भारतीय प्रतिभूति
और विनिमय बोर्ड
Securities and Exchange Board of India

DEPUTY GENERAL MANAGER
WESTERN REGIONAL OFFICE

THROUGH SPAD/Email

SEBI/WRO/P/OW/2022/31113/1
29 JUL 2022

Niveshicon Investment Advisory
(SEBI Registration no: INA000009047)
(Prop. Mr. Veerendra Gupta (PAN: BEDPG9199C))

404B, Scheme No. 54,
PU-04, Commercial Sector, Plot No. B-2,
Metro Tower, Indore,
Madhya Pradesh – 452010
Email: vkg9666@gmail.com

Show Cause Notice under Sections 11(1), 11(4), 11(4A), 11B(1) and 11B(2) of SEBI Act, 1992, read with Rule 4(1) of SEBI (Procedure for Holding Inquiry and imposing Penalties) Rules, 1995 and regulation 35 of SEBI (Intermediaries) Regulations, 2008 in the matter of Niveshicon Investment Advisory (Proprietor Mr. Veerendra Gupta)

1. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") received multiple complaints against Niveshicon Investment Advisory (Proprietor Ms. Veerendra Gupta) (hereinafter referred as '**Niveshicon/ Noticee**') a SEBI registered Investment Adviser bearing registration no. INA000009047. Subsequently, documents such as Risk profile forms of the clients (hereinafter referred as '**RPF**') KYC, invoices, products list, emails, audio call recordings, agreements, etc. of certain SCORES Complaints were sought from the complainants. Further, SEBI sought certain documents from Noticee, NISM, banks, PayUmoney and materials available on the website of Niveshicon. SEBI examined documents/ information received from complainants, Niveshicon and other entities. The observations made after examination of the aforesaid documents/ information are as under.

2. **Not a "Fit and Proper Person"-**

2.1 It is observed that an FIR had been filed against Mr. Veerendra Gupta (Proprietor of Niveshicon) on July 25, 2020. Further, Indore Police has seized, signed and sealed instruments

पश्चिमी प्रादेशिक कार्यालय : सेबी भवन, पंचवटी पहली गली, गुलबाई टेकरा रोड, अहमदाबाद – 380 006. दूरभाष: (079) 26583633/34/35 फेक्स: 26583632 ई-मेल : sebiwro@sebi.gov.in
Western Regional Office : SEBI Bhavan, Panchvati 1st Lane, Gulbai Tekra Road, Ahmedabad - 380 006. Ph.: (079) 26583633/34/35 Fax: 26583632 E-mail: sebiwro@sebi.gov.in
र्यालय : सेबी भवन, प्लॉट सं. सी 4-ए, "जी" ब्लॉक, बांद्रा कुर्ला कॉम्प्लेक्स, बांद्रा (पूर्व), मुंबई-400051. दूरभाष: (022) 26449000 फेक्स: 26449019 to 26449022 वेब : www.sebi.gov.in ई-मेल: sebi@sebi.gov.in
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present in the office of Noticee such as computers, CPU, Gateway, I.T. Phones, Gazettes, calling servers etc. Indore Police has arrested Niveshicon's Director Mohd. Salauddin, Compliance Grievance Redressal and Data Support Manager Ms. Priyank Shah. (**Annexure 1** – Copy of FIR)

2.2 As per the FIR registered against Mr. Veerendra Gupta (Proprietor of Niveshicon) under section 154 of Cr. P. C., charges under section 420 (Cheating and dishonestly inducing delivery of property.), 406 (Punishment for criminal breach of trust), 34 (Acts done by several persons in furtherance of common intention) of IPC and, section 6(1) of The Madhya Pradesh Nikshepakon Ke Hiton Ka Sanrakshan Adhiniyam 2000 have been leveled against Mr. Veerendra Gupta (Proprietor of Niveshicon), Mohd. Salauddin (Director of Noticee), Ms. Priyank Shah (Compliance Officer Grievance Redressal and Data Support Manager of Noticee) and Mr. Sameer Shrivas (Accountant of Noticee). The aforessaid FIR, *inter alia*, alleges that:

a. Noticee is carrying out investment advisory against the rules and deceiving gullible investors.
b. Under the garb of giving service, Noticee collected lakhs of rupees and cheated the clients.
c. Noticee is luring clients by giving assurance of guaranteed returns to gullible investors with an intention to make illegal gains.
d. Apart from Mr. Veerendra Gupta, proprietor of Niveshicon, it has found that there are 82 working employees who are making call to public/investors through telephone/internet, etc., out of which 29 employees found under graduate and Head of the Compliance Team do not have NISM certificate. Further, Noticee does not have quality Team.
e. Indore Police has received 17 complaints of fraud against Noticee through the Citizen Cup Application.
f. Indore Police has seized, signed and sealed instruments present in the office of Niveshicon such as computers, CPU, Gateway, I.T. Phones, Gazettes, calling servers etc. Further, Indore Police has arrested Niveshicon's Director Mohd. Salauddin, Compliance Grievance Redressal and Data Support Manager Ms. Priyank Shah.

2.3 It may be noted that though Mohd. Salauddin's name is appearing in the above FIR as a Director of Noticee, his name is not appearing on the website of Noticee or in the KYC documents submitted by the banks in which Noticee has account. Further, Noticee is registered with SEBI as a proprietorship concern with Mr. Veerendra Gupta as its Proprietor.

2.4 From the above, it is observed that Indore Police has levelled serious charges in the FIR against Mr. Veerendra Gupta (Proprietor of Niveshicon), a registered intermediary of SEBI. Further, SEBI's own examination also observed fraudulent activities by Noticee and its Proprietor Mr. Veerendra Gupta. Noticee, as a registered intermediary, is required to comply with "Fit and Proper" criteria, as specified in Schedule II of the SEBI (Intermediaries) Regulations, 2008 (Herein after referred to as '**Intermediary Regulations**') which state as follows:

"Criteria for determining a 'fit and proper person'

For the purpose of determining as to whether an applicant or the intermediary is a 'fit and proper person' the Board may take account of any consideration as it deems fit, including but not limited to the following criteria in relation to the applicant or the intermediary, the principal officer, the director, the promoter and the key management persons by whatever name called –

(a) integrity, reputation and character;
(b) absence of convictions and restraint orders;
(c) competence including financial solvency and networth
(d) absence of categorization as a wilful defaulter"

2.5 As per regulation 6(f) of IA Regulations, applicant of IA certificate, its representatives and partners should be 'fit and proper person' based on the criteria as specified in Schedule II of Intermediaries Regulations. Further, as per regulation 13(a) of the IA Regulations, one of the condition of certificate of IA registration is that the IA is required to abide by the provisions of SEBI Act, 1992 (Hereinafter referred to as '**SEBI Act**') and provisions of SEBI (Investment Advisor) Regulations, 2013 (Hereinafter referred to as '**IA Regulations**'). Further, as per regulation 7(2)(e) of Intermediaries Regulations, one of the condition for granting registration as an intermediary to a person is that the said person is fit and proper as per schedule II of the Intermediaries Regulations. However, in view of the discussion in paragraphs 2.1 to 2.4 above,

it is alleged that Niveshicon and its Proprietor Mr. Veerendra Gupta are not 'fit and proper person' as per the criteria provided in Schedule II of Intermediaries Regulations read with regulation 7(2)(e) of Intermediaries Regulations and regulations 6(f) and 13(a) of IA Regulations.

3. **Failure to provide material information to SEBI**

3.1 It is noted that an FIR had been filed against Mr. Veerendra Gupta (Proprietor of Niveshicon) on July 25, 2020. Further, Indore Police has seized, signed and sealed instruments present in the office of Niveshicon such as computers, CPU, Gateway, I.T. Phones, Gazettes, calling servers etc. Indore Police has arrested Niveshicon's Director Mohd. Salauddin, Compliance Grievance Redressal and Data Support Manager Ms. Priyank Shah. Further, since the office premises has been sealed the investment advisory activities of Niveshicon would have been stopped.

3.2 Regulation 13 of IA Regulations on 'Conditions of Certificate' states that-

"13. The certificate granted under regulation 9 shall, inter alia, be subject to the following conditions:-
(b) the investment adviser shall forthwith inform the Board in writing, if any information or particulars previously submitted to the Board are found to be false or misleading in any material particular or if there is any material change in the information already submitted;"

3.3 In view of the above Noticee was required to inform SEBI about material information such as filing of an FIR against its proprietor. However, it is observed that Noticee has failed to inform SEBI about the FIR and sealing of premises. Therefore, it is alleged that Noticee has violated Regulation 13(b) of IA Regulations. (**Annexure 1** – Copy of FIR)

4. **Promising Assured / Guaranteed Returns to its Client**

4.1 It is observed from the complaints that Noticee has been promising assured profit / unrealistic returns from securities market on the investment made by the clients and luring them to avail its services. The high returns are promised to the clients knowing fully well that investment in equity, equity derivatives, and commodity derivatives are subject to market risk. Further,

Noticee has shown complete disregard to the responsibility entrusted on him under IA Regulation to act in fiduciary capacity to its client.

4.2 It is observed from the complaint of Mr. Pushpendra Kumar under SCORES Registration no. SEBIE/MP20/0000120/1 dated January 09, 2020 that complainant has stated that Noticee had promised a net profit of Rs. 6 lacs and taken fees of Rs. 1.74 lac. He has also submitted copy of email dated October 14, 2019 received from the Noticee's email id info@niveshicon.com wherein it is mentioned as follows: (**Annexure 2** – Copies email communication between clients and Noticee)

"Service Name – Equity Combo (Cash Premium, Option Premium & Future Premium)
Cash Premium 63000/-
Future Premium 75000/-
Option Premium 83000/-
Service Charges: INR 2,21,000/- + GST
Net Profit: Approx. 6 to 8 Lakh (subject to Market Risk)
Service Tenure: Quarterly + (1 Month Complementary Services)

NOTE: If you subscribed above service you will get discount offer 30 % i.e. (66,300/-) already you have paid 62,540/- that was also adjusted in above service plan so your remaining amount will be 92,160/- + Gst (39,780/-)"

4.3 From the website of the entity www.niveshicon.com it is observed that the email id info@niveshicon.com belongs to Noticee only. (**Annexure 3** – Screenshot of website page of the entity)

4.4 Similarly, it is observed from the complaint of Mr. Ajay Sharma under SCORES Registration no. SEBIE/MP20/0000492/1 dated February 17, 2020 wherein the complainant has stated that Noticee had approached him with an attractive return plan on investing in equity market. Mr. Ajay Sharma has submitted copy of email dated May 18, 2019 received from the entity's email id info@niveshicon.com wherein it is mentioned as follows:

"SERVICE NAME :- (CUSTOMIZE PLAN) EQUITY
SERVICE CHARGES :- 128500/-

EXPECTED RETURN APPROX :- 4 lakh (SUBJECT TO MARKET RISK)
SERVICE TERM :- 45 trading days (i.e. 2 calendar month)

NOTE - TO EXECUTE THE PLAN INITIALLY YOU HAVE TO PAY 50% of the service amount i.e. 64250/- (PLUS GST).

As per conversation we agreed to take 30000/- to initiate the process and remaining you need to pay 34250/- then after your file will be completed, to start trading."

(**Annexure 4** – Copies email communication between Ajay Sharma and Noticee)

4.5 Another, complaint was filed by Mr. Tutare Dadasaheb Tatyaba under SCORES Registration no. SEBIE/MP20/0000952/1 dated April 18, 2020 wherein complainant has stated that Noticee had approached him and asked to pay fees initially Rs. 2,700/- and then gradually to pay Rs. 4,50,000/- and assured him returns of Rs. 17,50,000/-. Based on this assurance he has paid Rs. 4,77,200/- to Noticee. He has further mentioned that he has taken loan for payment of fees and trading purpose and instead of getting profit, he has suffered total loss of Rs. 10,02,200/-. He has submitted call recording and invoices in support of his complaint. The extracts of call recording are reproduced as under: (Call recording duration 5.43 minutes)

*"**Niveshicon @1.25 minute**: Jaise aapko maine bataya tha 4 lac 11 hazar ki apni platinum service 6 mahine ke liye ok. Isme proper 3 member ki team assign ki jayegi aur proper isme profit aapka nikalke aayega 6 mahine me wo 11 lac rupaye ka profit nikalkar aayega. Aur plus daily ki aapki earning rahegi wo 6 se 7.50 hazar ki earning rahegi."*
***Tutare**: Okay"*

(**Annexure 5** – Copies call record and invoices submitted by the complainant Mr. Tutare Dadasaheb Tatyaba)

4.6 Complainant Mr. Sonu Verma has filed a complaint dated April 27, 2020 under SCORES Registration no. SEBIE/MP20/0000944/1 wherein complainant has stated that he was asked to join platinum service and assured returns of Rs. 17 lacs. It is further stated that he incurred loss of Rs. 20 to 30 thousand after which entity promised to give customize package and assured returns of Rs.50 to 55 lacs in 1 year. It is also observed that a representative of Noticee was handling Demat account of Mr. Sonu Verma. He has paid Rs. 4,04,000/- and incurred loss in trading of Rs. 80,000/-. Mr. Sonu Verma has submitted call recordings in support of his

complaint. Transcripts of the relevant part of call recording of 14:40 minutes received vide email dated June 07, 2020 are reproduced as under:

*"**Niveshicon @3.51 minute**: 21 March se pehale hum aapko 8 lakh se 8.75 lakh ke bich yaane jo aapko 17 lakh 50 hazar maine bola uska lumpsum 50% amount mai is teen mahine me aapko cover karke de sakta hun.*
***Sonu Verma**: Okay.*
Niveshicon: Is me muze 50 hazar rupaye ka fund Demat me chahiye.
***Sonu Verma**: Okay.*
***Niveshicon**: Uske baad jo call generate hogi usme minimum se minimum 30 se 40 hazar per call se profit nikal ke aa jayega. Daily basis pe 3 se 4 call ka minimum 50 se 75 hazar profit market se nikalkar aa jayega.*
***Sonu Verma**: Okay."*

(**Annexure 6** – Copies call record submitted by the complainant Mr. Sonu Verma)

4.7 Relevant part of extract of Call recording received vide email dated June 07, 2020, duration 20.15 minutes is reproduced as under:

*"**Niveshicon @0.55 minute**: Sir ek customize service rahegi. Aapke according kaam hoga thik hai. Iski annual charges 5 lakh ki annual charge rahegi. Ok. Isme jo return nikal kar aayega 1 year me, wo return rahega 17 lakh 50 hazar rupaye ka return aapka 1 year me nikal kar aayega.*
***Sonu Verma**: Thik hai*
***Niveshicon**: Is profile me aapki jo investment ki requirement rahegi who 25 se 30 hazar ki investment ki requirement rahti hai*
***Sonu Verma**: Thik hai".*

4.8 In view of the above it is observed that Noticee provided tips/ tele-messages pertaining to products of different segments of securities market viz. equity cash segment, equity futures segment, stock derivatives, index derivatives, commodity derivatives, etc., which are traded on the exchange platform. The performance/ return / profits on investment in such securities cannot be predicted and is subject to market risk. From the email / audio recording of conversation of representatives of Noticee with clients, it is observed that Noticee has been giving assurance regarding earning unrealistic returns from securities markets to clients and luring them to buy services.

4.9 Noticee, being a SEBI Registered Intermediary, was aware that all investments in stocks, derivatives, commodity derivatives, etc. in respect of which it was offering investment advice are subject to market risk. However, it is falsely assuring returns to investors. Any person cannot make a false statement without reasonable ground for believing it to be true as mandated in SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred as '**PFUTP Regulations, 2003**'). Thus, it is alleged that Noticee had violated the provisions of regulation 3(a), (b), (c), (d) of the PFUTP Regulations, 2003 read with section 12A(a), (b) and (c) of SEBI Act.

4.10 The above conduct shows that Noticee acted in a dishonest manner and did not act in the best interest of the clients. Therefore, it is also alleged that Noticee has failed in its responsibility to act in fiduciary capacity to its clients which is entrusted upon him under regulation 15(1) of IA Regulations and therefore violated regulation 15(1) of IA Regulations. It is also alleged that Noticee had violated clauses 1 (Honesty and fairness) and 2 (Diligence) of Code of Conduct as mentioned in Schedule III read with regulation 15(9) of IA Regulations. (**Annexure 4** – Information available in the SCORES portal and complaints) and (**Annexure 5** – Voice call recordings between NOTICEE and its clients)

5. **Unfair dealing with the clients, selling multiple packages and charging unreasonable fee**

5.1 It is observed that Noticee has lured its clients to buy/subscribe multiple packages. It is noted that Noticee has sold newer services / products to its clients even though the subscription period for products earlier bought by the client was not yet over. It is observed from the products list of Noticee that in most of the products there is no difference in features of the products but just nomenclature has been changed and fees of the products are different. For instance both Crystal Option and Premium Option have same features, which are stated below:

Crystal Option (Fees 50000/- p.m.)	Premium Option (Fees 40000/- p.m.)
- We provide you around 1-2 Crystal Intraday Options market calls - Here risk will be lower than reward in percentage term. (according to market condition ratio can be change - In this plan we have achieved a high level of accuracy on consistent basis - Telephonic support will we provided from 9:00 AM to 6:00 PM - Domestic and Global Market position Overview. - Economic Update	- We provide you around 1-2 Super Premium Intraday Options market calls - Here risk will be lower than reward in percentage term. (according to market condition ratio can be change) - In this plan we have achieved a high level of accuracy on consistent basis - Telephonic support will be provided from 9:00 AM to 6:00 PM - Economic Update.

(**Annexure 7** - List of Products sold by Niveshicon as submitted by Complainants)

5.2 Similarly, product Crystal Future and Premium Future have same features as stated below:

Crystal Future (Fees 50000/- p.m.)	Premium Future (Fees 45000/- p.m.)
- We provide you around 1-2 Crystal Intraday Futures market calls - Here risk will be lower than reward in percentage term. (according to market condition ratio can be change) - In this plan we have achieved a high level of accuracy on consistent basis - Economic Update. - Market trend with Support and resistance	- We provide you around 1-2 Premium Intraday Future market calls - Here risk will be lower than reward (according to market condition ratio can be change) - In this plan we have achieved a high level of accuracy on consistent basis - Important Global Market Updates - Telephonic support will be provided from 9:00 AM to 6:00 PM

(**Annexure 7** - List of Products sold by Niveshicon as submitted by Complainants)

5.3 It is alleged that initially Noticee sells products which require payment of small amount of fees by the clients and then it forces the clients to switch to products with higher fees. It is observed that Noticee starts with its basic product 'Standard Cash' for which the amount of advisory fees charged is comparatively very less and then makes the client to switch to products with higher

fees such as "Crystal Option/Future" and "Premium Option/Future", etc. The amount of fees for "Crystal Option/Future" and "Premium Option/Future" is 5 to 7 times higher than 'Standard Cash" product. The fees of Standard Cash product is Rs. 7,000/- p.m. whereas fees of Crystal Option" product is Rs. 50,000/- p.m. and "Premium Option is Rs. 40,000/- p.m. It is alleged that the above act of Noticee is with an objective to maximize its fees and keeping its own interest ahead of his clients' interest. Some of the instances where Noticee has sold multiple services/products to clients are given below:

Client Name: Mr. Tutare Dadasaheb Tatyaba

Table-1-

Sr. No.	Invoice Date	Invoice No.	Product Name	Duration of service	Amount Rs.
1	05.12.2019	NIA0003186	Standard Cash	?*	2,700/-
2	21.12.2019	NIA0003187	Standard Cash	?*	18,500/-
3	24.12.2019	NIA0003199	Standard Cash	?*	37,000/-
4	27.12.2019	NIA0003223	Standard Cash	?*	11,000/-
5	27.12.2019	NIA0003220	Standard Cash	?*	30,000/-
6	04.01.2020	NI13940418	Standard Cash	13.01.2020 to 21.01.2020	2,000/-
7	07.01.2020	NI13940418	Premium Option	13.01.2020 to 24.02.2020	68,000/-
8	13.01.2020	NI13940418	Crystal Option	14.01.2020 to 13.02.2020	50,000/-
9	14.01.2020	NI13940418	Crystal Option	14.02.2020 to 13.03.2020	50,000/-
10	19.01.2020	NI13940418	Standard MCX	20.01.2020 to 01.05.2020	51,000/-
11	23.01.2020	NI13940418	Standard MCX	04.05.2020 to 12.08.2020	50,000/-
				Total	**3,70,200/-**

**In the Invoice, under Terms and Conditions, it is stated that Service tenure will be applicable and delivered only after completing of package.*

5.4 As per the details submitted by Noticee, the monthly charges for Premium Option product are Rs. 40,000/-. As such, proportionate charges for 42 days service of Premium Option are Rs. 56,000/-. However, it is observed from the Table-1 (Sr. no. 7 invoice no. NI13940418) that for the period January 13, 2020 to February 24, 2020 (42 days) Noticee has charged Rs. 68,000/- instead of Rs. 56000/-. As per clause 5 of the code of conduct (Information to its clients), as mentioned in Schedule III of the IA Regulations, Noticee was required to make adequate material disclosures of relevant material information while dealing with its clients. It is observed from Table-1 that in first 5 invoices, service periods not mentioned. Thus, it is observed that

Noticee is not giving adequate information to its clients about service period for which the amount is taken from client.

5.5 In risk profiling form of Mr. Tutare Dadasaheb Tatyaba, the following have been stated:

Q. What is your experience with commodity investments?
A. No experience

Q. Proposed Investment Amount?
A. <1 lacs

Q. Market value of portfolio held
A. <1 lacs

5.6 It is observed that investment amount and market value of portfolio of Mr. Tutare Dadasaheb Tatyaba is less than Rs.1 lac. However, it is observed from the Table-1 that Noticee has taken around Rs. 3.70 lac towards service charges for about 8 months, by issuing 11 different invoices and sold 4 different services. Also, Standard Cash product has been sold five times within a month of December, 2019 without mentioning service period in the invoices and charged Rs. 99,200/- towards fees. Further, in his risk profile form, client has stated that he has no experience in commodity investment. Despite this, Noticee has sold him product on commodities segment i.e. Standard MCX and took Rs. 1,01,000/- as fees towards it. He has filed complaint in SCORES on April 18, 2020 under registration no. SEBIE/MP20/0000952/1.

5.7 Further, as mentioned Table-1, Premium Option product was sold on January 07, 2020 for the tenure January 13, 2020 to February 24, 2020 for Rs. 68,000/-. Even though another similar product i.e. Crystal Option sold for the tenure January 14, 2020 to February 13, 2020 for Rs. 50,000/-. As already discussed in pre-paragraphs that there is no difference in product Premium Option and Crystal Option. However, Noticee has sold two products i.e. Premium Option and Crystal Option with identical features to the client for the overlapping service period.

Client Name: Mr. Adarsh Veer Bhardwaj

Table-2-

Sr. No.	Invoice Date	Invoice No.	Product Name	Duration of service	Amount Rs.
1	15.05.2019	NIA0001750	Stock Cash - Intraday	?	10,000/-
2	17.05.2019	NIA0001751	Stock Cash - Intraday	?	10,000/-
3	17.05.2019	NIA0001753	Platinum Cash	1 month	81,250/-
4	17.05.2019	NIA0001754	Stock Cash	1 month	7,300/-
5	17.05.2019	NIA0001755	Cash Premium	1 month	50,000/-
6	18.05.2019	NIA0001772	HNI Stock Cash	?	31,450/-
7	19.05.2019	NIA0001783	Platinum Cash	1 month	25,000/-
8	22.05.2019	NIA0001784	Stock Cash	1 month	3,540/-
9	23.05.2019	NIA0001782	Equity-HNI Service	?	1,13,755/-
10	25.06.2019	NIA0001887	Platinum Cash	1 month	1,20,100/-
11	06.07.2019	NIA0002023	Cash Premium	1 month	28,000/-
12	08.07.2019	NIA0002039	Cash Premium	1 month	27,000/-
13	07.08.2019	NIA0002201	Cash Premium	1 month	30,000/-
14	07.08.2019	NIA0002203	Cash Premium	1 month	20,000/-
				Total	**5,57,395/-**

5.8 Following are the observations made from Table-2:

a) As per clause 5 of the Code of Conduct (Information to its clients), as mentioned in the scheduled III of the IA Regulations, IA is required to make adequate material disclosures of relevant material information while dealing with its clients. It is observed from Table-2 that, in first 2 invoices and total 4 invoices Service tenure is not mentioned.

b) Thus, it is observed that Noticee is not giving adequate information to its clients about service period for which the amount is taken from client.

c) It is further observed that service has been upgraded to next package and new service is sold before completion of the duration of the earlier service sold to the clients. Platinum Cash product was sold on May 17, 2019 with tenure of service of 1 month for Rs. 81,250/-. However, same product was again sold on May 19, 2020 (within 2 days) with tenure of service of 1 month for Rs. 25000/-. Similarly, stock Cash product was sold on May 17, 2019 with tenure of service of 1 month for Rs.7,300/-. However, same product was again sold on May 22, 2020 (within 5 days) with tenure of service of 1 month for Rs.3,540/-.

d) Further, Cash Premium product was sold on July 06, 2020 with tenure of service of 1 month for Rs. 28,000/-. However, same product was again sold on July 08, 2020 (within 2 days) with tenure of service of 1 month for Rs. 27,000/-. Similarly, Cash Premium product was sold on August 07, 2020 with tenure of service of 1 month for Rs. 30,000/-. However, same product was again sold on same date i.e. August 07, 2020 with tenure of service of 1 month for Rs. 20,000/-.

e) As per RPF, the risk category of the client Mr. Adarsh Veer Bhardwaj is "Medium". At the end of the RPF, details of risk based classification of the services are given. As per the classification, products such as Premium Advice and HNI Equity are meant clients with 'high risk' appetite. However, from Table-2 it is observed that Noticee has sold these products to Mr. Adarsh Bhardwaj and collected service charges of Rs. 3,00,205/-, even though as per RPF his risk category is "Medium". (**Annexure 8** – Risk profiling form of the client Mr. Adarsh Veer Bhardwaj and classification of products mentioned at the end of Risk profiling form submitted by complainant Mr. Adarsh Veer Bhardwaj)

f) In RPF of Mr. Adarsh Bhardwaj, proposed investment amount is mentioned as less than Rs.1 lac, market value of portfolio held is mentioned as between 1 to 2 lacs, gross annual income is mentioned as between 1 to 5 lacs out of which upto 50% is allocated to pay off debt. In spite of all these financial parameters, Noticee has taken Rs. 5,57,395/- towards service charges from the client for the service period of 4 months (i.e. from May 15, 2019 to September 07, 2019). The service charges taken are more than 5 times of his proposed investment amount, more than 2.5 times of his investment portfolio held and more than two times of the net gross annual income (after deducting debt dues). (**Annexure 9** – Copies of invoices issued to the complainant Mr. Adarsh Veer Bhardwaj submitted by complainant)

5.9 Mr. Adarsh Bhardwaj has filed complaint in SCORES against Niveshicon on March 18, 2020 under registration no. SEBIE/MP20/0000756/1 wherein he has stated that entity has taken unreasonable fees from him and given loss of more than Rs. 10 lacs.

Client Name: Mr. Ajay Babu

5.10 The details regarding the products sold to the client Mr. Ajay Babu are stated below:

Table-3

Sr. No.	Invoice Date	Invoice No.	Product Name	Duration of service	Amount Rs.
1	19.09.2019	NIA0002521	Standard Cash	Not mentioned	2,000/-
2	30.09.2019	NIA0002622	Option Premium	Monthly	23,000/-
3	01.10.2019	NIA0002623	Option Premium	Monthly	2,07,500/-
4	01.10.2019	NIA0002652	Platinum Option	Monthly	15,000/-
				Total	**2,47,500/-**

5.11 From Table-3, the following observations are made:

a. It is observed from Table-3 that on September 30, 2019, product Option Premium was sold and monthly charges of Rs. 23,000/- were taken from the client. However, very next day i.e. on October 01, 2019, same product i.e. Option Premium was sold and Rs. 2,07,500/- taken from client towards service charges i.e. before completing the earlier service period, charges were taken for same service for overlapping period.

b. Further, on September 30, 2019, service charges of Rs. 23,000/- were charged for a month service for the product Option Premium. On the very next day Rs. 2,07,500/- were charged (which is 9 times of the amount charged on previous day) for the same service i.e. Option Premium for same period i.e. a month.

c. It is observed from the details of product pricing submitted by the entity that monthly service charges of the product Premium Option are Rs. 40,000/- whereas on October 01, 2019, service charges Rs. 2,07,500/- taken from the client for the period of 1 month for the product Premium Option.

d. As per RPF submitted by Noticee, risk category of Mr. Ajay Babu was "Medium Risk Appetite". As per the table given below the RPF, Premium Advice Products comes under "High Risk Products" category. In spite of the same, Option Premium product from high risk category was sold to Mr. Ajay Babu whose risk category was "Medium". Thus, it is observed that

Noticee has not sold suitable product/services to client based on the risk category of the client. (**Annexure 10** – Risk profiling form of Mr. Ajay Babu and classification of products mentioned at the end of Risk profiling form)

e. Noticee has submitted details of KYC, Risk Profiling Form, Invoices and SMS delivery log. From the SMS log details pertaining to client Mr. Ajay Babu, it is observed that service period was started on September 19, 2019 and all the SMS sent by the entity on the registered mobile number of the client i.e. 9897172068 from September 23, 2019 to January 03, 2020 were undelivered. (**Annexure 11** – SMS Delivery Log submitted by the Noticee)

f. Mr. Ajay Babu has filed complaint in SCORES on November 03, 2019 under registration no. SEBIE/MP19/0002538/1, wherein it is mentioned that employees of Noticee were persuading him for payment of more and more service charges and threatened him that if the additional service charges are not paid then he would suffer loss in the securities market and the earlier service charges paid would be forfeited. He has also stated that employee of Noticee has obtained login id and password of his trading/Demat a/c and has done trading in his trading/Demat a/c and incurred him a loss of Rs. 5 lacs. It is also mentioned in his complaint that he has paid service charges through credit card and by taking loan from friend. He has submitted whatsapp communication between him and employee of Noticee Mr. Vishal along with his complaint. Some of the relevant communication extracts are placed below:

"30/09/2019 8:39 pm Ajay: Mere liye sab kuchh naya hai mujhe trading samajh me nahi ata hai.
01/10/2019 9:09 am Vishal from Niveshicon: Send me I'D password
01/10/2019 9:09 am Ajay: 251009158
01/10/2019 9:09 am Ajay: vinay@159
01/10/2019 9:19 am Ajay: Theek hai loging karke me 3 lacs daal deta hu fir ap trading karna
01/10/2019 9:19 am Vishal from Niveshicon: ok
01/10/2019 10:58 am Ajay: Apka one month ka fee kitna hai
01/10/2019 10:59 am Vishal from Niveshicon:485000
01/10/2019 11:00 am Vishal from Niveshicon:Market return 169000
01/10/2019 11:01 am Vishal from Niveshicon:Work mere according hoga Company profit
01/10/2019 11:02 am Vishal from Niveshicon:But mere according 2100000 Normal hai Market se Ok

01/10/2019 11:24 am Ajay: Kitna pay karna hai
01/10/2019 11:25 am Vishal from Niveshicon: bhai 485000/-
01/10/2019 11:27 am Ajay: Itna to mere credit card ka limit bhi nahi hai
01/10/2019 11:27 am Vishal from Niveshicon: Bhai....ye apka first and last investment h... Apki pocket se, Uske bad to sirf kamana hi h...
01/10/2019 11:27 am Ajay: Lekin apki website par itna rupaya ka monthly koi plan nahi dikh raha hai
01/10/2019 11:28 am Vishal from Niveshicon: Bhai ye.... Customize plan h...
01/10/2019 3:12 pm Vishal from Niveshicon: 3 Oct ko kam se kam 5 to 7 lk profit hoga
01/10/2019 3:12 pm Ajay: Thik hai
01/10/2019 3:15 pm Vishal from Niveshicon: Bas ap wait kro apke demat me 10 October tak 1500000/- nikal dunga.
01/10/2019 4:38 pm Vishal from Niveshicon: 204500/- service amount 3000/- message amount
01/10/2019 4:44 pm Vishal from Niveshicon: 10 october tak apko kam se kam 15 lk nikal dunga promise.
01/10/2019 6:04 pm Ajay: Bhai bahut bada risk liya hai maine mere 7.5 lacs fase huye hai dekh lena
02/10/2019 1:49 pm Vishal from Niveshicon: 128810/- amount last hai sir"

In this regard vide email dated July 21, 2022, Niveshicon was advised to confirm whether it had any client viz. Vishal Jaiswal, during the period September 01, 2019 to October 31, 2019, who was handling accounts of customers. However, Niveshicon failed to reply.

(**Annexure 12** – Complaint of Mr. Ajay Babu and chat with Vishal Jaiswal) (**Annexure 13** – Email dated July 21, 2022 sent to Noticee regarding confirmation of Vishal Jaiswal's employment)

5.12 It is observed from the above communication that employee of Noticee was persuading the client to pay more and more service charges by assuring him guaranteed profit from securities market, despite Mr. Ajay Babu expressing his inability to pay the same. On February 20, 2020 @12:31 pm Noticee had sent an email to Mr. Ajay Babu towards resolution of his complaint and promised to repay amount of Rs. 4 lacs towards full and final settlement. In turn Mr. Ajay Babu vide email dated February 20, 2020 @3:17 pm had responded that he would withdraw the complaint.

5.13 However, since no amount was paid by Noticee as promised, Mr. Ajay Babu filed another complaint in SCORES under Registration no. SEBIE/MP20/0000827/1 on April 01, 2020. Afterwards, his mother Smt. Usha Devi has filed another complaint in SCORES under Registration no. SEBIE/MP20/0000946/1 on April 14, 2020 wherein she has mentioned *inter alia* that her son Mr. Ajay Babu has committed suicide because of loss incurred of Rs. 9 lac due to wrong advice by Noticee and who has threatened and blackmailed her son. She has also mentioned that due to the behavior and mental torture by Noticee her son has committed suicide. In her reply dated May 25, 2020 in SCORES, she has submitted "Death Panchnama" dated April 08, 2020

5.14 From the above, it is alleged that-

a. Noticee has not been fair in its dealing with the clients.
b. Noticee is not mentioning the service tenure in the invoices and as such not giving adequate information to it's clients.
c. The amount of fees charged by Noticee from its clients is unreasonable, arbitrary and unfair.
d. Noticee has adopted dishonest business practices by making the client to subscribe multiple subscriptions to the same package on the same day or in very short period and charging unreasonable and arbitrary fee for the same service/product.
e. Noticee has charged fees from its clients in a manner purely meant to generate more and more service fees for itself and is clearly not in the best interests of the clients.
f. For the purpose of selling multiple services, Noticee is luring clients by promising unrealistic high returns and/or by promising to recover losses from the market.
g. Further, Noticee had made commitment for refund of fees to the complainant on the condition of withdrawing of complaint by the complainant from SCORES. It is observed that after withdrawal of the complaint, Noticee did not refund the amount. Thus, Noticee deceived clients and did not carry out the investment advisory activities in an ethical manner.
h. Noticee has collected an unreasonable amount of fees from its clients in an unfair manner without having any regard to client's investment objective, income level, etc. Further,

Noticee did not act in the fiduciary capacity in which an IA is supposed to be associated with its client.

5.15 In view of the above, it is alleged that Noticee has (a) failed in its responsibility to act in fiduciary capacity to its client which is entrusted upon him under regulation 15(1) of IA Regulation and (b) failed to abide by clauses 1 (Honesty and fairness), clause 2 (Diligence), clause 5 (Information to its clients) and clause 6 (Fair and reasonable charges) of Code of Conduct of Schedule III read with regulation 15 (9) of IA Regulations. Thus, Niveshicon and its proprietor Mr. Veerendra Gupta have violated regulation 15(1) and the clauses 1, 2, 5 and 6 of Code of Conduct as mentioned in Schedule III read with regulation 15(9) of IA Regulations.

5.16 As per Regulation 3 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred as '**PFUTP Regulations, 2003**'), no person (including an IA) 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 Act or the rules and the regulations made there under.

5.17 The *modus operandi* adopted by the Noticee, discussed hereinabove, *prima facie*, shows that the Noticee was actually not practicing investment advisory in the manner envisaged under the IA Regulations, which essentially would involve advising the client considering his/ her financial situation, risk appetite, financial goal, etc. However, as observed in paragraphs 5.1 to 5.15 above, the Noticee is knowingly acting in a deceitful manner, by -

a. Charging unreasonable, arbitrary and unfair amount of fees from its clients.
b. Making the clients to subscribe multiple subscriptions to the same package on the same day or in very short period and charging unreasonable and arbitrary fee for the same service/product.

c. Charging fees from its clients in a manner purely meant to generate more and more service fees for itself and is clearly not in the best interests of the clients.

d. Luring clients by promising unrealistic high returns and/or by promising to recover losses from the market.

e. Making commitments for refund of fees to the complainant on the condition of withdrawing of complaint by the complainant from SCORES. It is observed that after withdrawal of the complaint, Noticee did not refund the amount. Thus, Noticee deceived clients and did not carry out the investment advisory activities in an ethical manner.

5.18 It is alleged that the above activities are the devices adopted by the Noticee to defraud its clients in connection with their dealings in securities. It is further alleged that Noticee is, running a scheme and defrauding its clients, with an intention to maximize its income through advisory fees by employing the above said devices, without keeping in mind the requirements of the clients and keeping its own interest ahead of its client's interest.

5.19 In view of the same it is alleged that the abovementioned non-genuine and deceptive "advisory" activities of the Noticee are, fraudulent and are covered under the definition of "fraud" under Regulation 2(1)(c) of the PFUTP Regulations, 2003. Therefore, it is alleged that Noticee has violated regulations 3 (a), (b), (c), (d) of the PFUTP Regulations, 2003 read with section 12A(a), (b) and (c) of SEBI Act.

6. Irregularities regarding Risk Profiling and Suitability Assessment

6.1 Regulation 16 of IA Regulations states that an Investment Advisor shall carry out risk profiling of the client for ascertaining client's risk tolerance, income, loss absorbing capacity, capacity of accepting loss of capital, liabilities/borrowing, etc. Further, it also mandates that the risk profiling should be communicated to the client so as the client too can assess his risk profile before agreeing to accept the advice.

6.2 Regulation 17 of IA Regulations, *inter alia*, states that all investments on which investment advice is provided is appropriate to the risk profile of the client. It should be, *inter-alia*, based on

client's investment objectives and his financial situation. Further, the investment advice should be such that the client is able to bear any related investment risks consistent with its investment objectives and risk tolerance.

6.3 It is further observed that Noticee has sold products/services meant for high risk clients to clients who have medium risk appetite. Accordingly, it is observed that Noticee has failed to carry out due diligence while doing risk profiling and suitability assessment. Some of the examples are mentioned below:

Client Name: Ms. Kshitija Ananda Mali

6.4 As per RPF, client's risk category is 'Medium'. The details of products sold to client are given below.

Table-4

Sr. No.	Invoice Date	Invoice No.	Product Name	Service period	Amount Rs.
1	11.02.2020	NIA0003915	Standard Cash	12.02.2020 to 23.03.2020	9,000/-
2	15.02.2020	NIA0003916	Standard Option	17.02.2020 to 16.04.2020	11,000/-
3	09.03.2020	NIA0004313	Crystal Future Pack	11.03.2020 to 23.03.2020	20,000/-
4	18.03.2020	NIA0004580	Index Option	19.03.2020 to 08.05.2020	18,000/-
5	18.03.2020	NIA0004650	Standard Future	19.03.2020 to 20.04.2020	8,000/-
				Total	**66,000/-**

6.5 As per the RPF dated February 11, 2020 submitted by Noticee, her risk category is 'Medium'. As per Suitability Assessment done by the Noticee, it is clearly mentioned that Standard Cash is suitable product based on the investment objective, risk tolerance and experience of the client. However, it is observed from Table-4 that after selling Standard Cash product on February 11, 2020 for Rs. 9,000/- for service period upto March 23, 2020, Noticee has sold Standard Option product within 4 days and received Rs. 11,000/- as service charges. (**Annexure 14** – RPF and invoices issued to Ms. Kshitija Ananda Mali)

6.6 Further, in the Suitability Assessment of Noticee, it is mentioned that for Medium risk category clients, Noticee offers products such as Standard Cash, Index Future, Standard Option, Crystal Option, Index Option, Intraday Beginner Stock Cash and Intraday Beginner Stock Option.

Further, Crystal Future Pack is not for Medium risk category clients. However, Noticee has sold Crystal Future Pack product on March 09, 2020 (i.e. within 1 month from Suitability Assessment date) and received Rs. 20,000/- as service charges. Noticee has submitted through SCORES that it has done risk profiling again and submitted revised RPF which has been communicated to client on March 11, 2020. As per the revised risk profiling form, the client's risk category has changed from "Medium" to "Very High Growth" within a month's period. Further, the product Crystal Future has been sold on March 09, 2020 whereas revised risk profiling is done on March 11, 2020 i.e. high risk product has been sold before doing revised risk profiling. Circular SEBI/HO/IMD/DF1/CIR/P/2019/169 dated December 27, 2019 (with effect from January 01, 2020) has mandated to obtain consent of the client on completed risk profile either through registered email or physical document. However, Noticee has not taken consent of client for the revised risk profiling as mandated by the circular SEBI/HO/IMD/DF1/CIR/P/2019/169 dated December 27, 2019. (**Annexure 15** – Risk Profiling forms of Kshitija Ananda Mali)

6.7 As per Regulation 15(8) of IA Regulations, an Investment Advisor shall follow KYC procedure as specified by the Board. Noticee has submitted through SCORES on August 11, 2020 that KYC was not done at the time of initial risk profiling. She has filed complaint in PMOPG portal under Registration no. PMOPG/E/2020/0589518 which was uploaded on SCORES on June 22, 2020. (**Annexure 16** – Scores Complaint of Kshitija Ananda Mali)

Client Name: Mr. Onkar Kolapkar

6.8 As per RPF, client's risk category is 'Medium'. Following are the other observations from his RPF:

Table-5

Q. No.	Question	Answer	Marks
13	Sources of income from primary source	None	0
14	Sources of income from secondary source	None	0
21	Occupation	Student	0
5 to 8	Experience	No to Moderate	0

6.9 The age of the client is 20 and he is a student. From Table-5, it can be observed that he is a student and his income from primary and secondary source is NIL. However, Noticee has sold him Crystal Option Pack service of Rs. 30,000/- for a period March 20, 2020 to April 07, 2020. He has filed complaint in SCORES under Registration no. SEBIE/MP20/0001173/1 wherein he has mentioned that Noticee initially asked him to pay just Rs. 4000/- but after making payment of Rs.4000/- on March 19, 2020, Noticee asked him to pay additional Rs. 26000/- and threatened that if he does not pay the additional amount his earlier amount paid would be forfeited. Hence, he paid remaining amount of Rs. 26,000/- by arranging funds from friends and from his scholarship amount. On March 23, 2020, he requested Noticee to cancel the service and refund the amount. howoever, Noticee refused to make any refund. (**Annexure 17** – RPF and invoices issued to Mr. Onkar Kolankar) (**Annexure 18** – Scores Complaint of Mr. Onkar Kolankar)

6.10 Further, the service sold to Mr. Onkar Kolapkar i.e. Crystal Option Pack is from Future and Option category. This reveals that Noticee is not applying due diligence and not considering client's income, experience and knowledge about the service while selling the service and recovering fees towards it.

Client Name: Mr. Ajay Sharma

6.11 As per RPF, client's risk category is Medium. Further, in RPF, the client has responded to risk appetite question as follows:

Table-6

Question	Answer	Marks
High risk is associated with high return, Medium risk is associated with medium returns and low risk is associated with low returns? What risks can you bear (not prefer)?	Medium	20

6.12 Noticee has sold the following products to Mr. Ajay Sharma:

Table-7

Sr. No.	Invoice Date	Invoice No.	Product Name	Tenure of service	Service Charges Rs.
1	18.05.2019	NIA0001759	Equity HNI Services	Not mentioned	30,000/-
2	24.05.2019	NIA0001780	Equity HNI Services	Not mentioned	20,000/-
3	26.06.2019	NIA0001908	Cash Premium	Monthly service charges	11,000/-
				Total	**61,000/-**

6.13 As per clause 5 of the Code of conduct (Information to its clients) mentioned in schedule III of the IA Regulations, an Investment Advisor is required to make adequate material disclosures of relevant material information such as service tenure etc., while dealing with its clients. It is observed from Table-7 that in first 2 invoices, service period was not mentioned. Thus, it is observed that Noticee is not giving adequate information to its clients about service period for which the amount is taken from client. (**Annexure 19** – RPF and invoices issued to Mr. Ajay Sharma)

6.14 At the end of RPF of Noticee, details of risk based classification of services are given which are reproduced below:

Table-8

Medium risk products	High risk products
Stock Future	Premium Advice
Stock Cash Plus	HNI Equity
Stock Future Plus	HNI Commodity
Stock Cash	Bullion Pack
Stock Option	Bullion Metal Pack
Bullion Metal Plus	Bullion Metal Agri
Base Metal Pack	Agri Pack

6.15 As per the said classification, HNI Equity and Premium Advice products are categorized as "High Risk" products. As per RPF of Mr. Ajay Sharma, his risk category is 'Medium' however, it is observed from the Table-7 that Noticee has sold Equity HNI Services and Cash Premium products which are high risk products, to him. Mr. Ajay Sharma has filed complaint in SCORES under Registration no. SEBIE/MP20/0000492/1 dated February 17, 2020. Therefore, it is observed that Noticee is not applying due care and skill while selling the products/services to clients. The services sold to clients are not according to the risk appetite of the clients.

6.16 From the above, it is observed that:

a. The products sold by Noticee to clients are not matching with the risk tolerance level of clients.
b. Noticee is not considering client's income and experience while selling the products/services and Noticee has not sold products/services based on client's experience, investment objectives and financial situation.
c. Noticee has sold high risk products/services to medium risk clients and in turn investment advices provided by it are not in accordance with the risk profile of the client.
d. Noticee has not done KYC of the client as specified in regulation 15(8) of IA Regulations.

6.17 It is the duty of an Investment Advisor to act with due skill, care and diligence in the best interests of its clients. However, in the present matter it is observed that the Noticee has failed to take due care and diligence to ascertain risk profile of the client to offer him suitable advice. Further, Noticee has kept his own interest at high priority compared to the interest of his clients. In view of the above, it is alleged that Noticee has

a. Failed to comply with regulation 15(1), 15(8), 17(a), 17(d), 17(e) of IA Regulations and failed to abide by Code of Conduct 1, 2, 5 and 6 of Schedule III read with regulation 15(9) of IA Regulations.

b. Further, by not obtaining consent of client on risk profiling form, Noticee has violated circular SEBI/HO/IMD/DF1/CIR/P/2019/169 dated December 27, 2019.

6.18 As per Regulation 3 of PFUTP Regulations, 2003, no person (including an IA) 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 Act or the rules and the regulations made there under.

6.19 The *modus operandi* adopted by the Noticee, discussed hereinabove, *prima facie*, shows that the

Noticee was actually not practicing investment advisory in the manner envisaged under the IA Regulations, which essentially would involve advising the client considering his/ her financial situation, risk appetite, financial goal, etc. However, as observed in paragraphs 6.1 to 6.16 above, the Noticee is knowingly acting in a deceitful manner, by selling products meant for high risk category clients to clients having medium risk without considering income, experience and investment objectives of the client.

6.20 It is alleged that the above activities are the devices adopted by the Noticee to defraud its clients in connection with their dealings in securities. Therefore, it is alleged that Noticee is, running a scheme and defrauding its clients, with an intention to maximize its income through advisory fees by employing the above said devices, without keeping in mind the requirements of the clients and keeping its own interest ahead of its client's interest.

6.21 The abovementioned non-genuine and deceptive "advisory" activities of the Noticee are, fraudulent and are covered under the definition of "fraud" under Regulation 2(1)(c) of the PFUTP Regulations, 2003. Therefore, it is alleged that Noticee has violated regulations 3 (a), (b), (c), (d) of the PFUTP Regulations, 2003 read with section 12A(a), (b) and (c) of SEBI Act.

7. **Non Redressal of Investor Grievances and not displaying the complaints status on website:**

7.1 Regulation 21 of IA Regulations mandates that an Investment advisor shall redress clients' grievances promptly. Further, SEBI, vide Circular CIR/OIAE/2014 dated December 18, 2014 has, *inter alia*, stated that registered intermediaries, to whom complaints are forwarded through SCORES, shall take immediate efforts on receipt of a complaint, for its resolution, within thirty days. Further, the said circular has stated that in case of failure by SEBI registered intermediaries to file Action Taken Report (hereinafter referred to as "**ATR**") under SCORES within 30 days of date of receipt of the grievance, it shall be treated as failure to furnish information to SEBI and deemed to constitute non-redressal of investor grievance.

7.2 It is observed from the data obtained from SCORES that 13 complaints are pending against Noticee as on August 18, 2020. Out of these complaints, it is observed that in 08 complaints,

Noticee has failed to file ATR within prescribed timeline of 30 days, and thus violated the directions given in the SEBI Circular CIR/OIAE/2014 dated December 18, 2014.

7.3 The details of pending complaints in which Noticee has filed ATR after 30 days and complaints in which Noticee has not yet filed ATR, are given below-

Table-9

Sr. No.	SCORES Complaint number	Name of Complainant	Date of receipt of complaint	Date of forwarding complaint to IA (X)	Date of Reminders	Date of Final ATR (Y)	Excessive time above 30 days
1	SEBIE/MP20/0000492/1	Ajay Sharma	17 FEB 2020	18 FEB 2020	04 JUN 2020, 16 JUN 2020, 01 JUL 2020, 07 AUG 2020	11 AUG 2020	146
2	SEBIE/MP20/0000120/1	Pushpendra Kumar	09 JAN 2020	13 JAN 2020		24 FEB 2020	12
3	SEBIE/MP20/0000692/1	Rahul Jha	09 MAR 2020	28 MAY 2020	16 JUN 2020, 10 JUL 2020	Not submitted	52*
4	SEBIE/MP20/0000952/1	Tutare Dadasaheb Tatyaba	18 APR 2020	28 MAY 2020	16 JUN 2020, 10 JUL 2020	Not submitted	52*
5	SEBIE/MP20/0000756/1	Yaashika	18 MAR 2020	28 MAY 2020	16 JUN 2020, 10 JUL 2020	Not submitted	52*
6	SEBIE/MP20/0000493/1	Pradeep Kumar	15 FEB 2020	28 MAY 2020	16 JUN 2020, 10 JUL 2020	Not submitted	52*
7	SEBIE/MP20/0000944/1	Sonu Verma	27 APR 2020	28 APR 2020		11 JUN 2020	14
8	SEBIE/MP20/0001260/1	Naveen Kumar	02 JUL 2020	14 JUL 2020		Not submitted	5*

upto August 18, 2020

7.4 As per circular SEBI/HO/IMD/DF1/CIR/P/2019/169 dated December 27, 2019 (with effect from January 01, 2020), Noticee is required to display the following information on the homepage (without scrolling) of their website/mobile app on monthly basis (within 7 days of end of the previous month):

Number of complaints				
At the beginning of the month	Received during the month	Resolved during the month	Pending at the end of the month	Reasons for pendency

7.5 However, it is observed that Noticee is not displaying the status of the complaint till date. (**Annexure 20** – SCORES complaint details) and (**Annexure 21** – Website screenshot).

7.6 Since, Noticee has not submitted the ATR in a time bound manner as prescribed by SEBI and has also not resolved investors' grievance, it is alleged that Noticee has not complied with SEBI Circular CIR/OIAE/2014 dated December 18, 2014. It is further alleged that Noticee have violated regulation 21(1) read with regulation 28(f) of IA Regulations. Further, by not displaying the status of the complaint on the homepage of the website Noticee has violated SEBI Circular SEBI/HO/IMD/DF1/CIR/P/2019/169 dated December 27, 2019.

8. It is observed from the available records that Noticee has been receiving monies in the following bank accounts:

Table-10

Sr. No.	Bank Name	A/c No.	Period	Total Receipts (Rs.)	Last credit date
1	ICICI Bank Ltd.	076605003318	22.09.2017 to 23.11.2020	8,15,74,463.83	04.11.2020
2	Axis Bank Ltd.	917020051277706	30.01.2018 to 26.07.2020	7,58,29,695.08	26.07.2020
3	SBI Ltd.	37532398058	08.02.2018 to 04.07.2020	2,78,15,200.47	04.07.2020
4	Allahabad Bank	50444580346	16.05.2018 to 30.06.2020	2,46,771.00	30.06.2020
			Total	**18,54,66,130.38**	

(**Annexure 22** – Statements of four bank accounts and PAYUmoney Account)

It is observed from the above Table that Noticee has received total amount of Rs. 18,54,66,130.38 in its aforesaid bank accounts. In this regard details were sought from the Noticee vide email dated July 12, 2022, sent at email address vkg9666@gmail.com which was duly served. However, Noticee failed to reply. (**Annexure 23** – Email dated July 12, 2022 sent to the Noticee)

9. The relevant provisions of the IA Regulations, PFUTP Regulations, 2003, Intermediaries Regulations and the SEBI Act are reproduced hereunder:

Relevant provisions of IA Regulation:

Consideration of application and eligibility criteria.
6. For the purpose of the grant of certificate the Board shall take into account all matters which are relevant to the grant of certificate of registration and in particular the following, namely, —

(f) whether the applicant, its partners, principal officer and persons associated with investment advice, if any, are fit and proper persons based on the criteria as specified in Schedule II of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008;

Conditions of certificate.
13. *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;
(b) the investment adviser shall forthwith inform the Board in writing, if any information or particulars previously submitted to the Board are found to be false or misleading in any material particular or if there is any material change in the information already submitted;
(c) the investment adviser, not being an individual, shall include the words 'investment adviser' in its name:

Provided that if the investment advisory service is being provided by a separately identifiable department or division or a subsidiary, then such separately identifiable department or division or subsidiary shall include the words 'investment adviser' in its name;

(d) individuals registered as investment advisers shall use the term 'investment adviser' in all their correspondences with their clients.
(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.

General responsibility.
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.*
(8) An investment advisor shall follow Know Your Client procedure as specified by the Board from time to time.
(9) An investment adviser shall abide by Code of Conduct as specified in Third Schedule.

Risk profiling.
16. *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.
(f) information provided by clients and their risk assessment is updated periodically.

Suitability.
17. 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.

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

PROCEDURE FOR ACTION IN CASE OF DEFAULT

Liability for action in case of default.

28. An investment adviser who -

(a) contravenes any of the provisions of the Act or any regulations or circulars issued thereunder;
(b) fails to furnish any information relating to its activity as an investment adviser as required by the Board;

(c) furnishes to the Board information which is false or misleading in any material particular;
(d) does not submit periodic returns or reports as required by the Board;
(e) does not co-operate in any enquiry, inspection or investigation conducted by the Board;
(f) fails to resolve the complaints of investors or fails to give a satisfactory reply to the Board in this behalf;

shall be dealt with in the manner provided under the Securities and Exchange Board of India (Intermediaries) Regulations, 2008.

THIRD SCHEDULE

Securities and Exchange Board of India (Investment Advisers) Regulations, 2013

[*See* sub-regulation (9) of regulation 15]

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.

5. Information to its 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. The investment adviser shall ensure that fees charged to the clients is fair and reasonable.

Relevant provisions of PFUTP Regulation:

3. Prohibition of certain dealings in securities 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.

Relevant provisions of Intermediaries Regulations:

7. Consideration of application.
(2) Any application for grant of certificate:-
(e) where the applicant is not a 'fit and proper person' as stated in Schedule II;

Directions.
35. *Without prejudice to any order under the securities laws and the directions, guidelines and circulars as may be issued thereunder including an order under Chapter V of these regulations the Board may in the interest of the securities market, in the interest of the investors or for the purpose of securing the proper management of any intermediary, issue, necessary direction including but not limited to any or all of the following -*

(a) directing the intermediary or other persons associated with securities market to refund any money or securities collected from the investors under any scheme or otherwise ,with or without interest;
(b) directing the intermediary or other persons associated with securities market not to access the capital market or not to deal in securities for a particular period or not to associate with any intermediary or with any capital market related activity;
(c) directing the recognised stock exchange concerned not to permit trading in the securities or units issued by a mutual fund or collective investment scheme;
(d) directing the recognised stock exchange concerned to suspend trading in the securities or units issued by a mutual fund or collective investment scheme;
(e) any other direction which the Board may deem fit and proper in the circumstances of the case:
Provided that before issuing any directions the Board shall give a reasonable opportunity of being heard to the persons concerned: Provided further that if the circumstances warrant any interim direction is required to be passed immediately, the Board shall give a reasonable opportunity of hearing to the persons concerned after passing the direction, without any undue delay.

SCHEDULE II
SECURITIES AND EXCHANGE BOARD OF INDIA (INTERMEDIARIES) REGULATIONS, 2008
(See regulations 7)

Criteria for determining a 'fit and proper person'
For the purpose of determining as to whether an applicant or the intermediary is a 'fit and proper person' the Board may take account of any consideration as it deems fit, including but not limited to the following criteria in relation to the applicant or the intermediary, the principal officer 17[, the director, the promoter] and the key management persons by whatever name called –

(a) integrity, reputation and character;
(b) absence of convictions and restraint orders;
(c) competence including financial solvency and networth
(d) absence of categorization as a wilful defaulter.

Relevant provisions of SEBI Act:

Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.

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 recognised stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;

Penalty for failure to redress investors' grievances.
15C. *If any listed company or any person who is registered as an intermediary, after having been called upon by the Board in writing including by any means of electronic communication, to redress the grievances of investors, fails to redress such grievances within the time specified by the Board, such company or intermediary shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees.*

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

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

Penalty for contravention where no separate penalty has been provided.
15HB. *Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be*

liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.

10. Further, in light of the above, Noticee is hereby called upon to show cause as to (i) why suitable directions for imposing penalties under sections 11B(2) and 11(4A) read with sections 15HA, 15HB (for violations of IA Regulation prior to March 08, 2019), 15EB (for violations of IA Regulation subsequent to March 08, 2019), 15C and SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 should not be issued against it and (ii) why suitable directions, including following but not limited to, under Sections 11B(1) and 11(4) read with section 11(1) of SEBI Act read with Regulation 35 of SEBI (Intermediaries) Regulations, 2008 read with Regulation 28 of IA Regulations should not be issued against Noticee for the aforesaid violations:

10.1 not to access the securities market and buy, sell or otherwise deal in securities or associates themselves with securities market, in any manner whatsoever whether directly or indirectly;

10.2 to not be associated with any registered intermediary / listed company and any public company which intends to raise money from public in the securities market, in any manner whatsoever;

10.3 to refund the amount of Rs. 18,54,66,130.38 received from the clients/investors/ complainants as fees or consideration or in any other form in respect to the investment advisory activities.

11. The written submissions of the Noticee, if any, along with documentary evidences that the Noticee chooses to rely upon in support of its submissions, should reach the undersigned, at the address given below and also in softcopy (in MSWORD format) by e-mail at email-ids amitn@sebi.gov.in and nirmalm@sebi.gov.in, within 21 days from the date of receipt of this notice, failing which it shall be construed that Noticee has no reply to submit and the matter shall be proceeded on the basis of the material available on record.

Indore Local Office, 104-105,
Satguru Parinay, Opposite C-21 Mall, A.B. Road,
Indore - 452010, Madhya Pradesh

12. The Noticee may also indicate in its reply whether it is desirous of a personal hearing before the Whole Time Member, SEBI, in the matter. The Noticee is advised to keep SEBI informed about the change in its correspondence address, if any, till the proceedings in the extant matter are complete.

13. The Noticee may also note that a settlement mechanism is provided under the SEBI (Settlement Proceedings) Regulation, 2018. If the Noticee wish to opt for the settlement process, it may apply for the same in the manner given in the aforesaid regulations under intimation to the undersigned. Further, the Noticee may note that filing of settlement application does not confer any right to seek the settlement of the proceedings.

14. Further, the Noticee is hereby advised to keep SEBI informed of all type of bank accounts (savings, deposits, recurring, current, etc.) mentioning the account no. name and address of the bank/branch held by it/him, details of all demat accounts / mutual fund units held by them and list of all the movable/immovable assets owned by them.

15. The documents relied upon in the notice have been annexed as per the list of enclosures.

Nirmal Mehrotra

Encl: as above