provided by the Noticee, SEBI had, during the examination period, vide letters dated August 04, 2021 and August 13, 2021, advised the Noticee to provide information regarding the details of the clients who had availed investment advisory services and amounts collected from them. Despite receipt of the said letters, the Noticee did not take any efforts to reply to the said letters. The same establishes that the submissions made by the Noticee during the hearing and vide reply dated February 17, 2023 are nothing but an afterthought and displays an attitude to misguide the authority by claiming unawareness. The fact that there are credit entries in the bank accounts held by Mr. Saudan Singh, that too with the narrations such as '*trading*' '*capital cash*', etc., for a total of Rs. 81,71,572/- during the examination period establishes that the Noticee was fully aware of the transactions undertaken in the said accounts and the said amounts being credited for the purpose of services provided by it through the proprietor.

16. I further note from the webpages of website www.capitaltradingcash.com that the Noticee, on its page showing details about the company, has displayed it to be a SEBI

registered intermediary with registration no. INA000002679. Further, it has been stated that *“Capital Trading Cash is an Investment Advisory Company basically providing recommendations for Stocks-Cash and F&O traded in NSE & BSE, commodities including bullions, metals and agro-commodities traded in MCX, NCDEX”*. It is further stated that *“We offer diversified range of services as per the investments of an investor, trader or a broker. We assure more than 90% accuracy in our recommendations and provide a second to none customer support”*. The website even provided the investors to create an account by providing details such as full name, mobile number, account number, date of birth, etc. The snapshots of the webpages displaying the said details are as under:





17. Even though the Noticee has claimed unawareness, the documents available on record establish the fact that the Noticee was providing investment advisory services through the said website and otherwise and was also claiming to be SEBI registered intermediary by displaying a registration number on the said website which amounts to fraud on the investors.
18. From the foregoing, I find that the Noticee, i.e. Capital Trading Cash, through its proprietor Mr. Saudan Singh, was offering investment advisory services and was engaged in giving advice relating to investing in, purchasing, selling or otherwise dealing in securities or investment products. Therefore, I find that in terms of Regulation 2(1) (l) of IA Regulations, the Noticee was providing “*investment advice*” through its website.
19. 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 advise 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 any person which is holding itself out as investment adviser, will be covered by the definition of “Investment Adviser” as given in Regulation 2(1)(m) of the IA Regulations. As noted above, the Noticee has received a total of Rs. 81,71,572/- (i.e. Rs. 33,22,151 received in Canara Bank account during the period from March 04, 2021 to June 25, 2021 plus Rs. 48,49,421/- received in Axis Bank account during the period from March 08, 2021 to January 14, 2022) in the aforementioned bank accounts for the investment advisory services provided by it through its proprietor. Hence, as mentioned in the preceding paragraphs, I find that these services were being offered by the Noticee *in lieu* of the consideration and thus, acting as investment adviser/s, as defined under Regulation 2(1)(m) of the IA Regulations.

20. 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:

- (i) 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;
- (ii) 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:
 - a. 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;
 - b. An experience of at least five years in activities relating to advice in financial products or securities or fund or asset or portfolio management;
 - c. 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.
- (iii) 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.

21. I note that safeguards provided under IA Regulations, 2013 requires continued minimum professional qualification and net-worth requirement for investment adviser, including disclosure of all conflict 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's interest.

22. As per Regulation 3(1) of IA Regulations the registration of the investment advisers is mandatory. It provides that, *"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"*.

23. I am also of the considered view that by disseminating information that the firm is registered with SEBI through its website, the Noticee has knowingly misled the investors at large thereby engaging in acts, practices, course of businesses which operated as 'fraud' as defined under Regulation 2(1)(c) of the PFUTP Regulations. Regulation 4(2)(k) provides that dealing in securities shall be deemed to be a manipulative, fraudulent or an unfair trade practice if it involves disseminating information or advice through any media, whether physical or digital, which the disseminator knows to be false or misleading and which is designed or likely to influence the decision of investors dealing in securities. In the case of **SEBI Vs. Kishore Ajmera**¹, the Hon'ble Supreme Court observed that,

"the SEBI Act and the Regulations framed there under are intended to protect the interests of investors in the Securities Market which has seen substantial growth in tune with the parallel developments in the economy. Investors' confidence in the Capital/Securities Market is a reflection of the effectiveness of the regulatory mechanism in force. All such measures are intended to preempt manipulative trading and check all kinds of impermissible conduct in order to boost the investors' confidence in the Capital market. The primary purpose of the statutory enactments is to provide enactment is to provide an environment conducive to increased participation and investment in the securities market which is vital to the growth and

¹ (2016) 6 SCC 368

development of the economy. The provisions of the SEBI Act and the Regulations will, therefore, have to be understood and interpreted in the above light”.

