WTM/ASB/WRO/WRO/28085/2023–24

SECURITIES AND EXCHANGE BOARD OF INDIA, MUMBAI

ORDER

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

IN RESPECT OF –

NOTICEE	REGISTRATION NO.
M/S MONEY MARKET MANTHAN FINANCIAL SERVICES (PROPRIETOR: VICKY KAMRIYA)	INA000005465

IN THE MATTER OF MONEY MARKET MANTHAN FINANCIAL SERVICES.

BACKGROUND

1. Securities and Exchange Board of India ("**SEBI**") had initiated Enquiry Proceedings against M/s Money Market Manthan Financial Services, Proprietor: Vicky Kamriya ("**Noticee**"), a registered Investment Adviser, in terms of the SEBI (Intermediaries) Regulations, 2008 ("**Intermediaries Regulations, 2008**"). SEBI, vide an Order dated July 27, 2021, under Section 19 of the SEBI Act, 1992 read with Regulation 24 of the Intermediaries Regulations appointed a Designated Authority ("**DA**") to enquire into the violations alleged against the Noticee and submit the report in accordance with the provisions of the Intermediaries Regulations. Upon completion of the enquiry, an Enquiry Report dated February 10, 2022, was submitted by the DA to the Designated Member ("**DM**").

2. In the Enquiry Report, the DA had observed the following violations against the Noticee:

   A. Failure to furnish complete information to SEBI in violation of Regulations 13(a), 15(12), 25(1) and (2) read with Regulations 24(3), Clause 8 of the Code of Conduct specified under the Third Schedule read with Regulation

*15(9) of the SEBI (Investment Advisers) Regulations, 2013 ("**Investment Adviser Regulations, 2013**")*

B. *Failure to maintain records of communications with clients during risk profiling and suitability assessment, selection of advisory products/ services in violation of Regulations 19(1) and (2) of the Investment Adviser Regulations, 2013.*

C. *Divulgence of confidential information of clients through sharing of SCORES portal credentials with a third party in violation of Regulation 15(6), Clause 4 of the Code of Conduct specified under the Third Schedule read with Regulation 15(9) of the aforementioned Regulations.*

D. *Promising assured and unrealistic returns to its clients in violation of Regulations 15(1) of the Investment Adviser Regulations, 2013, Clauses 1 and 2 of the Code of Conduct specified under the Third Schedule read with Regulation 15(9) of the Investment Adviser Regulations, 2013, Sections 12A(a), (b) and (c) of the SEBI Act read with Regulations 3(a), (b), (c) and (d), 4(1) and 4(2)(k) and (s) of the SEBI(Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 ("**PFUTP Regulations, 2003**").*

E. *Mis–representation and mis–selling of products/ services by the Noticee through its employees using fake names and designations, making false assurances, displaying fabricated client testimonials and claims regarding investment advice service performances on Noticee's website, in violation of Regulation 15(1), Clause 1 of the Code of Conduct specified under the Third Schedule read with Regulation 15(9) of the Investment Adviser Regulations, 2013 and also Sections 12A(a), (b) and (c) of the SEBI Act read with Regulations 3(a), (b), (c) and (d), 4(1) and 4(2)(k) and (s) of the PFUTP Regulations, 2003.*

F. *Failure to ensure compliance by its employees, with the qualification/ certification requirements contained under the Investment Adviser*

Regulations, 2013, in violation of Regulations 7, 15(13) and Clauses 1, 2, 3 and 8 of the Code of Conduct specified under the Third Schedule read with Regulation 15(9) of the aforementioned Regulations.

G. *Failure to redress investor complaints received on SCORES including delay in submission of Action Taken Report ("**ATR**") in violation of SEBI Circular No. CIR/OIAE/1/2014 dated December 18, 2014 ("**Circular dated December 18, 2014**") read with Regulation 21 of the Investment Adviser Regulations, 2013.*

H. *Failure to carry out adequate and appropriate risk profiling of its clients including failure to communicate risk profiling form upon completion thereon in violation of Regulation 15(1) and Clauses 1, 2, 4, 5 and 8 of the Code of Conduct specified in Schedule III read with Regulations 15(9), 16(b)(iii), 16 (d)(i),16(d)(ii) and 16(e) of the Investment Adviser Regulations, 2013, and Sections 12A(a), (b) and (c) of the SEBI Act read with Regulations 3(a), (b), (c) and (d) of the PFUTP Regulations, 2003.*

I. *Sale of multiple services and collection of unreasonably high advisory fees from its clients in violation of Regulations 15(1), 17(a), (b), (c), (d) and (e) of the Investment Adviser Regulations, 2013 and Clauses 1, 2 and 6 of the Code of Conduct specified under the Third Schedule read with Regulation 15(9) of the aforementioned Regulations and Sections 12A(a), (b) and (c) of the SEBI Act read with Regulations 3(a), (b), (c) and (d) of the PFUTP Regulations, 2003.*

J. *Failure to make adequate disclosures to its clients regarding its association with other intermediaries, investing activities and trading, sharing of confidential information of its clients, etc. in violation of Regulations 18(1), (4) and (6) of the Investment Adviser Regulations, 2013 and Clauses 1, 2, 5 and 7 of the Code of Conduct specified under the Third Schedule read with Regulation 15(9) of the aforementioned Regulations.*

K. *Failure to ensure compliance with Anti–Money Laundering Policy on account of not having a 'Principal Officer' and failure to inform the Financial Intelligence Unit, New Delhi ("**FIU**") regarding the said fact in violation of SEBI Circular No. ISD/CIR/RR/AML/1/06 dated January 18, 2006 ("**Circular dated January 18, 2006**").*

3. In light of the above and in terms of Regulation 23 and Regulation 26 of the Intermediaries Regulations, 2008 read with Regulation 28 of the Investment Adviser Regulations, 2013, the DA had recommended that:

*"... the certificate of registration of Noticee viz. Money Market Manthan Financial Services (MMMFS), Proprietor Vicky Kamriya as Investment Advisor (Registration No. INA000005465), **may be cancelled**…."*

4. Thereafter, a post–enquiry Show Cause Notice ("**SCN**") dated March 2, 2022, was issued to the Noticee enclosing a copy of the Enquiry Report submitted by the DA and calling upon it to show cause in terms of the Intermediaries Regulations as to why action as recommended by the DA or that of a higher nature should not be imposed on it, as deemed fit by the DM. The details with regard to service of SCN are provided as under:

TABLE I

NOTICEE	SCN NO. AND DATE	SCN SENT THROUGH SPEED POST ACKNOWLEDGEMENT DUE AT THE FOLLOWING ADDRESSES	DELIVERY STATUS
MONEY MARKET MANTHAN FINANCIAL SERVICES (PROPRIETOR: SHRI VICKY KAMRIYA)	SEBI/HO/EFD1/DRA6/OW/P/ ENQ/JF/2022/8808/1 DATED MARCH 2, 2022	SCHEME NO.114, 420–C, GARGI AURA–1, 2ND, 3RD FLOOR, INDORE, MADHYA PRADESH–452001.	RETURNED UNDELIVERED
	SEBI/HO/EFD1/DRA6/OW/P/ ENQ/JF/2022/8809/1 DATED MARCH 2, 2022	260–A, MAHALAXMI NAGAR, NEAR BOMBAY HOSPITAL, INDORE, MADHYA PRADESH–452010.	
	SEBI/HO/EFD1/DRA6/OW/P/ ENQ/JF/2022/8893/1 DATED MARCH 2, 2022	WARD NO–10, MHOW NEEMUCH ROAD, GRAM–DHODHAR, TEHSIL–JAORA, DHODHAR RS JAORA RATLAM, MADHYA PRADESH – 457339.	DELIVERED (TO RAJESH KUMAR – FATHER OF VICKY KAMRIYA)
	SEBI/HO/EFD1/DRA6/OW/P/ ENQ/JF/2022/8808/1 DATED MARCH 2, 2022	SCN SENT TO E–MAIL: vkamriya@rediffmail.com DATED MARCH 2, 2023.	DELIVERED

5. Pursuant to the service of the SCN, the Noticee, vide an e–mail dated March 23, 2022, had sought two months' time for filing a reply. However, even after a lapse of two months, no reply was received from the Noticee.

6. Thereafter, an opportunity of hearing was granted to the Noticee on July 14, 2022, wherein the Noticee entered appearance through an authorised legal representative. Subsequently, the Noticee filed a reply to the SCN vide an e–mail dated July 18, 2022.

FINDINGS

7. I have considered the allegations made in the SCN read with the Enquiry Report in light of the reply filed by the Noticee. In this context, the relevant extracts of the provisions allegedly violated by the Noticee are reproduced as under:

PROVISIONS OF THE SEBI ACT:

Section 12A. No person shall directly or indirectly—

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

(b) employ any device, scheme or artifice to defraud in connection with issue or dealing in securities which are listed or proposed to be listed on a recognised stock exchange;

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

PROVISIONS OF THE PFUTP REGULATIONS:

Regulation 2(1)(c):

(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 …

***Regulation 3**. No person shall directly or indirectly—*

(a) buy, sell or otherwise deal in securities in a fraudulent manner;

(b) use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made there under;

(c) employ any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange;

(d) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made there under.

Prohibition of manipulative, fraudulent and unfair trade practices

Regulation 4*. No person shall directly or indirectly—*

(1) Without prejudice to the provisions of regulation 3, no person shall indulge in a 4[manipulative,] fraudulent or an unfair trade practice in securities 5[markets].

(2) Dealing in securities shall be deemed to be a 7[manipulative] fraudulent or an unfair trade practice if it involves 8[any of the following]: -

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

(s) mis-selling of securities or services relating to securities market;

PROVISIONS OF THE INVESTMENT ADVISERS REGULATIONS:

<u>Regulation 7: Qualification and certification requirement</u>

Regulation 7(1) *An individual registered as an investment adviser under these regulations and partners and representatives of an investment adviser registered under these regulations offering investment advice shall have the following minimum qualifications, at all times:*

(a) *A professional qualification or post-graduate degree or post graduate diploma 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 recognised foreign university or institution or association; or*

(b) *A graduate in any discipline with an experience of at least five years in activities relating to advice in financial products or securities or fund or asset or portfolio management.*

Regulation 7(2) *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 …

Regulation 13: Conditions of Certificate

Regulation 13(a): *The certificate granted under Regulation 9 shall, inter alia, be subject to the following conditions:*

(a) the investment adviser shall abide by the provisions of the Act and these Regulations;

Regulation 15: General Responsibility

Regulation 15(1): *An investment adviser shall act in a fiduciary capacity towards its clients and shall disclose all conflicts of interests as and when they arise.*

Regulation 15(6): *An investment adviser shall not divulge any confidential information about its client, which has come to its knowledge, without taking prior permission of its clients, except where such disclosures are required to be made in compliance with any law for the time being in force.*

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

THIRD SCHEDULE

CODE OF CONDUCT FOR INVESTMENT ADVISER

1. ***Honesty and fairness:*** *An investment adviser shall act honestly, fairly and in the best interests of its clients and in the integrity of the market.*
2. ***Diligence:*** *An investment adviser shall act with due skill, care and diligence in the best interests of its clients and shall ensure that its advice is offered after thorough analysis and taking into account available alternatives.*
3. ***Capabilities:*** *An investment adviser shall have and employ effectively appropriate resources and procedures which are needed for the efficient performance of its business activities.*
4. ***Information about clients:*** *An investment adviser shall seek from its clients, information about their financial situation, investment experience*

and investment objectives relevant to the services to be provided and maintain confidentiality of such information.

5. ***Information to Clients**: An investment adviser shall make adequate disclosures of relevant material information while dealing with its clients.*
6. ***Fair and reasonable charges:** An investment adviser advising a client may charge fees, subject to any ceiling as may be specified by the Board [85][***]. The investment adviser shall ensure that fees charged to the clients is fair and reasonable*
7. ***Conflicts of Interest**: An investment adviser shall try to avoid conflicts of interest as far as possible and when they cannot be avoided, it shall ensure that appropriate disclosures are made to the clients and that the clients are fairly treated.*
8. ***Compliance:** An investment adviser including its [partners, 'Principal Officer' and persons associated with investment advice] shall comply with all regulatory requirements applicable to the conduct of its business activities so as to promote the best interests of clients and the integrity of the market.*

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

Regulation 15(13)

It shall be the responsibility of the Investment Adviser to ensure that its representatives and partners, as applicable, comply with the certification and qualification requirements under Regulation 7 at all times.

Regulation 16: Risk profiling:

Investment adviser shall ensure that:

(b) it has a process for assessing the risk a client is willing and able to take, including: (iii) appropriately interpreting client responses to questions and not attributing inappropriate weight to certain answers.

(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 that it contains leading questions.

(e) *risk profile of the client is communicated to the client after risk assessment is done;*

Regulation 17: Suitability

Investment adviser shall ensure that, -

(a) *All investments on which investment advice is provided is appropriate to the risk profile of the client*

(b) *It has a documented process for selecting investments based on client's investment objectives and financial situation*

(c) *It understands the nature and risks of products or assets selected for clients*

(d) *It has a reasonable basis for believing that a recommendation or transaction entered into:*

(i) Meets 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*

Regulation 18: Disclosures to Clients

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.*

Regulation 18(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.*

Regulation 18(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.*

Regulation 19: Maintenance of records

Regulation 19(1) *An investment adviser shall maintain the following records:*

i. *Know Your Client records of the client;*
ii. *Risk profiling and risk assessment of the client;*
iii. *Suitability assessment of the advice being provided;*
iv. *Copies of agreements with clients, if any.*
v. *Investment advice provided, whether written or oral;*
vi. *Rationale for arriving at investment advice, duly signed and dated;*
vii. *A register or record containing list of the clients, the date of advice, nature or the advice, the products /securities in which advice was rendered and fee, if any charged for such advice.*

Regulation 19(2) *All records shall be maintained either in physical or electronic form and preserved for a minimum period of five years:*

Provided that where records are required to be duly signed and are maintained in electronic form, such records shall be digitally signed.

Regulation 21: Redressal of client grievances

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

Regulation 21(2) *An investment adviser shall have adequate procedure for expeditious grievance redressal.*

Regulation 21(3) *Client grievances pertaining to financial products in which investments have been made based on investment advice, shall fall within the purview of the regulator of such financial product.*

Regulation 21(4) *Any dispute between the investment adviser and his client may be resolved through arbitration or through Ombudsman authorized or appointed for the purpose by any regulatory authority, as applicable.*

Regulation 24: Notice before Inspection

Regulation 24(3): *During the course of an inspection, the investment adviser against whom the inspection is being carried out shall be bound to discharge its obligations as provided in regulation 25.*

Regulation 25: Obligation of investment adviser on inspection.

Regulation 25(1): *It shall be the duty of every investment adviser in respect of whom an inspection has been ordered under the regulation 23 and any other associate person who is in possession of relevant information pertaining to conduct and affairs of such investment adviser, including [40][partners, directors, 'Principal Officer' and persons associated with investment advice], if any, to produce to the inspecting authority such books, accounts and other documents in his custody or control and furnish him with such statements and information as the inspecting authority may require for the purposes of inspection.*

Regulation 25(2): *It shall be the duty of every investment adviser and any other associate person who is in possession of relevant information pertaining to conduct and affairs of the investment adviser to give to the inspecting authority all such assistance and shall extend all such co-operation as may be required in connection with the inspection and shall furnish such information as sought by the inspecting authority in connection with the inspection."*

SEBI Circular CIR/OIAE/2014 dated December 18, 2014

"… 9. All listed companies and SEBI registered intermediaries shall review its investors grievances redressal mechanism so as to further strengthen it and correct the existing shortcomings, if any. The listed companies and SEBI registered intermediaries to whom complaints are forwarded through SCORES, shall take immediate efforts on receipt of a complaint, for its resolution, within thirty days. The listed companies and SEBI registered intermediaries shall keep the complainant duly informed of the action taken thereon.

10. The listed companies and SEBI registered intermediaries shall update the ATR along with supporting documents, if any, electronically in SCORES. ATR in physical form need not be sent to SEBI. The proof of dispatch of the reply of the listed company / SEBI registered intermediary to the concerned investor should also be uploaded in SCORES and preserved by the listed company / SEBI registered intermediary, for future reference.

11. Action taken by the listed companies and SEBI registered intermediaries will not be considered as complete if the relevant details/ supporting documents are not uploaded in SCORES and consequently, the complaints will be treated as pending.

12. A complaint shall be treated as resolved/disposed/closed only when SEBI disposes/closes the complaint in SCORES. Hence, mere filing of ATR by a listed company or SEBI registered intermediary with respect to a complaint will not mean that the complaint is not pending against them.

13. Failure by listed companies and SEBI registered intermediaries to file ATR under SCORES within thirty days of date of receipt of the grievance shall not only be treated as failure to furnish information to SEBI but shall also be deemed to constitute non-redressal of investor grievance…"

SEBI Circular ISD/CIR/RR/AML/1/06 dated January 18, 2006

"… All intermediaries are advised to ensure that a proper policy framework as per the Guidelines on anti-money laundering measures is put into place within one month from the date of the circular. The intermediaries are also advised to designate an officer as 'Principal Officer' who would be responsible for ensuring compliance of the provisions of the PMLA. Names, designation and addresses (including e-mail addresses) of 'Principal Officer' shall also be intimated to the Office of the Director-FIU, 6th Floor, Hotel Samrat, Chanakyapuri, New Delhi - 110021, India on an immediate basis…"

8. I shall now deal with the allegations contained in the SCN read with the Enquiry Report, in light of the reply submitted by the Noticee.

A. Failure to furnish complete information to SEBI in violation of Regulations 13(a), 15(12), 25(1) and (2) read with Regulations 24(3), Clause 8 of the

Code of Conduct specified under the Third Schedule read with Regulation 15(9) of the Investment Adviser Regulations, 2013.

B. Failure to maintain records of communications with clients during risk profiling and suitability assessment, selection of advisory products/ services in violation of Regulations 19(1) and (2) of the aforementioned Regulations.

8.1 The SCN read with the Enquiry Report had alleged that the Noticee had failed to provide information to SEBI in relation to the *pre–inspection questionnaire* and the client master data. Further, it was alleged that the Noticee had also failed to maintain records of communications with clients during risk profiling and suitability assessment, selection of advisory products/ services.

8.2 In its reply, the Noticee *inter alia* submitted as under:

a. The Noticee is a SEBI registered Investment Adviser since August 29, 2016. During the Inspection conducted by SEBI, the Noticee had cooperated in the best possible manner and had provided all the requisite documents and information.

b. The Noticee had maintained all the requisite records mentioned in Regulation 19(1) of the Investment Adviser Regulations, 2013 including KYC records of clients, rationale for /records of advice as well as Compliance Audit Report. Further, telephone records were not required to be maintained earlier but only came into effect from January 2021 and further, no investment advice was provided telephonically. Hence, the Noticee did not violate Regulations 19(1) and (2) of the Investment Adviser Regulations, 2013.

8.3 From the material available on record, the following is noted:

i. Vide a letter dated February 11, 2020, SEBI while informing Noticee that an inspection of its books of accounts, records and other documents pertaining

to its registration as an investment adviser would be carried out under Regulation 23 of the Investment Adviser Regulations, 2013, had advised the Noticee to send its reply to the *pre–inspection questionnaire* latest by February 26, 2020.

ii. Vide a reply dated February 26, 2020, Noticee informed SEBI that as two members of its compliance team were on leave, it could not collect the data in the requisite format to provide to SEBI. Accordingly, Noticee sought an extension from SEBI to submit the information by March 5, 2020, which request was not acceded to vide SEBI e–mail dated February 26, 2020. Further, vide the said e–mail, SEBI informed Noticee that the inspection would commence from March 2, 2020, onwards.

iii. However, vide an e–mail dated February 27, 2020, the Noticee submitted that a data theft had occurred at its premises for which they had also filed a complaint at the concerned police station at Indore.

iv. Thereafter, vide an e–mail dated March 2, 2020, the Noticee provided an incomplete client master data to the SEBI Inspection team.

8.4 It is pertinent to note that through the *pre–inspection questionnaire* dated February 11, 2020*,* SEBI had sought information from the Noticee *inter alia* regarding details of clients, copies of agreements entered into with and advice provided to such clients including the rationale for such advice, fee structure, fees collected, investor complaints received, etc. However, the Noticee failed to provide a response to the *pre–inspection questionnaire*. The Inspection conducted by SEBI was to verify the compliance level of Noticee with regards to requirements stipulated under the Investment Adviser Regulations, 2013. In this context, the *pre–inspection questionnaire* serves as an important requirement for the Noticee to ensure availability of documents/ information prior to the Inspection for verification thereafter, during the Inspection. Such documents/ information assist SEBI in determining whether there exist any discrepancies or non–compliance with the aforementioned Regulations, by the Noticee. In failing to submit a response to the *pre–inspection questionnaire,* the Noticee had violated the provisions of Regulations 13(a), 15(12), 25(1) and (2) read with Regulations 24(3), Clause 8 of the Code of Conduct specified

under the Third Schedule read with Regulation 15(9) of the Investment Adviser Regulations, 2013.

8.5 It is also noted that the information concerning client master data, as submitted by the Noticee and which was analyzed by SEBI on a sample basis, was incomplete since it did not contain details of all of the Noticee's clients. For example, a complainant, Angad Chopra, who had availed of investment advisory services offered by the Noticee during the Inspection period, surprisingly did not find a mention in the client master data submitted by the Noticee to SEBI. In addition, the total advisory fees collected from another client, Raghavendra Uppur was also not available on the client master data submitted by the Noticee. The availability of a complete client master data would have ensured that the Noticee had a single source of record for all its customers/ clients including details of its transactions, KYC details, fees collected, etc. However, the Noticee failed to submit full and complete client master data to SEBI in violation of the provisions of the Investment Adviser Regulations, 2013.

8.6 The aforementioned failure by the Noticee cannot be looked at in isolation. It is noted that in these proceedings, the SCN read with the Enquiry Report had alleged that the Noticee had failed to maintain communication records made with clients during risk profiling and suitability assessment, selection of advisory products/ services, etc. In this context, it is noted from the material on record that risk profiling/ sales/ offers for products, services, etc. were made by the Noticee (through its employees) to prospective and existing clients over telephone. Similarly, advice/ guidance to clients regarding selection/ suitability of services/ products were also made over telephone and thereafter, all investment advice for said services/ products would automatically flow to such clients. The Noticee admittedly did not maintain a record of such communications with its clients citing the ground that under the Investment Adviser Regulations, 2013, no such requirement was specified by SEBI up until January 1, 2021 (the Circular was issued in September 23, 2020 but was made effective only from January 1, 2021). However, while the requirement for maintenance of call records did indeed only come about in January 2021, the

Noticee was nonetheless mandated to ensure maintenance of records specified under Regulation 19(1) of the Investment Adviser Regulations, 2013 including risk profiling and risk assessment, rationale, records of advice, etc. Further, as per the compliance audit report for the period 2018–19, the Noticee had failed to make available, the call register to the concerned Auditor, who thereafter had opined that the Noticee had failed to comply with the requirement for maintenance of records. In addition, where the Noticee had carried out a revision of the risk profile of its clients, the supporting documents evidencing the reasons for the change in risk profile and acceptance/ acknowledgment by the concerned clients of the revised risk scores, were also not provided by them, to SEBI. The Noticee has therefore, failed to ensure maintenance of records as required under the provisions of the Investment Adviser Regulations, 2013.

8.7 Against the charge of non–cooperation with SEBI in supplying information sought for by the regulator i.e. *Calling Server Central Processing Unit,* the Noticee had contended that the same was on account of a data theft by an ex–employee and accordingly, a complaint dated January 20, 2020 (along with a reminder dated February 27, 2020) was filed with the Indore Police regarding the aforesaid matter. Further, vide an e–mail dated February 27, 2020, the Noticee had informed SEBI that a complaint was filed with the Indore Police in the matter. In this regard, it is pertinent to note that the Noticee had earlier not provided any information in respect of call records to the Auditor (see paragraph 8.6), which was prior to the period of the data theft by its ex–employee. Further, the information regarding the data theft was provided to SEBI only on February 27, 2020, despite the same having occurred much before the date of communication of Inspection by SEBI i.e. vide letter dated February 11, 2020. Incidentally, the office premises of the Noticee was subsequently raided by the Indore Police on March 4, 2020. However, having regard to the fact that a complaint was filed by the Noticee in the matter, I am inclined to accept its contentions regarding non–submission of information sought for by the regulator i.e. *Calling Server Central Processing Unit*.

8.8 Regulation 13(a) of the Investment Adviser Regulations, 2013 mandates that an Investment Adviser shall abide by the provisions of SEBI Act and the

Investment Adviser Regulations, 2013. Regulation 15(12) of the Investment Adviser Regulations, 2013 mandates that the Investment Advisers shall furnish the information sought by SEBI. In terms of Regulations 24(3), 25(1) and (2) of the Investment Adviser Regulations, 2013, the obligation is on the Investment Adviser to furnish the information sought by the Inspecting Authority for the purpose of Inspection. Regulation 15(9) of the Investment Adviser Regulations, 2013 mandates that an Investment Adviser shall abide by the code of conduct as specified in the Third Schedule of the Investment Adviser Regulations, 2013.

8.9 With respect to the non–submission of the call recording data, I am inclined to accept the submission of the Noticee. However, with respect to the remaining information sought by the Inspecting Authority/ Team, I find that the Noticee did not submit complete information. Accordingly, I am of the considered view that the Noticee had violated Regulations 13(a), 15(12), 19(1), 19(2), 25(1) and (2) read with Clause 8 of the Code of Conduct of Investment Advisers as specified under Third Schedule read with Regulation 15(9) of the Investment Adviser Regulations, 2013.

C. Divulgence of confidential information of clients through sharing of SCORES portal credentials to a third party in violation of Regulation 15(6), Clause 4 of the Code of Conduct specified under the Third Schedule read with Regulation 15(9) of the aforementioned Regulations.

8.10 The SCN read with the Enquiry Report had alleged that the Noticee had divulged sensitive /confidential client information to a third party in violation of the Regulations 15(6), 15(9) read with Clause 6 of the Code of Conduct specified in Schedule III of the Investment Adviser Regulations, 2013.

8.11 In its reply, the Noticee submitted as under:

a. The Noticee used to take professional assistance from Ms. Akansha Mongia for resolution of clients' grievances, which was the reason why

complaints were forwarded to her. There was no requirement to have an agreement between the Noticee and her for any professional assistance.

b. *Further, the SCORES credentials were provided by the Noticee to her for ensuring resolution of clients' grievances and not with a view to share confidential information. Accordingly, there is no violation of Regulation 15(6) and Clause 4 of the Code of Conduct specified in the Investment Adviser Regulations, 2013.*

8.12 From the material available on record, it is observed that the Noticee admittedly had taken the assistance of one, Akansha Mongia, a third party who was neither employed nor had any formal agreement with the Noticee, for the processing of clients' complaints. The Noticee admittedly mailed clients' complaints to Akansha Mongia at rise.akansha@gmail.com while also sharing SEBI Complaints Redress System ("**SCORES**") credentials with her. In its reply, the Noticee had also accepted the aforementioned facts.

8.13 Regulation 15(6) of the Investment Adviser Regulations, 2013 mandates that an Investment Adviser shall not divulge any confidential information about its clients. Further, Regulation 15(9) read with Clause 4 of the Code of Conduct specified in Schedule III of the Investment Adviser Regulations, 2013 mandates that an Investment Adviser shall abide by Code of Conduct and shall maintain confidentiality of the Client's information. In view of the preceding paragraph, I find that the Noticee had violated the aforementioned provisions of the Investment Adviser Regulations, 2013.

D. Promising assured and unrealistic returns to its clients in violation of Regulation 15(1) of the Investment Adviser Regulations, 2013, Clauses 1 and 2 of the Code of Conduct specified under the Third Schedule read with Regulation 15(9) of the aforementioned Regulations and Sections 12A(a), (b) and (c) of the SEBI Act read with Regulations 3(a), (b), (c) and (d), 4(1) and 4(2)(k) and (s) of the PFUTP Regulations, 2003.

E. Mis–representation and mis–selling of products/ services by the Noticee through its employees using fake names and designations, making false assurances, displaying fabricated client testimonials and claims

regarding investment advice service performances on Noticee's website, in violation of Regulation 15(1), Clause 1 of the Code of Conduct specified under the Third Schedule read with Regulation 15(9) of the Investment Adviser Regulations, 2013 and also Sections 12A(a), (b) and (c) of the SEBI Act read with Regulations 3(a), (b), (c) and (d), 4(1) and 4(2)(k) and (s) of the PFUTP Regulations, 2003.

8.14 The SCN read with the Enquiry Report had alleged that the Noticee made false and misleading representations to its clients by promising them assured and unrealistic returns thereby violating Regulations 15(1), Clauses 1 and 2 of the Code of Conduct specified under the Third Schedule read with Regulation 15(9) of the Investment Adviser Regulations, 2013 and Regulation 3(a), (b), (c) and (d), 4(1), 4(2)(k) and (s) of the PFUTP Regulations, 2003 read with Section 12A(a), (b) and (c) of the SEBI Act. Further, the SCN read with the Enquiry Report had alleged that the Noticee misrepresented its sales team and advices/ services on its website and had made false claims about its performance and accuracy of services thereby violating Regulation 15(1), Clause 1 of the Code of Conduct specified under the Third Schedule read with Regulation 15(9) of the Investment Adviser Regulations, 2013. The SCN also alleged that Noticee had indulged in mis–representation and mis–selling of products/ services in order to induce its clients to avail of investment advisory services in violation of Sections 12A(a), (b) and (c) of the SEBI Act read with Regulations 3(a), (b), (c) and (d), 4(1) and 4(2)(k) and (s) of the PFUTP Regulations, 2003.

8.15 In its reply, the Noticee submitted as under:

a. *The Noticee did not offer /provide any guaranteed returns, which was also mentioned on Noticee's website. Further, in the 'welcome mail' sent to the clients while onboarding them, the following was clearly mentioned: "Stock market has inherent market risk; hence, we do not claim any profit guaranteed services. Noticee do not provide any profit sharing services, guaranteed service and services which are not mentioned (on) our website. If any person tries to sell such type of product kindly call on*

customer care number." Snapshot of one 'welcome mail' is attached as Annexure 1.

b. With respect to the WhatsApp chat conversation mentioned in the SCN, SEBI has misinterpreted the same as the Noticee was trying to illustrate the accuracy levels which was just a marketing tool done to sell a product. In no way were returns guaranteed and clients were made aware of the same. Hence, the Noticee did not misrepresent the truth nor was there any fraud carried out in violation of the PFUTP Regulations, 2003.

8.16 However, as regards the finding regarding mis–representation and mis–selling of products/ services, no reply was furnished by the Noticee.

8.17 From the material available on record and contrary to the Noticee's contentions, the website www.moneymarketmanthan.com had indeed contained a promise of assured profit/ unrealistic returns to prospective clients through the following statement on such website:

*"**Equity Cash Intraday:** You are **definitely going to make profits if you make investments on the basis of stock cash tips given by our team** who solely work for researching the news and stocks. You can subscribe our services at reasonable package and then get up to intraday basis calls every day, weekly and monthly reports, chat sessions and dedicated customer service support for becoming a successful trader and **make big profits with small investments on regular basis**".*

8.18 It is therefore, not a surprise that the client master data submitted by the Noticee, to SEBI, revealed that the highest fees were collected by them in the *'Equity Cash Intraday'* service i.e. Rs. 14.59 Lakh out of the total fees of Rs. 54.78 Lakh received in the Financial Year 2018–19 and Rs. 23 Lakh out of Rs. 85.66 Lakh in the Financial Year 2019–20.

8.19 In addition, the Noticee's contention regarding usage of marketing tools cannot be accepted since they were also claiming to offer returns on investments even

through WhatsApp messages as seen from the exchange on such media between its employees and the complainant, Angad Chopra, as under:

a. ***Complainant:*** *"One question, after this payment would I also have to buy any additional service or would this be good for the month?"*
Noticee' employee: *"Sir, HNI service he 4.60 Lakh ki."*
Complainant: *"Monthly or yearly?"*
Noticee' employee: *"Registration charge he. One–year service. Aap call ki quality bhi to dekho. Future me 8 se 10 rupaye ka target kon deta."*
Complainant: *"Mahine ke aur kya charges lagenge"*
Noticee' employee: *"4.60 (Lakh) ka pura service padega mimimum 22 lac nikal kar aayega aapke investment pe. Ye aapka complete package rahega."*

b. ***Noticee's employee:*** *"Sir gali dene se apko kya mila. Me kal election ke result me jitna mangoge profit dunga bat to karo"*
Complainant: *"Ok call, let me see what tip you give now, earlier there was a major loss"*
Noticee' employee: *"Sir jb bhi ho jaye aap call kr li jiyega"*
Noticee' employee: *"Sir agar aap interested ho to company ka bank detail bhej diya payment kar ke call kar dena apne itni company pr trust kiya 1 bar meri company pr karo"*
Noticee' employee: *"Bhale sir wek me 3 din work karunga pr sure karunga"*
Noticee' employee: "*Or sir kal election ka bahut bada report bhale trust ke liye 1 lot me work kar lena agar apki soch se 3 guna profit na ho to mujhe bolna..."*

c. ***Complainant:*** *"Dhfl sold at 118.80 June contract"*
Noticee' employee: *"Ok"*
Complainant: *"Loss booked of Rs. 120000 as per your instructions"*
Complainant: *"Loss booked of Rs. 160000 as per your trading advise"*

8.20 Further, from the material available on record, it is noted that:

a. An analysis of clients' complaints revealed that the Noticee' employees had used fake names and designations, made false assurances to lure clients to subscribe to the products/ services offered by the Noticee. Further, in the case of the complainant, Angad Chopra, the Noticee had admitted that three of its employees had used false names to deal with the said client. The Noticee had therefore, misrepresented its sales team and also made false claims about its performance and accuracy of services with the sole intention of inducing prospective clients to avail of its advisory services.
b. The testimonials on the Noticee' website displayed claims of clients stating that with the help of the services provided by Noticee, they had made huge profits and were very much satisfied with the accuracy of investment advice given by Noticee. However, when SEBI had enquired about the details of such clients, the Noticee themselves admitted that no such clients were available on its database.

8.21 Accordingly, I find that the Noticee had failed in its responsibility to act in fiduciary capacity to its clients and did not act with due skill, care and diligence in the best interests of its clients. I therefore, find that the Noticee had violated Regulations 15(1), (9) read with Clauses 1 and 2 of the Code of Conduct specified in Schedule III of the Investment Adviser Regulations, 2013.

8.22 Sections 12A(a), (b) and (c) of the SEBI Act read with Regulations 3(a), (b), (c) and (d) of the PFUTP Regulations, 2003 *inter alia* state that no person (including a registered intermediary) shall directly or indirectly use or employ any scheme or device to defraud in connection with dealing in securities; or engage in any act, practice, course of business which operates as fraud or deceit upon any person (clients) in connection with any dealing in securities in contravention of the provisions of the said Act or the Rules and Regulations made thereunder.

8.23 The Noticee' conduct (as detailed in the preceding paragraphs) expose the deceptive devices adopted by it to defraud its clients in connection with its

dealings in securities notwithstanding the contents of the *'welcome mail'*. The aforementioned was done to induce prospective clients to avail of its advisory services thereby ensuring maximization of its income through fees collected under investment advisory services. The Noticee had clearly disregarded the interest of its clients. In my considered view, the deceptive devices employed by the Noticee are covered within the definition of *'fraud'* under Regulation 2(1)(c) of the PFUTP Regulations, 2003. Accordingly, I find that the Noticee had violated Sections 12A(a), (b) and (c) of the SEBI Act read with Regulations 3(a), (b), (c) and (d), 4(1), 4 (2)(k) and (s) of the PFUTP Regulations, 2003.

F. Failure to ensure compliance by its employees, with respect to the qualification/ certification requirements contained under the Investment Adviser Regulations, 2013, in violation of Regulations 7, 15(13) and Clauses 1, 2, 3 and 8 of the Code of Conduct specified under the Third Schedule read with Regulation 15(9) of the aforementioned Regulations.

8.24 The SCN read with the Enquiry Report had alleged that the employees /representatives of the Noticee did not have requisite qualifications /certification necessary for dealing with clients in violation of Regulation 7 read with Regulation 15(13) and Clauses 1, 2, 3 and 8 of the Code of Conduct specified in Schedule III read with Regulation 15(9) of the Investment Adviser Regulations, 2013.

8.25 In its reply, the Noticee submitted as under:

a. *Noticee was the only person who was involved in assessing the risk profile of the clients and rendering investment advice. The employees appointed by him were only for assisting in collating data from clients. Further, the recommendations were provided by Noticee to the clients through SMS.*
b. *The requirement for qualification of sales staff came in September 2020 through a SEBI Circular 'Guidelines for Investment Advisers' and earlier, there was no such qualification criteria for employees. Hence, the Noticee did not violate Regulation 7 and Clauses 1, 2, 3 and 8 of the Code of Conduct specified in the Investment Adviser Regulations, 2013.*

8.26 As has been noted in the preceding paragraphs, sales/ offers for products, services, etc. were made by the Noticee (through its employees) to prospective and existing clients over telephone. Similarly, advice/ guidance to clients regarding selection/ suitability of services/ products were also made over telephone and thereafter, all investment advice for such services/ products would automatically flow to such clients (see also paragraph 8.19 wherein extracts of WhatsApp messages have been reproduced and which show that investment advice was given by the Noticee' employees). It is reiterated that the Noticee failed to provide information (call records) of the aforesaid activities to SEBI. While the Noticee had sought to argue that investment advice was given only by the Noticee, the aforesaid activities on the other hand, do reveal that the Noticee had indeed engaged the services of its employees, for dealing with clients. Further, from the employees' list/ sales executives of the Noticee's sales department submitted vide its letter dated March 3, 2020 (in reply to SEBI's letter dated March 3, 2020), it is observed that none of the said employees had the requisite qualification/ certification, which was specified under Regulation 7 of the Investment Adviser Regulations, 2013.

8.27 The aforementioned activities of the Noticee' employees along with the failure by the Noticee to ensure compliance with the requirements for appropriate qualifications and certifications under the Investment Adviser Regulations, 2013, has resulted in a violation of Regulation 7 read with Regulations 15(13), 15(9) and Clauses 1, 2, 3 and 8 of the Code of Conduct specified in Schedule III of the Investment Adviser Regulations, 2013. Accordingly, I find that the Noticee had violated the provisions of the aforementioned provisions of the Investment Adviser Regulations, 2013.

G. Failure to redress investor complaints received on SCORES including delay in submission of ATR in violation of Circular dated December 18, 2014 read with Regulation 21 of the Investment Adviser Regulations, 2013.

8.28 The SCN read with the Enquiry Report had alleged that the Noticee failed to promptly resolve investor grievances received on the SCORES and also failed

to submit the ATR in respect of the said complaints, in a time bound manner, in violation of SEBI Circular No. CIR/OIAE/2014 dated December 18, 2014 read with Regulation 21(1) of the Investment Adviser Regulations, 2013.

8.29 In its reply, the Noticee submitted as under:

a. The delay in resolving complaints were on account of the clients not responding to the Noticee's calls /e–mails. Further, in a few cases, the final negotiations took several days. However, the Noticee had filed the ATR in a timely manner as can be seen from the following complaints wherein ATR is also attached.

b. Hence, the Noticee did not violate the provisions of the SEBI Circular, CIR/OIAE/1/2014 dated December 18, 2014.:

SR. NO.	*NAME OF COMPLAINT*	*DATE OF RECEIPT OF COMPLAINT*	*DATE OF FILING ATR /RESPONSE BY NOTICEE*
1.	*EDA SAI NARIMMA REDDY*	*14.02.2020*	*21.02.2020*
2.	*RAMESH KRISHNA IYER*	*2.11.2019*	*5.11.2019*
3.	*GOLLAVALLI VENKATA RAO*	*19.11.2019*	*25.11.2019*
4.	*SANJAY SETH*	*27.09.2019*	*2.10.2019*
5.	*AANGAD CHOPRAA*	*3.06.2019*	*12.06.2019*

8.30 From the data of complaints filed against the Noticee on SCORES, it was observed that as on July 31, 2020, there were 8 out of 44 complaints which had been pending for more than 100 days, as under:

TABLE II				
S. NO.	**REGISTRATION NO.**	**COMPLAINANT**	**DATE OF FORWARDING COMPLAINTS / REMINDERS TO NOTICEE**	**PENDING DAYS AS ON 31.07.20**
1	SEBIE/MP20/0000881/1	SHIVCHARAN SINGH	APRIL 20, 2020/ JULY 23, 2020/ MARCH 21, 2022	102
2	SEBIE/MP20/0000844/1	BRIJ MUKESHBHAI PATEL	APRIL 17, 2020/ MAY 18, 2022	105
3	SEBIE/MP20/0000706/1	DEEPAK KUMAR KHURANA	APRIL 11, 2020/ MAY 13, 2022	111
4	SEBIE/MP19/0002519/1	RAMESH KRISHNA IYER	NOVEMBER 2, 2019/ MAY 18, 2022	272
5	SEBIE/MP19/0002231/1	SANJAY SETH	SEPTEMBER 27, 2019/ MAY 13, 2022	308
6	SEBIE/MP19/0002481/1	GOLLAVILLI VENKATA RAO	NOVEMBER 19, 2019/ JULY 29, 2020/ MAY 13, 2022	255
7	SEBIE/MP19/0003173/1	EDA SAI NARASIMHA REDDY	FEBRUARY 14, 2020/ MAY 11, 2022	168
8	SEBIE/MP19/0001326/1	AANGAD CHOPRAA	JUNE 3, 2019/ SEPTEMBER 13, 2019/ OCTOBER 28, 2019/ DECEMBER 31, 2019/ MAY 17, 2022	424

8.31 The Circular dated December 18, 2014 casts an obligation on all SEBI registered intermediaries to take immediate action in resolving complaints

within a period of thirty days and thereafter, file an ATR with SEBI. Further, Regulation 21(1) of the Investment Adviser Regulations, 2013 *inter alia* states that an Investment Adviser shall promptly redress clients' grievances. In the instant proceedings, the Noticee had submitted that in 5 out of 8 complaints mentioned in the SCN, ATR were filed in a timely manner. From the aforesaid, it is clear that the Noticee had admittedly failed to address 3 out of the 8 complaints. As regards the 5 complaints wherein the Noticee had claimed that ATR was filed in a timely manner, it may be mentioned that while the ATR was filed within the due date i.e. on or before expiry of 30 days from the date of receipt of complaint on SCORES, the complaints were nonetheless not redressed by the Noticee and were kept pending for more than 100 days. It is for the said reason that reminders for redressal of grievance were also sent by SEBI, to the Noticee in respect of the aforesaid 5 complaints. It is also pertinent to note that as on date, the aforesaid 8 complaints are still pending redressal by the Noticee.

8.32 In view of the above, I find that the Noticee had failed to promptly resolve investor grievances received on the SCORES and also failed to submit the ATR in respect of the said complaints, in a time bound manner, in violation of SEBI Circular No. CIR/OIAE/2014 dated December 18, 2014 read with Regulation 21(1) of the Investment Adviser Regulations, 2013.

H. Failure to carry out adequate and appropriate risk profiling of its clients including failure to communicate risk profiling form upon completion thereon in violation of Regulation 15(1) and Clauses 1, 2 , 4, 5 and 8 of the Code of Conduct specified in Schedule III read with Regulation 15(9), Regulations 16(b)(iii), 16(d)(i), 16(d)(ii) and 16(e) of the Investment Adviser Regulations, 2013, Sections 12A(a), (b) and (c) of the SEBI Act read with Regulations 3(a), (b), (c) and (d) of the PFUTP Regulations, 2003.

8.33 The SCN read with the Enquiry Report had alleged that the Noticee had failed to carry out proper risk profiling of its clients in violation of Regulation 15(1) and Clauses 1,2,4,5 and 8 of the Code of Conduct specified in Schedule III read with Regulation 15(9) of the Investment Adviser Regulations, 2013. Further,

the Enquiry Report stated that the Noticee had assigned disproportionately large weights to answers in respect of three questions in the risk profile form ("***RPF***") offered to its clients in violation of Regulation 16(b)(iii) of the Investment Adviser Regulations, 2013. The Enquiry Report also stated that the questions in the RPF used by the Noticee was vague and contained leading questions in violation of Regulations 16(d)(ii) and 16(d)(ii) of the Investment Adviser Regulations, 2013.

8.34 The Enquiry Report stated that the Noticee had not communicated the *RPFs* to its clients after completion of the risk profiling in violation of Regulation 16(e) of the Investment Adviser Regulations, 2013. Further, the Noticee had incorrectly categorized some of its clients under the *'High Risk'* category thereby violating Section 12A(a), (b), (c) of the SEBI Act read with read with Regulations 3(a), (b), (c) and (d) of the PFUTP Regulations, 2003.

8.35 In its reply, the Noticee submitted as under:

a. *Risk profiling of a few of the clients was done again in order to rectify the wrong information provided by the client. However, if the client does not disclose correct details /information while doing risk profile at the initial stage itself, then the Noticee cannot be held liable. Further, the Noticee had employed the same risk profile approved by SEBI at the time of granting registration. Hence, questioning the correctness of the same risk profile is not sustainable.*
b. *The Noticee has always communicated the clients' risk profile via 'welcome mail', snapshots of which have been annexed with this reply. However, in some instances, there were delays in communicating the same. Nonetheless, the risk profiling of clients was always done prior to service allocation. Therefore, the Noticee have not violated Regulation 16(e) of the Investment Adviser Regulations, 2013 nor does the aforementioned come with the purview of 'fraud' under the PFUTP Regulations, 2003.*

8.36 The Noticee provided the following risk score range during inspection.

TABLE III		
S. NO.	**RISK SCORE RANGE**	**RISK STATUS**
1	LESS THAN 165	LOW RISK
2	BETWEEN 165–330	MEDIUM RISK
3	ABOVE 330	HIGH RISK

8.37 Upon a sample analysis of the risk profiling carried out by the Noticee, the following was noted in respect of some of its clients:

A. **Rakesh Kumar Kushwaha**: Risk profiling of the aforesaid client was carried out by the Noticee on August 23, 2019, wherein he had scored 180 (*Medium Risk*) and September 13, 2019, wherein he had scored 340 (*High Risk*), respectively. The difference in the two risk profiles is provided as under:

TABLE IV				
S. NO.	**QUESTION**	**1ST RPF/ MEDIUM (23.08.2019) [A]**	**2ND RPF/ HIGH (13.09.2019) [B]**	**DIFFERENCE IN SCORE [B] – [A]**
1.	INVESTMENT GOAL	FOR_CAPITAL_ APPRECIATIONS	FOR_REGULAR_INC OME	40
2.	PROPOSED INVESTMENT AMOUNTS	<_1_LACS	1-2_LACS	10
3.	GROSS ANNUAL INCOME	BELOW_RS_1_LAC	1-5_LAC	10
4.	WOULD YOU INVEST WHERE A SMALL RETURN IS EARNED ASSOCIATED WITH SMALL RISK INSTEAD OF A HIGH	STRONGLY PREFER SMALL RISK	STRONGLY DO NOT PREFER SMALL RISK	40
5.	WHEN MARKET IS NOT PERFORMING WELL WOULD YOU LIKE TO INVEST IN MORE RISKY INVESTMENT INSTEAD OF LESS RISKY INVESTMENT TO EARN HIGH RETURN?	STRONGLY DO NOT PREFER HIGH RISK	STRONGLY PREFER HIGH RISK	40
6.	HIGH RISK IS ASSOCIATED WITH HIGH RETURN, MEDIUM RISK IS ASSOCIATED WITH MEDIUM RETURNS AND LOW RISK IS ASSOCIATED WITH LOW RETURNS? WHAT RISK CAN YOU BEAR (NOT PREFER)?:	MEDIUM	HIGH	20
7.	WHAT IS YOUR EXPERIENCE WITH INVESTMENTS IN PAST?	GOOD EXPERIENCE	MODERATE	(-10)
TOTAL INCREASE IN RISK SCORE		**180**	**340**	**150**

8.38 Upon a consideration of Table IV above, it is noted that the risk profiling of the said client was done twice, immediately and within a short period of 20 days. It is inconceivable that the risk profile of the clients could have changed substantially from *Medium Risk* to *High Risk* within such a short period of time.

Further, the actual revised risk scores subsequently obtained by Raksh Kumar Kushwaha was 330 and not above 330. The same is material since they he was thereafter categorized as *'High Risk'* instead of *'Medium Risk'* and were sold products not suitable to its risk profile. Similar observations were made on the analysis of risk profiles of Priya Sahu and Vinay Kumar Choudhary. As has been detailed at paragraph 8.6, where the Noticee had carried out a revision of the risk profile of its clients, the supporting documents evidencing the reasons for the change in risk profile and acceptance/ acknowledgment by the concerned clients of the revised risk scores, were also not provided by them, to SEBI.

8.39 While conducting risk profiling and suitability assessment, the Noticee's representatives i.e. Risk Profiling Team and Sales Department employees, seek response for each question in the *RPF* over the telephone, from the concerned clients. The RPF questionnaire included the following 3 queries for ascertaining the risk appetite of clients:

i. Would you invest where a small return is earned associated with small risk instead of a high?

ii. When market is not performing well would you like to invest in riskier investment instead of less risky investment to earn high return?

iii. High risk is associated with high return, Medium risk is associated with medium returns and low risk is associated with low returns? What risk can you bear (not prefer)?

8.40 Regulation 16(b)(iii) of the Investment Adviser Regulations, 2013 states that the Investment Adviser must have a process for assessing the risk a client is willing and able to take, including appropriately interpreting client responses to questions and not attributing inappropriate weight to certain answers. It is noted that the Noticee had assigned a total weightage of 24% to the above mentioned 3 queries of the *RPF* questionnaire. Further, with the regard to the risk profiling query mentioned at paragraph 8.39.*iii.* above, the same appears to be a misleading question. The expression *'High risk is associated with high return…'* would in the mind of any average person create the impression that high return can be achieved ***only*** through high risk. This however, does not indicate the

fact that high risk products/ services involve equally high chances of losses. Accordingly, if the Noticee had made its clients aware of the aforementioned, they would have been better placed to understand the perils associated with investment in high risk products.

8.41 I note that in the instant matter, the questions mentioned in the RPF have been framed in such a manner so that it would be difficult for the clients to understand and provide an appropriate response. Further, I observe that such questions have been framed to make the clients fall in the high risk category so that they can be offered complex products like derivatives.

8.42 The Enquiry Report stated that the Noticee had failed to communicate the risk profiles to its clients. In this context, the Noticee had submitted that risk profiles were communicated to its clients via *'Welcome Mail'* and had also attached screen shots of such communications vide its reply. From a perusal of Annexure 3 of the Noticee' reply, it is observed that only the *'Welcome Mails'* of its clients, viz. Angad Chopra, Raghavendra Uppur, Virender Khatri and Rasananda Nayak (without its risk profiles) were submitted to SEBI. It is also noted that the *'Welcome Mails'* for the aforementioned clients were sent subsequent to the date of allotment of service contrary to the Noticee' claims that *'Welcome Mails'* were sent to clients while onboarding them. I therefore, am not inclined to accept the Noticee' submissions. Further, where the risk profiles were communicated (including of the aforementioned 4 clients), it is noted that in such cases, the services were allotted to the clients prior to its risk profiling as under:

TABLE V

S. NO.	NAME OF THE CLIENT	DATE OF ALLOTMENT OF SERVICE	DATE OF RISK PROFILE	DATE OF *'WELCOME MAIL'*
1.	ANGAD CHOPRA	MAY 27, 2019	MAY 30, 2019	MAY 29, 2019
2.	RAGHVENDRA UPPUR	JANUARY 29, 2019	JANUARY 30, 2019	FEBRUARY 6, 2019
3.	RASANANDA NAYAK	FEBRUARY 28, 2019	MARCH 1, 2019	MARCH 2, 2019
4.	VINAY KUMAR CHOUDHARY	JUNE 10, 2019	JUNE 11, 2019	NOT AVAILABLE
5.	NATRAJAN G	APRIL 1, 2019	APRIL 2, 2019	NOT AVAILABLE
6.	VIRENDER KHATRI	APRIL 30, 2019	MAY 1, 2019	MAY 1, 2019

8.43 In the present matter, it is evident that the Investment Adviser has exhibited a cavalier approach towards risk profiling of its clients thereby completely

abandoning proper due diligence and care that a person acting in a fiduciary capacity is duty bound to ensure. The Noticee had assigned inappropriate weights to certain answers and used vague and misleading questions in the RPF. Accordingly, I find that the Investment Adviser has violated Regulations 15(1), 16(b)(ii), 16(d)(i) and 16(d)(ii) of the Investment Adviser Regulations, 2013. I find from the facts brought out above that the Investment Adviser has failed to carry out its obligations and responsibilities cast upon them and failed to adhere to any of the stipulations in the Code of Conduct. I also find that the Noticee had violated clauses 1, 2, 4, 5 and 8 of Code of Conduct as specified under Third Schedule read with regulation 15(9) of the Investment Adviser Regulations, 2013.

8.44 I also find that by assigning inappropriate weights to certain answers and by assigning wrong risk category to its clients, the Noticee was able to incorrectly categorize its clients under the *'High Risk'* category to sell products/ services inappropriate to its risk profile. In my considered view, the deceptive devices employed by the Noticee are covered within the definition of *'fraud'* under Regulation 2(1)(c) of the PFUTP Regulations, 2003 and therefore, amounted to a violation of the provisions of Sections 12A(a), (b) and (c) of the SEBI Act read with Regulations 3(a), (b), (c) and (d) of the PFUTP Regulations, 2003.

8.45 In view of the above, I find that the Noticee violated the aforementioned provisions of Investment Adviser Regulations, 2012 and PFUTP Regulations, 2003.

I. Sale of multiple services and collection of unreasonably high advisory fees from its clients in violation of Regulations 15(1), 17(a), (b), (c), (d) and (e) of the Investment Adviser Regulations, 2013 and Clauses 1, 2 and 6 of the Code of Conduct specified under the Third Schedule read with Regulation 15(9) of the aforementioned Regulations.

8.46 The SCN read with the Enquiry Report had alleged that the Noticee failed in its responsibility to act in a fiduciary capacity to its clients by dealing unfairly with them through sale of multiple products /services with the sole purpose of collecting unreasonably high fees from them. The aforementioned was in violation of Regulation 15(9) and Clauses 1, 2, 3 and 8 of the Code of Conduct specified in Schedule III of the Investment Adviser Regulations, 2013.

8.47 In its reply, the Noticee submitted as under:

a. *The Noticee did not charge any unreasonable fee but rather, only offered his services to the clients. The clients were made aware well in advance regarding the service subscription charges. No hidden service fee has been charged by the Noticee. Further, there was nothing wrong in taking an advance payment for services as the clients get a discount where they opt for a service in advance. Further, the clients had paid the fees on its own will and were not forced into doing so by the Noticee.*
b. *In the case of client, Deepak Kumar, he had paid a total amount of Rs. 6,59,000 for a service of HNI Equity Combo for the period from January 3, 2019 to December 2, 2019 (11 months) whereas yearly charges were Rs. 7,20,000. Hence, the Noticee did not charge him any exorbitant and disproportionate fee. Further, prior to 2021, there was no limit or restriction on the quantum of fees chargeable from the clients. The same became applicable only from April 1, 2021. Therefore, the Noticee did not violate Regulations 15(1), 17(a), (b), (c), (d) and (e) of the Investment Adviser Regulations, 2013.*

8.48 ***Sale of multiple services to clients and collection of unreasonably high advisory fees from them.***

i. ***Selling Multiple Services to the Clients***: From the material available on record, it is observed that the Noticee had sold multiple services/ products to its clients as under:

A. Client: Rakesh Kumar Kushwaha

TABLE VI				
S. NO.	INVOICE DATE	PRODUCT	PERIOD OF SERVICE	INVOICE AMT. (RS.)
1	23-AUG-19	EQUITY CASH INTRADAY	26-AUG-19 TO 13-SEP-19	5,000
2	24-AUG-19	EQUITY CASH INTRADAY	16-SEP-19 TO 11-MAR-20	46,000
3	27-AUG-19	EQUITY CASH INTRADAY	12-MAR-20 TO 21-APR-20	10,000
4	30-AUG-19	INDEX OPTION	12-SEP-19 TO 11-MAY-20	40,000
5	02-SEP-19	EQUITY CASH INTRADAY	28-SEP-20 TO 03-NOV-20	10,000
6	02-SEP-19	EQUITY CASH INTRADAY	04-NOV-20 TO 07-DEC-20	7,500
7	07-SEP-19	EQUITY CASH INTRADAY	08-DEC-20 TO 30-DEC-20	5,500
8	17-SEP-19	INDEX OPTION	12-MAY-20 TO 11-JUN-20	5,000
9	17-SEP-19	INDEX OPTION	12-JUN-20 TO 13-JUL-20	5,000
10	24-SEP-19	INDEX OPTION	14-JUL-20 TO 14-SEP-20	10,000
11	25-SEP-19	INDEX OPTION	15-SEP-20 TO 13-NOV-20	10,000
12	26-SEP-19	INDEX OPTION	14-NOV-20 TO 09-DEC-20	5,000
13	07-OCT-19	INDEX OPTION	10-DEC-20 TO 17-JAN-21	5,000
TOTAL				**1,64,000**

B. Virender Khatri

TABLE VII				
S. NO.	INVOICE DATE	PRODUCT	PERIOD OF SERVICE	INVOICE AMOUNT (RS.)
1	30-APR-19	INDEX OPTION	2-MAY-19 TO 4-JUL-19	10,000
2	30-APR-19	INDEX OPTION	5-JUL-19 TO 25-JUL-19	3,250
3	6-MAY-19	HNI OPTION	9-MAY-19 TO 16-MAY-19	11,000
4	28-MAY-19	INDEX OPTION	26-JUL-19 TO 3-OCT-19	11,000
5	3-JUN-19	INDEX OPTION	4-OCT-19 TO 22-NOV-19	7,000
6	18-JUN-19	INDEX OPTION	25-NOV-19 TO 07-SEP-20	46,000
7	18-JUN-19	INDEX OPTION	08-SEP-20 TO 02-OCT-20	4,000
8	27-JUN-19	HNI OPTION	28-JUN-19 TO 15-JUL-19	25,000
9	29-JUN-19	HNI OPTION	16-JUL-19 TO 12-AUG-19	45,000
10	29-JUN-19	HNI FUTURE	02-JUL-19 TO 01-AUG-19	50,000
11	29-JUN-19	INDEX OPTION	05-OCT-20 TO 05-FEB-21	20,000
12	29-JUN-19	INDEX FUTURE	02-JUL-19 TO 11-NOV-19	25,000
13	08-JUL-19	EQUITY COMBO	09-JUL-19 TO 16-AUG-19	22,000
14	17-JUL-19	INDEX FUTURE	12-NOV-19 TO 23-MAR-20	25,000
TOTAL				**3,04,250**

C. Client: Vinay Kumar Choudhary

TABLE VIII				
S. NO.	INVOICE DATE	PRODUCT	PERIOD OF SERVICE	INVOICE AMT. (RS.)
1	10-JUN-19	EQUITY CASH INTRADAY	10-JUN-19 TO 20-JUN-19	3,001
2	14-JUN-19	HNI EQUITY CASH	17-JUN-19 TO 24-JUN-19	10,000
3	19-JUN-19	EQUITY COMBO	20-JUN-19 TO 08-AUG-19	29,000
4	20-JUN-19	EQUITY COMBO	09-AUG-19 TO 06-NOV-19	51,999
5	21-JUN-19	EQUITY COMBO	07-NOV-19 TO 31-JAN-20	50,001
6	24-JUN-19	EQUITY COMBO	03-FEB-20 TO 19-OCT-20	1,50,000
7	26-JUN-19	EQUITY COMBO	20-OCT-20 TO 15-JAN-21	51,000
8	04-JUL-19	HNI EQUITY COMBO	05-JUL-19 TO 29-JUL-19	65,000
9	10-JUL-19	HNI EQUITY COMBO	30-JUL-19 TO 31-JUL-19	5,000
TOTAL				**4,15,001**

ii. From Tables VI, VII and VIII, it is observed that the Noticee had sold multiple products/ services to its clients and further, new products/ services were sold to such clients even when the earlier products/ services were not yet fully served/ completed. In some cases, the Noticee had also sold products/ services in 2019 when the commencement date of service was 13 months thereafter.

8.49 ***Instances where Unreasonably high fees have been charged:***

i. The Noticee were also found to have charged arbitrary and unreasonably high fees from its clients as under:

A. Client: Asit Baran Das

TABLE IX				
S. NO.	INVOICE DATE	PRODUCT	PERIOD OF SERVICE	INVOICE AMT. (RS.)
1.	23-MAY-19	PREMIUM EQUITY CASH	29-MAY-19 TO 31-MAY-19	2,100
2.	27-MAY-19	PREMIUM EQUITY CASH	3-JUN-19 TO 11-JUN-19	7,000
3.	25-JUN-19	EQUITY COMBO	02-JUL-19 TO 22-JUL-19	11,000
4.	27-JUN-19	STOCK OPTION	02-JUL-19 TO 05-AUG-19	10,000
5.	27-JUN-19	PREMIUM OPTION	02-JUL-19 TO 04-SEP-19	50,000
6.	29-JUN-19	PREMIUM OPTION	05-SEP-19 TO 07-OCT-19	25,000
7.	23-JUL-19	PREMIUM OPTION	08-OCT-19 TO 18-OCT-19	8,302
8.	25-JUL-19	PREMIUM OPTION	22-OCT-19 TO 11-NOV-19	14,951
9.	29-JUL-19	PREMIUM OPTION	12-NOV-19 TO 19-NOV-19	5,938
10.	02-AUG-19	PREMIUM OPTION	20-NOV-19 TO 05-DEC-19	9,007
11.	05-AUG-19	PREMIUM OPTION	06-DEC-19 TO 08-JAN-20	21,806
12.	06-AUG-19	PREMIUM OPTION	09-JAN-20 TO 13-FEB-20	23,782
13.	09-AUG-19	PREMIUM OPTION	14-FEB-20 TO 20-MAR-20	24,342
14.	20-AUG-19	PREMIUM OPTION	23-MAR-20 TO 06-APR-20	17,820
15.	21-AUG-19	PREMIUM OPTION	07-APR-20 TO 24-APR-20	9,379

TABLE IX				
S. NO.	INVOICE DATE	PRODUCT	PERIOD OF SERVICE	INVOICE AMT. (RS.)
16.	22-AUG-19	PREMIUM OPTION	27-APR-20 TO 05-MAY-20	4,761
17.	23-AUG-19	PREMIUM OPTION	06-MAY-20 TO 22-MAY-20	12,020
18.	26-AUG-19	PREMIUM OPTION	25-MAY-20 TO 05-JUN-20	10,318
19.	27-AUG-19	PREMIUM OPTION	08-JUN-20 TO 16-JUN-20	15,501
20.	28-AUG-19	PREMIUM OPTION	17-JUN-20 TO 03-JUL-20	12,060
21.	29-AUG-19	PREMIUM OPTION	06-JUL-20 TO 17-AUG-20	30,708
22.	30-AUG-19	PREMIUM OPTION	18-AUG-20 TO 07-SEP-20	14,145
23.	31-AUG-19	PREMIUM OPTION	08-SEP-20 TO 24-SEP-20	11,042
TOTAL				**3,50,982**

ii. From the table IX above, I note that the client was sold 23 services within a period of around three months. Further, during the period June 27, 2019 to August 31, 2019, the product *'Premium Option'* was sold to the client 19 times. I note that the said service was sold again and again even before the completion of the duration of the previous services. Products were sold in which the services were supposed to commence after 1 year from the date of the invoice and payment. For example, product *'Premium Option'* was sold on August 31, 2019, the service period of which would have started on September 8, 2020 i.e. more than 1 year from the date of sale of the product.

B. Client: Sai Narasimha Reddy Eda

TABLE X				
S. NO.	INVOICE DATE	PRODUCT	PERIOD OF SERVICE	INVOICE AMT. (RS.)
1.	20-DEC-19	EQUITY CASH INTRADAY	23-DEC-19 TO 27-DEC-19	3,100
2.	20-DEC-19	PREMIUM EQUITY CASH	30-DEC-19 TO 06-JAN-20	31,172
3.	24-DEC-19	PREMIUM EQUITY CASH	28-JAN-20 TO 17-FEB-20	21,600
TOTAL				**55,872**

iii. The fees charged for the service namely, Premium Equity Cash as per the information provided by the Noticee is as under:

TABLE XI				
WEEKLY	MONTHLY	QUARTERLY	HALF YEARLY	YEARLY
6,000	24,780	68,440	1,29,800	2,36,000

iv. From Table XI, I note that for Premium Equity Cash service, the weekly fees chargeable is Rs. 6,000. However, from Table X, Noticee has charged fees of Rs. 31,172 for 8 days and charged fees of Rs. 21,600 for

20 days. I note that that disproportionate amount of fees has been charged by the Noticee from the client.

C. Client: Mr. Deepak Kumar

TABLE XII				
S. NO.	INVOICE DATE	PRODUCT	PERIOD OF SERVICE	INVOICE AMT. (RS.)
1.	18-DEC-18	HNI FUTURE	21-DEC-18 TO 24-DEC-18	5,000
2.	19-DEC-18	HNI FUTURE	26-DEC-18 TO 13-JAN-19	10,000
3.	20-DEC-18	HNI FUTURE	14-JAN-19 TO 28-JUN-19	15,000
4.	21-DEC-18	HNI FUTURE	1-JUL-19 TO 31-OCT-19	30,000
5.	22-DEC-18	HNI FUTURE	1-NOV-19 TO 29-NOV-19	9,000
6.	25-DEC-18	HNI FUTURE	02-DEC-19 TO 20-DEC-19	9,000
7.	26-DEC-18	HNI EQUITY COMBO	03-JAN-19 TO 01-APR-19	28,000
8.	27-DEC-18	HNI EQUITY COMBO	02-APR-19 TO 30-APR-19	51,000
9.	28-DEC-18	HNI EQUITY COMBO	01-MAY-19 TO 02-JUN-19	35,000
10.	1-JAN-19	HNI EQUITY COMBO	04-JUN-19 TO 31-OCT-19	5,00,000
11.	2-JAN-19	HNI EQUITY COMBO	01-NOV-19 TO 02-DEC-19	45,000
TOTAL				**7,37,000**

(i) The fees charged for the service HNI Equity Combo as per the information provided by the Noticee is as under:

TABLE XIII			
MONTHLY	QUARTERLY	HALF YEARLY	YEARLY
75,000	**202500**	**3,82,500**	**7,20,000**

(ii) I note from the table XIII above that the service fees for 6 months is Rs. 3,82,500. However, from Table XII, it is noted that for 5 months, the fees charged from the client is Rs. 5,00,000. Thus, I note that the fees charged by Noticee was exorbitant, disproportionate and was not in line with the internal fee structure of Noticee.

(iii) I note that the amount of advisory fees charged to the clients was more than the proposed amount of investment by the clients. Some of the clients who had been charged more advisory fees than the proposed amount of investment is tabulated as under:

TABLE XIV			
S. NO.	**CLIENT NAME**	**PROPOSED INVESTMENT AMOUNT (AS PER RPM)**	**ADVISORY FEES CHARGED TO THE CLIENT (INVOICES OF THE CLIENTS)**
1.	PRIYA SAHU	UP TO RS. 1 LAKH	RS. 3,28,994
2.	VIRENDER KHATRI	UP TO RS. 1 LAKH	RS. 3,04,250
3.	GOLLAVILLI VENKATARAO	RS. 1 LAKH TO RS. 2 LAKH	RS. 7,17,221
4.	ASIT BARAN DAS	UP TO RS. 1 LAKH	RS. 3,50,982
5.	VINAY KUMAR CHOUDHARY	RS. 1 LAKH TO RS. 2 LAKH	RS. 4,15,001
6.	DEEPAK KUMAR KHURANA	RS. 1 LAKH TO RS. 2 LAKH	RS. 7,37,000

(iv) From the table XIV above, I note that the advisory fees were more that the proposed investment amount of the clients as per its risk profile questionnaire. I note that if advisory fees itself is more than the proposed investment amount, then the client would not earn any returns on his investment.

8.50 It is noted that these acts of the Noticee were in complete disregard to the responsibility entrusted on them under the provisions of the Investment Adviser Regulations, 2013 i.e. to act in fiduciary capacity and in the best interest of its clients. I also observe that the Noticee has not sold products to clients as per its risk category and tolerance level. Even though risk category of the client was '*Medium Risk*', product from '*High Risk*' categories were sold to clients. It is observed that Noticee had not considered clients' experience and knowledge while selecting products for them. Further, I observe that the advisory fees charged was much higher than the proposed investment amount and therefore, the clients' investment objectives had been impaired. By paying such high advisory fees, clients may not be able to generate any profit or accomplish its financial objectives. Further, it is also noted that the Noticee had not done '*Suitability*' as mentioned in Regulation 17 of the Investment Adviser Regulations, 2013 and had charged unreasonable fees from its clients.

8.51 I am also not inclined to accept the contention of the Noticee that the clients were not misguided or had themselves disclosed wrong information to the Noticee since from the preceding paragraphs, it is clearly evident that certain clients were incorrectly categorized by the Noticee under the *'High Risk'* category instead of *'Medium Risk'* category and were thereafter, sold products/ services under the *'High Risk'* category.

8.52 The Noticee had contended that the limit on fees charged to clients was applicable only from April 1, 2021. I note that a broad guideline to ensure reasonableness in charging fees was already provided in Clause 6 of the Code of Conduct for Investment Advisers under the Investment Adviser Regulations, 2013. It has been clearly demonstrated that the Noticee had not charged reasonable fees from its clients. Hence, I am not inclined to accept the submission of the Noticee.

8.53 The Noticee had submitted that the clients have paid fees of their own will and consent and were neither forced nor deceived. Further, the Noticee had also contended that the fees charged to client namely, Deepak Kumar was not unreasonable. Further, with regard to Deepak Kumar, I find that fees of Rs. 6.59 Lakh had been received from the Client whereas the gross annual income of the client was Rs. 1 to 5 Lakh as per risk profile questionnaire. It is a matter of fact that no investor will pay higher amount of fee than its investment or annual income. The Noticee had knowingly charged a fees which was higher than the proposed investment amount of the clients [see paragraph 8.49 (C) (iii)]. The Noticee had therefore not acted in its fiduciary capacity as required under the Investment Adviser Regulations, 2013.

8.54 Regulation 17 of the Investment Adviser Regulations, 2013 stipulates that the Investment Adviser should ensure that all investments on which investment advice is provided, appropriate to the risk profile of the client and there has to be a documented process for selecting investments based on client's investment objectives and financial situation. So, there is a clear onus on the Investment Adviser to reasonably satisfy itself of the efficacy of his investment advice as regards the client, keeping in mind the factors stated above.

Accordingly, I find that Noticee had violated Regulation 17(a), (b), (c), (d) and (e) of the Investment Adviser Regulations, 2013.

8.55 The Noticee, by giving investment advice to clients, which was not suitable for them had not acted in the best interests of the client, and had put its own interest of earning more fees at the fore, thereby breaching the fundamental duty of a fiduciary. I accordingly find that the Noticee had violated Regulation 15(1) of the Investment Adviser Regulations, 2013 and Clauses 1, 2 and 6 of the Code of Conduct as specified under Third Schedule read with Regulation 15(9) of the Investment Adviser Regulations, 2013.

8.56 I also find that the Noticee had sold products / services meant for high risk category clients to medium risk category clients, sold multiple products / services to its clients without assessing the suitability of the services also charged unreasonable high advisory fees. In my considered view, the aforesaid deceptive devices employed by the Noticee are covered within the definition of *'fraud'* under Regulation 2(1)(c) of the PFUTP Regulations, 2003 and therefore, amounted to a violation of the provisions of Sections 12A(a), (b) and (c) of the SEBI Act read with Regulations 3(a), (b), (c) and (d) of the PFUTP Regulations, 2003.

8.57 In view of the above, I find that the Noticee violated the aforementioned provisions of Investment Adviser Regulations, 2012 and PFUTP Regulations, 2003.

J. Failure to make adequate disclosures to its clients regarding its association with other intermediaries, investing activities and trading, sharing of confidential information of its clients, etc. in violation of Regulations 18(1), (4) and (6) and Clauses 1, 2, 5 and 7 of the Code of Conduct specified under the Third Schedule read with Regulation 15(9) of the aforementioned Regulations.

8.58 The SCN read with the Enquiry Report had alleged that the Noticee did not disclose its association with other intermediaries, its trading activities and

performance reports of its advisory products to its clients in violation of Regulations 18(1), (4) and (6) of the Investment Adviser Regulations, 2013 and Clauses 1, 2, 5 and 7 of Code of Conduct as specified under Third Schedule read with Regulation 15(9) of the said Regulations.

8.59 In its reply, the Noticee submitted as under:

a. *The Noticee have always disclosed all the relevant information to its clients through e-mail and also through its website.*
b. *The data which was found by the SEBI of another Investment adviser was brought by an employee who was previously working with the other investment adviser. The Noticee was not having any knowledge regarding the said Data.*

8.60 From the material on record, it is noted that during the Inspection, KYC documents and *RPFs*/ records/ data of 403 clients of another Investment Adviser was found in the Noticee' computers/ systems. However, I am inclined to accept the Noticee' contention that they had no knowledge about the same as no other fact other than the discovery of said records, has been brought on record in the instant proceedings. Hence, I am not inclined to agree with the observations of the DA that the Noticee had failed to disclose its association with other intermediaries.

8.61 However, as regards the allegation that the Noticee had failed to disclose all relevant information regarding its holdings in the securities market, commodity trading and investment activities, I find that vide a letter dated March 4, 2020, the Noticee had informed SEBI that: *"I, Vicky Kamriya has done commodity trading and invested in mutual funds through the trading account and demat account in ICICI Direct and Zerodha … The above said trading and investing activities has been carried out by Vicky Kamriya after taking investment adviser license from SEBI. Further, with respect to the activity, no disclosures were made to the clients. …"* It is also pertinent to note that in the compliance audit report for the period 2018–19, the Auditor had opined that: *"all material*

disclosure is not informed to the client, viz. demat account of proprietor." I therefore, find that the Noticee had failed to disclose all relevant information regarding its holdings in the securities market, commodity trading and investment activities to its clients.

8.62 Further, vide the above mentioned letter, the Noticee also admitted to having failed to upload on the Noticee' website, performance track sheets of investment advisory products offered to clients. I therefore, find that the Noticee had also failed to disclose material information about its business, to its clients.

8.63 Regulation 18(1) of the Investment Adviser Regulations, 2013 mandates that an Investment Adviser shall disclose all material information regarding itself including its business, affiliation to a prospective client. Further, Regulation 18(4) and (6) of the said Regulations mandates that an Investment Adviser shall disclose its holding position in securities and track record to its clients respectively. In the instant proceedings, I find that the Noticee had not disclosed its affiliation, holding position in securities market and performance track record to its clients. In terms of Clauses 1, 2, 4 and 7 of the Code of Conduct under the said Regulations, an Investment Adviser, shall act honestly and disclose all relevant and material information to its clients. Accordingly, I find that the Noticee had violated Regulations 18(1), (4) and (6) of the Investment Adviser Regulations, 2013 and Clauses 1, 2, 5 and 7 of Code of Conduct as specified under Third Schedule read with Regulation 15(9) of the said Regulations.

K. Failure to ensure compliance with Anti–Money Laundering Policy on account of not having a 'Principal Officer' and failure to inform the FIU regarding the said fact in violation of Circular dated January 18, 2006.

8.64 The SCN read with the Enquiry Report had alleged that the Noticee failed to appoint a *'Principal Officer'* and submit details regarding such officer to FIU in violation of Circular dated January 18, 2006.

8.65 In its reply, the Noticee submitted as under:

a. The Noticee had in place anti money laundering policy but had failed to informed the FIU regarding its Principal Officer. Further, the Noticee had never come across any such suspicious transactions wherein the requirement for reporting such transactions had arisen.

8.66 As per the Circular dated January 18, 2006, SEBI had *inter alia* advised all registered intermediaries to ensure that a proper policy framework on anti–money laundering measures is put into place within one month from the date of the said Circular. The intermediaries were further advised to designate an officer as *'Principal Officer'* and intimate the details thereof to the FIU on an immediate basis. The *'Principal Officer'* is *inter alia* responsible for timely submission of cash transaction report/ suspicious transaction report (along with recording his reasons for treating any transaction as suspicious) concerning the registered intermediary to the FIU. In the Noticee' case, it is noted that the *'Principal Officer'* stated to have been appointed i.e. Rahul Sisodiya, had absconded since January 24, 2018. The Noticee had also not produced any documents to indicate that a *'Principal Officer'* was in place post the aforesaid period. I note that the Noticee had failed to appoint a *'Principal Officer'* and further, had admittedly failed to inform the FIU of the aforementioned fact. Accordingly, I find that the Noticee had violated the provisions of the Circular dated January 18, 2006.

8.67 For the reasons mentioned in the preceding paragraphs, I find myself in agreement with the findings of the DA that the Noticee had violated the aforementioned provisions of the SEBI Act, PFUTP Regulations 2003, Investment Adviser Regulations, 2013 and the Circulars issued by SEBI. Having regard to the facts and circumstances of the instant proceedings, I accept the recommendation of the DA that the Certificate of Registration of the Noticee be cancelled.

DIRECTIONS

9. I, in exercise of powers conferred upon me in terms of Section 19 and Section 12(3) of the SEBI Act, 1992 read with Regulation 27 of the Intermediaries Regulations, 2008, hereby cancel the Certificate of Registration granted to the Noticee, i.e. **Money Market Manthan Financial Services (Proprietor: Vicky Kamriya) No. INA000005465**, as an Investment Adviser.

10. This Order shall come into force with immediate effect. This Order disposes of the enquiry proceedings initiated against the Noticee vide the SCN read with Enquiry Report.

11. A copy of this Order shall be served on the Noticee immediately. A copy of this Order shall also be served on all recognized Stock Exchanges and BSE Administration and Supervision Ltd. for ensuring compliance of this Order.

Place: Mumbai
Date: July 14, 2023

ASHWANI BHATIA
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA