



भारतीय प्रतिभूति
और विनिमय बोर्ड
Securities and Exchange
Board of India

SPAD

**General Manager
Enforcement Department-I
Division of Regulatory Action-III**
Email: medhas@sebi.gov.in

SEBI/HO/EFD1/DRA3/P/OW/2023/40785/1
September 26, 2023

Future Investment (Proprietor : Pinky Kelva)
301, Laxmi Tower,
Mahatma Gandhi Road, South Tukoganj,
Indore,
Madhya Pradesh-452001

Madam/Sir,

Sub:- Personal Hearing in the matter of Future Investment (Proprietor: Pinky Kelva)

Ref:- SCN No. SEBI/HO/EFD1/DRA3/P/OW/2023/27703/1 dt. 10.07.2023

1. Your attention is drawn to the Show Cause Notice No. SEBI/HO/EFD1/DRA3/P/OW/2023/27703/1 dt. 10.07.2023 issued in the captioned matter. Copy of the SCN alongwith the enquiry report dt.23.06.2023 is enclosed herewith.
2. In this connection, I am directed to inform that an opportunity of Personal Hearing through video conferencing has been granted to you by **Shri Ananth Narayan Gopalakrishnan, WTM-SEBI** which is scheduled on **02.11.2023 at 02.30 pm.**
3. You or your authorised representative are/ is advised to remain present for the said hearing. The weblink for the video conferencing would be sent to you in due course. Please note that in case you fail to appear before the Whole Time Member on the said date, it shall be presumed that you have nothing more to state in the matter and the matter will be proceeded with on the basis of material available on record.
4. You are also advised to confirm your attendance in writing to the below mentioned address and also by an e-mail to **medhas@sebi.gov.in** and **srinivas@sebi.gov.in** providing the name (s) of the person (s) who will be attending the Personal Hearing, along with their contact details and email id.

Medha Sonparote

Medha Sonparote



SPAD

**भारतीय प्रतिभूति
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Securities and Exchange
Board of India**

**General Manager
Enforcement Department-I**

SEBI/HO/EFD1/DRA3/P/OW/2023/21703/1
July 10, 2023

Future Investment (Proprietor: Pinky Kelva)

301, Laxmi Tower,
Mahatma Gandhi Road,
South Tukoganj,
Indore, Madhya Pradesh 452001

Madam/Sir,

Sub:- Show Cause Notice under Regulation 27(1) of the SEBI (Intermediaries) Regulations, 2008 in the Enquiry Proceedings conducted in respect of Future Investment (Proprietor: Pinky Kelva).

1. The Designated Authority ('DA') has submitted an Enquiry Report dated 23.06.2023 (copy enclosed), in respect of the enquiry conducted against you. The DA, vide the said Enquiry Report, has recommended that the certificate of registration of the Noticee i.e. INA000008242 be cancelled.
2. You are hereby called upon to show cause as to why action as recommended by the DA, or any other action in terms of the SEBI (Intermediaries) Regulations, 2008, as deemed fit by the Competent Authority, should not be taken against you.
3. Your reply to this show cause notice, along with documents that you may choose to rely upon in support of your reply, if any, should reach SEBI at the address given below, **within 21 days of receipt of this notice**, failing which it shall be presumed that you have no reply to submit and SEBI shall proceed in the matter as it deems fit. You are advised to indicate in your reply if you would like to avail of an opportunity of personal hearing before the Competent Authority.

Medha Sonparote

Medha Sonparote

Encl: Copy of the enquiry report dated 23.06.2023.

BEFORE THE DESIGNATED AUTHORITY**Report No. ENQ/BM/JR/2023-24/27728****Report under regulation 26 of the Securities and Exchange Board of India
(Intermediaries) Regulations, 2008****In respect of:****Future Investment (Prop: Pinky Kelva)****(PAN: ECYPK7182R)****SEBI Regn. No. INA000008242****In the matter of Future Investment****BACKGROUND**

1. Securities and Exchange Board of India (hereinafter referred to as 'SEBI') conducted preliminary examination of Future Investment (hereinafter referred to as "Noticee"/"FI") on the basis of complaints received in SCORES. The preliminary examination entailed *inter alia* an analysis of SCORES complaints, information available on the website of FI, products-list, call recordings etc. and to find out the possible violations of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "SEBI Act"), Securities and Exchange Board of India (Investment Advisers) Regulations, 2013 (hereinafter referred to as "IA Regulations"), Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to the Securities Market) Regulations, 2003 (hereinafter referred to as "PFUTP Regulations") and SEBI circular. Pursuant to the preliminary examination an ad interim ex-parte order dated September 29, 2020 was passed against Pinky Kelva, proprietor of FI, inter alia, restraining from buying, selling or dealing in securities till further orders and cease and desist from undertaking any activity in the securities market. Further vide order dated June 3, 2021, the directions issued vide ex-parte order ad interim order against Pinky Kelva was confirmed. It was stated, inter alia, in the order, *"In view of the foregoing paragraphs, pending conclusion of enquiry, I, in exercise of the powers conferred upon me in terms of Section 19 of the SEBI Act, 1992, read with Sections 11, 11B and 11D thereof, hereby confirm the directions issued vide ex-parte ad interim order dated September 29, 2020, against Ms. Pinky Kelva, Proprietor of M/s. Future Investment"*. Subsequently, further examination was carried out in the matter and enquiry proceedings under Securities



and Exchange Board of India (Intermediaries) Regulations, 2008 (hereinafter referred to as "Intermediaries Regulations") was initiated.

2. The extracts of violations alleged to have been committed by the Noticee and the corresponding provisions of SEBI Act, IA Regulations and PFUTP Regulations are tabulated below:

Sr. No.	Alleged Violations	Regulatory Provisions
1.	Promised assured high returns from securities market and lured clients to make bigger investments.	- Regulations 15(1) of IA Regulations - Clauses 1 and 2 of Code of Conduct as mentioned in Schedule III read with regulation 15(9) of IA Regulations - Regulations 3 (a), (b), (c), (d) of the PFUTP Regulations, 2003 read with section 12A(a), (b) and (c) of SEBI Act.
2.	Unfair dealings with clients such as not disclosing all the fees upfront, extracting more money from clients under different pretexts such as GST, differential amount etc.	- Regulations 15(1) of IA Regulations - Clauses 1, 2, 5 and 6 of Code of Conduct as mentioned in Schedule III read with regulation 15(9) of IA Regulations - Regulations 3 (a), (b), (c), (d) and 4(1) and 4(2)(o) of the PFUTP Regulations, 2003 read with section 12A(a), (b) and (c) of SEBI Act.
3.	Selling multiple service packages to maximize service fees; selling new service even though service period of old service is not over.	- Regulations 15(1) of IA Regulations - Clauses 1, 2 and 6 of Code of Conduct as mentioned in Schedule III read with regulation 15(9) of IA Regulations - Regulations 3 (a), (b), (c), (d) and 4(1) and 4(2)(s) of the PFUTP Regulations, 2003 read with section 12A(a), (b) and (c) of SEBI Act.



4.	Did not provide advice in line with risk profile of the clients. Did not select investments based on the client's investment objectives and financial situation. Not communicating risk profiling forms to clients.	- Regulations 15(1), 17(a), 17(b), 17(d), 17(e) of IA Regulations - Clauses 1, 2 and 6 of Code of Conduct as mentioned in Schedule III read with regulation 15(9) of IA Regulations - Regulations 3 (a), (b), (c), (d) of the PFUTP Regulations, 2003 read with section 12A(a), (b) and (c) of SEBI Act.
5.	Obtained login credentials of client's trading/ demat account with intention of trading on behalf of client.	- Regulations 15(1) and 15(3) of IA Regulations - clause 1 of Code of Conduct as mentioned in Schedule III read with regulation 15 (9) of IA Regulations
6.	Not resolving client's grievances as per prescribed timelines.	SEBI Circular CIR/OIAE/2014 dated December 18, 2014 and regulation 21 of IA Regulations

APPOINTMENT OF DESIGNATED AUTHORITY

3. The undersigned was appointed as Designated Authority (DA) under Regulation 24(2) of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008, (hereinafter referred to as **SEBI Intermediaries Regulations**) vide Order dated February 22, 2023 to enquire into the alleged violations of the provisions of the IA Regulations and PFUTP Regulations by Future Investment {Proprietor: Pinky Kelva} (hereinafter referred to as "**Noticee**"/ "**FI**") and submit the Report in compliance with Regulations 25 and 26 of Intermediaries Regulations, 2008.

SHOW CAUSE NOTICE, REPLY OF THE NOTICEE AND HEARING

4. Show Cause Notice No. SEBI/EAD-3/BM/JR/11183/1/2023 dated March 16, 2023 (hereinafter referred to as "**SCN**") was issued to the Noticee in terms of regulation 25(1) of SEBI Intermediaries Regulations to show cause as to why appropriate recommendation should not be made against it in terms of regulation 26 of the Intermediaries Regulations for the violations alleged to have been committed by the Noticee.



5. The SCN was issued at the last known addresses of Noticee through Speed Post Acknowledgment Due (SPAD) which was returned Undelivered. SCN was also sent through Digitally Signed E-mail to the email id available with SEBI which was duly delivered. However, Noticee did not file any reply to the SCNs. Hearing opportunities were also given to the Noticee. Vide hearing Notice dated May 2, 2023 Noticee was advised to appear for hearing on May 22, 2023. The notice was delivered through digitally signed email dated May 3, 2023, the delivery of which is on record. Second opportunity of personal hearing was given to Noticee on June 5, 2023 vide email dated May 26, 2023 which was also delivered. However Noticee failed to appear on the scheduled date.
6. I note that sufficient opportunities have been provided to the Noticee to represent its case by way of reply to the SCN and also by way of personal hearing. However, it is a matter of record that Noticee failed to furnish its reply and also failed to appear for the personal hearing fixed on the stipulated date despite the service of the SCN through newspaper publication. Therefore, In the absence of reply from the Noticee and/or its failure to make personal appearance, I am inclined to presume that the Noticee has nothing to offer in its defence and therefore, it has admitted to the allegations levelled against him in the SCN. In this context, Hon'ble SAT in the matter of Sanjay Kumar Tayal vs SEBI, vide Order dated February 11, 2014 held that *"appellants have neither filed reply to show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted to the charges levelled against them in the show cause notice"*. In view of the foregoing, I am compelled to proceed ex-parte in the matter against Noticee.

EXAMINATION OF ISSUES AND FINDINGS

7. Before proceeding further, it is pertinent to note that the Noticee has been alleged to have violated the following provisions:
- a) Regulation 15(1), 15(3), 16(e), 17(a), 17(b), 17(d), 17(e) of IA Regulations, clauses 1, 2, 5 and 6 of Code of Conduct as mentioned in Schedule III read with regulation 15(9) of IA Regulations.



b) Regulations 3(a), (b), (c), (d), 4(1), 4(2)(o) and 4(2)(s) of PFUTP Regulations read with section 12A(a), (b) and (c) of SEBI Act.

c) SEBI Circular CIR/OIAE/2014 dated December 18, 2014 and regulation 21(1) of IA Regulations.

8. The relevant provisions of law are reproduced below:

SEBI Act, 1992

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;

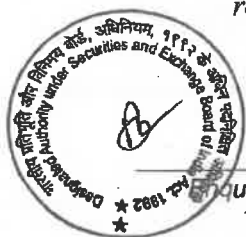
PFUTP Regulations:

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.

4. Prohibition of manipulative, fraudulent and unfair trade practices

(1) Without prejudice to the provisions of regulation 3, no person shall indulge in a manipulative, fraudulent or an unfair trade practice in securities markets.

(2) Dealing in securities shall be deemed to be a manipulative fraudulent or an unfair trade practice if it involves any of the following:-

(o) fraudulent inducement of any person by a market participant to deal in securities with the objective of enhancing his brokerage or commission or income

(s) mis-selling of securities or services relating to securities market

1A Regulations

15. General responsibility

(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.

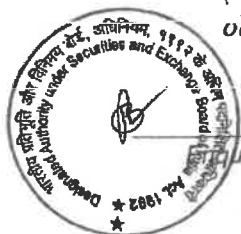
16. Risk Profiling

(e) risk profile of the client is communicated to the client after risk assessment is done.

17. Investment adviser shall ensure that,-

(a) All investments on which investment advice is provided is appropriate to the risk profile of the client;

(b) It has a documented process for selecting investments based on client's investment objectives and financial situation;



(d) It has a reasonable basis for believing that a recommendation or transaction entered

into:

- (i) meets the client's investment objectives;
- (ii) is such that the client is able to bear any related investment risks consistent with its investment objectives and risk tolerance;
- (iii) is such that the client has the necessary experience and knowledge to understand the risks involved in the transaction.

(e) Whenever a recommendation is given to a client to purchase of a particular complex financial product, such recommendation or advice is based upon a reasonable assessment that the structure and risk reward profile of financial product is consistent with clients experience, knowledge, investment objectives, risk appetite and capacity for absorbing loss.

15(9) An investment adviser shall abide by Code of Conduct as specified in Third Schedule.

1. Honesty and fairness

An investment adviser shall act honestly, fairly and in the best interests of its clients and in the integrity of the market.

2. Diligence

An investment adviser shall act with due skill, care and diligence in the best interests of its clients and shall ensure that its advice is offered after thorough analysis and taking into account available alternatives.

5. Information to its clients

An investment adviser shall make adequate disclosures of relevant material information While dealing with its clients.

6. Fair and reasonable charges

An investment adviser advising a client may charge fees, subject to any ceiling as may be specified by the Board. The investment adviser shall ensure that fees charged to the clients is fair and reasonable.

21. Redressal of client grievances

(1) An investment adviser shall redress client grievances promptly.

Findings:

Quiry report in the matter of Future Investment (Prop. Pinky Kelva)



9. I will now proceed with my findings on the violations alleged against the Noticee on the basis of the records available:

10. I observe that SEBI has been receiving a number of complaints against FI since 2017. Till January 31, 2020, total 80 complaints was received against FI in SCORES portal. After excluding duplicate/ multiple complaints, the number of unique complaints (by unique complainant) received against FI are as under:

Year	Complaints from investors	Complaints pending
2017	1	0
2018	16	0
2019	30	3
2020	3	3
Total	50	6

i. Promising Assured / Guaranteed Returns to its Client

11. On examination of complaints, it was alleged that FI was promising assured profit / unrealistic returns on the investment made by the clients and luring them to avail its services. It was alleged that the high returns were promised to the clients knowing fully well that investment in equity, equity derivatives, commodity and currency security is subject to market risk. Further, FI has allegedly shown complete disregard to the responsibility entrusted on her under IA Regulation to act in fiduciary capacity to its client.

12. It was further alleged that FI, while knowing very well that the investment by clients based on the advice given by IA, is subject to market risk, has promised assured / guaranteed returns / profits to its clients on the investments made by the clients. This act of assuring returns which are unrealistic is, fraudulent and appears to have been done with an intention to bring in more customers and thereby increasing the income of the Investment Adviser.

13. Thus, FI has, allegedly violated the provisions of Regulation 3 (a), (b), (c), (d) of PFUTP Regulations read with section 12A(a), (b) and (c) of SEBI Act.



14. The said conduct shows that FI acted in a dishonest manner and did not act in the best interest of the clients. In view of the above, it is alleged that FI failed in its responsibility to act in fiduciary capacity to its clients which is entrusted upon her under regulation 15 (1) of IA Regulations. Further, FI has violated clauses 1 and 2 of Code of Conduct as mentioned in Schedule III read with regulation 15 (9) of IA Regulations. Thus, FI has, allegedly violated regulation 15(1), clauses 1 and 2 of Code of Conduct as mentioned in Schedule III read with regulation 15(9) of IA Regulations.

Observations:

15. I note the following correspondence of the Noticee with its clients:

- i) Mr. Vikash Pushkar filed a complaint in SCORES SEBIE/MP19/0000497/1 on January 25, 2019 stating that FI assured him to double of his investment and took Rs.9 lacs from him towards service charges. He had further submitted an email dated July 16, 2018 received from support@futureinvestments.in wherein it is stated that –

" We are looking forward to provide you a big opportunity to branch out and make bigger money.

.....

As per your discussion with your subordinates the details of your services are given below-

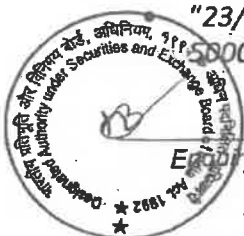
Equity Blaze

Service amount	Net payable	Duration (1+1)	Registration charge	Net Return
4,50,000/-	4,50,000/-	60 days	75,000/-	10,00,000/-

- ii) Another client, Mr. Raghava Kalva, filed a complaint in SCORES SEBI/EMP19/0001766/1 on July 18, 2019. Vide email dated October 21, 2019, he had furnished a Whatsapp chat between him and FI employee named as Risabh. The relevant extract of transcript of such chat is placed below:

"23/04/19, 3:23 pm – raghava: I have 10000 you told me that I can make from 30000 to 50000 a month

23/04/19, 3:23 pm – raghava: Did you?



23/04/19, 3:23 pm – Future Investment: Yes sir”

- “23/04/19, 3:26 pm – Future Investment: Yesterday my paid client got 53k profit in bank nifty with just investment of 12k

23/04/19, 3:28 pm – Future Investment: Sir don’t worry about profit. That is my task, and I will surely provide you promised profits.”

- “13/05/19, 9:52 am – Future Investment: Minimum 5000 is required for registration.
13/05/19, 9:52 am – Future Investment: That will be recover in 2 sessions.”

- “25/06/19, 2:03 pm – Future Investment: Update me as soon as you receive service id
25/06/19, 2:06 pm – raghava: Dear Raghav, Congratulations for your service allocation in the services of jobbers cash of 1.50 lakh for the approx. suggested return of 4.50 lakh during your service. Your service id-raghWITG@71919 will be valid for your services.”

- 28/06/19, 7:29 pm – raghava: Are you sure about the returns
28/06/19, 7:30 pm – Future Investment: Sir then last time arrange 14k more for tomorrow and I promise I will recover amount within 15 days.”

iii) Further, Mr. Rajib Debnath in his complaint in Prime Minister Office on November 16, 2019 had stated that FI had assured him profit of Rs.6 lac within 1 and half month. Mr. Debnath, vide email dated November 29, 2019, had furnished audio recording between Mr. Rajib Debnath and FI employee Ms Pooja and Mr. Manish Prajapati -

- 10:57 “FI: Mein aapko yaha se mail dalva deta hu, theek hain, ki uske baad aapko amount kuch bhi nahi karna hain services theek hain, leekhit mein aapko mil jayega, yeh amount aap complete karvayiye, kal se apan kaam start karvata hu sir, teen working session mujhe dijiye, teen working session mein aapka 70 – 75 % tak ka amount market se recover karva ke deta hu. Ek accha return mere taraf se milega, iske liye mein baitha hu”
- 11:42 “FI: Aaj ki date mein 4500 rupaye ka investment lag raha tha, ek laakh ka profit diya sir, aaj aap yes se humne kaarvaya tha, theek hain”
- 19:38 “Client: Oos profile pe likha hain ke meri 10000 ki capacity hain, aur 10000 wala banda 50000 pe chala gaya, toh mein kaha se laoonga, ma’am, jab tak mujhe profit nahi dilwaooge mein kaha se paise pura karu.

FI: Sir, profit ke liye kaha kar rahi hu mana aapko, profit ke liye sir ek din mein ek lakh bhi aapka nikalva denge.”



- iv) Further, Rajib Debnath has provided a copy of sms sent by FI to him on October 31, 2019 @4:19 pm stating as follows:

"Dear Sir,

This is inform you that you will be make the payment of INR 45,750/- and after the remaining amount INR 45,750 you have profits of INR 1.5 LKH.

Regards, Future Investment."

- v) A separate client, Mr. Shailendra Pal in his complaint in SCORES on April 08, 2019 (complaint no. SEBIP/MP19/2019/0000193/1) stated that FI asked to pay Rs.5100/- towards registration and buy shares of Rs.50000/- and he will get profit of Rs.1.50 lac to Rs.1.75 lac within 2 to 3 years. He has submitted the copies of messages received from FI in SCORES.
- *"Dear Shailendra, This is to intimate you that kindly complete your allocation with the amount of INR 13,000/- after this allocation your profit is INR 35000-40000 approximately as per the market condition till 28th Dec. WWW.FUTUREINVESTMENTS.IN"*
 - *"Dear Shailendra, This is to intimate you that your service has been shifted in INR 75,000 of stock cash services. Kindly complete your tax amount of INR 13,500/-. After this amount your profit is approximately 25000 today as per the market condition. WWW.FUTUREINVESTMENTS.IN"*

16. It is observed that the Noticee has not made any submissions to the allegations made against it. It is further observed from the above that the employees of the Noticee provided tips/ tele-messages pertaining to products of different segments of securities market viz. equity cash segment, equity futures segment, stock derivatives, index derivatives, commodity derivatives, etc., which are traded on the exchange platform. The performance/ return / profits on investment in such securities cannot be predicted and is subject to market risk. From the email / whatsapp chat / audio recording conversation made by the employees of the Noticee with clients, it is observed that it was giving assurance regarding earning unrealistic returns from securities markets to clients and luring them to buy services.



17. It is a well-known fact that returns / profit on investments in stocks/ products in equity derivatives, currency derivatives and commodity derivatives are subject to market risk. The conduct of the Noticee of promising assured returns / profits is an active concealment of the material fact that every investment in the market is subject to market risk and any investment made by the client can also run into losses and even become zero. Thus, by not disclosing this material aspect, the Noticee acted in a deceitful manner and has misled its clients.

18. Investment in Exchange traded securities are subject to market risk and hence the returns are unpredictable. Being a registered IA, the Noticee was aware of the above and was accordingly expected to take due care in its communication with its clients and should have refrained from such communication which is misleading and may influence decision of investors. However, from, the above instances, it is clear that the Noticee was, in its communications with clients, promising assured returns / profits to its clients. Such promises are misleading and fraudulent and was made to influence the decision of the investors to deal in securities. Therefore, I find that the Noticee has violated 3 (a), (b), (c), (d) of PFUTP Regulations read with section 12A(a), (b) and (c) of SEBI Act.

19. Regulation 15(1) of the IA Regulations states that an IA shall act in fiduciary capacity towards its clients and regulation 15(9) provides that IA shall abide with Code of Conduct. Clauses 1 and 2 of Code of Conduct directs an IA to act honestly with skill, care and diligence keeping the best interests of its clients. However, by promising high returns to its clients and concealing material facts, the Noticee has acted dishonestly and has violated Regulations 15(1) of IA Regulations and clauses 1 and 2 of Code of Conduct as mentioned in Schedule III read with regulation 15(9) of IA Regulations

ii. **Unfair Dealings with Clients and Extorting More Money Under Different Pretexts**

20. From the analysis of the SCORES complaints and supporting documents obtained from the complainants, it was alleged that the Noticee did not disclose all the fees upfront. It asked clients to start the advisory services by paying fees of around Rs.5000/- to Rs.7000/- and pay the balance amount of fees from the profits that



the clients would earn by trading on the basis of advices received from the Noticee. After a client pays the initial amount and incurs loss in the market, then, the Noticee gradually demanded more amount in the name of recouping losses incurred by the clients. Apart from the additional amount, the Noticee gradually asked clients to pay for taxes, GST, RPM charges, etc. If a client refused to pay more service charges then FI threatened him to forfeit the amount already paid citing no refund policy of the firm. Being a registered investment adviser the Noticee should first do financial planning and risk profiling and based on the financial and risk profile of the client, advisory services should be suggested with applicable service charges. However, it is observed that the Noticee was not acting in the professional manner and without undertaking financial planning, it first allegedly lured clients by promising profits and then gradually demanded service charges. From the above, it was alleged that the Noticee was acting in such a manner with an objective to maximize fees and keeping its own interest ahead of its clients' interest.

21. In view of the above, it was alleged that the Noticee 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 clauses 1, 2, 5 and 6 of Code of Conduct as mentioned in Schedule III read with regulation 15(9) of IA Regulations.

22. Further, the above act of FI was allegedly done with the purpose of generating more and more service fees (income) for the Noticee by defrauding its clients. The Noticee had allegedly violated regulations 3 (a), (b), (c), (d) and 4(1) and 4(2)(o) of the PFUTP Regulations read with section 12A(a), (b) and (c) of SEBI Act.

Observation:

23. I note that the Noticee has not made any submission to the allegation levelled against it. I further note that there are complaints filed in SCORES in regard to the conduct of the Noticee. Mr. Rajib Debnath in his complaint No. SEBIE/MP19/0002827/1 dated October 31, 2019 had alleged that the Noticee first called him on October 24, 2019 and was told by paying registration fees of Rs. 4,000/- only, he would get service related to stock market i.e. which stock to buy and sell. He was told that he would be given profit of at least Rs. 6 lakh within a month and a half. When he registered by paying Rs. 4,000/, the Noticee asked him



to pay Rs. 13,750/- more to create a profile. If he did not pay, he would not get any services and Rs. 4,000/- paid by him would not be refunded. After paying Rs. 13,750/- he was once again asked to pay Rs. 13,750/- more. Mr. Debnath was again informed that he would not get any service and the amount Rs. 17,750/- would not be returned back. After paying Rs. 13,750/-, he again paid Rs. 27,000/- in the name of GST. After that he was asked to pay Rs.45,750/- more.

24. I further note that vide email dated November 29, 2019 Mr. Rajib Debnath provided an audio recording (22.24 minutes) between Mr. Rajib Debnath and employee of the Noticee, viz., Ms. Pooja, which clearly showed that the Noticee was pressurizing the client to pay more to start the services.

@7:21 minutes **Future Investment (Ms.Pooja):** apne mujhe total jo diya hain woh 58,500 diya hain,

Client: Sun toh lo meri story toh, sun toh lo,

Future Investment: theek hain, toh 58,500 cchhod de kya apan, yeh bataiye.

Client: Sir, mere pass hain hi nahi, sir mein, mere pass, suno toh baat

Future Investment: Sir, maan raha hu, maan raha hu, prepaid kar bhi to kar sakte hain

Client: Mein prepaid 10000 mein hu, ek aadmi prepaid 10000 mein hain, 10000 se udke paanch guna, 50000 mein chala gaya, who toh kahi se laaya na paisa, app logo ke upar trust kar ke.

Future Investment: Mein samajhta hu Sir Acha yeh 50000 - 60000 jo mujhe diya hain who chala jayega aapka, services nahi melegi."

@11.04 minutes **Future Investment (Mr. Manish Prajapati):** Ye amount aap complete karvayiye, kal se mai aapka kaam start karvata hu sir, 3 working session muze dijiye, 3 working session me aapka 70 to 75% amount main market se recover karva ked eta hun."

25. It is observed that throughout the audio recording, client was pleading that he didn't have money to pay additional service charges and urging to complete the promise



of profit but FI employee was continuously demanding more money by saying that if not paid then services would be stopped and amount paid would be forfeited.

26. Another client Mr. Raghava Kalva filed complaint in SCORES against FI vide complaint no. SEBIE/MP19/0001766/1 dated July 18, 2019 wherein he had mentioned that the Noticee was asking more and more money continuously by threatening that if additional amount is not paid then the amount paid earlier would be forfeited. The whatsapp communication with FI employee submitted by him is reproduced below:

"27.06.19, 1.20 pm – Future Investment: If today you don't pay, the result will be lost of 80k of services and 4.5 lacs of profits.

27.06.19, 1:20 pm – raghava: I would pay, if I have

27.06.19, 1:21 pm – raghava: I payed what ever I have

27.06.19, 1:21 pm – Future Investment: Then arrange for it

.....

27.06.19, 1:22 pm – raghava: I took it from my father

27.06.19, 1:22 pm – raghava: You know I struggle to pay 5k

27.06.19, 1:22 pm – Future Investment: So took more and say them that you will pay after 15 days.

.....

27.06.19, 4:17 pm – Future Investment: Ask your parents for last time. tomorrow fresh contract are opening in bank nifty so you can earn upto 5k.

29.06.19, 12:36 pm – raghava: I will pay after a 5fsys

29.06.19, 12:37 pm – raghava: Days

29.06.19, 12:37 pm – future Investment: and make the excuse of amount. I am just asking for 13570 only

29.06.19, 12:37 pm – future Investment: No.. today you have

29.06.19, 12:38 pm – future Investment: before 2.30

29.06.19, 12:40 pm – raghava: Don't be money minded. You know how much I have paid and how much you asked in the starting. I more then you have asked. I don't have man



 29.06.19, 12:40 pm – raghava: I know you are fraud. You ask for more money

29.06.19, 12:40 pm – raghava: I paid more then you have asked

29.06.19, 12:41 pm – future Investment: okay then leave

29.06.19, 12:41 pm – raghava: pay my money back

 29.06.19, 12:42 pm – future Investment: Non refundable policy

29.06.19, 12:42 pm – raghava: What you did not say all this before.”

27. Further, it is noted that Mr. Rajeev B. had filed complaint in SCORES against the Noticee vide complaint no. SEBI/MP19/0001667/1 on July 07, 2019 wherein he had mentioned that he had paid Rs.5000/- to the Noticee as registration fees and also Rs.32000/- towards advance amount. However, the Noticee later informed to client that it had increased advance amount and hence client had to pay balance Rs.11000/-. Afterwards, the Noticee demanded Rs.44000/- to generate service id. After making payment of Rs.44000/- without fulfilling the requirement of KYC, the Noticee demanded Rs.72000/- towards GST. After that client requested for refund of entire amount paid but the Noticee informed him that his profile is cancelled due to non-payment of GST. He had submitted whatsapp communication in support of his complaint. Some of the communications extracts are given below:

“Rajeev B: Mail was sent to me not clearing my queries.

FI (Shruti): U have to pay service amount remaining from profit that I will mail u. Tax u have to clear now. After 72000 u have to pay after profit only.

FI (Shruti): There is no refund policy.

Rajeev B: Okay. You can deliver the same statement to SEBI, NSE, BSE, Indore Police and other Competent Authorities.

FI (Shruti): Sebi donot ask for refund if client is denying to take service ok

 Rajeev B: Also without signing the service contract how could I start working?

 Rajeev B: It was your responsibility to inform me before starting the things



FI (Shruti): Ok no problem.. I will tell the tax department that u r not interested and your time is wasted.. so kindly block your service.

Rajeev B: Also nobody had informed me about the huge service tax

FI (Balwant Sharma): Nothing next

Rajeev B: You are delaying without disclosing entire things

FI (Balwant Sharma): Leave it

FI (Balwant Sharma): I am leaving ur profile..now time is very important.

FI (Balwant Sharma): Profile canceled.

Rajeev B: Dear I have clearly informed you after making more than the necessary payments to you, you have declined my profile by stating that I need to pay GST 72000/- which had not informed earlier. I got a valid information from your side that due to no payment of GST, you have cancelled my profile.

FI (Yamini): sir we did not said it official

Rajeev B: what do you mean? Message received from official who is using office number is not an official message?

FI (Yamini): message is not count in official....

Rajeev B: Based on the messages over whatsapp only I remitted money

Rajeev B: I have been continuously requesting you to repay my money but I don't get any kind of response from your side. As you have denied to accept the whatsapp messages as official messages, how could a customer trust and invest in Indian Share Market?"

28. It is observed from the above communication that the Noticee was asking the client to make payment of fees from the amount of profit that he would earn by trading



on the basis of tips received from the Noticee. Further, the Noticee was extracting additional money of Rs.72000/- from client towards GST and not giving explanations to the queries raised by the client in this regard and instead threatening the client that if additional amount is not paid then earlier amount would be forfeited. Further, the Noticee was denying the refund even after the client did not want to avail the services. Though the Noticee was making communication with client on whatsapp for selling services and demanding service charges, it was refusing to treat the communication as official communication leaving client in the lurch.

29. From the above, it is observed that the Noticee did not disclose the fee structure completely to the clients. The charges for service tax and GST were not disclosed to the client upfront by the Noticee. The Noticee tried to extract more money from clients under different pretexts such as GST, differential amount, creation of service id fees etc. It is further observed that if the client refused to pay additional service charges, the Noticee threatened the client about forfeiture of amount paid earlier. Moreover, when the client was trying to approach the IA with respect to his refund, the IA did not respond to his communications.

30. As a SEBI registered intermediary, it is the duty of the Noticee to abide by the Code and Conduct and act with honesty and fairness, exercising proper due diligence, giving complete information to the clients and charging reasonable fees. From the above paragraphs it is clear that the Noticee failed to do so. The Noticee first took its clients on-board for a particular service for an initial amount without disclosing all the charges / amounts which would be levied on the clients subsequent to the subscription. Then in order to generate more and more service fees (income) for itself, the Noticee gradually demanded additional money on the pretext of either service tax or GST which if the client refused to pay, the Noticee threatened to cancel the client's profile or told the client that he will have to forfeit his profit. As a last resort when the client did not wish to avail the services of the Noticee, the Noticee refused to refund the money to the client citing its "no refund policy". The aforesaid scheme is employed by the Noticee to prima facie defraud its clients in connection with their dealings in the securities and maximise its revenue generation at their expense. Further, the act of the Noticee to actively conceal



material information upfront (additional charges) so as to induce the prospective clients to avail its services, operates as a fraud on its clients in connection with the dealings in the securities. In view of the above, I find that the Noticee violated regulations 3 (a), (b), (c), (d) and 4(1) and 4(2)(o) of the PFUTP Regulations read with section 12A(a), (b) and (c) of SEBI Act. Further, the Noticee was not acting in the best interest of its clients rather acting for its own interest and has violated regulation 15(1) of IA regulation and (b) failed to abide by clauses 1, 2, 5 and 6 of Code of Conduct as mentioned in Schedule III read with regulation 15(9) of IA Regulations.

iii. **Maximising its service fee by selling multiple service packages and Charging Advisory fees before expiry of tenure of existing service/Collecting multiple payments in short period/Improper Service and selling of Advisory services with Unethical intents**

31. It was alleged that the Noticee had lured its clients to buy/subscribe multiple packages. It was noted that the Noticee had sold newer services / products to its clients even though the subscription period for products earlier bought by the client was not yet over. It could be observed from the products list of the Noticee that in most of the products there is no difference in features of the products but just nomenclature has been changed and fees of the products are different.

32. Eg. Product Equity Future and Jobbers Future has same features such as "In this service we will given a 2-3 calls per day with 3 targets and 1 stop loss." However, the fees of Equity Future product is Rs.12000/- p.m. and Jobbers Future is Rs.60000/- p.m. Similarly other examples are given below:

Sr. No.	Product Name	Risk category	Features	Fees (Rs.)
1	Equity Future Jobbers Future	High	In this service we will given a 2-3 calls per day with 3 targets and 1 stop loss.	12000/- p.m. 60000/- p.m.
2	Equity Option Jobbers Option	High	In this service we will given a 2-3 calls per day with 3 targets and 1 stop loss.	10000/- p.m. 30000/- p.m.

33. Further, there were 21 products of the Noticee but the differentiation of product is made based on the calls only and not as per the investment objective of different



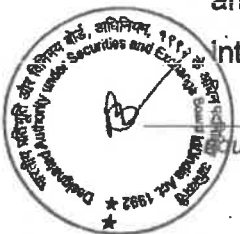
type of investors. Hence, it was alleged that the Noticee was giving tips to clients irrespective of client's age, income, objectives, goals etc.

34. The Noticee allegedly sold same service again to clients even before expiry of tenure of previous service. Further, just to earn maximum advisory service, the Noticee sold multiple services to the client at a time even before lapse of tenure of previous services. The Noticee sold same product multiple times to the client within a short span of time. The fees charged by the Noticee for the same product did not depend on the tenure of the product. It is alleged that the fees charged by FI was unreasonable and unfair. It appeared that the Noticee charged fees with the sole intention of maximizing its revenue without paying any attention to the interest of the client.

35. In view of the above, the Noticee and its proprietor have allegedly failed to act honestly, fairly and diligently while dealing with clients and violated clauses 1, 2 and 6 of Code of Conduct for investment advisers provided in Third Schedule of IA Regulations, 2013 read with regulation 15(9) of IA Regulations, 2013. Further, the above acts are allegedly in violation of 3 (a), (b), (c), (d), 4(1) and 4(2) (s) of PFUTP Regulations read with section 12A(a), (b) and (c) of SEBI Act.

Observation:

36. I note that the Noticee sold products which require payment of small amount of fees by the clients and then it forced the clients to switch to products with higher fees. It could be seen from the examples given below that the Noticee started with its basic product 'Stock Cash' for which the amount of advisory fees charged is comparatively less and then made the client to switch to products with higher fees such as "Equity Blaze" and "Jobbers Cash", etc. The amount of fees for "Equity Blaze" and "Jobbers Cash" is 5 to 15 times higher than 'Equity Cash' product. The fees of Stock Cash/Equity Cash product is Rs.10000/- p.m. whereas fees of Jobbers Cash product is Rs.50000/- p.m. and fees for Equity Blaze product is Rs.150000/- p.m. The above act of the Noticee appeared to be in a manner with an objective to maximize its fees and keeping its own interest ahead of his clients' interest.



37. It is observed that the Noticee had sold multiple services/products to clients with a view to earn more service charges thus keeping its own interest ahead of clients' interest. Some of the instances where the Noticee sold multiple services to clients are given below:

Client Name: Vikash Pushkar

Sl. No.	Invoice Date	Package Description	Duration		Amount
1.	14-Jul-18	Stock Cash	16-Jul-18	to 15-Aug-18	7,500/-
2.	17-Jul-18	Stock Cash	17-Aug-18	to 15-Nov-18	20,000/-
3.	19-Jul-18	Equity Blaze	19-Jul-18	to 27-Jul-18	1,00,000/-
4.	21-Jul-18	Equity Blaze	30-Jul-18	to 06-Aug-18	1,20,000/-
5.	23-Jul-18	Equity Blaze	07-Aug-18	to 14-Aug-18	1,00,000/-
6.	24-Jul-18	Equity Blaze	15-Aug-18	to 22-Aug-18	1,00,000/-
7.	24-Jul-18	Equity Blaze	25-Aug-18	to 30-Aug-18	40,000/-
8.	25-Jul-18	Jobbers Cash	25-Jul-18	to 24-Aug-18	70,000/-
9.	25-Jul-18	Cash Premium	25-Jul-18	to 24-Aug-18	25,000/-
10.	26-Jul-18	Cash Premium	27-Aug-18	to 25-Sep-18	25,000/-
11.	27-Jul-18	Equity Blaze	31-Aug-18	to 06-Sep-18	1,00,000/-
12.	30-Jul-18	Equity Blaze	07-Sep-18	to 13-Sep-18	1,08,000/-
Total					8,15,500/-

38. It is observed that in his risk profiling form, it is mentioned that his investment amount and market value of portfolio is less than Rs.2 lac and his gross annual income is between Rs.2 to 5 lac. However, it can be seen from the table above that the Noticee had taken around Rs.8.15 lac towards service charges by issuing 12 different invoices and sold 5 different services within a period of just 17 days. He had filed complaint in SCORES on January 25, 2019 under registration no. SEBIE/MP19/0000497/1.

Client Name: Sunil Semwal

Sl. No.	Invoice Date	Package Description	Duration		Amount
1.	15-May-19	Stock Cash	15-May-19	to 31-May-19	6,300/-
2.	16-May-19	Stock Cash	31-May-19	to 30-Nov-19	27,750/-
3.	16-May-19	Cash Premium	16-May-19	to 15-Aug-19	48,900/-
4.	17-May-19	Equity Blaze	20-May-19	to 27-Aug-19	27,000/-
5.	17-May-19	Equity Blaze	28-May-19	to 28-Jun-19	84,200/-
6.	17-May-19	Equity Blaze	01-Jul-19	to 01-Aug-19	68,350/-



7.	18-May-19	Equity Blaze	02-Aug-19 to 02-Sep-19	94,500/-
8.	20-May-19	Equity Blaze	03-Sep-19 to 04-Dec-19	5,36,000/-
9.	27-May-19	Jobbers Future	28-May-19 to 28-Aug-19	1,16,000/-
TOTAL				10,09,000/-

39. In his risk profiling form, it is mentioned that-

- his investment amount and market value of portfolio is less than Rs.2 lac;
- his gross annual income is between Rs.2 to 5 lac;
- PF and other employee benefits are his only source of savings.

40. From the table above, it is observed that the Noticee had taken Rs.10.09 lacs towards service charges by issuing 9 different invoices and sold 4 different services within a period of just 13 days. In his SCORES complaint SEBIE/MP19/0001837/1, Mr. Semwal had mentioned that the Noticee had lured him saying his money would be doubled/tripled through the stock market investment.

41. Kamal Waghela in his SCORES complaint no. SEBIE/MP19/0001684/1 dated July 01, 2019 had mentioned that initially some amount was taken from him by the Noticee and then each week he was getting phone calls from the Noticee saying that if more amount was not paid then earlier amount paid would be forfeited. As such, the Noticee had taken Rs.5.10 lac from him towards service charges.

Sl. No.	Invoice Date	Invoice No.	Product/ Service	Product duration	Amount
1.	11.06.2019	3472	Stock Cash	11.06.2019 to 25.06.2019	3500/-
2.	11.06.2019	3476	Jobbers Cash	11.06.2019 to 12.07.2019	66000/-
3.	12.06.2019	3483	Jobbers Cash	15.07.2019 to 16.08.2019	48600/-
4.	12.06.2019	3486	Jobbers Cash	17.09.2019 to 18.10.2019	48600/-
5.	13.06.2019	3492	Equity Blaze	11.06.2019 to 28.06.2019	58600/-
6.	13.06.2019	3495	Equity Blaze	01.07.2019 to 08.07.2019	28600/-
7.	17.06.2019	3520	Equity Blaze	09.07.2019 to 25.07.2019	56280/-
8.	17.06.2019	3522	Equity Blaze	29.07.2019 to 13.08.2019	49000/-
9.	17.06.2019	3526	Equity Blaze	14.08.2019 to 14.09.2019	75140/-
10.	18.06.2019	3533	Equity Blaze	16.09.2019 to 18.10.2019	75110/-
Total					509430/-

42. From the table above, it is observed that the Noticee had started by selling initial service for Rs.3500/- and within a week's time the Noticee had collected Rs.5.10 lac towards service charges. Further, service charges have been collected in advance before completion of the earlier service's period.



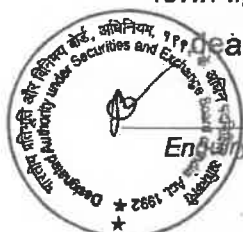
Sl. No.	Invoice Date	Product	Period of service		Invoice Amt. (Rs.)
			From	To	
4	20-Apr-19	Option Premium	01-05-2019	01-08-2019	17600
TOTAL					61000

47. From the table above, it is noted that:

- The Noticee had raised 4 invoices and sold 3 unique services within a short span of less than 1 month from April 3, 2019 to April 20, 2019 and issued invoices of Rs. 61,000. Further, all the invoices were raised to the client during the month of April, 2019. As per SBI credit card statement provided by complainant, the complainant had made payments of Rs. 15,000, Rs. 9,900, and Rs. 17,600 on April 09, April 18, and April 20, 2019. The said payments' dates and amounts paid match with the dates and amounts mentioned in the aforesaid invoices mentioned at S. No.2, 3, and 4 above.
- As observed from S. No. 3 and 4 of above table, Stock cash and Option Premium services were sold to the client for the periods even before the expiry of period for Stock Option Service mentioned at S. No. 1. Further, both Stock Cash and Option Premium was sold for the periods of service (i.e. May and June months), which are overlapping each other.
- It was seen at S. No. 1 and 2 that the Noticee sold same services i.e. "Stock Option" to the client multiple times on April 03, 2019 and April 09, 2019 respectively out of which, the stock option service at S. No. 2 was sold even before the expiry of period of the preceeding service mentioned at S. No. 1.

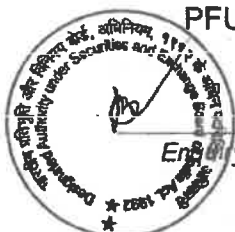
48. It is noted from the material available on record that the Noticee started with its basic product for which the amount of advisory fees charged is comparatively less and then made the client to switch to products with higher fees. Thus, the Noticee sold multiple services to its clients, as noted from invoices date, even though the subscription period for products earlier bought by the client was not over yet. It is also observed that the Noticee is charging fees for its services from the clients more than their annual income.

49. In light of the above, it is observed that the Noticee was not honest and fair in its dealings with its clients and was acting in a manner so as to maximize its service



fees by selling multiple advisory services within a short period of time and even before completion of the earlier service, rather than rendering best possible advice to its clients. Moreover, the Noticee was also not acting honestly and in the best interest of the client by making the client subscribe to multiple subscriptions to the same package on the same day. Further, the Noticee did not exercise due care and diligence in its dealings with its clients as services were sold to the clients without taking into account the information provided in the risk profile of the client, especially his gross annual income and investment amount / market value of his portfolio. Consequence of the same was that the total fees that was charged to the client was disproportionate to his gross annual income. The aforesaid actions of the Noticee showed that it had failed in its responsibility to act in a fiduciary capacity towards its clients which is entrusted upon it under regulation 15 (1) of IA Regulations and the IA has also failed to abide by the clauses 1, 2 and 6 of Code of Conduct as specified in Schedule III read with regulation 15 (9) of IA Regulations.

50. Further, it is observed that the Noticee employed a fraudulent scheme to defraud the clients. The Noticee first took its clients on-board for a particular service for a small advisory fee. Then in order to generate more and more service fees (income) for itself, the Noticee gradually sold multiple products including the initial product to its clients within a short span of time even before the expiry of the initial service subscription's period. The aforesaid scheme was employed by the Noticee to defraud its clients in connection with the dealings in the securities and maximise its revenue generation at their expense. Further, the act of the Noticee to sell multiple products to its clients which was contrary to the information provided in their risk profile showed that the Noticee was not disclosing all the material information to its clients at the time of selling its services that the multiple products / packages that were sold to the client far exceeded his gross annual income as mentioned in client's risk profile. Such deceptive behaviour of concealing material information has deprived its clients of an informed consent to subscribe to the products and operated as a fraud on its clients in connection with their dealings in the securities. Hence, the said act / scheme of the Noticee had prima facie led to the violation of provisions of regulations 3 (a), (b), (c), (d), 4(1) and 4(2) (s) of PFUTP Regulations and Sections 12A (a), (b) and (c) of SEBI Act.



iv. **Did not provide advice in line with Risk Profile of the clients**

51. It was alleged that:

- a. The products sold by the Noticee to clients are not matching with the risk profiling/ risk tolerance of clients.
- b. The Noticee had not sold services as per the investment objectives and investment time horizon of the clients.
- c. The Noticee has not sold products/services based on client's financial situation.
- d. The Noticee failed to communicate the risk profiling forms to the clients

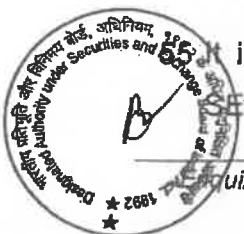
52. It is the obligation of the Investment Adviser to act with due skill, care and diligence in the best interests of its clients. It was alleged that the Noticee had failed to take due care and diligence to ascertain risk profile of the client and to offer him suitable advice. The Noticee had allegedly kept its own interest at higher pedestal compared to the interest of its clients. In view of the above, the Noticee had allegedly failed to comply with regulations 15(1), 17(a), 17(b), 17(d), 17(e) of IA Regulations and has also allegedly failed to abide by clauses 1, 2 and 6 of Code of Conduct as mentioned in Schedule III read with regulation 15(9) of IA Regulations.

53. Further, the conduct of the Noticee was allegedly to be fraudulent and is covered within the definition of "fraud" as defined in regulation 2(1)(c) of PFUTP Regulations, 2003. Thus, the Noticee had allegedly violated regulations 3 (a), (b), (c), (d) of the PFUTP Regulations, 2003 read with section 12A(a), (b) and (c) of SEBI Act.

54. Further, as per regulation 16(e) of IA Regulations, risk profiling shall be communicated to client. It means risk profiling and it's communication shall be done before giving the investment advice. It is alleged that FI is selling products before communicating risk profiling to the client. Therefore, FI has allegedly violated regulation 16(e) of IA Regulations. The Noticee has not made any submission to the allegations levelled against it.

Observation:

It is observed that in case of Raghava Reddy Kalva (SCORES complaint no. SEBI/MP19/0001766/1 dated July 18, 2019), the Noticee had sold high risk



product despite the client has been categorized under 'Medium Risk' category. Details of risk profiling and products sold are given below:

Sl. No.	RPF date	Risk category as per RPF	Name of product sold	Product risk category	Invoice / payment date	Amount collected (Rs.)
1.	17.06.19	Medium Risk	Stock cash	Medium Risk	18.06.19	5,000/-
2.			Option Premium	High Risk	25.06.19	71,680/-

56. From the RPF of Mr. Radharaman Dash (SCORES complaint no. DOEAF/E/2018/01045 dated December 29, 2018 and SEBIE/MP19/0002184/1 dated September 11, 2019), it is observed that gross annual income of Mr. Dash is Rs. 2 lakh to Rs. 5 lakh. The client's current investment amount was less than Rs. 2 lakh and market value of portfolio held was less than Rs.2 lakh. The products / services sold by the Noticee to Mr. Dash is stated as under:

Sl. No.	Invoice Date	Package Description	Duration	Amount
1.	12-Nov-18	Cash Premium	12-Nov-18 – 19-Nov-18	3,000/-
2.	12-Nov-18	Jobbers Cash	12-Nov-18 – 12-Dec-18	63,449/-
3.	12-Nov-18	Jobbers Cash	13-Dec-18 – 28-Jan-19	81,051/-
4.	13-Nov-18	Jobbers Cash	29-Jan-19 – 12-Feb-19	36,905/-
5.	14-Nov-18	Option Premium	19-Nov-19 – 03-Dec-19	14,000/-
6.	16-Nov-18	Jobbers Cash	13-Feb-19 – 14-May-19	1,68,400/-
7.	17-Nov-18	Jobbers Cash	20-May-19 – 19-Jun-19	49,895/-
TOTAL				4,16,700/-

57. From the above table, it is seen that the Noticee had sold 7 services to Mr. Dash within a span of 5 days amounting to Rs. 4.16 lakhs (which is approximately the gross annual income of the client) which is allegedly not in consonance with the financial condition of the client as disclosed in RPF of client. It is also observed that on November 12, 2018, the Noticee sold 3 products to him. It is also observed that on November 12, 2018, the product 'Jobbers Cash' was sold twice to Mr. Dash. Further, the Noticee sold 'Option Premium product on November 14, 2018, the service period of which would start after a year (i.e. From November 19, 2019 to December 3, 2019).



58. Further, on perusal of RPF of Mr. Dash to ascertain the risk appetite of the client, the following is observed –

Q. No.	Questions	Response	Score
21	Risk Tolerance	High	5
26	Assume that you have invested Rs. 1,00,000 in a share that goes down by 10% the next day.	Book your loss and invest in fixed deposits or bonds	2
27	How would you 'honestly' describe yourself as a risk taker?	Willing to take evaluated risk (I can't tolerate a some loss)	4

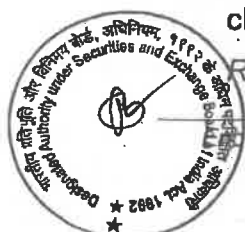
From Q. No.26 and 27 in the table above, it is seen that client's risk tolerance level (i.e. assuming losses on investments) is very low, still the Noticee had categorized him under 'High Risk' category and sold him high risk products.

59. Further, in case of client Sunil Semwal (SEBIE/MP19/0001837/1), information mentioned in his risk profile form dated May 14, 2019 are as follows:

Question	Client's Answer	Score
Investment goal	Capital appreciation and regular income	3
Preferred investment type	Long term positional	2
How would you honestly describe yourself as a risk taker?	Willing to take evaluated risk (I can't tolerate a some loss)	4

60. Client's investment objective is capital appreciation and his preferred investment type is long term positional. Further, client has clearly mentioned in risk profiling form that he cannot tolerate loss and hence he is a low risk taker client. In spite of these parameters, the Noticee sold product from derivative segment i.e. Jobbers Futures service to him for Rs.116000/- for the period May 28, 2019 to August 28, 2019.

61. Further, the Noticee had mentioned in it's standard risk profiling form that "*clients with long term investment goal or capital appreciation as investment objectives are not accepted at MCX Advisory.*" However, the Noticee sold it's products to the client Mr. Sunil Semwal whose investment goal is "*Capital Appreciation and Regular Income*" and preferred investment types is "*Long Term Positional*".



62. I note that the purpose for which it has been mandated by the IA Regulations that the IA must necessarily carry out risk profiling before selling its services is to give an informed advice to the client which is in his best interest. The Noticee had scant regard for exercising due skill, care and diligence that its advice be offered only after thorough analysis of the risk profile of its clients. Thus, the Noticee had failed to act with due skill, care and diligence as the Noticee had been selling advisory services / products without ensuring suitability of advice to its clients in accordance / appropriate to their risk profile. Moreover, the Noticee had a mandatory obligation to assess the client's financial situation, his investment objectives and his risk appetite before advising / selling a product / package to him. The risk profiling is required to be a guiding factor before the product is chosen consistent with the risk profile of the client. In the instant matter, it is observed that the Noticee had no reasonable basis to believe that the recommendation that it was giving to its clients was consistent with the client's investment objectives, his ability to bear related investment risks, his risk appetite and his capacity to absorb loss. The aforesaid actions of the Noticee showed that it had failed in its responsibility to act in a fiduciary capacity towards its clients which is entrusted upon it under regulation 15 (1), 17(a), 17(b), 17(d), 17(e) of IA Regulations and clauses 1, 2 and 6 of Code of Conduct as specified in Schedule III read with Regulation 15 (9) of IA Regulations. . It is further observed that the rationale for doing a risk profile of the prospective client is that the Noticee is aware of client's investment objectives and his financial situation. The same also has therefore to be communicated to the client so as to rule out any ambiguity and that both Noticee and the client are on the same page vis-à-vis client's financial objectives and his risk appetite. Regulation 16(e) of IA Regulations states that risk profile of the client is communicated to the client after risk assessment is done. Further, by not communicating the risk profiling forms to its clients, the Noticee has also violated regulation 16(e) of IA Regulations.

63. Further, it is observed that the Noticee had sold products to its clients which are not appropriate as per their risk profile. The Noticee had concealed material information from its clients while advising them to subscribe to its services and made the clients to act to their own detriment. The aforesaid act of the Noticee had defrauded its clients in connection with the dealings in the securities. Further, the



act of the Noticee to sell products to its clients which are not appropriate to their risk profile operates as a fraud on its clients in connection with dealings in the securities. Hence, the said act / scheme of the Noticee had led to the violation of provisions of regulations 3 (a), (b), (c), (d) of PFUTP Regulations and Sections 12A (a), (b) and (c) of SEBI Act.

v. Obtained trading account credentials from clients for trading on their behalf

64. From the documents submitted by the complainants such as whatsapp messaging, call recordings etc; it is observed that the Noticee had obtained trading account details (Log in ID and Password) of the clients and has transacted in clients' trading accounts.

65. As per regulation 15(3) of IA Regulations, the investment adviser shall maintain arms length relationship between its activities as investment adviser and distribution or execution services. From the above, it is alleged that the Noticee had provided execution services for the client. In view of the above, the Noticee was allegedly in violation of regulation 15(3) of IA Regulations. Further, the Noticee had failed in its responsibility to act in fiduciary capacity to its client which is entrusted upon it under regulation 15 (1) of IA Regulation and failed to abide by clause 1 of Code of Conduct as mentioned in Schedule III read with regulation 15 (9) of IA Regulations. The Noticee has not made any submission to the allegations levelled against it.

Observation

66. I have noted that following whatsapp chat of the Noticee with its clients:

Whatsapp chat between Raghav Kalva and employee of FI.

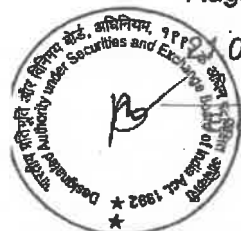
19.06.19, 11:41 am – Raghava: Please provide me 1k return make me conformtable as you have promised.

19.06.19, 11:42 am – Future Investment: Sir send me your demat id and password

19.06.19, 11:43 am – Raghav: Ok

21.06.19, 11:22 am – Raghava: User name: RAGHAVA12 Membership pas: Raghava123@ Trading Pass: Raghava1234@

21.06.19, 11:24 am – Raghava: Ok



21.06.19, 11:24 am – Future Investment: Okay sir

Evidence: Whatsapp chat between Mohd. Aquib Khan and employee of FI

30.01.19 @3.15 pm – Future Investment employee Rudra: "Sir ek bar aap id password"

30.01.19 @3.15 pm – Future Investment employee Rudra: "Dedo"

30.01.19 @3.27 pm – Mohd Aquib Khan: "M128666 pd – aquib345"

67. It is observed that the Noticee had obtained the login credentials and the password of the clients' trading/ demat account with the intention of trading on behalf of the client. As per regulation 15(3) of IA Regulations, the Noticee ought to have kept an arms-length relationship with its clients. In view of the above, the Noticee has violated regulation 15(1), 15(3) of IA Regulations. Further, it is observed that the Noticee by failing in its responsibility to act in fiduciary capacity to its clients violated regulation 15 (1) of IA Regulation. Further by not acting honestly with fairness and diligence, the Noticee has violated clause 1 of Code of Conduct as mentioned in Schedule III read with regulation 15 (9) of IA Regulations.

vi. Not resolving clients' grievances as per prescribed timelines

68. As per the data obtained from SCORES and examination of complaints, it was revealed that the Noticee had not redressed Investor grievances as per the prescribed timelines by SEBI in case of aforesaid 3 complaints, which were received during the months of September 2020.

69. As on March 31, 2022, it is noted that complaints from aforesaid 3 unique complainants, which were received during the months of August and September, 2020 respectively were pending against the Noticee at SCORES portal. Further, it was alleged that the Noticee had not complied with the timeline to resolve these complaints as prescribed under SEBI Circular No. CIR/OIAE/2014 dated December 18, 2014. Details of the pending complaints along with ATR submission details are tabulated as under:



S. No	SCORES Registration No.	Complainant Name	Date of the Receipt of Complaint	Date of Forwarding to IA	Date of Receipt of ATR	Time taken in excess of 30 days to file ATR	Pending Days as on March 31, 2022
1	SEBIE/M P20/0001 868/1 and SEBIE/M P20/0001 869/1	Nakarani Hardikkumar Vinodbhai	04/10/2020	08/12/2020	ATR not Submitted		478
2	SEBIE/M P20/0001 568/1	Nikhil Bharatbhai Bhuvad	02/09/2020	18/09/2020	ATR not Submitted		559
3	SEBIE/M P20/0001 542/1	Dileep Nayak	29/08/2020	09/09/2020	ATR not Submitted		568

70. Since, FI has not submitted the ATR in a time bound manner as prescribed by SEBI and had also not resolved investors' grievance, it is alleged that the Noticee had not complied with SEBI Circular CIR/OIAE/2014 dated December 18, 2014 read with regulation 21 of IA Regulations. The Noticee has not made any submission to the allegations levelled against it.

Observation:

71. Regulation 21 of IA Regulations mandates that IA shall redress clients' grievances promptly. Further, SEBI has vide Circular CIR/OIAE/2014 dated December 18, 2014 regarding Investor grievances through SCORES platform has advised that all SEBI registered intermediaries shall review their investors grievances redressal mechanism so as to further strengthen it and correct the existing shortcomings, if any. The 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. Further, the said circular has stated that in case of



failure by SEBI registered intermediaries to file Action Taken Report (hereinafter referred to as "ATR") under SCORES within thirty days of date of receipt of the grievance, it shall be treated as failure to furnish information to SEBI and deemed to constitute non-redressal of investor grievance.

72. It is observed from the data obtained from SCORES that 3 unique complaints are pending against the Noticee as on March 31, 2022. It is seen that in these 3 complaints, the Noticee had failed to file ATR within prescribed timeline of 30 days violating the directions given in the SEBI Circular CIR/OIAE/2014 dated December 18, 2014 read with regulation 21 of IA Regulations.

73. In view of the foregoing, I conclude that Noticee has violated the following provisions-

- a. Regulation 15(1), 15(3), 16(e), 17(a), 17(b), 17(d), 17(e) of IA Regulations, clauses 1, 2, 5 and 6 of Code of Conduct as mentioned in Schedule III read with regulation 15(9) of IA Regulations
- b. Regulation 3(a), (b), (c), (d), 4(1), 4(2)(o) and 4(2)(s) of PFUTP Regulations read with Section 12A(a), (b) and (c) of SEBI Act.
- c. SEBI Circular CIR/OIAE/2014 dated December 18, 2014 read with regulation 21 of IA Regulations.

74. The Noticee is a registered Investment Advisor who should have acted in a fiduciary capacity towards its clients. The advice rendered to investors by registered IA has an impact on investors' confidence in the integrity of the markets. Noticee has acted fraudulently and dishonestly with its clients to maximise its returns. Noticee has failed to comply with the regulatory requirements applicable to the conduct of its business activities so as to promote the best interest of its clients and the integrity of the market. The violations as stated above are not technical and has to be viewed seriously.



RECOMMENDATION

75. In view of the above observation and the violation committed by the Noticee, in terms of Regulation 26 of SEBI (Intermediaries) Regulations, 2008 I hereby recommend that the certificate of registration of the Noticee i.e. INA000008242 be cancelled.

Date: June 23, 2023

Place: Mumbai



Barnali Mukherjee

**BARNALI MUKHERJEE
DESIGNATED AUTHORITY**