24. PFUTP Regulations, 2003 are intended to curb out market abuse. The Hon'ble Supreme Court in the case of **SEBI Vs. Kanaiyalal Baldevbhai Patel²**, has observed that,

“The definition of 'fraud', which is an inclusive definition and, therefore, has to be understood to be broad and expansive, contemplates even an action or omission, as may be committed, even without any deceit if such act or omission has the effect of inducing another person to deal in securities. Certainly, the definition expands beyond what can be normally understood to be a 'fraudulent act' or a conduct amounting to 'fraud'. The emphasis is on the act of inducement and the scrutiny must, therefore, be on the meaning that must be attributed to the word “induce”.....

.....to make inducement an offence the intention behind the representation or misrepresentation of facts must be dishonest whereas in the latter category of cases like the present the element of dishonesty need not be present or proved and established to be present. In the latter category of cases, a mere inference, rather than proof, that the person induced would not have acted in the manner that he did but for the inducement is sufficient.”

25. Thus, the Noticee by disseminating on its website that it is a SEBI registered Investment Advisor has knowingly published false and misleading information through its website thereby defrauding the investors at large by inducing them to execute trades in the market based on the advice provided with a promise of high returns and therefore, I find that the Noticee has violated the provisions of Regulation 4(2) (k) of the PFUTP Regulations, 2003.

26. In view of the foregoing, I do not have any hesitation to conclude that the Noticee through its proprietor was acting as an investment advisor. However, neither the Noticee nor its proprietor were registered with SEBI in the capacity of Investment Advisor. Hence, I find that these activities were being carried out by the Noticee firm without obtaining the necessary certificate of registration as an investment adviser and therefore, the Noticee has violated Section 12(1) of the SEBI Act, 1992 along with Regulation 3 of the IA Regulations. Further, as concluded above, the Noticee, by disseminating false and misleading information in its website showing the firm as SEBI

² (2017) 15 SCC 1

Registered entity, has violated the provisions of Regulation 4(2)(k) of the PFUTP Regulations, 2003.

27. The SCN referred above, also calls upon the Noticee to explain as to why appropriate penalty be not imposed upon it under Section 15EB and 15HA of SEBI Act, 1992 for the violations alleged in the SCN. Relevant extract of the penalty provisions, as existing at the time of violations, is reproduced, hereunder:

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

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

“Penalty for fraudulent and unfair trade practices.

15HA. *If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher.”*

28. Upon consideration of the above penalty provisions, I find that Section 15HA and 15EB have been invoked in the present case for indulging in fraudulent and unfair trade practices related to securities by way of dissemination on the website of the Noticee that it is a SEBI registered Investment Advisor without obtaining a certificate of registration from the Board under these Regulations. It has been clearly established in the preceding paragraphs that the Noticee had defrauded the investors at large by disseminating on its website that it was a SEBI registered investment advisor and mentioning certain registration numbers on it. In view of the same, I am of the considered view that penalty under Section 15HA of the SEBI Act is attracted in the instant case.

29. I also note that the above allegation that the Noticee has acted as an investment adviser without obtaining a certificate of registration from SEBI has been clearly established in the preceding paras and therefore, violated Regulation 3(1) of the IA Regulations read with Section 12 of the SEBI Act. I find that the penalty under Section 15EB of the SEBI Act, 1992 is clearly attracted.

30. For imposition of penalties under the provisions of the SEBI Act, 1992, Section 15J of the SEBI Act, 1992 provides 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. As discussed in the aforesaid paras, I note that a total of Rs. 81,71,572/- has been received by the Noticee in the bank accounts for the investment advisory services provided by it. Thus, in the light of the findings in the preceding paras, I am of the considered view that the Noticee, through its proprietor Mr. Saudan Singh, is liable for refund of the aforementioned amount collected as an unregistered investment adviser in addition to monetary penalties which are attracted for the said violations under Sections 15EB and 15HA of the SEBI Act, 1992.

ORDER AND DIRECTIONS

32. In view of the foregoing, I, in exercise of the powers conferred upon me under Sections 11(1), 11(4), 11(4A), 11B(1), 11B(2) and 11D read with Section 19 of the SEBI Act, 1992 and Rule 5 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995, do hereby issue the following directions:

32.1 The Noticee / Mr. Saudan Singh shall, within a period of three months from the date of coming into force of this direction, refund the money received from any complainants/ investors, as fees or consideration or in any other form, in respect of the unregistered investment advisory activities;

- 32.2** The Noticee / Mr. Saudan Singh shall issue public notice in all editions of two National Dailies (one English and one Hindi) and in one local daily with wide circulation, detailing the modalities for refund, including the details of contact person such as names, addresses and contact details, within 15 days of coming into force of this direction;
- 32.3** The repayments to the complainants/ investors 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;
- 32.4** The Noticee / Mr. Saudan Singh shall cease and desist from carrying out the investment advisory services immediately;
- 32.5** The Noticee / Mr. Saudan Singh is prevented from selling its/ his assets, properties and holding of mutual funds/shares/securities held by it/ 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 only for the purpose of making refunds to the clients/ investors/ complainants who were availing the investment advisory services from the Noticee, as directed in this order, from the bank accounts of the Noticee / Mr. Saudan Singh;
- 32.6** After completing the aforesaid repayments, the Noticee / Mr. Saudan Singh 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 15 days, after completion of three months from the coming into force of the directions at para 32.1 and 32.2 above, duly certified by an independent Chartered Accountant and the direction at para 32.5 above shall cease to operate upon filing of such report on completion of refunds to complainants/ investors;
- 32.7** 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 / Mr. Saudan Singh. Thereafter, remaining amount if

any will be deposited in the Investors Protection and Education Fund maintained by SEBI;

32.8 In case of failure of the Noticee / Mr. Saudan Singh to comply with the aforesaid directions in paras 32.1 and 32.6, 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 / Mr. Saudan Singh, in accordance with Section 28A of the SEBI Act, 1992 including such other provisions contained in securities laws;

32.9 The Noticee / Mr. Saudan Singh is debarred from accessing the securities market, directly or indirectly and is prohibited from buying, selling or otherwise dealing in the securities market, directly or indirectly in any manner whatsoever, for a period of two (2) years from the date of this order or till the expiry of two (2) years from the date of completion of refunds to complainants/ investors along with depositing of balance amounts, if any, with SEBI, as directed in para 32.1 and 32.7 above, whichever is later;

32.10 The Noticee / Mr. Saudan Singh shall not undertake, either during or after the expiry of the period of debarment/restraint as mentioned in para 32.9 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.

32.11 The Noticee / Mr. Saudan Singh is hereby imposed with, the monetary penalties, as provided hereunder:

Provisions under which penalty imposed	Amount of Penalty (INR)
Section 15 EB of the SEBI Act	Two (2) lakh
Section 15 HA of the SEBI Act	Five (5) lakh
Total	Seven (7) Lakh

32.12 The Noticee / Mr. Saudan Singh shall remit / pay the said amounts of penalty through online payment facility available on the website of SEBI, i.e. www.sebi.gov.in on the following path, by clicking on the payment link: ENFORCEMENT -> Orders ->Orders of EDs/CGMs -> PAY NOW. In case of

any difficulties in online payment of penalties, the Noticee / Mr. Saudan Singh may contact the support at portalhelp@sebi.gov.in.

33. The direction for refund, as given in para 32.1 above, does not preclude the clients/investors to pursue the 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.

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

35. A copy of this order shall be sent to the Noticee / Mr. Saudan Singh, recognized Stock Exchanges, the relevant Banks, Depositories and Registrar and Transfer Agents of mutual funds to ensure that the directions given above are strictly complied with.

Date: April 20, 2023

Place: Mumbai

**Dr. ANITHA ANOOP
CHIEF GENERAL MANAGER
SECURITIES AND EXCHANGE BOARD OF INDIA**