भारतीय प्रतिभूति
और विनिमय बोर्ड
Securities and Exchange
Board of India

DEPUTY GENERAL MANAGER
INDORE LOCAL OFFICE

SEBI/WRO/ILO/NM/OW/P/13105/1/2022
March 28, 2022

Noticee No.	Name of the Noticees	Addresses
1	Pinnacle Market Investment Advisory Private Limited (Registration no. INA000005614) (PAN: AAICP3799C)	Address 1: Plot No. 185, Scheme No. 54 PU-4 Commercial Behind Malhar Mega mall, Vijay Nagar Indore, Madhya Pradesh - 452010 Address 2: H. No. 100, Raja Ram Avenue Near Tulsi Nagar, Indore Madhya Pradesh - 452001 Address 3: Building No 660 Near ITI College ITI, Madhotal Jabalpur, Madhya Pradesh - 482002
2	Abhishek Patel (PAN: BJZPP1953J)	F.No. 303, Rajlaxmi Paradise 279, Pragati Nagar Indore, Madhya Pradesh - 452012
3	Shekhar Mishra (PAN: BSFPM5761E)	Address 1: Flat No.201, UNIC Center Mahalaxmi Nagar, Indore Madhya Pradesh – 452001 Address 2: S/O: Ram Naresh Mishra 123, Jankhai Kalan, Ward No. 8 Near Main Road, Village Post Jankhai Jawa District, Rewa Madhya Pradesh – 486223 Address 3: H. No. 73, Raja Ram Avenue Tulsi Nagar, Indore Madhya Pradesh - 452001
4	Parul Sahu (PAN: CTSPS2698F)	F - ¼, Rishi Nagar Ujjain, Madhya Pradesh - 456010

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Show Cause Notice under Sections 11(1), 11(4), 11(4A), 11B(1) and 11B(2) read with Rule 4 (1) of SEBI (Procedure for Holding Inquiry and imposing Penalties) Rules, 1995 and regulation 35 of SEBI (Intermediaries) Regulations, 2008

1. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") received multiple complaints against Pinnacle Market Investment Advisory Private Limited (hereinafter referred as '**Pinnacle/ Noticee No. 1/ IA**') a SEBI registered Investment Adviser bearing registration no. INA000005614. Subsequently, documents such as Risk profile forms of the clients (hereinafter referred as '**RPF**') KYC, invoices, emails, agreements were sought from the Pinnacle and complainants. Thereafter, SEBI examined information available on the website of Pinnacle and documents/ information received from complainants. The observations made after examination of the aforesaid documents/ information are as under-

2. **Details of Directors**

2.1 The directors of Pinnacle are Mr. Abhishek Patel, Mr. Shekhar Mishra and Ms. Parul Sahu. At the time of registration with SEBI as a corporate entity, as per the Form A (**Annexure - 1**), submitted by Pinnacle (received by SEBI on 6/4/2016), the directors were Mr. Abhishek Patel, and Mr. Shekhar Mishra. Subsequently, vide letter dated July 23, 2018 (**Annexure - 2**), Pinnacle informed SEBI that Ms. Parul Sahu is appointed as Director vide Board Resolution of the Extra Ordinary General meeting of the Company held on December 30, 2016.

2.2 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;"

2.3 It is observed that appointment of a new Director is material information that needs to have been informed to SEBI by Pinnacle immediately after such appointment. However, Pinnacle informed about appointment of Director to SEBI only in July, 2018, i.e. after 18 months from the date of appointment i.e. from December 30, 2016. Since, Pinnacle has failed to inform the

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Board about the material information with respect to appointment of a Director on its Board, it

is alleged that Pinnacle has violated regulation 13(b) of IA Regulations and clauses 8 and 9 of Code of Conduct for IA as specified in the Third Schedule read with regulation 15(9) of IA Regulations.

2.4 The aforesaid alleged violation of provisions of IA Regulations, if proved, makes Pinnacle and its directors liable for suitable directions under Sections 11(1), 11(4), 11B(1) of SEBI Act and regulation 35 of Intermediaries Regulations read with regulation 28 of IA Regulations along with monetary penalty, if any under Section 15 HB of SEBI Act. The text of the aforesaid provisions has been provided separately as **Annexure-A**.

3. **Improper Risk Profiling**

3.1 Regulation 16(b) of the IA Regulations, *inter-alia*, requires that a Registered Investment Advisor (hereinafter referred to as '**IA**') shall have a process for assessing the risk that a client is willing and able to take, including assessing clients' capacity to absorb loss, as well as risk of loss of capital. Further, regulation 16 (b) (iii) of the IA Regulations states that the IA shall ensure that it has a process for appropriately interpreting client's responses.

3.2 From the website of Pinnacle (currently the website of the IA is not navigable due to pandemic but print out of IA's webpages are available on record) and sample RPF **(Annexure - 3)** provided by clients of Pinnacle to SEBI, it is observed that the products available to a client who is in the 'medium' risk category is only 'Intraday Cash', whereas, a 'high' risk client can be offered any or all of products (30 in nos.) offered by the IA.

3.3 This shows that a client of Pinnacle can be offered any or all of the products, merely on the premise that the client is determined to be in the 'high' risk category as per risk profiling done by Pinnacle whereas the risk profiling process by which a client is categorized as 'high' risk should be an objective process.

3.4 In the instant matter, pursuant to the examination of RPFs available on record **(Annexure - 4)**, it is alleged that the process of risk profiling carried out by Pinnacle is subjective. It is observed

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from the RPFs that as part of risk profiling process, Pinnacle obtains certain information such as age, profession, annual income, proposed investment amount, experience with investments, risk that the client can bear, etc., from its clients in the form of a questionnaire, and subsequently Pinnacle categorizes the client into 'high/ medium/low' risk client. It is alleged that Pinnacle has no process or mechanism such as scores or weights assigned to the questions in the RPF to consider and analyze the risk appetite of the client. Therefore, it is alleged that the method by which Pinnacle categorizes the risk category (high/medium/low) is not fair and transparent but vague, ambiguous and deceptive.

3.5 On a sample basis, the answers to questions from the RPF of certain clients are tabulated below:

Sl. No. as per RPF	*Client Name*	*Niraj Tiwari*	*D K Rahul*	*Kapil Gupta*	*Ralu Prasad*	*Sunita Singh*	*Mamta Meshram*	*Alok Sharma*
1	*Age*	*25-45*	*25-45*	*25-45*	*25-45*	*45-55*	*45-55*	*55-60*
3	*Proposed Trading amount*	*< 1 lakh*	*< 1 lakh*	*<1 lakh*	*< 1 lakh*	*3-5 lakhs*	*<1 lakh*	*1-3 lakhs*
5 (a)	*Best describe your attitude about the next three years performance of this investment?*	*I need to see at least a little return*	*I'd have a hard time toleratin g a loss*	*I don't mind if I lose money*	*I don't mind if I lose money*	*I need to see at least a little return*	*I don't mind if I lose money*	*I'd have a hard time toleratin g a loss*
6	*Annual Income*	*5 -10 lakhs*	*5 -10 lakhs*	*3-5 lakhs*	*Below 3 lakhs*	*10-15 lakhs*	*3-5 lakhs*	*3-5 lakhs*
21	***High risk is associated with high return, medium risk is associated with medium returns and low risk is associated with low returns. What risk can you bear (not prefer)?***	*Medium*	*Medium*	*Medium*	*Medium*	*High*	*Medium*	*Medium*
	Payment Received by IA as fees	*4 lakhs*	*2.74 lakhs*	*2.7 lakhs*	*4.66 lakhs*	*20 lakhs*	*3.09 lakhs*	*10.46 lakhs*
	Risk Category assigned by IA	*High*	*High*	*High*	*High*	*Low*	*High*	*High*

3.6 As per regulation 16 (b) of IA regulations, the IA should have a process for assessing the risk a client is willing and able to take by appropriately interpreting the client's responses to questions.

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From the above table, it was observed that except for Ms. Sunita Singh, the rest of the clients had categorically mentioned that they can bear only 'medium' risk, but Pinnacle had categorized the clients as 'high' risk. Further, it is observed that Pinnacle had categorized Ms. Sunita Singh

into 'low' risk (though she has claimed that she can bear 'high' risk), whereas the other clients were categorized as 'high' risk. In view of the same it is alleged that there is no underlying principle as to how Pinnacle is interpreting the client responses and that the process by which Pinnacle does risk profiling is faulty, vague and ambiguous.

3.7 Further, as per regulation 16 (d) (ii) of the IA regulations, any questions or description in any questionnaires used to establish the risk a client is willing and able to take should be fair, clear and not misleading, and should ensure that questionnaire is not structured in a way that it contains leading questions. However, it is observed from the above table that the question mentioned above at Sl. No. 21 is a leading question. The expression '*High risk is associated with high return...*' would inevitably lead the client to respond that he can bear high risk as it is associated with high return and the Pinnacle was silent about the loss expected with high risk. It is alleged that Pinnacle had knowingly concealed the fact and not disclosed fairly to clients that taking high risk would also mean chances of making a high loss on the investment and failed to guide/advise clients to better understand the risks associated with a high risk product. From the above, it is alleged that the above mentioned question in the Risk Profile Questionnaire is misleading and that the question used for assessing risk profile of the client is a leading question.

3.8 The purpose of risk profiling as per the IA Regulations is that the IA should be able to ascertain the risk appetite of the client and then recommend a product/service suitable to a client with such risk profile. Further, the client can also assess his risk profile before agreeing to accept the advice. However, it is noted that from the RPFs available on record that all RPFs are not signed or dated. Further, it is noted that in certain cases, Pinnacle has received payment prior to communicating the RPF to the client. Details of such instances (**Annexure - 5**) are tabulated

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below:

Sl. No.	Client Name	Date of communication of RPF	Date of invoice/ payment
1.	D.K. Rahul	May 04, 2018	May 02, 2018
2.	Bhagat Singh	October 22, 2018	Oct 10-16, 2018
3.	Kapil Gupta	Jun 18, 2019	Jun 17, 2019
4.	Mamta Meshram	July 05, 2019	July 04, 2019

3.9 Further, by way of KYC and Risk profiling, an IA is required to gauge the background of the client before offering its services. However, in the case of one complainant Mr. Sankar Mahajan it was observed that Pinnacle had received fees and offered services even though the client does not have a trading account. It was observed that the trading account was opened only on September 25, 2019, whereas a total of Rs. 1.5 lakh was obtained as fees during September 19-24, 2019 (details are at Annexure - 6). The complainant has alleged that "*The Pinnacle Market Investment Advisory Pvt Ltd. cheats me in the name of D-mat investment and has taken 1lakh 52 thousand 810 rupees. I do not have D mat account yet*". Thus, it was observed that Pinnacle, without ascertaining whether the client has the necessary means to undertake a trade, charged Rs. 1.5 lakh from the client as fees. Therefore, it is alleged that Pinnacle was indifferent to the fact as to whether the client would be able to benefit from the advisory services to be provided by Pinnacle.

3.10 One instance of multiple RPFs of the same client was observed during the examination. Details are as under:

a. **Client Name - Mr. Delhirasa V:** On a comparison of the RPF of Mr. Delhirasa submitted by Pinnacle to SEBI through SCORES on July 06, 2020 vis-à-vis two RPFs submitted by Mr. Delhirasa to SEBI vide emails dated September 16, 2020, it was observed that risk categorization and responses to questions vary in the 3 RPFs. Extract of relevant portions from the 3 RPFs (**Annexure - 7**) are given below:

Question no in RPF	*Risk Profile Form*	*RPF 1 submitted by Delhirasa*	*RPF 2 submitted by Delhirasa*	*RPF submitted by Pinnacle to SEBI*
Date and time of communication to client		*Emailed to client on January 29, 2020 at 14:45*	*PDF attachment*	*Emailed to client on January 29, 2020 at 12:33*

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1	Age	25-45	25-45	25-45
2	Investment Goal	Regular income	Regular income	Regular income
3	Proposed Trading Amount	< 1 lakh	< 1 lakh	< 1 lakh
5 (a)	Short Term Risk attitudes	I don't mind if I lose money	I don't mind if I lose money	I don't mind if I lose money
6	Annual Income	3-5 lakhs	3-5 lakhs	3-5 lakhs
7	Source of Income	Salary	Salary	Salary
19	Would you invest where a small return earned is associated with small risk instead of high return associated with high risk?	Strongly prefer	Strongly prefer	Strongly prefer
21	***High risk is associated with high return, medium risk is associated with medium returns and low risk is associated with low returns. What risk can you bear (not prefer)?***	***High***	***Medium***	***High***
Risk Category assigned		***Low Risk***	***Low Risk***	***High Risk***

3.11 From the table above, it is observed that there are three RPFs pertaining to one client, categorizing the client as Low Risk as well as High Risk. Further, it is also observed that only answer to question no. 21 (Question: What risk can you bear?) are different in the RPFs. In view of the multiple RPFs with two different risk categorizations on the same day it is alleged that Pinnacle has manipulated the RPF process by deliberately classifying the client as 'High' risk so as to sell multiple products to the client.

3.12 In view of the above, it is alleged that Pinnacle has done improper risk profiling and has failed to abide by principles of suitability. Further, Pinnacle has provided investment advice to its clients without an appropriate process of risk profile. It is also alleged that there is no process documented by Pinnacle to select investments based on client's objectives, financial situation and risk bearing capacity. Therefore, it is alleged that Pinnacle has violated regulations 15(1),

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16(b), 16 (d) (ii), 17 of IA Regulations, and clauses 1, 2, 4, 5 and 8 of Code of Conduct for IA as specified in the Third Schedule read with regulation 15(9) of IA Regulations.

3.13 The aforesaid alleged violation of IA Regulations, if proven, makes Pinnacle and its directors liable for suitable directions under Sections 11(1), 11(4), 11B(1) of SEBI Act and regulation 35 of Intermediaries Regulations read with regulation 28 of IA Regulations along with monetary penalty, if any under Section 15 HB of SEBI Act. The text of the aforesaid provisions is provided separately as Annexure-A.

3.14 Further, it is alleged that Pinnacle has knowingly misrepresented the risk profile of the clients. In view of the ambiguous manner in which clients, who have stated that they can bear medium risk, have been categorized as 'high' risk, it is alleged that Pinnacle has devised a deliberate ploy to categorize a particular investor in the 'high' risk category, so that it can earn large amount of fees by providing advices in all types of products including products in futures and options segment. The aforesaid act of Pinnacle comes under the purview of 'fraud' as defined under regulation 2(1)(c) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to the Securities Market) Regulations, 2003 (hereinafter referred to as '**PFUTP Regulations**'). Therefore, it is alleged that Pinnacle and its directors have violated regulation 3(a), (b), (c) and (d) of PFUTP Regulations read with section 12A(a), (b) and (c) of SEBI Act.

3.15 The aforesaid alleged violation of securities laws, if proved, makes Pinnacle and its directors liable for suitable directions under Sections 11(1), 11(4), 11B(1) of SEBI Act and regulation 35 of Intermediaries Regulations read with regulation 28 of IA Regulations along with monetary penalty, if any under Section 15HA of SEBI Act. The text of the aforesaid provisions has been provided separately as Annexure-A.

4. Failure to abide by Principles of Suitability

4.1 Regulation 17 (b) of the IA Regulations requires that the investment advice should be, *inter-alia*, based on client's investment objectives and his financial situation. The examination reveals that Pinnacle has sold products to its clients without taking into consideration client's annual income and proposed trading/investment amount. The details of such instances (complaint, invoices and RPFs placed as **Annexure - 8**) are tabulated below:

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Sl. No.	Client Name	Annual Income (in Rs.)	Proposed Trading amount (in Rs.)	Fees Charged by the IA (in Rs.)
1.	Alok Sharma	3-5 lakhs	1-3 lakhs	10.46 lakhs
2.	Ralu Prasad	< 3 lakhs	< 1 lakh	4.66 lakhs
3.	Sunita Singh	10-15 lakhs	3-5 lakhs	20 lakhs
4.	Niraj Tiwari	5-10 lakhs	< 1 lakh	4 lakhs
5.	Lalit Chadha	5-10 lakhs	< 1 lakh	3.09 lakhs
6.	Vikas Divekar	5-10 lakhs	1-3 lakhs	4.47 lakhs

4.2 From the table above, it is noted that while the clients have mentioned their proposed trading amount in the RPF, Pinnacle has charged service fee much more than their proposed trading amount and in certain cases, more than their annual income, in complete disregard to their financial capacity.

4.3 Furthermore, regulation 17 (b) of the IA Regulations requires an IA to have a documented process for selecting investments on the basis of client's investment objectives and his financial situation. In the present case, it is noticed that the rationale/ process by which Pinnacle selects products for clients in the 'high' risk category based on the answers of RPF is unclear. In respect of clients viz. Ms. Mamta Meshram, Mr. Ralu Prasad and Mr. Kapil Gupta have given similar answers in their RPF, however, Mr. Ralu Prasad who has the lowest annual income have been charged the maximum fee and provided with more number of products than others. Details pertaining to the above are tabulated below:

Client Name	*Kapil Gupta*	*Ralu Prasad*	*Mamta Meshram*
Age	*25-45*	*25-45*	*45-55*
Best describe your attitude about the next three years performance of this investment?	*I don't mind if I lose money*	*I don't mind if I lose money*	*I don't mind if I lose money*
High risk is associated with high return, medium risk is associated with medium returns and low risk is associated with low returns. What risk can you bear (not prefer)?	*Medium*	*Medium*	*Medium*
Proposed Trading Amount	*<1 lakh*	*< 1 lakh*	*<1 lakh*
Annual Income	*3-5 lakhs*	*Below 3 lakhs*	*3-5 lakhs*
Risk Category assigned by IA	*High*	*High*	*High*
Payment Received by IA	*2.7 lakhs*	*4.66 lakhs*	*3.09 lakhs*
Products offered to clients	*Intraday* *Future* *HNI Future*	*Intraday Cash* *HNI Cash* *HNI Option* *HNI Future*	*Intraday Cash* *HNI Cash* *HNI Option* *HNI Future*

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Client Name	*Kapil Gupta*	*Ralu Prasad*	*Mamta Meshram*
		Jobbers (Cash) Pack	

4.4 In view of the above it is alleged that the suitability assessment carried out by Pinnacle is not documented and is arbitrary.

4.5 Further, as per regulation 17 (b), the investments selected needs to be based on the financial situation of the client. In respect of one complaint of Mr. Vikas Divekar, it is observed from the call records provided by the client that the client was encouraged to borrow an amount of Rs. 3 lakh in order to pay the service fee to Pinnacle. The transcript of the call conversation is given below:

AUD-20200518-WA0016
18:41 Client: *account mein hai hi nahi na, kali 8000/- hain.*
18:43 Pinnacle: *account mein aapko kal theez hazaar rupaya rakhana hain. keval theez hazaar rupaya, aur kuch nahi rakhna. Theez hazaar account main rakhl;o aur kuch bhi mat rakhna, mere upar chodhdo bhaki.*
Client: *nahi hoga hai tho.*
19:03 Pinnacle: *…, yeh joh teen lakh aap kisise lenge to, mein aapko bata raha hoon sir, 4 din ke time maang rahe hoon 1 lakh ke liye, 4 din ke time maanga na, aur 4 din ka time maanga na. chaar chaar din ke time nein, mein aapko ek ek lakh nikalke poora dedoonga, aur aap us person kode dena. yeh meri responsibility hain.*

In view of foregoing, it is alleged that Pinnacle is not taking into account the financial position of the client and is also not following the requirement of suitability of advice to its clients.

4.6 Regulation 17 (a) of the IA Regulations also require that the investment advice provided is appropriate to the risk profile of the client. It is a matter of fact that high risk products are inappropriate for senior citizens. However, Pinnacle, without considering suitability in terms of age/stage of life has offered trading in derivatives and options to its client. One Mr. AVSR Sastry (complaint of Mr. Sastry is attached at **Annexure - 9**), who is a retired co-operative bank employee, was charged Rs. 16 lakh as service fee by the Pinnacle.

4.7 It is alleged that there is no documented process by which Pinnacle may determine which product among the 30 products offered by it are appropriate for the client. No suitability assessment is observed to be carried out by Pinnacle while offering the product to client based

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on the need and financial suitability. It is alleged that the clients are assigned 'high' risk category and provided various products without any rationale, with the sole aim of selling more number of products and extracting high amount of advisory fees. Examples of such instances seen on SCORES **(Annexure - 10)** are given below:

4.8 **Client Name - Ms. Sunita Singh**: It was observed from the complaints of Ms. Sunita Singh dated June 01, 2017 and March 12, 2020, that she paid Rs. 20 lakh as advisory fee, and in turn suffered a loss of Rs. 20 lakh by availing the services of the Pinnacle. Further, she has stated that she had started with a basic payment of Rs. 5,000/-, but the IA forced her to pay more to opt for better service and promised to recover her earlier losses.

4.9 The details regarding some of the payments made by Ms. Sunita Singh, based on the invoices submitted by Pinnacle are given below:

Invoice date	Package	Amount (Rs.)	RPF details
October 08, 2016	Intraday Cash (Oct 10-Nov 01, 2016)	5,000	Age – 50 years. Annual income Rs.10-15 lakhs. Proposed trading amount Rs.3-5 lakh. Risk category assigned by IA - Low Risk.
Nov 22, 2016	**BTST Cash** Nov 15 – Dec 05, 2016 **Stock Future** Nov 18 –Dec 19, 2016 **HNI Cash** Nov 02 – April 14, 2017 **Nifty Option** Nov 22 – Dec 28, 2016 **Cash Positional** Nov 16 – Dec 16, 2016 **Option** Nov 16 – Dec 29, 2016 **Nifty Future** Nov 18 – Dec 19, 2016	242,500	
Jan 12, 2017	**HNI Cash** April 17, 2017– July 17, 2017 **Intraday Future** Dec 20, 2016 – Jan 23, 2018 **HNI Future** Jan 02 – Mar 03, 2017 **BTST Future** Jul 13, 2017 – Aug 11, 2017 **Intraday Cash** Jan 13, 2017 – April 13, 2017	419,000	

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Invoice date	Package	Amount (Rs.)	RPF details
	Total	Rs. 661,500/-	

4.10 From the above table, it is noted that substantial amount of service fee was extracted from the client by allotting multiple packages in a very short span of time, in complete disregard to the proposed trading amount and annual income of the client. The client had informed that she had paid a sum of Rs. 20 lakh for which Pinnacle was unable to provide invoices for all the payments made by the Client.

4.11 **Client Name – Ms. Rasmita Pradhan**: It was observed from complaint of Ms. Rasmita Pradhan dated May 24, 2019 and February 06, 2020, that she paid around Rs. 12 lakh to Pinnacle in multiple instalments under pressure from Pinnacle on the assurance that they would earn her profits. The details regarding payments made by Ms. Rasmita Pradhan for the services offered by Pinnacle are given below:

Payment date (in Rs.)	Payment Amount (in Rs.)	Invoice date	Package	Amount (in Rs.)	Details available from Deed of Compromise
Jan 10, 2017	200,000	April 04, 2017	Option (Jan 09 – Jan 31, 2017)	11,44,254	Age – 47 years. Occupation - Housewife
Jan 30, 2017	120,000		HNI Option (Jan 09 – May 09, 2017)		
Jan 17, 2017	120,000		HNI Future (Jan 16 – Apr 23, 2017)		
Feb 02, 2017	120,000		HNI Option		
Feb 14, 2017	132,032		HNI cash (Sep 20, 2017 – Mar 27, 2018)		
Mar 03, 2017	120,000		Blue Chip Cash (Mar 03, 2017 - Mar 12, 2018)		
May 18, 2017	50,000		Intraday cash (Apr 05 – May 05, 2017)		
May 25, 2017	37,000				
			Total	11,44,254	

4.12 From the table above, it is observed that Ms. Rasmita Pradhan has made payments multiple times to Pinnacle during January, 2017 to May, 2017, however, the invoice is dated April 04, 2017. Pinnacle has not submitted RPF of Ms. Rasmita Pradhan to SEBI, but instead has

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submitted to SEBI a Deed of compromise/ settlement between Pinnacle and Ms. Rasmita Pradhan (**Annexure - 11**), whereby Pinnacle is proposing to resolve her complaint by repaying the amount in instalments. In the absence of RPF of Ms. Rasmita Pradhan, it is observed from the Deed of compromise/ settlement submitted to SEBI by Pinnacle, wherein the occupation of the client is mentioned as – 'housewife'. It is alleged that by assigning 'high' risk products and receiving payments of around Rs. 12 lakh as service fee from a client who is a housewife, Pinnacle has indulged into deceptive mechanism and induced client into buying multiple products offered by it.

4.13 **Client Name – Mr. Alok Sharma:** It is observed from the complaint of Mr. Alok Sharma dated February 19, 2020, that Pinnacle guaranteed huge earnings. However, he incurred losses and paid a sum of Rs. 10 lakh to Pinnacle. The complainant has also informed that the payment was made by credit card as Pinnacle harassed him to make payments otherwise the file would be closed.

4.14 The payment details as seen from the invoices submitted by Pinnacle are given below:

Invoice date	Package	Amount (in Rs.)	Duration	RPF Details
Aug 10, 2018	Option	7,552	Aug 13 – Sep 13, 2018	Age – 50 years. Annual income Rs.3-5 lakhs. Proposed trading amount Rs.1-3 lakh. Risk category assigned by IA - High Risk.
Aug 14, 2018	Max Future	118,000	Aug 16 – Sep 10, 2018	
Aug 20, 2018	HNI Option	52,510	Aug 21 – Oct 15, 2018	
Sep 04, 2018	HNI Option	12,390	Oct 16 – Oct 24, 2018	
Oct 09, 2018	HNI Cash	112,690	Oct 10 – Feb 04, 2019	
Oct 19, 2018	HNI MCX	125,003	Oct 22 – Jan 21, 2019	
Oct 19, 2018	MCX Intraday	50,000	Oct 22 – Apr 22, 2019	
Oct 23, 2018	Max Future	50,300	Oct 23 – Nov 05, 2018	
Oct 27, 2018	Max Future	225,380	Nov 06 – Dec 26, 2018	
Nov 11, 2018	Max Future	140,007	Dec 27 – Jan 28, 2019	
Nov 21, 2018	Future Positional	125,021	Nov 22 – May 21, 2019	
Dec 03, 2018	Base Metal	22,502	Dec 04 – Mar 11, 2019	
Mar 11, 2019	Intraday Cash	5,000	Jun 11 – Jun 28, 2019	
Total		**10,46,355**		

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4.15 From the above table it is seen that the client was initially sold a low priced package of Rs. 7,552/- and subsequently higher priced packages have been sold and Pinnacle had charged total fees of Rs. 10 lakh which is more than the annual income of the client. It is further observed that Pinnacle had charged disproportionate amount of fee for the same product for the various durations. For instance, Pinnacle had charged Rs. 50,300/- for Max Future for a period of two weeks. However, for a period of nearly 7 weeks, Pinnacle had charged for the same product an amount of Rs. 225,380/- which is proportionately much more than what was charged for two weeks, indicating lack of transparency and consistency in charging fees.

4.16 **Client Name – Mr. Niraj Tiwari:** It is observed from the complaint of Mr. Niraj Tiwari dated July 30, 2020, that Pinnacle had promised dynamic profit during the initial stage of enrolment and pressurized to pay Rs. 4 lakh. However, once payment was made, he was not provided any service. The details regarding payments made by Mr. Niraj Tiwari are given below:

Invoice date	Package	Amount (in Rs.)	Duration	RPF details
26-May-2020	Cash Blue Chip	10,600	May 27 to Jun 22, 2020	Age – 25-45 years. Annual income Rs.5-10 lakhs. Proposed trading amount < Rs.1lakh. Risk category assigned by IA - High Risk.
26-May-2020	Cash Blue Chip	8,000	Jun 23 to Jul 14, 2020	
27-May-2020	Premium Cash	37,140	May 28 to Aug 06, 2020	
31-May-2020	Premium Option	74,340	Jun 02 to Sep 04, 2020	
10-Jun-2020	Premium Option	76,500	Sep 07 to Dec 11, 2020	
16-Jun-2020	Premium Cash	50,000	Aug 07 to Oct 09, 2020	
16-Jun-2020	Premium Future	100,000	Jan 20 to Apr 23, 2021	
16-Jun-2020	Premium Option	25,000	Dec 14 to Jan 02, 2021	
16-Jun-2020	Premium Option	18,420	Jan 04 to Jan 19, 2021	
	Total	**400,000**		

4.17 It is observed from the invoices issued by Pinnacle to Mr. Niraj Tiwari that Mr. Niraj Tiwari was initially sold a low priced product, and subsequently, within a few days has been sold higher priced packages and charged a total fee of Rs. 4 lakh. It is observed that while duration of the first subscription to the package 'Premium Option' had just started, the client was sold the

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same package multiple times. It is further observed that Pinnacle has charged disproportionate amount of fee for the same product for the various durations. For instance, Pinnacle had charged Rs. 37,140/- for Premium Cash for a period of 10 weeks. However, for a period of 9 weeks, Pinnacle had charged for the same product an amount of Rs. 50,000/-, indicating lack of transparency and consistency in charging fees.

4.18 Client Name - Mr. Kapil Gupta: It is observed from the complaint of Mr. Kapil Gupta dated April 17, 2020, that Pinnacle by fraudulent means took around Rs. 3,74,000/- from him, and Pinnacle further stated that if additional amount is not paid, then the service charge already paid will be forfeited.

4.19 From the bank statement of Mr. Kapil Gupta, and the invoices submitted by Pinnacle, the following is observed:

Payment date	Invoice date	Package	Amount (in Rs.)	Duration	RPF Details
June 17, 2019	June 18, 2019	Intraday Future	5,900	Jun 20 – Jul 08, 2019	Age – 34 years Annual income Rs. 3-5lakhs. Proposed trading amount < Rs.1 lakh. Risk Category - High
June 19, 2019	June 18, 2019	HNI Future	35,000	Jun 25 - Aug 02, 2019	
June 21, 2019	June 18, 2019	HNI Future	109,500	Jul 29 - Nov 20, 2019	
June 28, 2019	July 04, 2019	HNI Future	103,600	Nov 29, 2019 – Jun 25, 2020	
July 23, 2019	July 23, 2019	HNI Future	25,000 25,000 50,000	Jun 26 - Aug 31, 2019	
July 25, 2019	July 29, 2019	HNI Future	20,000	Sep 01 - Sep 15, 2019	
		Total	**3,09,455**		

4.20 From the above table it is observed that the client was initially sold a low priced package of Rs.5,900/-, and subsequently, within a few days has been sold higher priced packages. Additionally, it is observed that Pinnacle was charging fees to its clients which is more than the disclosed amount as per the website of Pinnacle. For instance, from the receipts, it is observed that the client had been sold HNI Future for a period starting from June 25 to November 20, 2019 i.e., 5 months and had been charged Rs. 2,64,500/-. Pinnacle had informed that name of HNI Future was changed to Premium Future. As per the website of Pinnacle, the monthly

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charge for Premium Future is Rs. 36,000/- and quarterly price is Rs. 84,000/-, which implies that for a period of 5 months, it would amount to between Rs. 1,56,000 – Rs. 1,80,000/-. However, Pinnacle had charged a fee of Rs. 2,64,500/-, which is more than what is disclosed as per its fee structure on the website.

4.21 Further, it is observed from the invoices, that Pinnacle was charging twice for the same product. For instance, on June 18, 2019, the client was charged a fee of Rs. 109,500/- for HNI future for the period from July 29, 2019 to November 20, 2019; whereas the client was again charged on July 23, 2019 an amount of Rs. 10,000/- for the period from June 26, 2019 to August 31, 2019 and again on July 29, 2019 for HNI future an amount of Rs.20,000/- for the period from September 1-15, 2019. Thus, it is observed that Pinnacle has sold the same product before completion of the earlier duration.

4.22 **Client Name – Mr. D K Rahul:** It is observed from the complaint of Mr. D K Rahul, dated June 17, 2020, that after paying a huge amount as consultancy charges for HNI option pack (around Rs. 2.93 lakh), Pinnacle failed to deliver any profit. Complainant informed that he booked IA's service on the premise that he would get calls and related assistance and Pinnacle had promised that it would make him earn Rs. 10,000/- per day and recover his losses. But instead they merely provided generic SMS round the day.

4.23 The client has submitted invoices wherein the date and payment amount is as tabulated below:

Invoice date	Package	Amount (in Rs.)	Duration	RPF details
May 02, 2018	Intraday Cash	6,018	May 03 – June 11, 2018	Age – 32 years
May 04, 2018	HNI Cash	18,526	May 07 – July 02, 2018	
May 09, 2018	HNI Cash	37,052	July 03 – Aug 22, 2018	Annual income Rs.5-10 lakhs.
May 19, 2018	HNI Option	80,000	Aug 23 – Dec 04, 2018	
May 22, 2018	HNI Option	28,800	Dec 05 – Jan 11, 2019	Proposed trading amount < Rs.1 lakh.
May 23, 2018	HNI Option	94,400	Jan 14 – Aug 13, 2019	
July 23, 2018	Nifty Option	10,030	July 24 – Sep 24, 2018	Risk Category - High
	Total	**2,74,826**		

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4.24 It is observed from the invoices issued by Pinnacle to Mr. D K Rahul that Mr. D K Rahul was initially sold a low priced product, and subsequently, within a few days he has been sold higher priced packages and charged a fee of Rs. 2.74 lakh. It is also, observed that while duration of the first subscription to the package 'HNI Option' had not even started, the client was sold the same package multiples times.

4.25 The aforesaid alleged act of the IA, it is alleged that was also observed with other clients namely, Mr. Lalit Chadha, Ms. Mamta Meshram, Mr. Delhirasa V and Mr. Ralu Prasad

4.26 **Client Name – Mr. Lalit Chadha**: It was observed from the complaint of Mr. Lalit Chadha dated August 06, 2019 and May 07, 2020, that Pinnacle had told him about low cost (INR 12,000) and high profit plan, but he was actually offered a very high priced plan. He has alleged that after paying around Rs. 3.09 lakhs in instalments, Pinnacle had asked him to pay Rs. 1.7 lakhs further, since the plan subscription amount was Rs. 4.8 lakhs.

4.27 The client has submitted invoices wherein the date and payment amount is as tabulated below:

Payment date	Package	Amount (in Rs.)	Duration	RPF details
Oct 30, 2017	Intraday Cash	12,095	Oct 30 – Jan 30, 2018	Age – 46 years Annual income Rs.5-10 lakhs. Proposed trading amount < Rs.1lakh. Risk Category - High
Nov 03, 2017	HNI Cash	29,500	Nov 20 – Dec 11, 2017	
Nov 06, 2017	HNI Cash	125,080	Dec 12 – March 28, 2018	
Nov 09, 2017	HNI Future	60,180	Nov 13 – Dec 21, 2017	
Nov 09, 2017	HNI Option	82,600	Nov 13- Jan 26, 2018	
	Total	**3,09,455**		

4.28 From the table above, it is observed that Pinnacle had extracted payment of Rs. 3 lakhs within a matter of 10 days, showing complete indifference to the responses in the RPF wherein the proposed trading amount is less than Rs. 1 lakh. Also, it is observed that while duration of the first subscription to the package 'HNI Cash' had not even started, the client was sold the same package again.

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4.29 Client Name- Ms. Mamta Meshram: It was observed from the complaint of Ms. Mamta Meshram dated February 22, 2020, that she started with Rs. 3,000 package, and they forced her to pay additional amount for higher packages, but simply issued invoices for smaller amounts. The complainant had also stated that Pinnacle promised to give her trading calls, however, after payment was done, only generic SMS were provided.

4.30 The invoice date, payment amount, duration and the packages sold to Ms. Mamta Meshram from the invoices submitted by her is tabulated below.

Invoice date	Package	Amount (in Rs.)	Duration	RPF Details
July 04, 2019	Intraday Cash	3,000	Jul 05- Jul 23, 2019	Age – 48 years
July 08, 2019	HNI cash	45,000	Jul 09 – Aug 19, 2019	Annual income Rs.3-5 lakhs.
July 08, 2019	HNI cash	45,000	Aug 20 – Sep 30, 2019	
July 10, 2019	HNI Future	57,000	Jul 10 – Aug 15, 2019	Proposed trading amount < Rs.1lakh.
July 12, 2019	HNI Future	48,000	Aug 19 – Sep 18, 2019	
July 14, 2019	HNI Option	100,000	Jul 16 – Oct 10, 2019	Risk Category - High
July 20, 2019	HNI Option	50,000	Oct 11 – Nov 28, 2019	
	Total	**3,48,000**		

4.31 From the above table, it is observed that Ms. Mamta Meshram started with a low priced package of Rs. 3,000/- and subsequently, in the first month Pinnacle had collected fees of Rs. 3.48 lakhs by selling HNI packages. From copy of emails provided by Ms. Mamta Meshram, it was observed that the client being dissatisfied with the services of Pinnacle had sent an email to it in September, 2019 informing that she did not wish to continue with the services and refund may be provided to her. However, Pinnacle declined to provide refund of service fee for services that were yet to commence (the emails and invoices placed as Flag N).

4.32 Client Name – Mr.Delhirasa V: It was observed from the complaint of Mr. Delhirasa, dated March 09, 2020, that he paid initially Rs.8,000/- for a package, then after submitting RPF, Pinnacle had asked him to subscribe for Rs. 1,50,000/-. The complainant stated that he paid complete amount of Rs. 1,50,000/- on January 31, 2020, and Pinnacle gave calls for one week

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by which a loss of Rs. 85,000/- was incurred.

4.33 The invoice date, payment amount, duration and the packages sold to Mr. Delhirasa from the invoices submitted by Pinnacle is tabulated below.

Payment date	Invoice date	Package	Amount (in Rs.)	Duration	RPF Details
Jan 31, 2020	Jan 31, 2020	Option	5,000	Jan 30 - Feb 17, 2020	Age – 48 years Annual income Rs.3-5 lakhs. Proposed trading amount < Rs.1lakh. Risk Category – High
Jan 31, 2020		Premium Option	20,000	Jan 31 - Feb 18, 2020	
Jan 31, 2020		Premium Option	16,500	Feb 18 - Mar 02, 2020	
Jan 31, 2020		Premium Option	100,000	Mar 03 - Jun 25, 2020	
Jan 31, 2020		Premium Option	8,500	Jun 26 - Jul 06, 2020	
		Total	**150,000**		

4.34 It is observed from the above table that the initial payment made by the client was Rs. 5,000/- for a low priced package. Subsequently, on the same day, the client made multiple instalments of higher amounts.

4.35 **Client Name – Mr. Ralu Prasad:** It was observed from the complaint of Mr. Ralu Prasad dated February 25, 2020, that he paid Rs. 4.66 lakhs under the assurance that Pinnacle would provide Rs. 12 lakhs in six months.

4.36 The invoice date, payment amount, duration and the packages sold to the client from the invoices submitted by Pinnacle is tabulated below.

Invoice date	Package	Amount	Duration	RPF Details
June 29, 2019	Intraday cash	5,900	July 03 – Aug 12, 2019	Age – 26 years Annual income < 3 lakhs Proposed trading amount
July 02, 2019	HNI Cash	24,898	July 03 – Jul 26, 2019	
July 02, 2019	HNI Option	5,900	Jul 29 – Aug 21, 2019	
July 02, 2019	HNI Option	19, 708	Aug 22 – Aug 30, 2019	
July 09, 2019	HNI Option	3,001	Oct 03 – Oct 08, 2019	
July 09, 2019	HNI Option	27,000	Sep 02 – Oct 01, 2019	
July 24, 2019	HNI Option	19,500	Oct 09 – Oct 29, 2019	
July 24, 2019	HNI Option	8,024	Oct 30 – Nov 08, 2019	

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Invoice date	Package	Amount	Duration	RPF Details
July 26, 2019	HNI Option	30,000	Nov 11 – Dec 03, 2019	< Rs. 1 lakh.
July 29, 2019	HNI Option	10,000	Dec 04 – Dec 11, 2019	
July 29, 2019	HNI Option	23,069	Dec 12 – Dec 27, 2019	Risk Category - High
July 31, 2019	HNI Future	53,100	Aug 01 – Sep 02, 2019	
Aug 07, 2019	Jobbers (Cash) Pack	47,200	Aug 07 – Aug 27, 2019	
Aug 07, 2019	Jobbers (Cash) Pack	35,001	Aug 28 – Sep 11, 2019	
Aug 07, 2019	Jobbers (Cash) Pack	30,000	Sep 12 – Sep 25, 2019	
Aug 07, 2019	Jobbers (Cash) Pack	15,240	Sep 26 – Oct 04, 2019	
Aug 16, 2019	Jobbers (Cash) Pack	53,961	Oct 07 – Oct 30, 2019	
Aug 16, 2019	Jobbers (Cash) Pack	19,999	Oct 31 – Nov 08, 2019	
Aug 16, 2019	Jobbers (Cash) Pack	29,999	Nov 11 – Nov 26, 2019	
Aug 16, 2019	Jobbers (Cash) Pack	4,599	Nov 27 – Dec 02, 2019	
	Total	**4,46,391**		

4.37 From the table above, it is seen that in a matter of 45-50 days, Pinnacle had charged a fee of Rs. 4.46 lakhs, which is much more than the annual income of the client. Further, as per the website of Pinnacle, the product Jobbers (Cash) Pack requires an investment of above 3 lakhs, whereas the proposed investment amount is less than Rs. 1 lakh. Thus it is observed that Pinnacle had failed to abide by the principle of Suitability when the IA has offered the aforesaid product to a client whose income was below Rs. 3 lakhs.

4.38 From the above, it is alleged that Pinnacle has not been fair and transparent in its dealing with its clients regarding the fees charged to the clients. It has adopted unethical business practices to deceive the clients by inducing them into buying multiple packages. It is alleged that Pinnacle has, in order to maximize its own fee (benefit), has sold multiple packages to its clients with an objective of keeping its own interest ahead of the client's interest. Each package/product leads to 3 to 6 calls in a day in a derivative contract and requires investment of substantial money as margin requirement. It is seen that in almost all cases the investment required for a client is significantly more than the client's willingness to invest and his/her annual income as disclosed in RPF. In view of the above, it is alleged that the IA has selected and sold package/product without any regard to the financial situation of the client and the amount he is willing to invest. These acts, it is alleged are in complete disregard to the responsibility entrusted on the IA under the provisions of IA Regulations to act in a fiduciary capacity and in the best interest of its clients.

4.39 Moreover, it is also alleged, based on the above that the IA has failed to take due care and

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diligence to ascertain risk profile of its client to offer him suitable advice. It is alleged that Pinnacle has not followed the requirement of suitability of advice to its clients as it has given advice to its clients without taking into client's investment objectives, his financial situation and the risk profile of the client. Further, it is alleged that the IA has kept its own interest ahead of his clients interest and has failed to carry out its fiduciary duties.

4.40 In view of the aforesaid acts of the IA, it is alleged that Pinnacle and its directors have failed to comply with regulations 15 (1) and 17 of IA Regulations and have also failed to abide by the Code of Conduct clauses 1, 2 and 6 of Third Schedule read with regulation 15(9) of IA Regulations. The text of the aforesaid provisions has been provided separately as Annexure-A.

4.41 The aforesaid alleged violation of IA Regulations, if proved, makes Pinnacle and its directors liable for suitable directions under Sections 11(1), 11(4), 11B(1) of SEBI Act and regulation 35 of Intermediaries Regulations read with regulation 28 of IA Regulations along with monetary penalty, if any under Sections 15 HB and 15EB of SEBI Act. The text of the aforesaid provisions is provided separately as Annexure-A.

4.42 Further, the act of selling multiple products to clients, selling products which do not match the risk profile of the client and charging exorbitant fees, is a fraudulent practice and is covered within the definition of 'fraud' as defined under regulation 2(1)(c) of PFUTP Regulations. Accordingly, it is alleged that Pinnacle and its directors have violated regulation 3(a), (b), (c) and (d) of PFUTP regulations read with sections 12A (a), (b) and (c) of SEBI Act. The said act of the Noticees, if proved, makes them liable for suitable directions under Sections 11(1), 11(4), 11B(1) of SEBI Act and regulation 35 of Intermediaries Regulations read with regulation 28 of IA Regulations along with monetary penalty, if any under Section 15 HA of SEBI Act. The text of the aforesaid provisions is provided separately as Annexure-A.

4.43 **Charging fees for services to be rendered in the future**

It was also unearthed that Pinnacle was charging fees from clients for services to be rendered in future. Examples of such instances as seen from invoices are given below:

Sl. No.	Client Name	Product	Duration	Date of Payment /Invoice	Amount (in Rs.)

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Sl. No.	Client Name	Product	Duration	Date of Payment /Invoice	Amount (in Rs.)
1.	Sunita Singh	BTST Future	Jul 13, 2017 – Aug 11, 2017	Jan 12, 2017	NA
2.	Rasmita Pradhan	HNI Cash	Sep 20, 2017 – Mar 27, 2018	April 04, 2017	NA
3.	Alok Sharma	Intraday Cash	Jun 11, 2019 – Jun 28, 2019	March 11, 2019	5,000
4.	Niraj Tiwari	Premium Future	Jan 20, 2021 – Apr 23, 2021	June 16, 2020	100,000
5.	D K Rahul	HNI Option	Aug 23, 2018 – Dec 04, 2018	May 19, 2018	80,000

4.44 It is alleged that by charging clients for services like intraday trading to be rendered after a long period of three months, Pinnacle is clearly not acting in the best interest of investor, charging its clients in unfair and unreasonable manner. Therefore, it is alleged that Pinnacle and its directors have violated clauses 1 and 6 of Code of Conduct for IA as specified in the Third Schedule read with regulation 15(9) of IA Regulations. The aforesaid alleged violation of IA Regulations, if proved, makes Pinnacle and its directors liable for suitable directions under Sections 11(1), 11(4), 11B(1) of SEBI Act and regulation 35 of Intermediaries Regulations read with regulation 28 of IA Regulations along with monetary penalty, if any under Section 15 HB of SEBI Act. The text of the aforesaid provisions is provided separately as Annexure-A.

4.45 Further, the above act of selling services which would commence after a period of six months and charging exorbitant fees are fraudulent in nature and is covered within the definition of 'fraud' as defined under regulation 2(1)(c) of PFUTP Regulations. Accordingly, it is alleged that Pinnacle and its directors have violated regulations 3(a), (b), (c) and (d) of PFUTP regulations read with Sections 12A(a), (b) and (c) of SEBI Act. The aforesaid alleged violation of provisions of securities laws, if proved, makes Pinnacle and its directors liable for suitable directions under Sections 11(1), 11(4), 11B(1) of SEBI Act and regulation 35 of Intermediaries Regulations read with regulation 28 of IA Regulations along with monetary penalty, if any under Section 15 HA of SEBI Act. The text of the aforesaid provisions is provided separately as Annexure-A.

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5. **Pinnacle employees executed trades in trading account of the client**

5.1 It was observed from the complaint of Mr. A.V.S.R. Sastry that "*Afterwords Mr. Rohit has directly traded on online on my behalf in commodities and options (As I am not aware of the same) upto 25/7/2018 and made a total loss of 4.00 L in demat a/c.*" In this regard, trade details, including IP addresses from which trades have been executed in the client's account have been obtained from Broker (**Annexure - 12**). The IP address location was found out from the website "IP Locator" and it is observed that most of the trades have been executed from Indore, Madhya Pradesh where Pinnacle's office is located whereas Mr. Sastry's location mentioned in SCORES is Hyderabad.

5.2 As per regulations 15(3) and 22(b) of IA Regulations, the investment adviser shall maintain arm's length relationship between its activities as investment adviser and distribution or execution services. However, it was observed that Pinnacle has provided execution services for the client. In view of the above, it is alleged that Pinnacle and its directors have violated regulations 15(3) and 22(b) IA Regulations. Further, it is alleged that Pinnacle had 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 failed to abide by clause 1 of Code of Conduct as mentioned in the Third Schedule read with regulation 15 (9) of IA Regulations.

5.3 The aforesaid alleged violation of IA Regulations, if proved, makes Pinnacle and its directors liable for suitable directions under Sections 11(1), 11(4), 11B(1) of SEBI Act and regulation 35 of Intermediaries Regulations read with regulation 28 of IA Regulations along with monetary penalty, if any under Section 15 EB of SEBI Act. The text of the aforesaid provisions is provided separately as Annexure-A.

6. **Assurance of Profit by Pinnacle**

6.1 It is observed from the examination of complaints, that Pinnacle has assured profit / unrealistic returns on the investment to the prospective or existing clients, luring them to avail its services. Even though knowing fully well that investment in equity, equity derivatives, and commodity

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derivatives are subject to market risk, Pinnacle has promised high returns to the clients.

6.2 Vide email dated July 23, 2019, complainant Mr. Mukesh Kumar Gandhi submitted a document received from Pinnacle to SEBI (**Annexure -13**), wherein for the product named *Future Rise*, the following is stated:

[p="FUTURE RISE SERVICES
Risk Type: High Risk
This Service is Specially Designed For Those Traders Who Want To Trade Once In A Day With Big Target For ***Big Profit*** *With Calculated Risk, Future Rise Service Will Give You Single Intraday Call Which Will be Generated Through Detailed Analysis (Technical Pattern, Price Trend, Volume Etc)."*

6.3 It is observed from the complaint of Mr. Pallav Shah dated August 22, 2018, that Pinnacle has given false promise of recovering his losses, but in addition to his initial losses, he has been made to incur further loss. The complainant had submitted a copy of Whatsapp message from the employee of Pinnacle (**Annexure -14**), Ms. Pushpa, wherein it is being informed to Mr. Pallav Shah "*Dear Sir, this is to update you that as you had a conversation with our executive for the services of the company. And you are having some trust issue and according to the conversation if we fail to give you the profits in the services we will repay your service amount as well will provide you 1 month services free of cost. Regards, Service Team.*".

6.4 It is also observed that Pinnacle had induced its clients to avail its services by promising huge returns. The complainant, Mr. Vikas Divekar had submitted audio call recordings (**Annexure -15**), wherein it is noted that Pinnacle has promised daily returns by trading in the account held by the client with Goodwill Wealth Management. The transcript of two such calls between Mr. Vikas Divekar and the employee of Pinnacle is given below:

AUD 20200518-WA0016
"13:51 Pinnacle: *aap jis package mein kar raha hoon, usmein chaaleez se kam ka profit minimum hoti hi nahi. Minimum chaleez hazaar par mein appko teen din mein 1 lakh nikalke doonga.*
"14:06 Pinnacle: *...kyunki chaleez se kum main profit nahi deta hoon Sir, aur mein koshish karunga Sir ki mein aapko saath se sathar tak ka bhi profit doon.*

AUD-20200518-WA0016
18:41 Client: *account mein hai hi nahi na, kali 8000/- hain.*

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18:43 Pinnacle: *account mein aapko kal theez hazaar rupaya rakhana hain.keval theez hazaar rupaya, aur kuch nahi rakhna. Theez hazaar account main rakhl;o aur kuch bhi mat rakhna, mere upar chodhdo bhuki.*
Client: *nahi hoga hai tho.*
19:03 Pinnacle: *…, yeh joh teen lakh aap kisise lenge to, mein aapko bata raha hoon sir, 4 din ke time maang rahe hoon 1 lakh ke liye, 4 din ke time maanga na, aur 4 din ka time maanga na. chaar chaar din ke time nein, mein aapko ek ek lakh nikalke poora dedoonga, aur aap us person kode dena.yeh meri responsibility hain.*

6.5 As noted above, Pinnacle has given assurance regarding earning unrealistic returns from securities markets to its clients and luring them to buy / continue availing its services. Pinnacle being a registered intermediary is aware that all investments in stocks, derivatives, commodity derivatives, etc. in respect of which it was offering investment advice are subject to market risk and cannot be predicted. From the above it is alleged that Pinnacle was making false statement without reasonable ground for believing it to be true as mandated under PFUTP Regulations. Therefore, it is alleged that this act of promising to provide unrealistic returns from securities market is fraudulent in nature and it is alleged that it has been done with an intention to bring in more customers and thereby to earn more fees for itself. Thus, it is alleged that Pinnacle and its directors have violated the provisions of regulations 3(a), (b), (c), (d) of the PFUTP Regulations read with section 12A(a), (b) and (c) of SEBI Act.

6.6 Further, from the above conduct, it is alleged that Pinnacle has acted in a dishonest manner and has not acted in the best interest of the clients. In view of the above, it is also alleged that Pinnacle and its directors, have failed in its responsibility to act in fiduciary capacity towards its clients which is entrusted upon it under regulation 15 (1) of IA Regulations. Therefore, it is alleged that Pinnacle and its directors have violated clauses 1 and 2 of Code of Conduct as mentioned in Third Schedule read with regulation 15 (9) of IA Regulations.

6.7 The aforesaid alleged violations of provisions of securities laws, if proved, makes Pinnacle and its directors liable for suitable directions under Sections 11(1), 11(4), 11B(1) of SEBI Act and regulation 35 of Intermediaries Regulations read with regulation 28 of IA Regulations along with monetary penalty, if any under Sections 15 HA and 15 EB of SEBI Act. The text of the aforesaid provisions is provided separately as Annexure-A.

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7. **Non redressal of SCORES complaints:**

7.1 Regulation 21 of IA Regulations provides that an IA shall redress client grievances promptly and shall have adequate procedure for expeditious grievance redressal.

7.2 It is observed that as on September 15, 2020, that 8 unique complaints were pending against Pinnacle in SCORES portal for more than 60 days showing that Pinnacle had not complied with the timeline to resolve the complaints prescribed under SEBI Circular No. CIR/OIAE/2014 dated December 18, 2014. Details of the pending complaints are tabulated as under –

Sl. No.	SCORES Complaint No.	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.	SEBIP/MP20/ 0000072/1	Mamta Meshram	Feb 10, 2020	Feb 14, 2020	Jul 24, 2020 Sep 15, 2020	Jul 08, 2020	188
2.	SEBIE/MP20/ 0000503/1	Alok Sharma	Feb 19, 2020	Mar 09, 2020	Aug 26, 2020	Sep 10, 2020	160
3.	SEBIE/MP20/ 0001045/1	Kapil Gupta	April 17, 2020	Jun 23, 2020	Jul 28, 2020 Aug 14, 2020 Aug 26, 2020	Jul 24, 2020	54
4.	SEBIP/MP20/ 0000100/1	Sunita Singh	Mar 12, 2020	Jun 24, 2020	Aug 03, 2020 Aug 17, 2020	-	53
5.	SEBIE/MP20/ 0000994/1	Lalit Chadha	May 07, 2020	Jun 24, 2020	Sep 02, 2020	Sep 02, 2020	53
6.	SEBIE/MP20/ 0001150/1	D K Rahul	June 17, 2020	Jun 24, 2020	Jul 30, 2020 Aug 17, 2020	Jul 06, 2020	53
7.	SEBIE/MP20/ 0000679/1	Delhirasa V	March 09, 2020	Jun 24, 2020	Sep 15, 2020	Jul 06, 2020	53
8.	SEBIE/MP20/ 0001193/1	Vikas Divekar	Jun 26, 2020	Jul 07, 2020	Aug 26, 2020 Sep 15, 2020	Aug 18, 2020	51

7.3 Further, since Pinnacle 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 Pinnacle has not complied with SEBI Circular no. CIR/OIAE/2014 dated December 18, 2014 and regulations 21(1) read with 28(f) of IA Regulations.

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7.4 The aforesaid alleged violation of securities laws, if proved, makes Pinnacle and its directors liable for suitable directions under regulation 35 of Intermediaries Regulations read with regulation 28 of IA Regulations along with monetary penalty, if any under Sections 15C and 15 EB of SEBI Act. The text of the aforesaid provisions has been provided separately as Annexure-A.

8. **Non-compliance of SEBI directions with respect to inspection**

8.1 Vide Order dated September 17, 2020, it was decided to carry out inspection of the Investment Adviser. Accordingly, pre-inspection questionnaire dated September 22, 2020 was issued to the IA. The IA vide letter dated October 5, 2020 sought postponement of inspection and requested for rescheduling the inspection after 6 months.

8.2 However, the request of IA was not acceded to and vide letter dated October 6, 2020, the IA was once again advised to furnish the information sought in the pre-inspection questionnaire latest by October 16, 2020. The IA vide its letter dated October 14, 2020 re-iterated that the inspection be postponed and rescheduled after 6 months.

8.3 It is noted that Pinnacle has failed to comply with SEBI directions with respect to its inspection. Therefore, it is alleged that Pinnacle and its directors have violated regulations 13(a), 15(12), 25(1) and 25(2) read with 24(3), clause 8 and 9 of Code of conduct for IA as specified under third schedule read with regulation 15(9) of IA Regulations.

8.4 The aforesaid alleged violation of IA Regulations, if proved, makes Pinnacle and its directors liable for suitable directions under regulation 35 of Intermediaries Regulations read with regulation 28 of IA Regulations along with monetary penalty, if any under Section 15 EB of SEBI Act. The text of the aforesaid provisions has been provided separately as Annexure-A.

9. Therefore, Noticees viz. Pinnacle Market Investment Advisory Pvt Ltd., itsDirectors, Mr. Abhishek Patel, Mr. Shekhar Mishra and Ms. Parul Sahu, are hereby called upon to show cause as to (i) why suitable directions under Sections 11B(1) and 11(4) read with section 11(1) of SEBI

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Act and regulation 35 of Intermediaries Regulations read with regulation 28 of IA Regulations, should not be issued against them and (ii) why suitable why inquiry should not be held against him in terms of Rule 4 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 and directions for imposing penalty under Sections 11B(2) and 11(4A) read with sections 15HA, 15HB (for violations prior to March 08, 2019) and Section 15EB (for violations subsequent to March 08, 2019) of SEBI Act should not be issued against them for the aforesaid alleged violations.

10. The written submissions of the Noticees, Pinnacle Market Investment Advisory Pvt Ltd. its Directors - Mr. Abhishek Patel, Mr. Shekhar Mishra and Ms. Parul Sahu, if any, along with documentary evidences that the Noticees chooses to rely upon in support of their submissions, should reach the undersigned, at the address given below and also in softcopy (in MSWORD format) by e-mail at email-ids aniketk@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 Noticees have no reply to submit and the matter shall be proceeded on the basis of the material available on record..

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

12. Further, the Noticees are 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 them, details of all demat accounts / mutual fund units held by them and list

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of all the movable/immovable assets owned by them.

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

Nirmal Mehrotra
Deputy General Manager

Documents	Annexure
Form A	1.
Extract of Board Resolution	2.
Webpage of Pinnacle	3.
Sample RPFs available on records	4.
Communication of Risk Profiles	5.
Complaint of Shankar Mahajan	6.
Extracts of relevant portions from the 3RPFs	7.
Complaint, invoices and RPFs	8.
Complaint of AVSR Sastry	9.
Details of the SCORES complaints	10.
Deed of Compromise/ settlement between Pinnacle and Ms. Rashmita Pradhan	11.
IP Addresses obtained from Broker	12.
Future Rise Services	13.
WhatsApp message from the employee of Pinnacle	14.
Call recording	15.

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Annexure - A

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

Relevant provisions of IA Regulations:

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;

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.

(3) An investment adviser shall maintain an arms-length relationship between its activities as an investment adviser and other activities.

(9) An investment adviser shall abide by Code of Conduct as specified in Third Schedule.

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

Risk profiling.

16. Investment adviser shall ensure that,-

(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.

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(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:
(ii) questionnaire is not structured in a way that it contains leading questions.

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;

(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.

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.
(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.

Maintenance of records.

19. (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;
(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.

Obligation of investment adviser on inspection.
25. *(1) It shall be the duty of every investment adviser in respect of whom an inspection has been ordered under the regulation 23 and any other associate person who is in possession of relevant*

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information pertaining to conduct and affairs of such investment adviser, including 40[partners, directors, principal officer and persons associated with investment advice], if any, to produce to the inspecting authority such books, accounts and other documents in his custody or control and furnish him with such statements and information as the inspecting authority may require for the purposes of inspection.

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

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.

4. Information about clients
An investment adviser shall seek from its clients, information about their financial situation, investment experience and investment objectives relevant to the services to be provided and maintain confidentiality of such information.

5. Information to 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.

8. Compliance

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An investment adviser including its partners, principal officer and persons associated with investment advice] shall comply with all regulatory requirements applicable to the conduct of its business activities so as to promote the best interests of clients and the integrity of the market.

9. Responsibility of senior management
The senior management of a body corporate which is registered as investment adviser shall bear primary responsibility for ensuring the maintenance of appropriate standards of conduct and adherence to proper procedures by the body corporate.

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 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;

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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.

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.

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