

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

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

In respect of:

Mr. Ketan Bora Proprietor of the Insane Traders (Investment Adviser)

SEBI Registration No.: INA000007793

PAN: BENPB0608D

In the matter of Ketan Bora Proprietor of the Insane Traders

BACKGROUND:

1. Mr. Ketan Bora Proprietor of the Insane Traders is an investment adviser registered with Securities and Exchange Board of India ('SEBI') bearing registration no. INA000007793 under Section 12(1) read with Regulation 3(1) and Regulation 9 of the SEBI (Investment Adviser) Regulations, 2013 ('IA Regulations').
2. On September 14, 2023, SEBI conducted a joint inspection with BSE Administration and Supervision Limited ('BASL') of Mr. Ketan Bora for the period April 01, 2022 to August 31, 2023 ('inspection period'). The scope of the inspection was to, *inter alia*, verify if Mr. Ketan Bora had complied with applicable Regulations issued by SEBI from time to time.
3. Pursuant to the said inspection a Designated Authority ('DA') was appointed by SEBI in terms of Regulation 24(2) of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008 ('Intermediaries Regulations') vide communique dated March 19, 2024, who conducted the proceedings in accordance with the provisions of the Intermediaries Regulations; in respect of the deficiencies brought out on the part of Mr. Ketan Bora during inspection and submitted his Report dated October 29, 2024, to SEBI with findings that Mr. Ketan Bora has contravened the provisions of Regulation 7(2), 8, 13(e), 15(8), 16, 17, 18 and 19(1) of the IA Regulations and recommending that the certificate of registration of Mr. Ketan Bora,

Proprietor of the Insane Traders, SEBI Registration No. INA000007793, as an investment adviser may be cancelled.

4. Thereafter, a Show Cause Notice ('SCN') dated November 08, 2024, as required under regulation 27(1) of the Intermediaries Regulations enclosing therewith a copy of the Report dated October 29, 2024 was served upon Mr. Ketan Bora calling upon him to show cause as to why action as recommended by the DA or any other action as deemed fit should not be taken against him in terms of Regulation 27 of the Intermediaries Regulations. The allegations as per the Report dated October 29, 2024 against Mr. Ketan Bora are that he: -
 - (a) failed to register as non-individual investment adviser upon reaching more than 150 clients;
 - (b) failed to meet the minimum net worth requirement;
 - (c) did not renew his NISM X-A and NISM X-B certification as prescribed in IA Regulations;
 - (d) failed to maintain and provide the record of clients and copy of agreement executed between him and his clients;
 - (e) failed to provide details of KRA process at the time of inspection and failure to follow the KYC process while on boarding the clients;
 - (f) failed to provide the documented process flow to identify risk profile/ risk score of clients to decide on their suitability for financial products;
 - (g) failed to provide the documented process flow and the detail questionnaire for risk profiling of his client;
 - (h) failed to make material disclosures.
5. Vide email dated November 28, 2024, Mr. Ketan Bora, acknowledged receipt of the SCN and requested for an opportunity of personal hearing in the matter. In the meantime, there was a change in competent authority pursuant to an internal transfer in SEBI on December 02, 2024, then the matter was brought before me for my consideration. In the meantime, vide email dated December 03, 2024, Mr. Ketan Bora, submitted his response to the SCN *inter alia* reiterating the detailed written submissions made by him vide his reply dated June 05, 2024, before the DA and sought for an opportunity for a personal hearing in the matter.
6. In the interest of justice and due to above change in authority, an opportunity of personal hearing was provided to Mr. Ketan Bora on December 18, 2024, online through Webex, when he appeared alongwith his Authorised Representative (AR) Mr.

Abhay Kumar. He reiterated his earlier responses before the DA and sought time of 10 days to file post hearing written submissions which was granted. The written submission of Mr. Ketan Bora was received on December 28, 2024.

