

WTM/AB/WRO/WRO/18675/2022-23

SECURITIES AND EXCHANGE BOARD OF INDIA

FINAL ORDER

Under Sections 11(1), 11(4) and 11B of the Securities and Exchange Board of India Act, 1992

In respect of:

Sr. No.	Noticee	PAN
1.	Mr. Umesh Malviya, Proprietor: RMG Research/ RMG Trading	DKTPM4870E

In the matter of Unregistered Investment Adviser

1. The present proceedings emanate from a show cause notice dated **July 31, 2021** (hereinafter referred to as “**SCN**”) issued by Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) against Shri Umesh Malviya, in his capacity as the sole proprietor of RMG Research and RMG Trading (hereinafter referred to as “**the Noticee**”) wherein it was *prima facie* found that the Noticee was engaged in investment advisory services without obtaining a certificate of registration from SEBI in violation of the provisions of Section 12(1) of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as “**SEBI Act, 1992**”) and Regulation 3(1) of SEBI (Investment Advisers) Regulations, 2013 (hereinafter referred to as “**IA Regulations, 2013**”). The SCN called upon the Noticee to show cause as to why suitable directions should not be issued against the Noticee under Sections 11(1), 11(4) and 11B(1) of the SEBI Act, 1992.
2. I note that the SCN alleges the following:
 - i. SEBI had received complaint vide email dated August 6, 2019 from Shri. Harshvardhan Rana (hereinafter referred to as “**complainant**”) against

RMG Research/RMG Trading (hereinafter referred to as “**RMG Research**”) and proprietor Shri. Umesh Malviya (RMG Research/ RMG Trading and Shri. Umesh Malviya hereinafter collectively referred to as the ‘**Noticee**’).

ii. Vide email dated August 6, 2019, the complainant had, *inter alia*, alleged the following:

- The complainant had received a call from one Ms. Kamini Sharma, who introduced herself as an agent of RMG Research, an Indore based share market research company and told the complainant to start investing with it in the securities market.
- The complainant started doing so and opened a demat account with Choice Broking in Mumbai. The complainant was asked to pay Rs. 11,000 for KYC process. The complainant paid the said amount after which he was allotted a Portfolio Manager whose name was RAJAN/ Rajinder Kumar.
- Mr. Rajan explained to the complainant about the securities market and convinced him to take a plan of 1.75 Lakh. He promised the complainant to quadruple the amount in the demat within 45 days or earlier.
- After being convinced, the complainant transferred Rs. 1.75 Lakh in parts for services of RMG Research and put Rs. 2.50 Lakh purportedly in the demat account. The complainant was informed about his holding position in Gold.
- However, the complainant never saw any such transaction in his demat account. Further, thereafter, the complainant was informed that he had incurred loss in market. The complainant argued with the representative of RMG Research as it has promised for 4 Lakh payout on Tuesday.
- Thereafter, the complainant received refund of Rs. 75000/- in his personal account.
- Further, vide email dated August 08, 2019, the complainant provided the payment receipt of Easebuzz and whatsapp chat, including the bank account details of RMG Research.

iii. On examination by SEBI, it was noted that the website of RMG Research, www.rmgresearch.com, was not active. The archive pages of the website were downloaded from web.archive.org.

- iv. The complainant alleged that he had received investment advisory services from RMG Research and made payments through Easebuzz payment gateway provided by the representative of RMG Research. The website of the RMG Research/ RMG Trading disclosed that it was providing investment advisory services. Further, from the email correspondences and WhatsApp chats between the complainant and the representative of RMG Research, it was *prima facie* observed that the website is providing investment advisory services.
- v. The Easebuzz payment gateway and ICICI bank Account, as informed by the complainant wherein consideration / advisory fees were paid, have multiple credit transactions from various entities. Hence, it was inferred that the said Bank accounts and Easebuzz payment gateway were used for receipt of fees from various entities for the purpose of providing advisory services.

- 3. The SCN was served on one of the addresses of the Noticee by Speed Post. The Noticee did not submit any reply to the SCN. In order to comply with the principles of natural justice, the file was placed before me for obtaining hearing dates on December 23, 2021 and a hearing was granted to the Noticee on February 03, 2022. On the said date the Noticee failed to appear, nor did it seek any adjournment to the hearing. In view of the same the hearing was concluded *qua* the Noticee.

Consideration of submissions and findings:

- 4. I have considered the allegations made in the SCN along with the findings of the examination by SEBI stated therein and material available on record.
- 5. In this regard, I note that the definition of Investment Adviser as given in Regulation 2(1)(m) of the IA Regulations, 2013 provides as follows:

“investment adviser means any person, who for consideration, is engaged in the business of providing investment advice to clients or other persons or group of persons and includes any person who holds out himself as an investment adviser, by whatever name called;”

Further, Regulation 2(1)(I) of IA Regulations, 2013 states as follows:

“investment advice means advice relating to investing in, purchasing, selling or otherwise dealing in securities or investment products, and advice on investment portfolio containing securities or investment products, whether written, oral or through any other means of communication for the benefit of the client and shall include financial planning:

Provided that investment advice given through newspaper, magazines, any electronic or broadcasting or telecommunications medium, which is widely available to the public shall not be considered as investment advice for the purpose of these regulations;”

6. I note that, the complainant had provided details of the Easebuzz gateway through which he had made payment and the said gateway was connected to the website www.rmgresearch.com. The website www.rmgresearch.com *inter alia* claimed as follows:

“

- I. *RMG Research, a trusted name in the financial services arena, provides you with the entire gamut of financial services under one ceiling. We provides a complete financial solution for a better financial life. Our expert trade recommendation provides insight to understand your whole financial picture, up-to-date, at a glance from one secure place. Additionally, RMG Research, offers personalized investment portfolios, based on an understanding of your financial situation and goals. Our offerings are designed to reduce the stress of meeting your financial goals and tracking your financial affairs, allowing you to enjoy life on your terms*
- II. *At RMG Research, we're making a secure financial future possible for all Indians – one person, one family, and one institution at a time.*
- III. *We have successfully managed funds of investors having small to higher budgets and in every segment of stock market like Stock Cash, Stock Future, Option Call Put, Nifty Future Tips etc. Even we provide our market researches in field of MCX, NCDEX & Forex.”*

7. From the above, I note that personalized investment portfolios, based on an understanding of the clients' financial situation and goals was rendered through the website www.rmgresearch.com. The website claimed to offer stock trading tips and claimed that RMG Research is a trusted name in the financial services arena and provided clients with the entire gamut of financial services under one ceiling. The website also mentioned various packages. As per the website, RMG Research, offered personalized investment portfolios, based on an understanding of the clients' financial situation and goals. I note that through the website advice relating to investing in, purchasing, selling or otherwise dealing in securities or investment products, including ocmmodities, and advice on investment portfolio containing

securities or investment products were being offered and the said advice was specific to the clients' financial goals.

8. From the print out of the web pages of the website, as available on record, the details of a few subscription packages as mentioned on the website are reproduced below:

a) *Stock Cash Tips*

Trading in Stock Cash is the best for those who don't want to use of margin/ who wants to trade by very less amount. Stock Cash trading tend to be safer than margin trading. In case of stock cash trading account is much easier to open & maintain than margin account. Dynamic Money Research is offering Stock Cash Tips to both traders 1st who wants to buy and sell securities without he use of margin & 2nd for those active trader who prefer margin accounts because of its greater leverage and flexibility.

Features

- 3-4 Cash Market Calls on intraday basis with 3 target & 1 stop loss
- Free Trial
- SMS & Instant messenger facility
- Proper Follow Ups, news and updated Information.
- Daily & Weekly Newsletter Of Equity
- Equity Market News & updates
- 24*7 assistance

Pricing

- Monthly 8500/-
- Quarterly 21250/-
- Half-Yearly 36000/-
- Yearly 54000/-

b) *Stock Future Tips*

In Stock Future trading:- every stock futures contract consists of a fixed lot of the underlying share which is determined by the exchange on which it is traded on & it vary for each stocks. It is a contracts that give the power to buy or sell a set of stocks at a fixed price by a certain date. In this pack we serve 2-3 stock future intraday calls with 1 stop loss. So don't waste your time & join us right now.

Features

- 3-4 Future Market Calls on intraday basis with 3 target & 1 stop loss
- Free Trial
- SMS & Instant messenger facility
- Proper Follow Ups, news and updated Information.
- Daily & Weekly Newsletter Of Equity
- Equity Market News & updates
- 24*7 assistance
-

Pricing

- Monthly 10000/-
- Quarterly 25000/-
- Half-Yearly 37000/-
- Yearly 54000/-

c) *Option Call Put Tips*

The right to sell a security is called a 'Put Option' & buy is called the 'Call Option'. Trading in options is more complex than trading in cash, future or others shares. It tend

to good understanding of trading and investment practices. Our research team constant monitor of market fluctuations to protect against losses & provide you the good recommendation in Stock Option Call & put. You will get the best support in all of our services. For taking trial kindly fill the trial form.

Features

- 3-4 Option Market Calls on intraday basis with 3 target & 1 stop loss
- Free Trial
- SMS & Instant messenger facility
- Proper Follow Ups, news and updated Information.
- Daily & Weekly Newsletter Of Equity
- Equity Market News & updates
- 24*7 assistance

Pricing

- Monthly 8000/-
- Quarterly 20000/-
- Half-Yearly 34000/-
- Yearly 52000/-

d) **Nifty Future Tips**

Nifty & Bank Nifty deals in lots just like stock future. Some indices represent a certain segment or the overall market, thus helping track price movements. Our highly experienced market analysts offer reliable Nifty & Bank Nifty Future advices and recommendations with carrying out research based technical and fundamental analysis and track.

Features

- 1-2 Nifty Future Calls on intra-day basis with 3 target & 1 stop loss
- Free Trial
- SMS & Instant messenger facility
- Proper Follow Ups, news and updated Information.
- Daily & Weekly Newsletter Of Equity
- Equity Market News & updates
- 24*7 assistance

Pricing

- Monthly 8500/-
- Quarterly 21250/-
- Half-Yearly 36000/-
- Yearly 54000/-

e) **Base Metal Tips**

Base Metal & Energy This pack is designed for those who trade in aluminum, copper, lead, nickel, tin and zinc. A team of research analysts who are specialized in Metals track these highly volatile commodities. We offer free trial in this pack.

Features

- 2-3 base Metal Calls on intraday basis with 3 target & 1 stop loss
- Free Trial
- SMS & Instant messenger facility
- Proper Follow Ups, news and updated Information.
- Daily & Weekly Newsletter Of Commodity
- Commodity Market News & updates
- 24*7 assistance

Pricing

- Monthly 10000/-

- Quarterly 25000/-
- Half-Yearly 50000/-
- Yearly 100000/-

f) **ENERGY TIPS**

Our team keeps an eye on global market and correlates the Indian market with it, in this service you can get intraday trading calls in Energy like natural gas & crude oil. You will have proper follow up and support by our relationship manager.

Features

- 1-2 Calls on intraday basis with 3 target & 1 stop loss
- Free Trial
- SMS & Instant messenger facility
- Proper Follow Ups, news and updated Information.
- Daily & Weekly Newsletter Of Commodity
- Commodity Market News & updates
- 24*7 assistance

Pricing

- Monthly 10000/-
- Quarterly 25000/-
- Half-Yearly 50000/-
- Yearly 100000/-

g) **Bullion Tips**

Bullion market is all about to invest or trade in Precious metal like gold & silver, platinum or palladium. Many Big Traders deals in Bullion Market with our Silver and Gold trading tips. Our team keeps an eye on global market and correlates the Indian market with it, in this service you can get intraday trading calls in Commodity Bullions including Gold and Silver. Signup for our Silver & Gold Trading tips

Features

- 1-2 Calls on intraday basis in Bullion Market with 3 target & 1 stop loss
- Free Trial in Gold and Silver
- SMS & Instant messenger facility
- Proper Follow Ups, news and updated Information.
- Daily & Weekly Newsletter Of Commodity
- Commodity Market News & updates
- 24*7 assistance

Pricing

- Monthly 25000/-
- Quarterly 65000/-
- Half-Yearly 85000/-
- Yearly 150000/-

h) **NCDEX tips**

NCDEX is very big Commodity Exchange that is managed by on-line multi commodity exchange. Our qualified research team continuously keep their eyes on market fluctuation & give the best recommendation to those who trade in agri commodities like Castor seed, Dhaniya, Jeera, Chana, Guar seed, Soybean, Turmeric, Mustard seed, Guar gum, Wheat...etc.

Features

- 3-4 Calls on intraday basis with 3 target & 1 stop loss
- Free Trial
- SMS & Instant messenger facility
- Proper Follow Ups, news and updated Information.
- Daily & Weekly Newsletter Of Commodity
- Commodity Market News & updates

- 24*7 assistance
- Pricing
- Monthly 15000/-
 - Quarterly 37500/-
 - Half-Yearly 60000/-
 - Yearly 90000/-

I note that the Noticee has not contested above-mentioned details of the pricing of various services offered.

9. Further, the following testimonials were also published on the homepage of its website :

- a) *I am NCDEX trader and Traded in NCDEX market. I lost huge money in NCDEX market and does not get proper support in market. But then RMG Research give such advise me long lasting never ending relationship with market and i really appreciate their working strategy and analysis."..... Siddharth*
- b) *"My experience with RMG Research is just amazing. I am very happy with their calls & proper follow ups. I hope they will be able to always maintain their accuracy & services." Aakrati Chouhan*
- c) *"I am quite impressed with their services. I like their strategies & resistance, support levels. With this I am able to earn more profit with less funds.".....Nitin Ughade*
- d) *"I take HNI FUTURE TIPS I really got big profit. They had really nice person who well guide me at every step he promise me for best service and complete it i am rating this company at present 5 Star.".....Radhika Sharma*
- e) *"These people are giving complete Enter/Exit/Book Profit SMS of each and every call. Excellent Follow-up of every call recommended by RMG Research." Vishal*
- f) *"I am thankful to you for your valuable recommendations for my investment. RMG Research has superb knowledge on Stock Market, and you will also see it when you try them.".....Mukesh*

10. From the above declarations on the website www.rmgresearch.com and the testimonials of the clients, I find that client specific investment advice was being offered through this website. I also note that the said investment advisory services were being offered through the website www.rmgresearch.com in lieu of consideration which were being accepted through a link in the Easebuzz payment gateway. Based on the information submitted by the complainant, KYC and Account Opening Forms (AoF) with respect to the beneficiary of the website

www.rmgresearch.com were received from Easebuzz payment gateway. From the same, it is noted that the said paymnt gateway was connected to three bank accounts, one of which is ICICI Bank Account No. 004105501607. Easebuzz vide email dated August 08, 2019 provided the following details:

Name	RMG Research
Email	info.rmgresearch@gmail.com
Contact Number	9425754301
Bank Name	ICICI Bank
Branch Name	INDORE
Bank Info	UMESH MALVIYA
IFSC Code	ICIC0000041
Account Number	004105501607
Business Name	UMESH MALVIYA
PAN ID	DKTPM4870E

11. From the analysis of KYC, Account Opening Form and account statement submitted by ICICI Bank, it is noted as under:
 - a. RMG Trading is a proprietorship firm and Mr. Umesh Malviya is the proprietor.
 - b. Multiple credit transactions were made through Easebuzz Payment Gateway.
 - c. ICICI Bank account no. 004105501607 was opened on May 14, 2019. Total amount credited in the said bank account from May 18, 2019 to August 7, 2019 is Rs. 11,87,951.95.
12. Further, the total amount collected through Easebuzz payment gateway is Rs. 12,03,175/-. The Easebuzz payment gateway and ICICI bank Account, wherein consideration / advisory fees were paid, as informed by the complainant, have multiple credit transactions from various entities. Hence, it is inferred that the said bank account and Easebuzz payment gateway were used for receipt of fees from various entities for the purpose providing advisory services.
13. From the aforesaid facts, I find that Shri Umesh Malviya is the proprietor of RMG Research/ RMG Trading, was responsible for the activities of the proprietorship firms. I also note that Shri Umesh Malviya engaged in giving advice relating to

investing in, purchasing, selling or otherwise dealing in securities or investment products, through the website, www.rmgresearch.com in lieu of consideration. I note that if an entity is engaged in providing advice relating to investing in, purchasing, selling or otherwise dealing in securities or investment products, and advice on investment portfolio containing securities or investment products, whether written, oral or through any other means of communication for the benefit of the client in lieu of consideration, including entities which are holding themselves out as investment advisers, will be covered by the definition of "Investment Adviser" as given in Regulation 2(1)(m) of the IA Regulations, 2013. I find that the Noticee was offering investment advice in lieu of consideration through the website www.rmgresearch.com and therefore covered by the definition of "Investment Adviser" as given in Regulation 2(1)(m) of the IA Regulations, 2013. As noted above, the Noticee received Rs. 12,03,175/- through the payment gateway mentioned on the website for the investment advisory services provided by him.

14. I also note that, it is imperative that any person carrying out investment advisory activities must necessarily obtain registration from SEBI and conduct its activities in accordance with the provisions of SEBI Act, 1992 and Regulations framed thereunder. Section 12(1) of SEBI Act, 1992 reads as under:

"No stock broker, sub broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market shall buy, sell or deal in securities except under, and in accordance with, the conditions of a certificate of registration obtained from the Board in accordance with the regulations made under this Act."

15. It is relevant to note that in order to protect the interest of investors and to preserve the integrity of the securities market, IA Regulations, 2013 has been framed by SEBI which provide various safeguards to ensure that the interest of the investors who receive investment advice are protected. One such safeguard provided under the said Regulations is that any person carrying out investment advisory activities has to first obtain a certificate of registration from SEBI as mandated under regulation 3(1) of the IA Regulations, 2013, which, *inter alia*, provides that, no person shall act as an investment adviser or hold itself out as an investment adviser unless he has obtained a certificate of registration from SEBI and it has to conduct its activities in accordance with the provisions of IA Regulations, 2013. Further safeguards

provided under IA Regulations, 2013 include continued minimum professional qualification and compliance with net-worth requirement for acting as an investment adviser, prior disclosure of all conflicts of interest, prohibition on entering into transactions which are contrary to advice given to the clients at least for 15 days from the date of giving advice to the clients, mandatory risk profiling of investors, maintaining documented process for selecting investment products for clients based on client's investment objective and risk profile and understanding of the nature and risks of products or assets selected for such client, etc.

16. I note that for seeking a certificate of registration for acting as an investment adviser, an entity is required to satisfy *inter alia* the following requirements, as provided under IA Regulations, 2013:

- (i) An application for seeking certificate of registration to be made to Local Office, Regional Office or Head Office, of SEBI, as the case may be, in Form A as specified in the First Schedule to IA Regulations, 2013 alongwith requisite non-refundable application fee;
- (ii) The applicant, in case of an individual investment adviser or its principal officer in case of a non-individual investment adviser shall be appropriately qualified and certified as under:
 - a. A professional qualification or post-graduate degree or post graduate diploma (minimum two years in duration) in finance, accountancy, business management, commerce, economics, capital market, banking, insurance or actuarial science from a university or an institution recognized by the Central Government or any State Government or a recognised foreign university or institution or association or a professional qualification by completing a Post Graduate Program in the Securities Market (Investment Advisory) from NISM of a duration not less than one year or a professional qualification by obtaining a CFA Charter from the CFA Institute;
 - b. An experience of at least five years in activities relating to advice in financial products or securities or fund or asset or portfolio management;

- c. Applicant in case of individual investment adviser or its principal officer in case of a non-individual investment adviser, 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, from (a) NISM; or (b) 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.
 - (iii) Individual applicant must have net worth of not less than 5 lakh rupees and non-individual applicant must have net worth of not less than 50 lakh rupees.
17. The activities engaged in by the Noticee, as brought out from the various materials described above, seen in the backdrop of the aforesaid regulatory provisions show that the Noticee were acting as an Investment Adviser, although the Noticee were not registered with SEBI in the capacity of Investment Adviser. Hence, I find that these activities/ representations as were being made by the Noticee without holding the mandatory certificate of registration as investment adviser, are in violation of Section 12(1) of SEBI Act, 1992 read with regulation 3(1) of the IA Regulations, 2013.
18. The Noticee in his ICICI Bank account no. 004105501607, had received Rs. 11,87,951.95 during the period from May 18, 2019 to August 7, 2019 through unregistered investment advisory activities as observed above. Further, the complainant has also claimed that he had paid Rs. 4,25,000/- to the Noticee out of which the Noticee has refunded only Rs. 75000/-.

DIRECTIONS

19. In view of the foregoing, I, in exercise of the powers conferred upon me in terms Sections 11(4) and 11B read with of Section 19 of the SEBI Act, 1992, hereby direct that:

- a. The Noticee shall within a period of three months from the date of coming into force of this direction, jointly and severally, refund the money received from any complainants/ investors, as fees or consideration or in any other form, in respect of their unregistered investment advisory activities;
- b. The Noticee shall issue public notice in all editions of two National Dailies (one English and one Hindi) and in one local daily with wide circulation, detailing the modalities for refund, including the details of contact person such as names, addresses and contact details, within 15 days of coming into force of this direction;
- c. The repayments to the complainants/ investors shall be effected only through Bank Demand Draft or Pay Order or electronic fund transfer or through any other appropriate banking channels, which ensures audit trails to identify the beneficiaries of repayments;
- d. The Noticee is prevented from selling their assets, properties and holding of mutual funds/shares/securities held by him/it in demat and physical form except for the sole purpose of making the refunds as directed above. Further, the banks are directed to allow debit only for the purpose of making refunds to the clients/ investors/ complainants who were availing the investment advisory services from the Noticee, as directed in this order, from the bank accounts of the Noticee;
- e. After completing the aforesaid repayments, within a period of 15 days, the Noticee shall file a report of such completion with SEBI addressed to the Division Chief, CIS Division, Investment Management Department, SEBI Bhavan, Plot No. C4 A, G Block, Bandra Kurla Complex, Bandra (East) Mumbai –400051, duly certified by an independent Chartered Accountant and the direction at para 19(d) above shall cease to operate upon filing of such report on completion of refunds to complainants/ investors;

- f. The Noticee is debarred from accessing the securities market, directly or indirectly and are prohibited from buying, selling or otherwise dealing in the securities market, directly or indirectly in any manner whatsoever, for a period of 6 months from the date of this order or till the expiry of 6 months from the date of completion of refunds to complainants/ investors as directed in para 19(a) above, whichever is later;
- g. The Noticee shall not undertake, either during or after the expiry of the period of debarment/restraint as mentioned in para 19(f) above, either directly or indirectly, investment advisory services or any activity in the securities market without obtaining a certificate of registration from SEBI as required under the securities laws.
- h. The direction for refund, as given in para 19(a) above, does not preclude the clients/investors to pursue the other legal remedies available to them under any other law, against the Noticee for refund of money or deficiency in service before any appropriate forum of competent jurisdiction.

20. This order comes into force with immediate effect.

21. A copy of this order shall be sent to the Noticee, recognized Stock Exchanges, the relevant banks, Depositories and Registrar and Transfer Agents of Mutual Funds to ensure that the directions given above are strictly complied with.

Date: August 29, 2022

Place: Mumbai

ANANTA BARUA

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA