

SECURITIES AND EXCHANGE BOARD OF INDIA, MUMBAI

ORDER

UNDER SECTION 19 READ WITH SECTION 12(3) OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 AND REGULATION 27 OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (INTERMEDIARIES) REGULATIONS, 2008.

IN RESPECT OF –

NOTICEE	REGISTRATION NO.
AMIT KUMAR DEWDA PROPRIETOR, M/s AVID RESEARCH INVESTMENT ADVISER PAN: AZXPD5745P	INA000003031

IN THE MATTER OF M/s AVID RESEARCH INVESTMENT ADVISER.

BACKGROUND:

- 1.1 **Amit Kumar Dewda, Proprietor of M/s Avid Research Investment Adviser (Investment Adviser having SEBI Registration No.: INA000003031) (“Noticee”)** is registered as an Investment Adviser with effect from June 9, 2015, having Securities and Exchange Board of India (“SEBI”) Registration no. INA000003031.
- 1.2 SEBI had initiated enquiry proceedings against the Noticee in terms of the SEBI (Intermediaries) Regulations, 2008 (“**Intermediaries Regulations**”) and vide an Order dated December 21, 2020, under Regulation 24 of the Intermediaries Regulations, had appointed a Designated Authority (“DA”) to enquire into the following violations of the SEBI (Investment Advisers) Regulations, 2013 (“**Investment Advisers Regulations**”) as alleged against the Noticee and to submit the Report with recommendations in terms of the Intermediaries Regulations, accordingly:

TABLE I – PROVISIONS OF LAW ALLEGED TO HAVE BEEN VIOLATED BY THE NOTICEE

Sr. No.	ALLEGATIONS	INVESTMENT ADVISERS REGULATIONS
1.	The Noticee had continued to solicit and provide investment advice to its clients despite its Proprietor, Amit Kumar Dewda, not having valid NISM-Series-X-A (Level-1) and NISM-Series-X-B	Regulation 7(2) – Qualification and certification requirements. <i>An individual investment adviser or principal officer of a non-individual investment adviser, registered under these regulations and persons associated with investment advice shall have, at all times a certification on financial planning or fund or asset or portfolio management or investment advisory services –</i> (a) from NISM; or

	(Level-2) Certifications from the National Institute of Securities Markets ("NISM"), in violation of Regulation 7(2) read with Regulation 13(a) of the Investment Advisers Regulations.	(b) from any other organization or institution including Financial Planning Standards Board of India or any recognized stock exchange in India provided such certification is accredited by NISM: <i>Provided that fresh certification must be obtained before expiry of the validity of the existing certification to ensure continuity in compliance with certification requirements:</i> <i>Provided further that fresh certification before expiry of the validity of the existing certification shall not be obtained through a CPE program.</i> Regulation 13(a) – 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;
2.	The Noticee had failed to resolve/attend to three investor complaints, which were pending for more than two and half years on the SEBI Complaints Redress System ("SCORES") as on the date of issuance of pre-enquiry Show Cause Notice ("SCN"), in violation of Regulations 28(a) and (f) of the Investment Advisers Regulations. Further, the Noticee had failed to file an Action Taken Report ("ATR") in respect of the aforementioned complaints even where it had received repeated reminders from SEBI, in violation of Regulation 21(1) of the Investment Advisers Regulations read with SEBI Circular CIR/OIAE/2014 dated December 18, 2014.	Redressal of client grievances: 21(1). An investment advisor shall redress client grievances promptly. Liability for action in case of default: 28. An investment advisor who- (a) contravenes any of the provisions of the Act or any regulations or circulars issued thereunder; ... (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 Intermediaries Regulations. SEBI Circular CIR/OIAE/2014 dated December 18, 2014 – Redressal of investor grievances through SCORES platform. 9. All listed companies and SEBI registered intermediaries shall review their investors' grievances redressal mechanism so as to further strengthen it and correct the existing shortcomings, if any. The listed companies and SEBI registered intermediaries to whom complaints are forwarded through SCORES, shall take immediate efforts on receipt of a complaint, for its resolution, within thirty days. The listed companies and SEBI registered intermediaries shall keep the complainant duly informed of the action taken thereon. 13. Failure by listed companies and SEBI registered intermediaries to file ATR under SCORES within thirty days of date of receipt of the grievance shall not only be treated as failure to furnish information to SEBI but shall also be deemed to constitute non-redressal of investor grievance.
3.	The Noticee had failed to ensure compliance with all regulatory requirements applicable to the conduct of its business activities in violation of Regulation 15(9) read with Clause 8 of the Third Schedule of the Investment Advisers Regulations.	General Responsibility: 15(9) An investment adviser shall abide by Code the Conduct as specified in Third the Schedule. Third Schedule Code of Conduct for Investment Adviser 8. Compliance – An investment adviser including its partners, principal officer and persons associated with investment advice shall comply with all regulatory requirements applicable to the conduct of its business activities so as to promote the best interests of clients and the integrity of the market.

