

**BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA  
S. RAMAN, WHOLE TIME MEMBER**

**ORDER**

Under Sections 11(1), 11B and 11D of the Securities and Exchange Board of India Act, 1992 read with Securities and Exchange Board of India (Investment Advisers) Regulations, 2013 against CapitalVia Global Research Limited. (PAN: AADCC5782H, SEBI Registration No.INA200001512) and its Directors viz. Mr. Kiran Ravindra Kumar Choudhary(PAN: AAEPK1536D), Mr. Rohit Gadia (PAN: AGXPG1899A), and Mr. Anshul Mansingka (PAN: AGRPM3025A).

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1. CapitalVia Global Research Limited (“**CapitalVia**”) is an Investment Adviser (“**IA**”) registered with Securities and Exchange Board of India (“**SEBI**”) bearing registration number INA200001512. CapitalVia (PAN: AADCC5782H) is having its registered office at 99, 1st Floor, Surya Complex, R.V. Road, Basavangudi, Bangalore, Karnataka and its principal place of business at 903, B-1, 9th Floor, NRK Business Park, Scheme No.54, P-U-4, Indore-452010, Madhya Pradesh.
  2. SEBI received a complaint against CapitalVia inter alia, alleging that “*CapitalVia charged a fee of Rs.25, 00,000/- for their services rendered wherein they promised an assured return of 10%.*” Upon receipt of the complaint, SEBI conducted an inspection of books of accounts, records and documents of CapitalVia at its Indore office.
  3. The inspection was conducted on July 02 and 03, 2015 to ascertain the allegations of the complainant, investor grievances received, the methodology adopted by CapitalVia for providing investment advisory services, fees collected by CapitalVia and the compliance with regulatory requirements prescribed in SEBI (Investment Advisers) Regulations, 2013 (“**IA Regulations**”) such as Know Your Client (“**KYC**”) requirements, risk profiling and suitability of the advice and maintenance of records. During the inspection, it was *inter alia* observed that CapitalVia failed to comply with the following:
    - i. KYC procedures as specified by SEBI from time to time.
    - ii. Risk profiling procedure laid down in IA Regulations.

- iii. Ensuring suitability of the advice provided to the clients.
  - iv. Making disclosures specified in IA Regulations.
  - v. Segregating investment advisory and execution services.
  - vi. Acting in fiduciary capacity and with due skill, care and diligence towards its clients while providing advisory services.
  - vii. Maintaining records as specified in IA Regulations.
  - viii. Charging reasonable fees to the clients.
  - ix. Obtaining requisite certifications by the employees of the company to provide investment advisory services.
  - x. Disclosing factually correct information on website with regard to the advisory services offered by CapitalVia.
  - xi. Disclosing relevant material information including its registration details while soliciting clients through various websites.
4. SEBI vide letter dated October 15, 2015 forwarded the inspection report to CapitalVia and sought comments/explanations on the findings of the inspection in a specified format.
5. In response, CapitalVia, vide letter dated November 05, 2015 submitted the following:
- i. *“We came across circulars regarding KYC requirements which were issued by SEBI in 2011 and were addressed to intermediaries other than investment advisors. We were under the impression that SEBI would issue a separate circular for LA’s since the nature of business being carried out by LA is completely different from other intermediaries. However, during the course of our meeting with SEBI officials at Indore Local office in April 2015, it was brought to our notice that earlier SEBI circulars issued on the subject shall be applicable to us even though same are not specifically issued to LAs and SEBI would not be issuing any separate instructions for LAs.*
  - ii. *At present, CapitalVia is using a Customer Relationship Management software (CRM) which has been developed in house by the software team of CapitalVia by the name of ‘GROOT’ and hence the risk profiling and risk assessment is done by the system and there is no human intervention. The system is based on objective criteria for all the clients and there is no subjectivity involved.*
  - iii. *All our products are designed on the basis of intra-day trading only and all our clientele consists of persons who carry out intraday trading. The risk profiling and risk assessment of the client is carried out on the basis of intraday trading only. We are not providing any tailor made or customized service and that no personalized services are being provided, except to HNI clients.*

- iv. *The website of CapitalVia i.e. www.capitalvia.com contains terms and conditions on which we offer advisory services and all such other information as is necessary to take an informed decision on whether or not to avail its services. We do not have disciplinary history and we have no affiliates with other intermediaries. The relevant disclaimers are mentioned at our website and we also mention the disclaimers in our email communication with the clients.*
- v. *Few clients gave a written approval for execution over mail and gave the contact details of their brokers. In view of the same, we used to serve buy and sell call signals to other individuals/ entities/ brokers and no adverse inference may be drawn against CapitalVia for the services being provided to a retail investor.*
- vi. *Prior to the inspection, we were taking majority of the details of the person to enable us to have a fair idea about him so that the free trial of a suitable product can be given. However, during the course of discussion with the inspection team, it was brought to our notice that the details gathered are inadequate to form a fair idea of the risk profile and suitability of the product of the client.*
- vii. *As regards disclaimer being given by CapitalVia, these are standard disclaimers being given by each intermediary of the capital market. The practice of giving disclaimers has been an international practice and it is just to educate the investor that if one can earn profit then a loss can also be incurred. In case CapitalVia is not giving disclaimers about the risk involved then it would be akin to giving assurance to investor about the returns and that would be against the fundamental ethos of the capital market.*
- viii. *Pursuant to the inspection we have started documentation of risk profiling.*
- ix. *We always had a very effective and transparent complaint redressal mechanism. All the complaints received are personally followed up by the top management and the same is tracked till the time it is resolved to the satisfaction of the customer.*
- x. *As per product policy submitted by the CapitalVia, it has been clearly disclosed that for HNI, fees would vary on case to case basis as per the requirement since service providing to HNI involves a huge operation and support cost at our end.*
- xi. *There was slight delay in complying with the certification requirements and all the research analysts employed with CapitalVia has obtained certification as specified in LA regulations. We may, however, submit that all the research analyst employed with us are having adequate qualifications in the field of technical analysis.*
- xii. *Due to brand value and erosion of customer confidence, we are unable to include the words investment advisor in our name.*
- xiii. *There was a difference in understanding as by advisory team we meant sales, research and all other functions and not only research analysts. As regards offices in Singapore and USA, we submit that we were having plans to open the offices at these places, however, due to various factors, we could not proceed further and have put the same on backburner”.*

6. It is noted that SEBI received several complaints from the clients of CapitalVia (approx.240 complaints on SCORES). Most of them were in the nature of allegation of 'loss in trade' due to advisory services provided by CapitalVia.
7. I have carefully perused the complaints received by SEBI, the inspection report, the documents obtained during the inspection, the reply/written submissions of CapitalVia along with the documents contained therein and other material available on record. On an examination of the same, the following are *prima facie* observed:
  - i. **Compliance with Know your Client procedures:**
    - a. From the Inspection Report, I note that CapitalVia was not following the KYC procedures specified by SEBI.
    - b. In this regard, CapitalVia submitted that prior to April 01, 2015, there were no KYCs maintained by them as they were unaware of the KYC procedures. Further, it is submitted that they have started maintaining KYC records of the clients from April 2015 onwards after meeting SEBI officials in April 2015.
    - c. As per Regulation 15(8) of IA Regulations, '*An investment adviser shall follow Know Your Client procedure as specified by the Board from time to time*'. In terms of conditions of certificate specified in IA Regulations, a SEBI registered investment adviser shall abide by the provisions of the IA Regulations. Additionally, at the time of granting registration to CapitalVia, it was clearly mentioned that the registration has been granted subject to the conditions which *inter alia* includes compliance with KYC requirements. Hence, the submission of CapitalVia that they were unaware of the KYC procedures cannot be accepted.
    - d. It *prima facie* appears that though CapitalVia obtained registration as an investment adviser on April 10, 2014, they failed to adhere to the KYC procedures specified by SEBI from time to time which is the basic document for all the intermediaries. CapitalVia did not follow any KYC procedures as specified by SEBI before April 2015. They were providing advice without obtaining any information from the clients and have not undertaken any client due diligence process before start of providing advisory services.

In view of the above, I find that CapitalVia failed to comply with the KYC/KYC Registration Agency (KRA) procedures specified by SEBI from time to time, hence, CapitalVia has violated Regulation 15(8) of IA Regulations.

ii. **Not conducting assessment of the Risk Profiling of the clients :**

- a. From the Inspection report, I note that CapitalVia did not follow the risk profiling procedure laid down in IA Regulations.
- b. On examination of the entire risk profiling process adopted by CapitalVia, it is observed that after completion of the trial period, the product is sold to the client. The risk assessment and risk profiling of the clients is not done before selling the product to them.
- c. It is observed from the risk profiling procedure followed by CapitalVia that, the risk profiling questionnaire does not contain the basic information to be sought which is necessary for the purpose of providing the investment advice such as investment objective, client capacity for absorbing loss as specified in IA Regulations. The information/ details sought by CapitalVia through risk profiling questionnaire is reproduced as under:
  - *“Investment of Customer*
  - *Degree of losses the customer is willing to take*
  - *Liability/ Borrowing details*
  - *Existing Investments/ Assets :*
  - *Segment :*
  - *Date of Birth*
  - *PAN*
  - *Time Horizon of Investment*
  - *Trading Experience*
  - *Account Info*
  - *Trading Time*
  - *Profile*
  - *Advisory Services (If taken earlier or not)*
  - *No of Lots/ Shares, Customer trades*
  - *Exposure / Leverage on Capital Investment”*
- d. It is also observed that many of the fields in the questionnaire were left blank such as investment of customer, the degree of losses the customer is willing to take, investment objective, etc. CapitalVia is not obtaining such information from its clients.
- e. No risk assessment of the clients in respect of their ability and willingness to take risk is being done based on the information collected from them.
- f. As specified in Regulation 16 (e) and 16(f) of IA Regulations, risk profile of the client is not being communicated to the client after risk assessment is done and it is not updated periodically.

As per Regulation 16 of IA Regulations, *“an Investment adviser shall ensure that:-*

- (a) *it obtains from the client, such information as is necessary for the purpose of giving investment advice, including the following:-*
- (i) *age;*
  - (ii) *investment objectives including time for which they wish to stay invested, the purposes of the investment ;*
  - (iii) *income details;*
  - (iv) *existing investments/ assets;*
  - (v) *risk appetite/ tolerance;*
  - (vi) *liability/ borrowing details.*
- (b) *it has a process for assessing the risk 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.*
- (c) *where tools are used for risk profiling, it should be ensured that the tools are fit for the purpose and any limitations are identified and mitigated;*
- (d) *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.*
- (e) *risk profile of the client is communicated to the client after risk assessment is done;*
- (f) *information provided by clients and their risk assessment is updated periodically.”*
- g. The purpose of the risk profiling is to obtain all relevant information from the client which is necessary for the purpose of giving investment advice. It helps the IA to understand the needs of the clients, risk appetite of the client, risk absorption capacity of the client, etc.
- h. As detailed above, it *prima facie* appears that:
- by not obtaining relevant information from the clients ,
  - by not communicating the risk profile to them and
  - by not updating the risk profile periodically,

CapitalVia has not followed the risk profiling procedure laid down in IA Regulations. In view of the same, I find that CapitalVia has *prima facie* violated Regulation 16 of IA Regulations.

iii. **Not ensuring suitability of the advice provided:**

- a. CapitalVia did not have a documented process for selecting investments based on client's investment objectives and financial situation. CapitalVia did not have a reasonable basis for believing that a recommendation or transaction entered with its clients meet their investment objectives. Further, the recommendations given to the clients in respect of complex products such as Bullion Metal Combo, Bullion Pack, Agri Pack, etc. were not based on a reasonable assessment. CapitalVia did not ensure whether the structure and risk reward profile of a financial product is consistent with its clients experience, knowledge, investment objectives, risk appetite and capacity for absorbing loss.
- b. As per Regulation 17 of IA Regulations, "*an 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*".
- c. In this regard, CapitalVia has submitted that they are not providing any tailor made or customized services or personalized services, except to HNI clients. On perusal of the business model of CapitalVia, it appears that CapitalVia provides the recommendations to all the clients irrespective of their risk profiling and suitability. Hence, the submissions of CapitalVia cannot be accepted.
- d. In view of the above, it *prima facie* appears that CapitalVia failed to ensure whether the advice provided to the client is suitable to them or not. By not ensuring suitability of the

advice provided to the client as specified in IA Regulations, I find that CapitalVia has violated Regulation 17 of IA Regulations.

iv. **Disclosures to Clients**

- a. In terms of IA Regulations, all the relevant disclosures should be mandatorily made to the clients while onboarding and at the time of providing advice. Regulation 18 of IA Regulations reads as under:

**“Regulation 18**

*(1) An investment adviser shall disclose to a prospective client, all material information about itself including its business, disciplinary history, the terms and conditions on which it offers advisory services, affiliations with other intermediaries and such other information as is necessary to take an informed decision on whether or not to avail its services.*

*(2) An investment adviser shall disclose to its client, any consideration by way of remuneration or compensation or in any other form whatsoever, received or receivable by it or any of its associates or subsidiaries for any distribution or execution services in respect of the products or securities for which the investment advice is provided to the client.*

*(3) An investment adviser shall, before recommending the services of a stock broker or other intermediary to a client, disclose any consideration by way of remuneration or compensation or in any other form whatsoever, if any, received or receivable by the investment adviser, if the client desires to avail the services of such intermediary.*

*(4) An investment adviser shall disclose to the client its holding or position, if any, in the financial products or securities which are subject matter of advice.*

*(5) An investment adviser shall disclose to the client any actual or potential conflicts of interest arising from any connection to or association with any issuer of products/ securities, including any material information or facts that might compromise its objectivity or independence in the carrying on of investment advisory services.*

*(6) An investment adviser shall, while making an investment advice, make adequate disclosure to the client of all material facts relating to the key features of the products or securities, particularly, performance track record.*

*(7) An investment adviser shall draw the client’s attention to the warnings, disclaimers in documents, advertising materials relating to an investment product which it is recommending to the client.”*

- b. CapitalVia has submitted that its website *i.e. www.CapitalVia.com* contains all the material information as specified by Regulation 18 of the IA Regulations as detailed below:

- *“CapitalVia for your well- informed investment decisions. CapitalVia encourages you to strictly follow principles of disciplined trading and stop loss.*
  - *Moreover, CapitalVia strictly follow trading principles and stop loss policy wherein customer by default agree to not do/ enter any trade without pre informed/ defined stop loss.*
  - *CapitalVia is not liable for any losses in any case.*
  - *Investments/ Trading in financial markets is subject to market risk.*
  - *We have NO REFUND POLICY under any circumstances.*
  - *We don't offer any guaranteed return products”.*
- c. As per Regulation 18 of the IA Regulations, CapitalVia is required to disclose all material information about itself including its business, disciplinary history, the terms and conditions on which it offers advisory services, key features of the products or securities in the documents, advertising materials relating to an investment product which it is recommending to the client, etc. It is, however, noted from the website that CapitalVia is not disclosing all required material information while soliciting and onboarding clients. The information disclosed by CapitalVia *prima facie* appears to be inadequate for a prospective client to take a well informed decision.
- d. In view of the above, I find that CapitalVia failed to make all the disclosures to the clients as specified in IA Regulations, hence, it has violated the provisions of Regulation 18 of IA Regulations read with Code of Conduct specified for investment advisers under schedule III of IA Regulations.

v. **Segregation of Execution Services:**

- a. During the inspection, it is observed that CapitalVia was involved in providing advisory and execution services without any segregation and maintaining arms-length relationship between investment advisory activity and execution activity.

As per Regulation 22 of IA Regulations, *“an investment advisers which are banks, NBFCs and body corporate providing distribution or execution services to their clients shall keep their investment advisory services segregated from such activities:*

*Provided that such distribution or execution services can only be offered subject to the following:*

*(a) The client shall not be under any obligation to avail the distribution or execution services offered by the investment adviser.*

*(b) The investment adviser shall maintain arms-length relationship between its activities as investment adviser and distribution or execution services.*

*(c) All fees and charges paid to distribution or execution service providers by the client shall be paid directly to the service providers and not through the investment adviser”.*

- b. As regards to compliance with Regulation 22 of IA Regulations, CapitalVia has submitted that, it has obtained authorization from the clients to trade on their behalf. As per details submitted, they have obtained such authorization from 10 clients. However, CapitalVia submitted copies of authorization received through emails from 8 clients.
- c. Admittedly, CapitalVia has provided advisory services coupled with execution services without any segregation and maintaining arms-length relationship between investment advisory activity and execution activity. In view of the same, I find that CapitalVia has *prima facie*, violated Regulation 22 of IA Regulations.
- vi. **Non-compliance with fiduciary obligations and responsibilities and not acting with due skill, care and diligence:**
- a. On perusal of various documents and communication exchanged between CapitalVia and its clients, the following are observed:
- CapitalVia provided free trial services to the prospective clients without any thorough analysis of their needs and without conducting due skill, care and diligence in the best interests of its clients. CapitalVia was selling the products without considering the needs of the clients and their risk profile and suitability of the product.
  - CapitalVia asked the clients to carefully consider whether the trading advice provided was suitable for them in the light of their financial condition. CapitalVia was only putting responsibility to consider the suitability of the advice on the clients without assessing their risk profile which is against the basic requirement of IA Regulations. As elaborated in paragraph 7(i) above, CapitalVia did not maintain KYCs before April, 2015. Thus, it appears that CapitalVia is not taking any fiduciary responsibility in respect of the advice provided to the clients.
  - CapitalVia is putting disclaimer *“the risk of loss in trading any financial markets including equity, commodity and FOREX can be substantial. These are leveraged products that carry a substantial risk of loss upto your invested capital and may not be suitable for everyone. You should therefore carefully consider whether such trading is suitable for you in light of your financial*

*condition. Please ensure that you understand fully the risks involved and do invest money you cannot afford to lose". This is not in accordance with the provisions of IA Regulations. In terms of the IA Regulations, it is the duty of an investment adviser to obtain necessary information from the client and make risk assessment accordingly and then provide suitable advice.*

- b. The relevant provisions of the IA Regulations with respect to the same are reproduced hereunder:

Regulation 15(1):

*'an investment adviser shall act in a fiduciary capacity towards its clients ....'*

Regulation 15(9):

*"an investment adviser shall abide by code of conduct as specified in third schedule".*

Clause 2 of the code of conduct for investment adviser:

*"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".*

Clause 4 of the code of conduct for investment adviser:

*"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 confidentiality of such information".*

- c. Considering the fact that by not acting in a fiduciary capacity with due skill, care and diligence towards its clients and by not obtaining information from the client with regard to financial situation, investment experience, investment objectives, etc., I find that *prima facie*, CapitalVia has violated the provisions of Regulation 15(1) and 15(9) of IA Regulations read with clause 2 and clause 4 of the code of conduct specified for investment advisers under schedule III of IA Regulations.

vii. **Maintenance of records.**

- a. During inspection, the following are noted as regards maintenance of records by CapitalVia:
- CapitalVia did not maintain KYC records of the clients before April 2015. In case of risk profiling of the client, only e-mail copies of the information is maintained by CapitalVia. There was no risk assessment of the client being done by CapitalVia and no record with respect to the same is maintained. There were no agreements entered with the clients by CapitalVia.

- Duly signed and dated records in respect of rationale for arriving at particular investment advice was not maintained by CapitalVia.
- A register or record containing list of the clients, the date of advice, nature of the advice and the products/securities in which advice was rendered and fee, if any, charged for such advice were not maintained by CapitalVia. The records maintained by CapitalVia were only in respect of orders of sale containing the list of the clients who subscribed for a particular product and Short Message Service (“SMS”) log of product-wise recommendations sent to the clients.

b. In this regard, CapitalVia claims that they started obtaining KYC records of the clients, documentation of risk profiling pursuant to SEBI’s intervention. CapitalVia has submitted “*We are not entering into any formal agreement with the client, however, he has to accept the terms and conditions contained on our website only then he can make payment.*”

c. It is noted that as per Regulation 19 of IA Regulations, *an investment adviser shall maintain the following records,-*

- (a) Know Your Client records of the client;*
- (b) Risk profiling and risk assessment of the client;*
- (c) Suitability assessment of the advice being provided;*
- (d) Copies of agreements with clients, if any;*
- (e) Investment advice provided, whether written or oral;*
- (f) Rationale for arriving at investment advice, duly signed and dated;*
- (g) A register or record containing list of the clients, the date of advice, nature of the advice, the products/securities in which advice was rendered and fee, if any charged for such advice.*

d. Admittedly, CapitalVia did not maintain the records of KYCs, risk profiling, risk assessment of the client and rationale of investment advice to its clients and the same is dealt in detail in the preceding paragraphs. In view of the same, I find that CapitalVia has *prima facie*, violated Regulation 19 of IA Regulations.

viii. **Charging of fees**

a. SEBI received several complaints of investors that CapitalVia charged exorbitant fees for their various products.

- b. As per the product policy submitted by CapitalVia, none of the products offered by CapitalVia except HNI product has an advisory fee of more than Rs.1 lakh. For HNI product, CapitalVia is charging annual fee of Rs.3,20,000/-
- c. On the contrary, it is observed from the perusal of the details of fees collected from the clients that, CapitalVia has collected fee of Rs.5,00,000/- or more from 43 clients amounting to Rs.3,40,25,416/-.
- d. CapitalVia collected highest fee of Rs.34,55,000/-from one of its clients, for which no justification has been provided.
- e. Clause 6 of code of conduct for investment advisers states' *an investment adviser advising a client may charge fees, subject to any ceiling as may be specified by the Board, if any. The investment adviser shall ensure that fees charged to the clients is fair and reasonable*'.
- f. As regards the fair and reasonableness of fees charged to the clients, CapitalVia submitted as under:

*“As our advisory business is the effective combination of skilled manpower & high ended technology, for the smooth functioning of such business requires huge operation & support cost.*

*We have various in-house process like Lead acquisition process, Customer acquisition & retention process, Research & development process, sales process, Information technology Support process, Manpower training & development process etc., all these functions have their own significant cost.*

*Further, we have multiple products range for the Investor's to trade in different exchanges; the different products are like traders trading in equity, or stock futures or commodity futures. Products are charged fairly on the basis of service expectations from each product, number of recommendations expected, the kind of support expected, whether it is customized through a research analyst directly or not. We have a dedicated Research team of more than 60 plus members involved in providing these research services to the customer on highly professionalized manner.*

*It is also worth mentioning that “We operate in a highly competitive environment so it's be very important for us to keep our professional fees both fair & reasonable. “We equally understand that fees must continue to be fair and reasonable; open access must be maintained and decisions within the organizations must be taken on a reasonable basis and in the best interests of client for fostering his confidence to advisory services.”*

- g. It is noted that an advisory fee has to be charged considering *inter alia* the “intended amount of investment’. However, it is observed during the inspection that CapitalVia had charged huge fees from its clients without justification. Similarly, from the complaint of one of its clients mentioned at paragraph 2 above, it is observed that the complainant’s “intended amount” of investment was Rs.6-10 Lacs, however, an advisory fee of Rs.24,59,856/-was

charged from the complainant without any reasonable ground. It appears that the advisory fee charged from the complainant is exorbitant and without any rationale vis-à-vis his total intended amount of investment.

In view of the above, *prima facie*, it appears that CapitalVia has charged unreasonable fee from its clients, hence, I find that CapitalVia has violated the provisions of Clause 6 of code of conduct as specified in Schedule III of IA Regulations.

ix. **Soliciting clients through various websites:**

- a. It is observed that through many websites, CapitalVia is soliciting clients for investment advisory services without disclosing their identity, registration number and contact details. As regards the same, CapitalVia has submitted that the following websites are being used by them for soliciting clients.

<b>Domain/Website name</b>	<b>Status</b>
<a href="http://www.sharetips-capitalvia.com">www.sharetips-capitalvia.com</a>	Live
<a href="http://www.sharetipscapitalvia.com">www.sharetipscapitalvia.com</a>	Live
<a href="http://www.mcxcapitalviatips.com">www.mcxcapitalviatips.com</a>	Live
<a href="http://www.mcxcapitalvia.com">www.mcxcapitalvia.com</a>	Live
<a href="http://www.top10stocks.in">www.top10stocks.in</a>	Live
<a href="http://www.premiumstocktips.com">www.premiumstocktips.com</a>	Live
<a href="http://www.mcxncdextips.com">www.mcxncdextips.com</a>	Live
<a href="http://www.mcx-ncdex-tips.com">www.mcx-ncdex-tips.com</a>	Live
<a href="http://www.live-market-tips.com">www.live-market-tips.com</a>	Live
<a href="http://www.intradaylevels.com">www.intradaylevels.com</a>	Live
<a href="http://www.hottradingtips.com">www.hottradingtips.com</a>	Live
<a href="http://www.stocktips-capitalvia.com">www.stocktips-capitalvia.com</a>	Not live
<a href="http://www.capitalviatips.com">www.capitalviatips.com</a>	Not live
<a href="http://www.capitalvia-sharetips.com">www.capitalvia-sharetips.com</a>	Not live
<a href="http://www.commoditypricelive.com">www.commoditypricelive.com</a>	Not live
<a href="http://www.stock-tips-capitalvia.com">www.stock-tips-capitalvia.com</a>	Not live
<a href="http://www.nsebseguide.com">www.nsebseguide.com</a>	Not live
<a href="http://www.capitalvia.com">www.capitalvia.com</a>	Live

- b. The following are noted from the above mentioned websites of CapitalVia:
- The websites do not contain any reference to CapitalVia.
  - There is no information with regard to whom the website belongs to and what are their contact details.
  - There is no mention on the website about registration of CapitalVia as an investment adviser.
- c. It is pertinent to mention that during the process of CapitalVia's registration as an Investment Adviser, CapitalVia submitted the details of domains/blogs/landing Pages used frequently for their marketing purpose. It contained a list of only seven websites. CapitalVia failed to provide an explanation regarding furnishing of incomplete information to SEBI regarding websites. During the course of inspection, CapitalVia submitted that they solicit clients only through on-line advertising, but never disclosed all the material information on their various websites.
- d. As per Clause 5 of code of conduct for investment advisers, "*an investment adviser shall make adequate disclosures of relevant material information while dealing with its clients.*"
- e. In view of the above, I find that by soliciting clients without disclosing relevant material information in the websites, CapitalVia has *prima facie*, violated Clause 5 of code of conduct as specified in Schedule III of IA Regulations.
- x. **Disclosure of factually incorrect information on website:**
- a. On perusal of the website- *www.capitalvia.com*, it is observed that CapitalVia disclosed factually incorrect information with regard to the advisory services offered by them. The details of the same are as under:
- Disclosure in respect of advisory team:  
CapitalVia mentioned on their website that they have 750+ trained advisory team. However, on enquiry during inspection as to the investment advisory team, CapitalVia submitted that a team of 750 people includes 60 research analysts, 400 sales person and remaining staff are proficient team of qualified supporting staff.
  - Disclosure in respect of number of clients:  
On the website of CapitalVia, it was mentioned that they have 4581+ clients. On enquiry during the inspection, CapitalVia submitted that 'the previous upgradation of website took place one year before and as per the business model, number of

clients of CapitalVia varies day by day and at present, CapitalVia has a base of 3500+ (approx) clients'.

- Disclosure in respect of Offices in Singapore and USA:

On the website of CapitalVia, it was mentioned that it has offices at Indore, Singapore and USA. However, upon enquiry, CapitalVia submitted that, it has “virtual” offices in Singapore and USA and no employee is physically working from these locations, till date.

In view of the above, it is observed that while soliciting the business CapitalVia has provided incorrect information on its website in respect of number of employees, number of clients and Offices in Singapore and USA.

- b. As per Clause 1 of the code of conduct specified in schedule III of the IA Regulations, *'an investment adviser shall act honestly, fairly and in the best interests of its clients and in the integrity of the market.'*
- c. CapitalVia admitted that factually incorrect information was displayed on its website with regard to number of employees and number of clients. With respect to offices in Singapore and USA, CapitalVia has submitted that they were having plans to open the offices at these places. However, no document in this regard has been submitted by CapitalVia.
- d. In view of the above, I find that by providing incorrect information with respect to the services offered on its website, CapitalVia has violated Clause 1 of the code of conduct specified in Schedule III of the IA Regulations.

xi. **Compliance with qualification and certification requirements specified in IA Regulations.**

- a. It is observed from the Inspection Report that CapitalVia has approximately 60 employees as representatives. The details of qualification and certification as submitted by CapitalVia on May 05, 2015 are placed below:
  - Number of candidates who obtained NISM-Level I as well as Level II certifications for Investment Advisers : 19;
  - Number of candidates who obtained only one NISM Certification : 42
- b. In terms of regulation 7(2) of the IA Regulations, *'An individual registered as an investment adviser and partners and representatives of investment advisers registered under these*

*regulations offering investment advice shall have, at all times, a certification on financial planning or fund or asset or portfolio management or investment advisory services:*

*(a) from NISM; or*

*(b) from any other organization or institution including Financial Planning Standards Board India or any recognized stock exchange in India provided that such certification is accredited by NISM'.*

*Provided that the existing investment advisers seeking registration under these regulations shall ensure that their partners and representatives obtain such certification within two years from the date of commencement of these regulations.*

- c. CapitalVia, being as existing adviser, is required to comply with the certification requirement on or before April 21, 2015. Admittedly, all representatives of CapitalVia have not obtained certification as specified in IA Regulations.
- d. In view of the same, I find that by not complying with the certification requirements as specified in IA Regulations, CapitalVia has violated Regulation 7(2) of IA Regulations.

xii. **Non-compliance with conditions of certificate of Registration:**

- a. It is observed from the correspondence exchanged between CapitalVia and its clients that the words 'investment adviser' are not included in the name of CapitalVia.
- b. As per Regulation 13(c) of IA Regulations, *'the investment adviser, not being an individual, shall include the words 'investment adviser' in its name:*  
*Provided that if the investment advisory service is being provided by a separately identifiable department or division or a subsidiary, then such separately identifiable department or division or subsidiary shall include the words 'investment adviser' in its name'.*
- c. In this regard, CapitalVia states *"We submit that it has been stipulated by regulation 13 (c) of IA regulations that if investment advisor is not an individual then it shall include the words investment adviser in its name. However, due to brand value and erosion of customer confidence, we are unable to take this step.* I note that CapitalVia sought exemption from compliance of the said regulation which cannot be acceded to considering the facts and circumstances of the instant case.
- d. In view of the above, I find that by not using the words ' investment adviser' in its name, CapitalVia has violated the provisions of Regulation 13(c) of IA Regulations.

8. Considering the abovementioned facts and circumstances as detailed in the preceding paragraphs, I find that CapitalVia has *prima facie*, failed to comply with the various provisions of IA Regulations.
  
9. The various provisions under the SEBI Act, Regulations, Circulars etc. in respect of an intermediary registered with SEBI are enumerated for the purpose of protection of interests of investors and further to ensure that the business and conduct of the intermediaries are undertaken on the basis of sound business principles. Investment Advisers Regulations, 2013 *inter alia* provide the framework for regulating the activity of entities who are in the business of providing investment advice in respect of securities and investment products. These Regulations seek to create a standardized operating structure within which these entities will operate and also make them duly accountable for their investment advice and investment activities by requiring them to comply with the criteria, set out in the relevant provisions of the aforesaid Regulations. Significant responsibilities are entrusted upon the investment advisers registered with SEBI, such as to maintain high standards of integrity, diligence, honesty, and fairness, not to indulge in any act detrimental to the interests of investors, etc. Further, an investment adviser is expected to act in a fiduciary capacity towards its clients. Having been entrusted with such obligations, CapitalVia, being a registered intermediary was not expected to act in violation of the provisions of Investment Advisers Regulations, 2013 and the Code of Conduct prescribed under the third Schedule of the said Regulations.
  
10. A person acting as a securities market intermediary is expected to protect the interest of the investors in the securities market in which he operates and shall act honestly, fairly, with due skill, care and in the best interests of its clients and in the integrity of the market. An intermediary shall comply with all regulatory requirements applicable to the conduct of its business activities so as to promote the best interests of clients and the integrity of the market. An investment adviser shall ensure that advisory services are offered after thorough analysis and taking into account available alternatives and further fees charged from the clients is fair and reasonable.
  
11. SEBI has been entrusted with the duty to protect the interests of investors and the integrity of the securities market. Section 11 of the SEBI Act has empowers SEBI to take such measures as it thinks fit for fulfilling its legislative mandate. I note that CapitalVia being a registered

intermediary is required to maintain high standards of integrity, promptitude and fairness in the conduct of its business dealings rather than be motivated purely by prospects of financial gain. Section 12(3) of the SEBI Act provides "*The Board may, by order, suspend or cancel a certificate of registration in such manner as may be determined by regulations...*" Enquiry proceedings are mainly disciplinary proceedings initiated against intermediaries registered with SEBI. Since *prima facie* the conduct of CapitalVia and its directors are not in the interests of investors in the securities market as reflected in the complaints filed by investors, necessary action has to be taken against them immediately, else it may lead to loss of investor's trust in the securities market. I find that *prima facie* CapitalVia and its directors have failed to act in accordance with the requirements of the SEBI Act, Investment Advisers Regulations and circulars issued thereunder. I also find that they failed to resolve many complaints of investors/clients despite several reminders from SEBI. In the light of the same, I find that there is no other alternative but to take recourse through an *ad interim ex-parte* order against CapitalVia and its Directors viz. Mr. Kiran Ravindra Kumar Choudhary, Mr. Rohit Gadia and Mr. Anshul Mansingka to prevent them from continuing such irregular activities.

12. In view of the foregoing, I, in exercise of the powers conferred upon me by virtue of Section 19 read with Sections 11(1), 11B and 11D of the SEBI Act, 1992, by way of this *ad-interim ex-parte order*:-

➤ Direct CapitalVia and its Directors viz. Mr. Kiran Ravindra Kumar Choudhary (PAN: AAEPK1536D), Mr. Rohit Gadia (PAN: AGXPG1899A), and Mr. Anshul Mansingka (PAN: AGRPM3025A).—

*i. not to solicit or undertake any fresh advisory business with immediate effect till further directions.*

*ii. to redress the grievances received against CapitalVia and to comply with all provisions of IA regulations and submit a compliance report to SEBI within **three (3) months** from the date of receipt of this order.*

13. This Order shall be treated as a show cause notice and CapitalVia and its Directors viz. Mr. Kiran Ravindra Kumar Choudhary, Mr. Rohit Gadia, and Mr. Anshul Mansingka may show cause as to, why appropriate directions under the SEBI Act, 1992 and relevant SEBI Rules/Regulations including direction prohibiting them from buying, selling or otherwise dealing in securities market, either directly or indirectly, in any manner whatsoever, should not be issued against them.

14. CapitalVia and its aforesaid Directors may, within twenty one (21) days from the date of receipt of this Order, file the reply, if any, to this Order and may also indicate whether they desire to avail an opportunity of personal hearing on a date and time to be fixed on a specific request made in that regard.
15. The *prima facie* observations contained in this order are made on the basis of the material available on record. This order shall not prejudice the right of SEBI to take any other action including proceedings under SEBI (Intermediaries) Regulations, 2008 against CapitalVia and its abovementioned Directors in accordance with law.
16. This order shall come into force with immediate effect and shall be in force until further orders.

Mumbai  
November 11, 2016

**S. RAMAN**  
**WHOLE TIME MEMBER**  
**SECURITIES AND EXCHANGE BOARD OF INDIA**