7. The replies and submissions of Mr. Ketan Bora in response to the SCN are, *inter alia*, as following:

- (a) He was a new entrant and as no one knew him, he was running introductory offers at a price which was very low compared to his competitors so as to build credibility and did not enter into agreements with any subscriber as he was not treating them as clients.
- (b) That he has accepted payments from more than 3000 subscribers but they were not his clients as he was not considering anyone as his client.
- (c) Since he was not treating subscribers as clients, he only maintained basic details like Name, Address, Phone Number and Email ID of his subscribers.
- (d) That he was in the process of drafting the relevant agreements and KYC compliances to be executed with the prospective clients.
- (e) That he was unaware of the regulation regarding the renewal of NISM Certification.
- (f) He was in the process of making a questionnaire where he could capture the details for risk profiling after their offer ends and then provide them a suitable service later.
- (g) On the offer page of his services (through his web site), he had mentioned that he was a SEBI registered investment adviser and that all the details and the features of the services with the proper disclaimers were given.
- (h) That he was unaware of the amendment made in the year 2020 to the IA Regulations that an IA should have a net worth of Rs. 5 lakhs and that his consultant suggested that an IA should have a minimum net worth of Rs. 1 lakh.

- (i) That he has not made any fake promises to the subscribers, has not guaranteed returns of any kind, has not charged exorbitant fees for his services, has not committed any fraud, has refunded where payments were made by mistake, has no complaints against him on SCORES and did not trade in his personal accounts during the period of service.
- (j) That he used to hold regular doubt clearing sessions for subscribers with his team, did not take access of subscribers trading accounts, never talked to subscribers regarding profit sharing services, did not offer multiple services to any subscriber and was continuously educating his subscribers on how to take trading in the right manner and follow risk management, money management and not have unrealistic expectations from the stock market.
- (k) He shut down his business from April 03, 2023 before the proceedings or inspection were initiated against him on September 14, 2023. As he was frustrated with the procedures and lack of support from SEBI officers handling his Research Analyst registration process which was rejected. That due to the frustration and anxiety he closed down this thriving business.
- (l) That the IA Regulations have been violated by mistake due to lack of knowledge and improper guidance from the intermediaries.
- (m) In the absence of any complaint or evidence demonstrating harm to the marketplace, investors, or the public at large, it is unjust and contrary to the principles of natural justice.

8. I have carefully considered the report of the DA, replies and submissions of Mr. Ketan Bora and materials available on record. Before dealing with allegations and responses thereto of Mr. Ketan Bora, I deem it appropriate to refer to the provisions of regulations (as applicable at the relevant times) alleged to have been contravened by Mr. Ketan Bora in this matter. The relevant provisions, as applicable during the relevant period are as reproduced below:

SEBI IA Regulations, 2013

Regulation 7: Qualification and certification requirement.

“(2) An individual investment adviser or principal officer of a non-individual investment adviser, registered under these regulations and persons associated with

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

(a) from NISM; or

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

Provided that fresh certification must be obtained before expiry of the validity of the existing certification to ensure continuity in compliance with certification requirements:

Provided further that fresh certification before expiry of the validity of the existing certification shall not be obtained through a CPE program.

Regulation 8: Networth.

“(1) Investment advisers who are non-individuals shall have a net worth of not less than fifty lakh rupees. Explanation. — For the purposes of this regulation, "networth" means the aggregate value of paid up share capital plus free reserves (excluding reserves created out of revaluation) reduced by the aggregate value of accumulated losses, deferred expenditure not written off, including miscellaneous expenses not written off, and networth requirement for other services offered by the advisers in accordance with the applicable rules and regulations.

(2) Investment advisers who are individuals shall have net tangible assets of value not less than five lakh rupees:

Provided that existing investment advisers shall comply with the networth requirement within three years from the date of commencement of the SEBI (Investment Advisers)(Amendment) Regulations, 2020.”

Regulation 13: Conditions of certificate.

“The certificate granted under regulation 9 shall, inter alia, be subject to the following conditions: -

(e) individuals registered as investment advisers whose number of clients exceed one hundred and fifty in total, shall apply for registration as non-individual investment adviser within such time as may be specified by the Board.”

Regulation 15: General responsibility.

“(8) An investment advisor shall follow Know Your Client procedure as specified by the Board from time to time. “

Regulation 16: Risk Profiling

“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 a client is willing and able to take, including:

- (i) assessing a client's capacity for absorbing loss;
- (ii) identifying whether client is unwilling or unable to accept the risk of loss of capital;
- (iii) appropriately interpreting client responses to questions and not attributing inappropriate weight to certain answers.

(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.”

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 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.”

Regulation 18: Disclosures to clients

“ (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.

(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.”

“Regulation 19: Maintenance of records.

(1) 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, incorporating the terms and conditions as may be specified by the Board;]
- (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.

(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.

(3) An investment adviser shall conduct yearly audit in respect of compliance with these regulations from a member of Institute of Chartered Accountants of India or Institute of Company Secretaries of India 42[and submit a report of the same as may be specified by the Board.]”

9. Coming to the merits of the allegations, it is noted that the allegations are interlinked and have to be dealt with accordingly while dealing them individually as follows:

A. Failure to register as non-individual investment adviser upon reaching more than 150 clients.

10. I note that section 12(1) of the SEBI Act provides for a negative command when it says that no investment adviser shall buy sell or deal in securities except under and in accordance with the conditions of certificate of registration obtained from SEBI in accordance with regulations made under the SEBI Act. As per Regulation 13(e) of the IA Regulations one of the conditions of reregistration, of an individual investment adviser, is that when number her clients exceeds one hundred and fifty (150) in total, she shall apply for registration as non-individual investment adviser within such time as may be specified by the Board. This regulation 13(e) was inserted vide SEBI (Investment Advisers) (Amendment) Regulations, 2020 with effect from 30th September 2020. Vide SEBI circular no. SEBI/HO/IMD/DF1/CIR/P/2020/182 dated September 23, 2020, for operation of said Regulation 13(e), it was , *inter alia*, specified by SEBI that :-

- (a) an individual investment adviser shall apply for registration as non- individual investment adviser on or before reaching the number of clients to 150; and
- (b) the existing individual investment advisers having more than 150 clients as on September 30, 2020 shall not on-board fresh clients and such individual

investment adviser shall apply for registration as non-individual IA by April 01, 2021.

11. Thus, the time imperative for compliance obligation under Regulation 13(e) was specified and declared to be latest by April 01, 2021.
12. As per Regulation 6(n) and read with Regulation 14 of the IA Regulations, one of the factors for considering an application for grant of certificate of registration as an investment adviser under the IA Regulations is whether the applicant is a member of an Investment Adviser Administration and Supervisory Body (IAASB) recognised by SEBI for the purpose of administration and supervision of IAs. SEBI has granted recognition to BSE Administration and Supervision Limited (BASL), a subsidiary of BSE Limited (BSE) as IAASB through a circular SEBI circular no. SEBI/HO/IMD/IMD-I/DOF1/P/CIR/2021/579 dated June 18, 2021.
13. Accordingly, any person desirous of obtaining a certificate of registration as an investment advisor is required to first obtain membership of BASL and then make an application for grant of certificate of registration in the format of Form A as specified in the First Schedule to the IA Regulations along with necessary supporting documents. The process for seeking membership from BASL and registration from SEBI as an IA is specified in BASL circular no. 20220718-1 dated July 18, 2022 and is available on BASL website (<https://www.bseasl.com>).
14. Admittedly, Mr. Ketan Bora was registered by SEBI as individual investment adviser. On verification of client data submitted by Mr. Ketan Bora, DA has observed that he on-boarded 3385 clients and did not approach either SEBI or BASL for carrying out his change in registration from individual to non-individual investment adviser in violation of the provisions of regulation 13(e) of the IA Regulations. However, Mr. Ketan Bora vide reply dated June 05, 2024, while admitting that he had accepted the payments from more than 3000 subscribers, denied that he has not violated the above Regulation 13(e) since he was not considering his subscribers as his clients. In this regard, it is pertinent to mention that Regulation 2(m) and Regulation 2(l) of the IA Regulations clearly provides for the meaning and scope of investment advisory

services to be rendered by an investment adviser to her clients. On closely examining the definition of the expression '*investment advice*' in Regulation 2(l) and definition of expression '*investment adviser*' in Regulation 2(m) of the IA Regulations, it is deduced that the following activities are investment advisory service by an investment adviser to her clients: -

- (i) advice relating to investing in, purchasing, selling or otherwise dealing in securities or investment products, and
- (ii) advice on investment portfolio containing securities or investment products, whether written, oral or through any other means of communication for the benefit of the client and
- (iii) includes financial planning.

given by an investment adviser who for consideration, is engaged in the business of providing investment advice;

-to clients or other persons or group of persons and includes any person who holds out himself as an investment adviser, by whatever name called.

15. Thus, in my view, in the context of an investment adviser, a "*client*" does not have same connotation as of the clients of a stock broker any other such intermediary. A *client* of an investment adviser receives investment advice from the investment adviser on payment of commission. Such services are rendered based on a fiduciary responsibility towards those who pay for receiving investment advice to act in their best financial interest when making investment decisions. The denial of Mr. Ketan Bora that his subscribers were not his clients does not hold good in view of the following: -

- (a) Invoices offering services i.e., Options (Regular Monthly Income Plan) and Index Futures Intraday for 3 months' duration were issued by Mr. Ketan Bora to different persons on different dates. Details of some of such invoices are as follows:

S.No.	Invoice Number and date	Amount (incl. of GST)	Item	Bill To

1	INV-001999 (Date 27-03-2023)	3540	Options (Regular Monthly Income Plan) Duration 3 Months	Asxxxxx Sharma
2	INV-001978 (Date 22-03-2023)	3540	Options (Regular Monthly Income Plan) Duration 3 Months	Bhxxxxx Tolani
3	INV-001469 (Date 27-02-2023)	3540	Index Futures Intraday Duration 3 Months	CA PC xxxxx
4	INV-000411 (Date 31-01-2023)	1770	Index Futures Intraday Duration 3 Months	Dxxxxxx Kamatkar

(b) Admittedly, Mr. Ketan Bora (videhis submission dated September 09, 2023 during the inspection) , *inter alia*, submitted that he recommended advice through telegram channels, namely, Insane Traders – Index Futures, Insane trader – Options and Insane traders – Future Intraday.

(c) Mr. Ketan Bora admittedly collected an amount of collected an amount of Rs. 77,02,450/- (Seventy-seven lakhs two thousand four hundred and fifty rupees), the details of which are as follows:

Name of product	Fees (in Rs.)	Frequency of payment	Brief of Services offered

Index Futures	31, 93,670/-	Quarterly	Intraday recommendations on nifty and bank nifty
Intraday	44,49,780/-		
Stock Options	59,000/-		
Bahubali portfolio recommendations		One Time payment	Stock Options Recommendations

16. Mr. Ketan Bora had offered 2 services and received payments from more than 3000 subscribers. Mr. Ketan Bora in his inspection questionnaire dated September 25, 2023, had admitted he had collected an amount of Rs. 77,02,450/- (Seventy-seven lakhs two thousand four hundred and fifty rupees) as fees for providing intraday recommendations on nifty and bank nifty and stock options recommendations. The material and documents as examined by the DA in his Report dated October 29, 2024, and the nature of products and services viz, Options (Regular Monthly Income Plan), Index Futures Intraday, Intraday, recommendation on nifty and bank nifty, Stock options recommendations etc., by Mr. Ketan Bora it is clear that the services being offered were in the nature of investment advice to clients. In view of the fact that he is a registered investment adviser, more so, when he was holding out to provide investment advice to his more than 3000 subscribers on the basis of payment of consideration and also by giving doubt clearing sessions to his subscribers, his activities were clearly investment advice to his clients in terms of regulation 2(l) read with Regulation 2(m) of the IA Regulations. I, therefore, find that the contention of Mr. Ketan Bora that his subscribers were not clients is just an eye wash and is devoid of merit. I, therefore, reject such contentions of Mr. Ketan Bora.

17. The timelines for seeking registration under Regulation 13(e) of the IA Regulations read with circular dated September 23, 2020 is time imperative and any allowance from departure from said timelines is not permissible on account of obvious lethargic indifference and for needless procrastination as shown by Mr. Ketan Bora in this case.

18. Mr. Ketan Bora has made another submissions in response to this allegation that he had applied for registration as a research analyst in August 2022. In my view such a threshold requirement under Regulation 13(e) being a mandatory and irreducible minimum for holding a certificate of registration in terms of section 12(1) of the SEBI Act, constitutes substantive obligation on the part of a registered investment adviser. Any pending application for another activity is not an exception to mandatory obligation under the provisions of section 12(1) of the SEBI Act and Regulation 13(e). I agree with the finding of the DA that Mr. Ketan Bora violated regulation 13(e) of IA regulations.

B. Failure to: (a) Maintain and provide the record of clients and copy of agreement executed between him and his clients and (b) Provide the details of KRA process, (c) Follow the KYC process while on boarding of clients, (d) Provide the documented process flow to identify risk profile/ risk score of clients, (e) Provide the documented process flow and the detailed questionnaire for risk profiling of his clients and (f) Failure to make material disclosures.

19. While the allegations as dealt with above go to the very conditions for grant of registration and/or continuance of registration following failures which apart from being may predominantly be seen as defaults in compliance of Regulations that provide for requirements for compliance so as to ensure proper function of the investment adviser, they are interlinked and interwoven with the contravention of Regulation 13(e) of the IA Regulations:

- i. Maintain and provide the record of clients and copy of agreement executed between him and his clients under regulation 19(1) of the IA Regulations.
- ii. Provide the details for the KRA process under regulation 15 (8) of the IA Regulations.
- iii. Provide the documented process flow to identify risk profile/ risk score of clients to decide on their suitability for financial products under regulation 17 of the IA Regulations.
- iv. Provide the documented process flow and the detail questionnaire for risk profiling of his clients under regulation 16 of the IA Regulations.
- v. Make material disclosures under regulation 18 of the IA Regulations

20. Mr. Ketan Bora has claimed that he maintained basic details like Name, Address, Phone Number and Email ID of clients at his end. The records were maintained by him

in the Customized CRM and also my Razorpay Portal. He further claims that he has not entered into agreements with any client as it was only an introductory offer and he was not treating them as his clients and he only intended them to test his service before going for actual services. However, in view of the material examined by the DA and not disputed by Mr. Ketan Bora, I agree with the finding of DA that Mr. Ketan Bora failed to adhere to the requirements of regulation 19(1), 15(8), 16 and 17 of the IA Regulations and violated those provisions.

21. Mr. Ketan Bora at the time of onsite inspection failed to provide the details and data related to process followed by him in disclosure of his and business information to his clients as required under Regulation 18 of the IA Regulations. Mr. Ketan Bora has claimed before the DA as well as before me that on the offer page of his services, he was mentioning that he is a SEBI registered investment adviser. As he was not trading or investing during the period when he was offering services to his clients as per his own interpretation he assumes he has complied with the said regulation does not feel that there is need of any additional disclosure of information.
22. It is noted that as per Regulation 18 of the IA Regulations Mr. Ketan Bora was under obligation: -
 - (a) To disclose to a prospective client, all material information about himself including his business, disciplinary history, the terms and conditions on which he offered advisory services, affiliations with other intermediaries and such other information as is necessary to take an informed decision on whether or not to avail his services;
 - (b) To disclose to the client his holding or position, if any, in the financial products or securities which are subject matter of advice.
 - (c) To 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.
 - (d) to make adequate disclosure, while making an investment advice, to the client of all material facts relating to the key features of the products or securities, particularly, performance track record.
 - (e) 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.

23. I note that in the Report of DA there is no clarity as to which of the above requirements of Regulation 18 are contravened by Mr. Ketan Bora. To this extent the allegation is vague. But the fact remains that Mr. Ketan Bora has not made complete disclosures as required under above points (a), (c) (d) and (e) of para 22. His submissions that he mentioned that he is a SEBI registered investment adviser and provided details and features of the services even if were assumed to be true, fall short of those requirements of Regulation 18. He must have disclosed to his clients that he has no holding or position, if any, in the financial products or securities which were subject matter of his advice. Mere assumption that he is not supposed to make such disclosures because he did not trade in his personal accounts during the period of service will not suffice.

C. Failure to meet the minimum net worth requirement.

24. As per Regulation 8 of the IA Regulations another condition of registration for an individual investment adviser is that she shall have the net tangible assets of value not less than five lakh rupees. It is noted that as per the net worth certificate submitted by Mr. Ketan Bora, Sunny Balani & Co., Chartered Accountants have certified that Mr. Ketan Bora had a net worth of Rs. 3,85,100/- (three lakh eighty five thousand one hundred rupees) as on September 25, 2023, during the inspection period on the basis of documents and evidences provided by him. Mr. Ketan Bora has claimed that he was unaware of the amendment made in the year 2020 prescribing the networth requirement of Rs. 5 lakhs and his consultant suggested that IA should have a net worth of Rs. 1 lakh minimum.

25. The amendment to regulation 8 of the IA Regulations which increased the net worth requirement to Rs. 5 lakhs, was made by a notification dated July 03, 2020, whereas the net worth certificate furnished by Mr. Ketan Bora provides his net worth as on September 25, 2023, i.e. after more than 3 years. It is gainsaying that ignorance of law cannot be an excuse to avoid obligations. Mr. Ketan Bora being a SEBI registered investment adviser was required to be aware of the amendments being made by SEBI to the IA Regulations and adhere to them, which has admittedly not been done by him. Taking the plea of being unaware of the amendment to the IA Regulations even after a passage of a long period of 3 years is not only surprising but also shows needless

procrastination, lethargic indifference, avoidable demur and reluctance on the part of Mr. Ketan Bora.

26. Securities markets are influenced by a number of factors such as economic indicators, investor sentiment, geopolitical events, relative performance of other markets/economies, investor sentiment, legal developments etc. As such with the passage of time the requirements to be followed by intermediaries undergo change due to the changing needs of the markets. An investment adviser has the role of being abreast with all these various factors influencing the market in order to provide a sound advice to his clients. Being a SEBI registered investment adviser and giving investment advices to several clients on payment of consideration such approach from a registered intermediary like Mr. Ketan Bora poses serious risks to the investors who invest in securities based on such investment advisers who blindly follow here say and do not even bother to see the notification of SEBI for years.
27. Considering the above, the contention of Mr. Ketan Bora that he was unaware of the amendment made in the year 2020 cannot be accepted as a genuine mistake on his part but rather is a wilful negligence and reckless behaviour. I, therefore, accept the finding of the DA that Mr. Ketan Bora violated Regulation 8 of IA Regulations also.

D. Non-renewal of NISM Certification:

28. As per regulation 7(2) of the IA Regulations, another condition of registration as a continuous requirement is that an individual investment adviser shall have, **at all times** a certification on financial planning or fund or asset or portfolio management or investment advisory services from National Institute of Securities Market (NISM) or NISM accredited certification from any other organization or institution including Financial Planning Standards Board of India or any recognized stock exchange in India. Further, fresh certification must be obtained before expiry of the validity of the existing certification.
29. Admittedly, Mr. Ketan Bora, did not renew his NISM X-A and NISM X-B certification and he has claimed that he did as a result of lack of knowledge of the Regulations. It is a well settled principle of law and a legal maxim '*Ignorantia Juris Non Excusat*' which means ignorance of law cannot be an excuse to avoid liability of an illegal act. The rationale of the said doctrine is that if ignorance were an excuse, a person charged with any contravention would merely claim that one was unaware of the law in question to avoid liability. Also, wilful blindness cannot become the basis

of exculpation. It is noted that the IA regulations *inter alia* lay down provisions with respect to the registration of investment advisers and their obligations and responsibilities. Mr. Ketan Bora being a SEBI registered investment adviser has taken the absurd plea of being unaware of the contents of the very Regulation under which he applied for registration as an investment adviser. Therefore, the plea of Mr. Ketan Bora of being unaware of the IA regulations is not tenable and cannot be accepted. I agree with the findings of DA that Mr. Ketan Bora has violated regulation 7(2) of the IA Regulations.

30. Mr. Ketan Bora has made multiple assertions of always having acted in good faith such as *'I have not made any fake promises to the subscribers'*, *'I have not guaranteed returns of any kind'*, *'I have always acted in good faith and made every effort to comply with applicable regulations'*, etc and has admitted to have violated the provisions of the IA regulations, *inter alia*, submitting that *'In my understanding, I have not committed any fraud or did any malicious activity. I might have violated IA regulations by mistake due to lack of knowledge and improper guidance from the intermediaries'*. I find that the provisions of IA Regulations violated by Mr. Ketan Bora are not due to a mistake but rather a wilful negligence of his role as an investment adviser. As such the assertions of always having acted in good faith, not making promises of guaranteed returns, etc. cannot be considered to hold any mitigating value to the violations to the provisions of the IA Regulations by him. I, therefore find the same to be without any merit and thus not acceptable. It is worth mentioning that Form A of the First Schedule of the IA regulations provides for the application form for grant of certificate of registration as an investment adviser. As per Para 7 of the said Form A, an applicant makes a declaration of statement to agree and comply with, and be bound by the SEBI Act, IA Regulations and guidelines/ instructions announced by SEBI from time to time.

31. A registered investment adviser is also subjected to a whole host of code of conduct as laid down in the Third Schedule of the IA Regulations. One of such codes is obligation of diligence that 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. Another is with regard to making adequate disclosures of relevant material information while dealing with its clients. Taking into account such clear obligations and the facts and circumstances of the case holistically, I am of the view that Mr. Ketan Bora was recklessly avoiding compliance of provisions of IA Regulations as found in this case.

32. I also cannot lose sight of the fact that the regulations charged in this case are related to eligibility for grant of registration as well as for continuance of registration. This is a case where the law has not left anything to speculation or doubt but it provides for obligations as clear mandate for Mr. Ketan Bora who had already obtained the certificate of registration. Another factor that is relevant for taking into account is that the action must be fair, reasonable and proportionate. Considering the fact that being a SEBI registered investment adviser Mr. Ketan Bora was required to comply with the provisions of the IA Regulations. The claims such as ignorance and unawareness of requirements of Regulations, reliance of hearsay advices and reliance of best suited personal convenience of interpretation cannot be accepted as a genuine mistake on his part rather it is a case of wilful negligence of his role and responsibilities to act as an investment adviser. The non-compliances and defaults as found in this case, are going to the root of eligibility to act as an investment adviser much less an individual investment adviser.
33. An investment adviser's role is that of a financial expert having through knowledge of markets and products suitable for a client after assessing the financial situation and risk tolerance of a client and to provide necessary investment advice required to meet the client's expectations. The purpose of the Regulations is to make the securities market a safe place rather than posing it to risk of advices of reckless investment advisers. The investment adviser owes a fiduciary duty towards her clients. Considering such role and responsibility, the legitimate expectation from them would be that there should be greater precision and perspicuity in investment advice given by them to the clients based on greater analysis. However, where an investment adviser like Mr. Ketan Bora, who is least bothered to comply with requirements of Regulations based on his own assumptions even without reading their language, the matter cannot be left to be persisted based on submissions like he has made. The individuals with such lethargic and reckless approach can play havoc with the market which could be detrimental to the interests of the innocent investors. In this background, in a given case, it would be justified to keep a doubtful character or ignorant investment adviser out from the market rather than running the risk of allowing the market to be polluted and investors to be misguided by such reckless, careless and ignorant investment advisers repeatedly acting with supine indifference. This is classic case where behaviour is exactly in line with what the name of proprietary concern of Mr. Ketan Bora suggests, implying that his actions directly reflect the title and reputation.
34. Considering the gravity and approach of Mr. Ketan Bora, I am of the view that the needless procrastination, lethargic indifference and reckless reluctance as shown by

Mr. Ketan Bora does not hold him to be worthy of acting as investment adviser lest he will pose risks to gullible investors based on understanding of systems and requirements as shown by him. Further, it is also an admitted fact that Mr. Ketan Bora has stopped his activities to act as investment adviser and is not serious enough to continue to act as registered investment adviser in accordance with the Regulations.

35. Taking into account the peculiar facts and circumstances of this case, I accept the recommendation of the DA that the certificate of registration of Mr. Ketan Bora Proprietor of the Insane Traders as an investment adviser be cancelled.
36. I, therefore, in exercise of the powers conferred upon me in terms of section 12(3) read with section 19 of the SEBI Act and regulation 26 and 27 of the SEBI (Intermediaries) Regulations, 2008 hereby cancel the certificate of registration of Mr. Ketan Bora Proprietor of the Insane Traders (Registration No.: INA000007793) as an investment adviser.
37. It is further directed under regulation 32 of the SEBI (Intermediaries) Regulations, 2008, that Mr. Ketan Bora, Proprietor Insane Traders shall allow his clients to withdraw the funds, collected by him, if any, from them after April 21, 2021 and lying with him without any additional cost to such clients. He is further directed to cease forthwith any investment advisory service in securities market without obtaining fresh registration. He shall also not represent himself, directly or indirectly, to be a SEBI registered investment adviser.
38. A copy of this order shall be served on the Noticee, all recognized stock exchanges and BSE Administration & Supervision Ltd.

Date: January 28, 2025

Place: Mumbai

**SANTOSH SHUKLA
CHIEF GENERAL MANAGER AND
QUASI JUDICIAL AUTHORITY
SECURITIES AND EXCHANGE BOARD OF INDIA**