ENQUIRY BY THE DESIGNATED AUTHORITY:

- 1.3 A Show Cause Notice dated January 14, 2021 ("**Enquiry SCN**"), was issued to the Noticee under Regulation 25(1) of the Intermediaries Regulations. The Noticee was called upon to show cause as to why appropriate recommendations for the alleged violations should not be made against it, by the DA, in terms of the Intermediaries Regulations. The Noticee was also advised to submit its reply along with documentary evidence(s), if any, within 21 days from the date of receipt of the Enquiry SCN. The Noticee replied to the Enquiry SCN vide a letter dated February 22, 2021.
- 1.4 Thereafter, upon completion of the enquiry, an Enquiry Report dated April 9, 2021 ("**Enquiry Report**") was submitted by the DA to the Designated Member. In the Enquiry Report, the DA had noted that the Noticee had violated the provisions of the Investment Advisers Regulations as indicated at Table I for the reasons detailed in the Enquiry Report. In accordance with the Intermediaries Regulations, the DA recommended that the Noticee be warned that it shall not provide Investment Advisory services unless:
- a. *A valid certification on investment advisory services is obtained in terms of Regulation 7(2) of the Investment Advisers Regulations.*
 - b. *Applicable registration fee is paid to the Board*
 - c. *(It) ensures strict compliance with the Investment Advisers Regulations and applicable SEBI Circular.*

POST-ENQUIRY PROCEEDINGS BY THE DESIGNATED MEMBER ("DM"):

- 2.1 A post-enquiry Show Cause Notice dated May 7, 2021 ("**SCN**"), was issued to the Noticee enclosing a copy of the Enquiry Report submitted by the DA and calling upon it to show cause in terms of Regulation 28(1) of the Intermediaries Regulations as to why action as recommended by the DA should not be imposed against the Noticee in terms of the said Regulations, as deemed fit by the DM. The Noticee replied to the SCN vide an e-mail dated July 14, 2021.
- 2.2 In the instant proceedings, as the DA had not recommended the cancellation of Certificate of registration granted to the Noticee, in terms of Regulation 27(4) of the Intermediaries Regulations, an opportunity of personal hearing before the DM was dispensed with. Vide an e-mail dated April 19, 2022, the Noticee was granted an opportunity to file its submissions with respect to the allegations contained in the SCN. The Noticee filed its submissions vide an e-mail dated May 1, 2022.

CONSIDERATION OF ISSUES AND FINDINGS:

- 3.1 I have considered the material available on record i.e. Enquiry Report along with the SCN, Noticee's replies dated July 14, 2021 and May 1, 2022.

VIOLATION OF REGULATIONS 7(2) AND 13(a) OF THE INVESTMENT ADVISERS REGULATIONS:

- 3.2 As per the SCN, the Noticee is alleged to have continued to solicit and provide investment advice to its clients despite its Proprietor, Amit Kumar Dewda, not having valid *NISM-Series-X-A (Level-1)* and *NISM-Series-X-B (Level-2) Certifications* from NISM ("**NISM Certifications**"), in violation of Regulation 7(2) read with Regulation 13(a) of the Investment Advisers Regulations.
- 3.3 In its replies, the Noticee had submitted that: *"the Noticee's proprietor has a valid NISM certification for Level 1 (valid till July 5, 2022) and Level 2 (valid till July 19, 2022). It will not be involved in any sort of investment advisory services which requires registration under the terms of Regulation 7(2) of the Investment Advisers Regulations."*
- 3.4 As per Regulation 7(2) of the Investment Advisers Regulations, *'an individual investment adviser /principal officer of a non-individual investment adviser, registered under the Regulations and persons associated with investment advice shall at all times, have a certification on financial planning or fund or asset or portfolio management or investment advisory services inter alia from NISM and fresh certification must be obtained before expiry of the validity of the existing certification to ensure continuity in compliance with certification requirements.'* The obligation to ensure compliance with the aforementioned condition is provided under Regulation 13(a) of the Investment Advisers Regulations. The *NISM Certifications* examination seeks to create a common minimum knowledge benchmark for an individual investment adviser or principal officer of a non-individual investment under the Investment Advisers Regulations and persons associated with investment advice and aims to enhance the quality of investment advisory and related services in the financial services industry. The aforementioned individuals /entities, where applicable, are required to pass both levels of *NISM Certifications* examination.
- 3.4.1 In the instant proceedings, it is noted that the Noticee's *NISM-Series-X-A (Level-1) Certification* had lapsed on February 1, 2018 while the *NISM-Series-X-B (Level-2) Certification* had lapsed on March 2, 2018. An examination of the Noticee's Axis Bank (Account No. 915020027502784) had revealed that it had received two credit entries amounting to ₹3400 in the said bank account

after February 1, 2018 till the closure of bank account on February 13, 2018. Further, twenty-six credit entries amounting to ₹14,67,922 were also observed in the Noticee's ICICI Bank account (Account No. 004105014328) during the period February 1–26, 2018. The aforementioned ICICI bank account was also closed by the Noticee on March 3, 2018. In these proceedings, the Noticee has not disputed the credit entries, which were received when it did not have a valid *NISM-Series-X-A (Level-1) Certification*. Even in the submissions made before the DA, the Noticee has admitted that: *“it inadvertently continued its business beyond the validity of the NISM-Series-X-A (Level-1) Certification for a mere twenty days and with respect to NISM-Series-X-B (Level-2) Certification, it ceased to function as an Investment adviser before the expiry of said Certificate.”*

- 3.4.2 At this stage of the proceedings, the Noticee has merely submitted that it has now obtained valid *NISM-Series-X-A (Level-1) Certification (valid till July 5, 2022)* and *NISM-Series-X-B (Level-2) Certification (valid till July 19, 2022)* without providing any documentary evidence to substantiate such submission. It may be noted that the validity of the *NISM Certifications* is three years; accordingly, the Noticee's assertion when considered in light of the aforesaid would indicate that the Noticee had obtained *NISM Level 1 Certification* on July 5, 2019 and *NISM Level 2 Certification* on July 19, 2019, while it continued to remain without such *NISM Certifications* during the period February 2018–July 2019, when it was a SEBI registered Investment Adviser.
- 3.4.3 Upon a consideration of the above-mentioned, I find that the Noticee had continued to solicit and provide investment advice to its clients despite its Proprietor, Amit Kumar Dewda, not having valid *NISM-Series-X-A (Level-1)* and *NISM-Series-X-B (Level-2) Certifications*, in violation of Regulation 7(2) read with Regulation 13(a) of the Investment Advisers Regulations.

VIOLATION OF REGULATIONS 28(a) AND (f) OF THE INVESTMENT ADVISERS REGULATIONS AND REGULATION 21(1) OF THE INVESTMENT ADVISERS REGULATIONS READ WITH SEBI CIRCULAR CIR/OIAE/2014 DATED DECEMBER 18, 2014:

- 3.5 As per the SCN, the Noticee is alleged to have failed in resolving /attending to three investor complaints, which were pending for more than two years on SCORES as on the date of issuance of pre-enquiry SCN, in violation of Regulations 28(a) and (f) of the Investment Advisers Regulations. Further, is alleged to have failed to file Action Taken Report (“**ATR**”) in respect of the aforementioned complaints even when it had received repeated reminders from SEBI, in

violation of Regulation 21(1) of the Investment Advisers Regulations read with SEBI Circular CIR/OIAE/2014 dated December 18, 2014.

3.6 In its replies, the Noticee had submitted that: *“there are no pending complaints against it. An amount of ₹1 Lakh has been paid to SEBI on May 5, 2021 (Ref. no. VHD49949175591), in lieu of monetary penalty imposed vide SEBI Adjudicating Officer’s Order dated March 24, 2021 (“AO Order”).”*

3.6.1 Under Regulation 21(1) of the Investment Advisers Regulations, an Investment Adviser is mandated to redress client grievances promptly. Accordingly, vide the Circular No. CIR/OIAE/2014 dated December 18, 2014, SEBI has *inter alia* specified that ‘SEBI registered intermediaries to whom complaints are forwarded through SCORES, shall take immediate efforts on receipt of a complaint, for its resolution, within thirty days and shall keep the complainant duly informed of the action taken thereon. Any failure to file ATR under SCORES within thirty days of date of receipt of the grievance shall not only be treated as failure to furnish information to SEBI but shall also be deemed to constitute non-redressal of investor grievance.’ Further, in terms of Regulation 28 of the aforesaid Regulations, any failure to resolve such complaints or to provide a satisfactory reply to SEBI, will invite action under the Intermediaries Regulations.

3.6.2 In the instant proceedings, it is noted that the Noticee had failed to resolve three investor complaints with a period of thirty days and had also failed to file ATR under SCORES, details of which are provided as under:

TABLE II – DETAILS OF COMPLAINTS						
Sr. No.	COMPLAINANT	DATE OF RECEIPT	DATE WHEN COMPLAINT WAS FORWARDED TO NOTICEE	LAST REMINDER SENT BY SEBI TO NOTICEE	DATE OF RECEIPT OF ATR	STATUS
1.	UMAKANT KUSHWAHA	30.03.2018	23.04.2018	9.10.2019	NOT FILED	PENDING
2.	PAURAVI SHAH	18.04.2018	30.10.2018	9.10.2019	NOT FILED	PENDING
3.	PUNEET KUMAR TYAGI	07.05.2018	10.10.2018	9.10.2019	NOT FILED	PENDING

3.6.3 In its submissions, the Noticee has submitted that: *“there are no pending complaints against it.”* In this context, it is noted from the material available on record that the Noticee had only resolved the complaints subsequent to issuance of the Enquiry SCN i.e. post January 14, 2021, and that too, almost after a period of two and a half years from the date of receipt of such complaints. Additionally, the belated redressal of such complaints will not absolve the Noticee from its liability

under the Investment Advisers Regulations arising out of the violations found to have been committed by it.

- 3.6.4 Accordingly, upon a consideration of the preceding paragraphs, I am of the considered opinion that the Noticee has violated the provisions of Regulations 28(a) and (f) of the Investment Advisers Regulations and Regulation 21(1) of the Investment Advisers Regulations read with SEBI Circular CIR/OIAE/2014 dated December 18, 2014.

VIOLATION OF REGULATION 15(9) READ WITH CLAUSE 8 OF THE THIRD SCHEDULE OF THE INVESTMENT ADVISERS REGULATIONS:

- 3.7 As per the SCN, the Noticee is alleged to have failed to ensure compliance with all regulatory requirements applicable to the conduct of its business activities in violation of Regulation 15(9) read with Clause 8 of the Third Schedule of the Investment Advisers Regulations.
- 3.8 In its replies, the Noticee had submitted that: *“there are no pending complaints against it. An amount of ₹1 Lakh has been paid to SEBI on May 5, 2021 (Ref. no. VHD49949175591), in lieu of monetary penalty imposed vide SEBI Adjudicating Officer’s Order dated March 24, 2021 (“AO Order”).”*
- 3.9 Every Registered investment adviser is required to abide by Code the Conduct as specified in Third Schedule of the Investment Advisers Regulations which *inter alia* provides that an investment adviser 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. Having failed to comply with the regulatory requirements as discussed in paragraphs 3.2 to 3.6.4, I find that the Noticee has violated Clause 8 of the Code of Conduct for investment advisers read with Regulation 15(9) of the Investment Advisers Regulations.

CONCLUSION:

- 3.10 For the reasons mentioned in the preceding paragraphs, I find myself in agreement with the findings of the DA that the Noticee had violated the provisions of the Investment Advisers Regulations as indicated at Table I. Having regard to the facts and circumstances of the instant proceedings, I accept the DA’s recommendation that the Noticee is liable for action under Regulation 27 of the Intermediaries Regulations.

3.11 In the instant proceedings, the Noticee has submitted that: *“(it) has ceased to function as an Investment Adviser since March 3, 2018. The Noticee has no interest nor capacity to carry on as an Investment Adviser. The Noticee has taken an employment which is not related to the securities market, directly or indirectly.”* From the material available on record including the registered intermediaries’ database maintained by SEBI, it is noted that the validity of the Certificate of registration granted to the Noticee has been indicated as June 9, 2015–Perpetual (as opposed to the initial period for which registration was granted i.e. five years), on account of the amendment brought in the Investment Advisers Regulations with effect from December 8, 2016. Accordingly, the Certificate of registration granted to the Noticee continues to subsist as on date. From the material available on record, it is also noted that the Noticee has not made any application for cancellation of the aforesaid Certificate of registration. In this context, if the Noticee so desires, it may make an application to SEBI for the cancellation of its Certificate of registration.

ORDER –

4.1 I, in exercise of the powers conferred upon me under Section 19 read with Section 12(3) of the SEBI Act and Regulation 27 of the Intermediaries Regulations, hereby direct as under:

A. The Noticee i.e. **Amit Kumar Dewda, Proprietor of M/s Avid Research Investment Adviser (Investment Adviser having SEBI Registration No.: INA000003031)**, is hereby warned that it shall not provide Investment Advisory services unless it ensures strict compliance with the Investment Advisers Regulations and applicable SEBI Circulars.

4.2 A copy of this Order shall be served on the Noticee and on all recognized Stock Exchanges and Depositories.

PLACE: MUMBAI
DATE: AUGUST 30, 2022

ASHWANI BHATIA
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA