

SECURITIES AND EXCHANGE BOARD OF INDIA

ENQUIRY ORDER

Under Regulation 27 of Securities and Exchange Board of India (Intermediaries) Regulations, 2008 and Regulation 28 of Securities and Exchange Board of India (Investment Advisers) Regulation, 2013.

IN RESPECT OF:

NOTICEE	SEBI Registration No.	PAN
Rajiv Kumar Singh (Proprietor Elite Investment Advisory Services)	INA000003668	BZZPS6587H

In the matter of

Rajiv Kumar Singh, Proprietor Elite Investment Advisory Services.

Background:

1. The present matter emanates from a Show-Cause Notice dated March 11, 2024 (hereinafter referred to as **“SCN”**) issued by Securities and Exchange Board of India (hereinafter referred to as **“SEBI”**) to Mr. Rajiv Kumar Singh (Proprietor of Elite Investment Advisory Services), (hereinafter referred to as **“Noticee”** or **“IA”**), an investment adviser registered with SEBI registration number **INA000003668** since October 16, 2015, under Regulation 27(1) of the SEBI (Intermediaries) Regulations, 2008 (hereinafter referred to as **“Intermediaries Regulations, 2008”**), calling upon the Noticee to show cause as to why action as recommended by the Designated Authority (hereinafter referred to as **“DA”**) or any other direction/penalty as deemed fit should not be issued/imposed on the Noticee. The SCN was enclosed with the Report of the Designated Authority dated February 29, 2024 (hereinafter referred to as **“Enquiry Report”** or **“ER”**).
2. On examination of the following prima facie violations against the Noticee, the DA has submitted the Enquiry Report;

- a. For non-disclosure of material information to SEBI, violation of Regulation 13 (a) and 13 (b) and Clause 8 & 9 of Code of Conduct read with Regulation 15(9) of Securities and Exchange Board of India (Investment Advisers) Regulations, 2013 (hereinafter referred to as 'IA Regulations')
- b. For non-compliance with the General Responsibility of an Investment Adviser, violation of Regulation 15(8) of IA Regulations read with the provisions of SEBI Circular No. CIR/MIRSD/66/2016 dated July 21, 2016 and SEBI Circular No. CIR/MIRSD/120/2016 dated November 10, 2016 and Clause 2, 8 and 9 of Code of Conduct read with Regulation 15(9) of IA Regulations.
- c. For failure to provide the information/ records and non-cooperation during inspection, violation of Regulation 25(1), 25(2), Clause 8 and 9 of Code of Conduct read with Regulation 15(9), Regulation 19(1) and 19 (2) of IA Regulations read with SEBI Circular No. SEBI/HO/IMD/DF1/CIR/P/2020/182 dated September 23, 2020 and Regulation 7 (1) (a), 7 (1) (c), 15(13), 25(1) and Clause 2, 3, 8 and 9 of Code of Conduct read with Regulation 15(9) of IA Regulations.
- d. For failure to assess the suitability of investment advice and maintain appropriate standards of conduct, violation of Regulation 17 of IA Regulations and Clause 1 (ii) of SEBI Circular No. SEBI/HO/IMD/DF1/CIR/P/2019/169 dated 27/12/2019 read with Regulation 16 and Clause 1, 8 and 9 of Code of Conduct read with Regulation 15(9) of IA Regulations.
- e. For failure to make necessary disclosures to clients, violation of Regulation 18 (4) and clause 1, 5, 8 and 9 of Code of Conduct read with Regulation 15(9) of IA Regulations.
- f. For delay in redressal of investor grievances, violation of Regulation 21 (1) read with para 8 (c) of SEBI Circular No. SEBI/HO/OIAE/IGRD/CIR/P/2018/58 dated 26/03/2018 and Clause 2, 8 and 9 of Code of Conduct read with Regulation 15(9) of IA Regulations.

3. In the ER, the DA has concluded that the Noticee has violated the following;

- a) Regulation 13 (a) and 13 (b) and Clause 8 of Code of Conduct read with Regulation 15(9) of the IA Regulations,

- b) Regulation 15(8) of IA Regulations read with the provisions of SEBI Circular No. CIR/MIRSD/66/2016 dated July 21, 2016 and SEBI Circular No. CIR/MIRSD/120/2016 dated November 10, 2016 and clause 2 & 8 of Code of Conduct read with Regulation 15(9) of IA Regulations,
 - c) Regulation 25(1), 25(2), clause 8 of Code of Conduct read with Regulation 15(9), Regulation 19(1) and 19 (2) of IA Regulations read with SEBI Circular No. SEBI/HO/IMD/DF1/CIR/P/2020/182 dated September 23, 2020 and Regulation 7 (1) (a), 7 (1) (c), 15(13), 25(1) and clause 2, 3 & 8 of Code of Conduct read with Regulation 15(9) of IA Regulations,
 - d) Clause 1 (ii) of SEBI Circular No. SEBI/HO/IMD/DF1/CIR/P/2019/169 dated 27/12/2019 read with Regulation 16 and clause 1 & 8 of Code of Conduct read with Regulation 15(9) of IA Regulations,
 - e) Regulation 18 (4) and clause 1, 5 & 8 of Code of Conduct read with Regulation 15(9) of IA Regulations
 - f) Regulation 21 (1) read with para 8 (c) of SEBI Circular No. SEBI/HO/OIAE/IGRD/CIR/P/2018/58 dated 26/03/2018 and clause 2 & 8 of Code of Conduct read with Regulation 15(9) of IA Regulations.
4. In light of the above and in terms of Regulation 23 and Regulation 26 of the Intermediaries Regulations, 2008 read with Regulation 28 of the IA Regulations, the DA had recommended that:

“the Noticee i.e., Rajiv Kumar Singh Proprietor Elite Investment Advisory Services, SEBI Registration No: INA000003668, be prohibited from taking up any new assignment or contract or launch a new scheme for a period of six months.”

Post Enquiry Proceedings:

5. Post–Enquiry Show Cause Notice dated March 11, 2024, was issued to the Noticee enclosing the copy of the ER vide Speed Post AD (at the postal address of the Noticee mentioned in his letter head while replying to the DA SCN) on the same day and also vide e-mail dated March 14, 2024 at the email [id–
eliteresearchinfo@gmail.com](mailto:eliteresearchinfo@gmail.com) at which DA had served the SCN as well as the

Hearing Notice. However, the SCN issued by SPAD had returned undelivered with the remarks “Left”, while the SCN served at the aforesaid e-mail id dated March 14, 2024, was duly delivered.

6. Thereafter, the matter was placed before me to conduct of further proceedings. In this regard, Regulation 27(5) of the Intermediaries Regulations, 2008 states as follows:

“Order

27.(1)

“(5) After considering the facts and circumstances of the case, material on record and the written submission, if any, the competent authority shall endeavour to pass an appropriate order within one hundred and twenty days from the date of receipt of submissions under sub-regulation (2) or the date of personal hearing, whichever is later.”

7. In the present matter, as there was no response received even after 21 days of receipt of the SCN by the Noticee, in terms of Regulation 27(4) of the Intermediaries Regulations, 2008, an opportunity of personal hearing was granted to the Noticee on May 13, 2024, vide e-mail dated May 07, 2024 at the above-mentioned e-mail id. However, the Noticee did not attend the scheduled hearing, despite the said Notice being duly delivered.
8. I note that the Noticee has neither filed any reply in the matter nor appeared for the hearing. Hence, it is presumed that Noticee has nothing to submit in respect of the allegations levelled in the SCN. In this regard, it is pertinent to note that the Hon'ble Securities Appellate Tribunal (SAT) in the matter of **Classic Credit Ltd. vs. SEBI** (Appeal No. 68 of 2003 decided on December 08, 2006) has, inter alia, held that, *“.....the appellants did not file any reply to the second show-cause notice. This being so, it has to be presumed that the charges alleged against them in the show cause notice were admitted by them”*.
9. Under these circumstances, I consider that the matter can now be adjudicated qua the Noticee on merits, based on the material available on record.

Consideration of Issues and Findings:

10. I have considered the allegations levelled in the SCN/ER and the material available on record.
11. Before I proceed further with the matter, it is pertinent to mention the relevant provisions of the IA Regulations alleged to have been violated by the Noticee. The same are reproduced herein below:

IA Regulations

Regulation 7 (1) (a), 7 (1) (c) of IA Regulations:

7. Qualification and certification requirement

1) An individual investment adviser or a principal officer of a non-individual investment adviser registered as an investment adviser under these regulations, shall have the following minimum qualification, at all times-

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

...

c) Persons associated with investment advice shall meet the following minimum qualifications, at all times –

*(i) a professional qualification as provided in clause (a) of sub-regulation (1) of regulation 7; and
(ii) an experience of at least two years in activities relating to advice in financial products or securities or fund or asset or portfolio management:*

Provided that investment advisers registered under these regulations as on the date of commencement of these regulations shall ensure that the individual investment adviser or principal officer of a non-individual investment adviser registered under these regulations and persons associated with investment advice comply with such qualification and experience requirements within three years:

Provided further that the requirements at clauses(a) and (b) shall not apply to such existing individual investment advisers as may be specified by the Board

Regulation 13 (a), (b) of IA Regulations

The certificate granted under regulation 9 shall, inter alia, be subject to the following conditions:-

(a) the investment adviser shall abide by the provisions of the Act and these regulations

(b) the investment adviser shall forthwith inform the Board in writing, if any information or particulars previously submitted to the Board are found to be false or misleading in any material particular or if there is any material change in the information already submitted;

Clause 1,2,3,4,5,8 and 9 of Code of Conduct of IA Regulations

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.

3. Capabilities

An investment adviser shall have and employ effectively appropriate resources and procedures which are needed for the efficient performance of its business activities.

5. Information to its clients

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

8. Compliance

An investment adviser including its 87[partners, principal officer and persons associated with investment advice] shall comply with all regulatory requirements applicable to the conduct of its business activities so as to promote the best interests of clients and the integrity of the market.

9. Responsibility of senior management

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

Regulation 15(8) and 15(9) of IA Regulations

15. General responsibility

...

(8) An investment advisor shall follow Know Your Client procedure as specified by the Board from time to time.

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

Regulation 15(13) of IA Regulations

It shall be the responsibility of the investment adviser to ensure compliance with the certification and qualification requirements as specified under Regulation 7 at all times.

Regulation 16 of IA Regulations

16. Risk Profiling

Investment adviser shall ensure that,-

(a) it obtains from the client, such information as is necessary for the purpose of giving investment advice, including the following:-

(i) age;

- (ii) investment objectives including time for which they wish to stay invested, the purposes of the investment ;*
- (iii) income details;*
- (iv) existing investments/ assets;*
- (v) risk appetite/ tolerance;*
- (vi) liability/borrowing details*
- (b) it has a process for assessing the risk a client is willing and able to take, including:*
 - (i) assessing a client's capacity for absorbing loss;*
 - (ii) identifying whether client is unwilling or unable to accept the risk of loss of capital;*
 - (iii) appropriately interpreting client responses to questions and not attributing inappropriate weight to certain answers.*
- (c) where tools are used for risk profiling, it should be ensured that the tools are fit for the purpose and any limitations are identified and mitigated;*
- (d) any questions or description in any questionnaires used to establish the risk a client is willing and able to take are fair, clear and not misleading, and should ensure that:*
 - (i) questionnaire is not vague or use double negatives or in a complex language that the client may not understand;*
 - (ii) questionnaire is not structured in a way that it contains leading questions.*
- (e) risk profile of the client is communicated to the client after risk assessment is done;*
- (f) information provided by clients and their risk assessment is updated periodically*

Regulation 17 of IA Regulations

17. Suitability

Investment adviser shall ensure that,-

- (a) All investments on which investment advice is provided is appropriate to the risk profile of the client;*
- (b) It has a documented process for selecting investments based on client's investment objectives and financial situation;*
- (c) It understands the nature and risks of products or assets selected for clients;*
- (d) It has a reasonable basis for believing that a recommendation or transaction entered into:*
 - (i) meets the client's investment objectives;*
 - (ii) is such that the client is able to bear any related investment risks consistent with its investment objectives and risk tolerance;*
 - (iii) is such that the client has the necessary experience and knowledge to understand the risks involved in the transaction.*
- (e) Whenever a recommendation is given to a client to purchase of a particular complex financial product, such recommendation or advice is based upon a reasonable assessment that the structure and risk reward profile of financial product is consistent with clients experience, knowledge, investment objectives, risk appetite and capacity for absorbing loss.*

Regulation 18(4) of IA Regulations

18. Disclosures to clients

...

(4) An investment adviser shall disclose to the client its holding or position, if any, in the financial products or securities which are subject matter of advice.

Regulation 19(1), 19(2) of IA Regulations

19. Maintenance of Records

(1) An investment adviser shall maintain the following records, -

(a) Know Your Client records of the client;

(b) Risk profiling and risk assessment of the client;

(c) Suitability assessment of the advice being provided;

(d) Copies of agreements with clients, incorporating the terms and conditions as may be specified by the Board;

(e) Investment advice provided, whether written or oral

(f) Rationale for arriving at investment advice, duly signed and dated;

(g) A register or record containing list of the clients, the date of advice, nature of the advice, the products/securities in which advice was rendered and fee, if any charged for such advice

(2) All records shall be maintained either in physical or electronic form and preserved for a minimum period of five years: Provided that where records are required to be duly signed and are maintained in electronic form, such records shall be digitally signed.

Regulation 21(1) of IA Regulations

21. Redressal of client grievances

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

Regulation 25(1), 25(2) of IA Regulations

25. Obligation of investment adviser on inspection

(1) It shall be the duty of every investment adviser in respect of whom an inspection has been ordered under the regulation 23 and any other associate person who is in possession of relevant information pertaining to conduct and affairs of such investment adviser, including partners, directors, principal officer and persons associated with investment advice, if any, to produce to the inspecting authority such books, accounts and other documents in his custody or control and furnish him with such statements and information as the inspecting authority may require for the purposes of inspection.

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

[SEBI Circular No. CIR/MIRSD/66/2016 dated July 21, 2016](#)

[SEBI Circular No. CIR/MIRSD/120/2016 dated November 10, 2016](#)

[SEBI Circular No. SEBI/HO/IMD/DF1/CIR/P/2020/182 dated September 23, 2020](#)

Para 8 (c) of SEBI Circular No. SEBI/HO/OIAE/IGRD/CIR/P/2018/58 dated 26/03/2018.

8. Effective from August 01, 2018, following procedure shall be followed for filing and redressal of investor grievances using SCORES:

(c) The complainant may use SCORES to submit the grievance directly to companies / intermediaries and the complaint shall be forwarded to the entity for resolution. The entity is required to redress the grievance within 30 days, failing which the complaint shall be registered in SCORES.

Clause 1 (ii) of SEBI Circular No. SEBI/HO/IMD/DF1/CIR/P/2019/169 dated 27/12/2019

1. Securities and Exchange Board of India (Investment Advisers) Regulations, 2013 (IA Regulations) provides for code of conduct to be followed by IAs. In order to further strengthen the conduct of IAs, while providing investment advice and to protect the interest of investors seeking their advice, the IAs shall comply with the following:

...

(ii) Proper risk profiling and consent of client on risk profiling

Risk profiling of the client is essential to provide advice on suitable product based on various criteria like income, age, securities market experience etc. RIAs shall provide investment advice only after completing the following steps:

- a. Complete the risk profile of the client based on information provided by the client.*
- b. Obtain consent of the client on completed risk profile either through registered email or physical document.*

12. I note that DA had issued a Show Cause Notice dated December 07, 2023 (hereinafter referred to “**DA SCN**”) to the Noticee and thereafter considering the reply of the Noticee, the submission made by the Noticee during the personal hearing and material available on record, the DA had submitted his recommendation. Therefore, in this order I would be examining the sustainability of the findings given in the ER on each of the allegation made in the DA SCN, based on the reply submitted by the Noticee before the DA.
13. I note that the Noticee had been charged with multiple allegations and for the sake of convenience and clarity, I shall deal with each of the allegations independently in the following paragraphs.
14. Before that I note that the DA has made observation that the wordings of Clause 9 of Code of Conduct in the IA Regulations pertains to a body corporate and the Noticee being registered as Investment Adviser as an individual, the same would not get attracted. In this regard, I have also observed that the Noticee is an

Individual and Elite Investment Advisory Services is his proprietary firm and not a body corporate. Therefore, I agree with the DA that Clause 9 of Code of Conduct in the IA Regulations, will not be attracted in this regard.

15. I now proceed on the basis of the merits of the case.

A. Allegation related to the Noticee's failure to disclose material information

- i. In this regard, it had been alleged that the following material information were not intimated to SEBI;
 - a) during the inspection period, 4 individuals resigned and 4 were appointed for rendering investment advice and
 - b) Mr. Shivesh Shukla and Mr. Nikhil Kabra were given appointment by the Noticee on the basis of having experience of working at Money Maker Research Pvt. Ltd., an entity against whom SEBI has passed an order WTM/MPB/IMD/WRO/ILO/167/2021 dated 22/01/2021.
- ii. In respect of the aforesaid allegation, I note that the Noticee *inter alia* submitted in response to the DA SCN as under:

"Further, recruiting of new employees is in no manner a material change as it is an ongoing process of every organization. Moreover, the Noticee is registered in an individual capacity wherein the main person rendering investment advice is the Noticee himself. It is in the case of non-individual wherein the 'Principal Officer' is involved in rendering investment advice and his change is required to be intimated. Furthermore, the employees appointed by the Noticee were the 'persons associated with the investment advice' who assists the Noticee in his operations and they are duly in compliance with the enhanced qualification requirement as per the new amended IA Regulations.

Furthermore, the employees: Mr. Shivesh Shukla and Mr. Nikhil Kabra were employed with the Noticee since June 01, 2020 and July 01, 2020, respectively, (evident from the clause 4.3.7 of the SCN) which is way before the date of passing of an interim order by the SEBI against Money Maker Research Private Limited on January 22, 2021. Both the employees were appointed by the Noticee before SEBI had taken action against the said

entity, moreover, in the said order, nowhere SEBI had mentioned the name of either Mr. Shivesh or Mr. Nikhil and also no action had been taken against them and hence employing both the individuals by the Noticee is in no manner a lack of due diligence or a non-compliance by the Noticee.

Hence, based on the above submissions, it is clearly evident that the allegation imposed upon the Noticee is vague and baseless and the Noticee is not in violation of any provisions of the Regulation 13 of the IA Regulations alongwith the provisions of Code of Conduct.”

- iii. On the submissions of the Noticee with respect to the allegation of material information related to the resignation and appointment of 4 individuals, rendering investment advice not being intimated, I note that the DA has recorded his observation that the information about appointment and relieving of those individuals who were associated with rendering of investment advice as material change.
- iv. In this regard, I also note that Regulation 13 (b) of the IA Regulations requires that an investment adviser shall forthwith inform the Board in writing, if any information or particulars previously submitted to the Board are found to be false or misleading in any material particular or if there is any material change in the information already submitted.
- v. Further, as per Regulation 3(2) of the IA Regulations, application for grant of certificate of registration as IA, is required to be made in Form A, as specified in the First Schedule to the IA Regulations (“Form A”). As per Para 2.I.(3) of the said Form A, an applicant is required to inter alia provide details in respect of number of persons who render investment advice under these regulations on behalf of the applicant, if any, along with documents in respect of qualification and certification, identity proof, address proof of both the applicant and persons associated with investment advice.
- vi. Thus, the Noticee was under the obligation to inform SEBI, as and when such material changes occurred. However, in the instant case, I note that

the Noticee failed to inform SEBI regarding the appointment and relieving of individuals rendering investment advice to his clients.

- vii. This apart, I also note that as per Para 7 of Form A relating to declaration statement, an applicant, for grant of registration, is required to inter alia declare, ‘ ... I ... further agree that, I ... shall notify the Securities and Exchange Board of India immediately any change in the information provided in the application.’ Thus, as per the declaration to the Form A viz., Application for Grant of Certificate of Registration itself, the Noticee was required to notify SEBI about any change in the information provided with regard to the said application.
- viii. Therefore, having regard to the facts and circumstances of the case, I agree with observation made in the ER that change in the information regarding the individuals giving investment advice is material information since details (e.g. educational qualification, etc.), regarding the new employees giving investment advice is important for SEBI to assess if the persons are qualified to provide the relevant investment advice in order to ensure market integrity. Therefore, the Noticee’s contention in this regard is without any merit.
- ix. In the light of the above, I find that the allegation that during the inspection period, the four individuals resigned and four individuals were appointed for rendering investment advice, amounting to material information which was not intimated to SEBI by the Noticee, stands established. Therefore, I hold that the Noticee had violated provisions of Regulation 13 (a), 13 (b) and Clause 8 of Code of Conduct read with Regulation 15 (9) of the IA Regulations.
- x. Further, as regards to the allegation of not intimating the information with respect to the appointment of Mr. Shivesh Shukla and Mr. Nikhil Kabra by the Noticee based on their experience of working at Money Maker Research Pvt. Ltd., an entity against whom SEBI has passed an order

WTM/MPB/IMD/WRO/ILO/167/2021 dated 22/01/2021, I note that the DA was inclined to give benefit of doubt to the Noticee, based on the submission that Mr. Shivesh Shukla and Mr. Nikhil Kabra were appointed, much before the date of passing of an interim order by the SEBI against Money Maker Research Private Limited on January 22, 2021 and also their names do not reflect in the said SEBI order.

- xi. Therefore, from the facts and material available on record, I agree with the DA that there is no material information available with the Noticee to comply in this regard in terms of the IA Regulations.

B. Allegation related to the Noticee's failure to comply with the General Responsibility of an Investment Adviser

- i. In this regard, it was inter alia observed and alleged that the Noticee had failed to register with CKYC agency CERSAI and accordingly execute his responsibilities towards maintenance of KYC records with CERSAI.
- ii. In respect of the aforesaid allegation, I note that the Noticee *inter alia* submitted in response to the DA SCN as under:

On the said allegation the Noticee would like to state that the provision of Regulation 15(8) reads as under: "An investment advisor shall follow Know Your Client procedure as specified by the Board from time to time."

SEBI had also specified that the intermediaries shall get it registered with the KRA 'KYC (Know Your Client) Registration Agency' and shall capture the KYC documents of the investors therein. The Noticee had duly obtained the registration from the CDSL Ventures Limited, KRA and was duly capturing KYC of all the clients and has in records the KYC records of all his clients. Hence, the Noticee has followed the KYC procedure as specified by the SEBI and has not violated the provision of Regulation 15(8).

- iii. In this regard, I note that SEBI Circular dated July 21, 2016 inter alia read /mandated as follows, '... Government of India has authorized the Central Registry of Securitization and Asset Reconstruction and Security interest of India (CERSAI), set up under sub-section (1) of Section 20 of Securitisation and Reconstruction of Financial Assets

and Enforcement of Security Interest Act, 2002, to act as, and to perform the functions of, the Central KYC Records Registry under the PML Rules 2005, including receiving, storing, safeguarding and retrieving the KYC records in digital form of a "client", ... As per the 2015 amendment to PML (Maintenance of Records) Rules, 2005 (the rules), every reporting entity shall capture the KYC information for sharing with the Central KYC Records Registry in the manner mentioned in the Rules, ... Accordingly, the KYC template finalised by CERSAI shall be used by the registered intermediaries as Part I of AOF for individuals. In the first phase, the registered intermediaries shall upload the KYC data with CKYCR, in respect of all individual accounts opened on or after August 1, 2016, ...".

- iv. Further, I note that SEBI Circular dated November 10, 2016 inter alia read /mandated as follows, '*... This has reference to SEBI circular no. CIR/MIRSD/66/2016 dated July 21, 2016 on operationalization of Central KYC Records Registry (CKYCR) wherein the registered intermediaries were directed to upload the KYC data with CKYCR, in respect of all individual accounts opened on or after August 01, 2016. ... Government of India, vide its letter dated October 04, 2016, has directed as follows with regard to KYC details of existing and new individual clients: a. Registered intermediaries have to update their IT systems as well as register all new accounts of individuals in accordance with the CKYCR template, mandatorily by October 31, 2016. ...*'.
- v. I note that the DA found the following based on the Noticee's submission and material available on record;
- 1) The Noticee's submission in this regard are not only out of context in so far as the allegation was about Noticee not having obtained registration with CKYC agency CERSAI and not about CDSL Ventures Ltd., KRA but also incomplete in so far as Noticee has remained silent on the alleged violation of SEBI Circular No. CIR/MIRSD/66/2016 dated July 21, 2016 and SEBI Circular No. CIR/MIRSD/120/2016 dated November 10, 2016 (collectively referred to as "*said SEBI Circulars*").
 - 2) The Central KYC Registry (CKYCR) as a repository was envisaged as per PMLA to digitize the KYC records and to facilitate inter-usability of these records across entities regulated by RBI, SEBI, IRDAI, and PFRDA, to inter alia address issues such as managing Money Laundering/Terrorism Financing (ML/TF) risk. Thus, Noticee was required to comply with the provisions of SEBI Circular No. CIR/MIRSD/66/2016 dated July 21, 2016 and SEBI Circular No. CIR/MIRSD/120/2016 dated November 10, 2016.

- 3) During the inspection the Noticee seemed to admit to the said charge in his letter dated January 12, 2023, to SEBI wherein he had stated that '*... we don't have CKYC agency CERSAI registration at the time tenure of inspection ... now we had Applied for its registration and it is in process*'.
- 4) Further, the Noticee neither provided any details or documents in support of his claim.
- vi. Taking into the aforesaid facts, I note that the DA on the examination of the submission of the Noticee, has recorded his observation in the ER that the Noticee has neither provided any details, documents in support of having complied with the provisions alleged to have been violated including the said SEBI Circulars, nor demonstrated to the contrary viz., that it was not required to comply with the said circulars and instead had in his response on the findings of SEBI in this regard had inter alia replied in nature of admission.
- vii. In respect of the above, I note that the aforesaid provisions were made in the SEBI circular in line with PMLA, as the KYC Registry governed under Prevention of Money Laundering Act (PMLA) /PML Rules 2005 (Maintenance of Records) and that the Central KYC Record Registry, caters to Reporting Entities (REs) of all four major regulators of financials sector i.e. RBI, SEBI, IRDAI & PFRDA.
- viii. Further, the Central KYC Registry (CKYCR) as a repository was envisaged as per PMLA to digitize the KYC records and to facilitate inter-usability of these records across entities regulated by RBI, SEBI, IRDAI, and PFRDA, to inter alia address issues such as managing Money Laundering/Terrorism Financing (ML/TF) risk. Thus, Noticee was required to comply with the provisions of SEBI Circular No. CIR/MIRSD/66/2016 dated July 21, 2016 and SEBI Circular No. CIR/MIRSD/120/2016 dated November 10, 2016.
- ix. Further, having already admitted, the submission of the Noticee is not tenable to such conduct, hence I agree with the finding of the DA that

Noticee had failed to register with CKYC agency CERSAI and accordingly execute his responsibilities towards maintenance of KYC records with CERSAI. Therefore, I find that the Noticee had violated provisions of Regulation 15(8) of IA Regulations read with the provisions of SEBI Circular No. CIR/MIRSD/66/2016 dated July 21, 2016 and SEBI Circular No. CIR/MIRSD/120/2016 dated November 10, 2016 and clause 2 and 8 of Code of Conduct read with Regulation 15(9) of IA Regulations.

C. Allegation related to the Noticee's failure to provide the information/ records and non-cooperation during inspection

- i. In this regard the following was alleged against the Noticee;
 - a) The Noticee did not provide onsite inspecting team any data pertaining to his prospective clients including the call records to and accordingly it was observed that the Noticee was not keeping any data pertaining to prospective clients including call recording, risk-profiling etc.,
 - b) The Noticee also did not provide onsite inspecting team any data pertaining to functions performed as a registered Investment Adviser during last 5 years.
 - c) The Noticee had submitted the report confirming compliance with the requirement of para 2(ii) of SEBI Circular No. SEBI/HO/IMD/DF1/CIR/P/2020/182 dated September 23, 2020, on July 13, 2021, i.e., after a delay of around 13 days.
 - d) It was also noticed that the Noticee did not provide any document in support of education qualification of any of the individuals who were rendering investment advisory services to his clients during the period of inspection.
- ii. In respect of the aforesaid allegation, I note that the Noticee *inter alia* submitted in response to the DA SCN as under:

The Noticee would like to state that he has duly maintained all the records as mandated by the SEBI and the same was also submitted to the inspecting authority at the time of inspection. The provision for maintaining call recording

was applicable with effect from January 01, 2021, which the Noticee had duly maintained.

The Noticee makes the clients through the way of organic marketing and conducts risk profiling of the clients telephonically and is orally communicated to the clients as well. The recording of such calls is maintained by the Noticee and the inspecting authority had verified the same and the officers had also took the same in their record.

Further, in 2020 while shifting his office from Indore to Prayagraj, the server, in which the entire data was stored, unfortunately got crashed and the data therein could not get recovered and hence the Noticee could not provide the same to the inspecting authority. However, post that the Noticee has in place all the requisite records of 4 years from 2020 to till date. Moreover, the inspection period was April 01, 2020 to March 31, 2021, for which the Noticee had provided complete details to the inspecting authority.

Furthermore, there was a delay of just 13 days in submitting the report confirming compliance with the requirement of para 2(ii) of SEBI Circular No. SEBI/HO/IMD/DF1/CIR/P/2020/182 dated September 23, 2020 as the Noticee had got the symptoms of Coronavirus and as a result he was required to get himself quarantined and hence he could not submit the report in a timely manner. Also, the Noticee had no intention of making delayed reporting or not reporting as he did submit the report without any reminder/notice of the SEBI. Hence, the SEBI shall take said delay leniently and shall not penalize for the same as there was a delay of just 13 reasons that too due to medical condition and also no investor was harmed due to the said delay.

Further, due to misinterpretation, the Noticee in PIQ had only provided the qualification information of just his current employees. Thereafter during the inspection, the Noticee had duly provided the qualification details of all his past employees as well. Moreover, all his employees as mentioned in the table in clause 4.3.7 in the SCN were postgraduate i.e. having MBA degree. Also, the Noticee would like to bring into the kind consideration of the SEBI that the SEBI itself had provided time period of 3 years to the employees already employed by the existing investment advisers for complying with the enhanced qualification requirement i.e. having post graduate degree. Currently vide Circular No.: SEBI/HO/MIRSD/MIRSD-PoD-2/P/CIR/2023/168 dated October 10, 2023, SEBI had extended the time period for the said requirement till September 30, 2025.

Hence, the Noticee has in no manner violated Regulation 7(1)(a), 7(1)(c), 15(13), 25(1) of IA Regulations as the Noticee himself and his persons associated with investment advice are duly in compliance with the applicable provisions of the regulations.

- iii. As regards to the contention of the Noticee on the charge of not providing any data pertaining to his prospective clients including the call records to the onsite inspecting team, I note that the DA had made observation in the ER that the Noticee brought to the notice of the inspection team during the inspection vide his letter dated January 12, 2023 that he did not used to maintain the aforesaid information appears to be an admission of the said allegation.
- iv. Further, the Noticee's submission to the DA that he only considers the client who has visited his website and used to raise query in respect of any services as a prospective client and his advisers do risk profiling of such prospective clients telephonically and communicate the details orally over the telephone call, appears to be an afterthought without any supporting documents to the DA. Therefore, the DA did not accept the submission of the Noticee in this regard. Thus, I agree with the DA and further I find from the facts and circumstances of the case that the Noticee did not maintain a record of the risk profiling done for the prospective clients as well the call recording as he should have according to the Regulation 19 (e) and 19 (g) of the IA Regulations, the violation against the notice stands established.
- v. As regards the charge of not providing any data pertaining to functions performed as a registered Investment Adviser during last 5 years to the onsite inspecting team, I note that the DA has not accepted the contention of the Noticee that he has the data only for 4 years as the remaining data was lost due to server crash while shifting, as without back up details or documentation in support of the same it is considered as a mere statement. Further, I note that the DA has also made observation that

there is no proof to show that the Noticee tried to retrieve the lost data and Noticee appears to have admitted to having a better system in place after moving from Indore.

- vi. In this regard, I agree with the DA that the Noticee should have maintained the data for all years. Further, if the Data is actually lost, the Noticee should have had a robust system in place to retrieve the lost data. However, the Noticee appears to have not taken any effort to retrieve the said lost data even till date. Therefore, I find that the violation against the Noticee that he did not provide any data for 5 years pertaining to his functioning as a registered IA stands established.
- vii. Further, with regards to the charge of submitting compliance report with a delay of 13 days, I note that DA recorded that the Noticee admitted to the delay of 13 days vide his letter dated January 12, 2023 during inspection, quoting the reason of contracting Corona virus and quarantining himself for the same. Further, I also note that upon perusal of the compliance report dated July 13, 2021, the DA has observed that the aforesaid contention of the Noticee in this regard may be an afterthought because the report did not contain any medical documents in support of the said claim.
- viii. Therefore, I agree with the DA as the Noticee has not made any specific rebuttal apart from a generic denial without any document/ information/ details. Further I also note that as per SEBI circular dated September 23, 2020, IAs are required to enter into investment advisory agreements with their clients latest by April 01, 2021 and submit the report SEBI by June 30, 2021, which the Noticee should have done on time at least through an authorized representative or through someone with power of attorney, all the more since the Noticee would have been aware since September 23, 2020. Therefore, I find that the said violation against the Noticee stands established.

- ix. As regards the charge of not providing any document in support of education qualification of any of the individuals who were rendering investment advisory services to his clients during the period of inspection, the DA observed that, the Noticee despite claiming his staff members to be postgraduates with MBA degree has not submitted any proof of the same till date. Therefore, the DA has not accepted the contentions of the Noticee as they are only mere statements. In this regard, I agree with the DA and note that as per Regulation 15 (13) and 25 (1) of the IA Regulations, the Noticee was to ensure that he was compliant with certification and qualification requirements and also was required to provide all the relevant documents to the inspecting authority which the Noticee failed to do. Therefore, the violation of provisions of Regulation 25(1), 25(2), clause 8 of Code of Conduct read with Regulation 15(9), Regulation 19(1) and 19 (2) of SEBI (IA) Regulations, 2013 read with SEBI Circular No. SEBI/HO/IMD/DF1/CIR/P/2020/182 dated September 23, 2020; Regulation 7 (1) (a), 7 (1) (c), 15(13), 25(1) and clause 2, 3, 8 and of Code of Conduct read with Regulation 15(9) of SEBI (IA) Regulations, 2013, against the Noticee in this regard stands established.

D. Allegation related to the Noticee's failure to assess the suitability of investment advice and maintain appropriate standards of conduct

- i. The following were alleged against the Noticee as he failed to assess the suitability of investment advice and maintain appropriate standards of conduct;
- a. The Noticee had provided an option of submission of risk profiling questionnaire on his website, however, as per the undertaking submitted by the Noticee during the inspection, he is not taking into consideration the risk profiling score submitted online. Further, for such prospective clients, the Noticee performs risk profiling on a telephone call and shares the score on the call itself and considers such score as the final one. Further, the Noticee has failed to

produce any record of consent of client taken on the said risk profiling done on phone.

- b. The Noticee had not performed any suitability assessment of any of his client. As per the undertaking submitted by the Noticee during the inspection, it is seen that the Noticee performs only Risk Profiling on the basis of scores obtained by a client and thereafter, the product is prescribed to him/ her, even if the product is not in line with the investment objective, financial situation or any other financial factor indicated by such client in the risk profile questionnaire. This apart, the Noticee had also not taken into due consideration the preferred time horizon indicated by his clients while prescribing products to them. Finally, the Noticee failed to provide any document in support of suitability assessment being done by him before prescribing any product or services to his clients.

- ii. In respect of the aforesaid allegation, I note that the Noticee *inter alia* submitted in response to the DA SCN as under:

“The Noticee would like to state that he had a document namely product suitability wherein the products offered by the Noticee are categorized in Medium and High-risk category. Further, the product suitability is also enclosed as Exhibit-A for your reference, which was submitted to the SEBI at the time of obtaining registration from the SEBI and the same is still being followed by the Noticee. Moreover, the Noticee has also attached (Exhibit-B) the screenshot of the website of the Noticee which is reflected post submission of risk profiling questionnaire, wherein it is evident that the suitable product according to the risk profile of the client is clearly displayed upon.

... the examination carried out by the inspecting team of the samples as mentioned in the SCN is not done in an ideal manner as the SEBI has misunderstood the question: ‘Investment time horizon’ in the risk profiling form. As by the said question, the Noticee meant that: For how much time period the investor wishes to keep his money invested in the stock market and not the other way around which the SEBI has interpreted.”

- iii. As regard to the contention of the Noticee on the charge of failing to perform risk profiling in the prescribed manner and maintaining appropriate

standards of conduct, I note that the DA observed that, the Noticee does risk profiling of the customer over a telephone call, of which he does not retain any physical copies. Further the DA observed that as per the SEBI circular dated December 27, 2019, the Noticee was required to obtain the consent of the client through registered email or physical document, which also he has not done. In this regard, I agree with the DA and note that since the Noticee has not taken the consent of his clients in the form of e-mail or physical documents as required and has not submitted any documents to support his claims on risk profiling done by him, the contentions of the Noticee in this regard are without any merit and the violation of Clause 1 (ii) of SEBI Circular No. SEBI/HO/IMD/DF1/CIR/P/2019/169 dated 27/12/2019 read with Regulation 16 and clause 1 and 8 of Code of Conduct read with Regulation 15(9) of IA Regulations, against the Noticee stands established.

- iv. As regards the charge against the Noticee for not performing any suitability assessment of any of his client and not considering the preferred time horizon indicated by his clients before prescribing any products or services to his clients, I note that the DA had agreed to the submission of the Noticee that the product was prescribed to the clients on the basis of risk profiling scores of the client. Further, as regards the allegation against the Noticee that he had not taken into due consideration the preferred time horizon indicated by his clients, I note that the DA observed that the inspection has not evidently brought out as per the material available on record, as to how the Noticee had not performed any suitability assessment of any of his clients and as to how the investment advice provided were not appropriate to the risk profile of the clients.
- v. In this regard, upon perusal of the Regulation 17 (a) of the IA Regulations, I note that all investments on which investment advice is provided by the IA should be appropriate to the risk profile of the client, which means that for suitability, it is mandatory for appropriate risk profiling to be done by the Noticee, which was not done as established in para 15 D (iii) above.

Further, I note that during the inspection while seeking the documents such as the questionnaire filled by his clients or the suitability assessment made for his clients during the IP, the Noticee has only submitted the questionnaire on risk profiling available on his website, which was submitted to SEBI at the time of seeking registration. Therefore, the Noticee has not submitted any evidence to prove that proper suitability assessment was done by him. Furthermore, as regards the allegation of not considering the preferred time horizon, I note from Regulation 17(b) of the IA Regulations, that an IA has to have a documented process for selecting investments based on client's investment objectives and financial situation, which means that the Noticee has no choice or discretion as an IA to recommend short term or intraday packages when the clients have asked for 1 year/1-3 years/3 years packages as observed from the sample cases i.e. 3 instances mentioned in the SCN. Suitability assessment ensures that investment advice is tailored to each client's specific circumstances and promotes transparency and trust in the financial advisory process. Failure to adhere to this requirement undermines the fundamental responsibility of IAs to align investment recommendations with individual needs and risk profiles of their clients, which in turn works detrimental to the said clients. In view of the above, I find that the Noticee has in fact violated the provisions of Regulation 17 of the IA Regulations and clause 1 and 8 of Code of Conduct read with Regulation 15(9) of IA Regulations.

E. Allegation related to the Noticee's failure to make necessary disclosures to clients

- i. It was *inter alia* alleged that the Noticee failed to submit any document evidencing that he had disclosed his holding positions, with respect to the product or securities which were subject matter of advice to all his clients.
- ii. In respect of the aforesaid allegation, I note that the Noticee *inter alia* submitted in response to the DA SCN as under:

‘...the Noticee didn’t have any demat/trading account as a result he is not holding/trading in the securities which are the subject matter of advice. Moreover, the Noticee had duly disclosed to all his clients upon its website that: “To ensure compliance with the Investment Advisor regulations 2013, we have resolved that the investment adviser and all its representatives will not make any trades in the market. We are not associated in any manner with any issuer of products/ securities, this ensures that there is no actual or potential conflicts of interest. This also ensures that objectivity or independence in the carrying on of investment advisory services is not compromised.” The screenshot of the same is also enclosed as Exhibit-C’

- iii. As regard to the contention of the Noticee on the charge of failing to make necessary disclosures to clients, I note that the DA has recorded his observation that, firstly, from the copy of document submitted that the said document neither contains the URL, despite the Noticee claiming that such disclosure was made through his website, nor does the said document indicate the date of the document. This is observed because whenever any information is populated by someone on their website, the person would submit a print out of the said website which inter alia would contain such information like the complete URL and date time of the print etc., Further in this regard, the DA observed that from the screenshot of the website submitted by the Noticee as his Exhibit –C, the Noticee has not demonstrated to satisfaction to rule out the possibility of said document having been populated on the website after the Inspection by SEBI and/or produced as an afterthought observed that the material available on record has not brought out that the said information was provided during the Inspection or after the Inspection as part of response to the findings of the Inspection submitted by the Noticee vide his letter dated January 12, 2023. Accordingly, the submissions of the Noticee in this regard were devoid of merit and hence the DA could not accept the said submissions of the Noticee.
- iv. In this regard, I note that the Regulation 15(9) of IA Regulations, requires IAs to abide by the Code of Conduct specified in the third schedule, which in turn requires IAs to act fairly in the best interest of their clients, shall

make disclosure of relevant material information while dealing with their clients, shall comply with all regulatory requirements while conducting their business to promote best interest of their clients and the integrity of the market. I also note that, additionally, Regulation 18(4) of the IA Regulations, requires all IAs to disclose their holding positions, if any, with respect to the product or securities which were subject matter of advice to all their clients. Having regards to the aforesaid facts, I note that the Noticee has submitted that he does not have holdings in any securities and the same has been recorded in the post-inspection analysis. Further, there is no evidence on record to show that the Noticee had holdings in any securities for which he had given investment advice. Since, the Noticee did not have holdings in any securities, he was not required to make any specific disclosure to his clients in compliance of the above said provisions of the regulation. Therefore, I find that there has been no violation of the provisions of IA Regulations by the Noticee in this regard as per the material available on record.

F. Allegation related to the Noticee's delay in redressing investor grievances

- i. It was inter alia observed and alleged that the Noticee had received a total of 22 complaints out of which 13 were received through SCORES while remaining 9 were received directly on the dedicated email id service@eliteresearch.in and that complaints received on SCORES were resolved by the Noticee in the time range of 54 days to 220 days.

- ii. In respect of the aforesaid allegation, I note that the Noticee *inter alia* submitted in response to the DA SCN as under:

'The Noticee would like to state that the Noticee had always resolved all the clients' grievances in a timely manner and provided the best resolution as possible, which is evident from the SEBI SCORES Portal wherein 0 complaints are pending against the Noticee out of total of 148 complaints received. Screenshot of the SCORES Portal is provided in Exhibit – D. The Noticee has always promptly responded towards all of the

investor's grievance, however in few cases to reach a final conclusion, there have been delays due to late response from the clients and also due to prevailing covid times in 2020.

'Hence, the Noticee has in no manner violated the provisions of the SEBI Circular: SEBI/HO/OIAE/IGRD/CIR/P/2018/58 dated 26/03/2018. Moreover, the Noticee didn't have any such intention of not resolving the grievances of the clients as in the past as well the Noticee had resolved all the client's grievances in a timely manner and to the best of the satisfaction of his clients.'

- iii. As regard to the contention of the Noticee on the charge of delay in redressing investor grievances, I note, the DA has recorded his observation that the statement of the Noticee that *"however in few cases to reach a final conclusion, there have been delays due to late response from the clients and also due to prevailing covid times in 2020"* is in the nature of admission. Further, as regards the above mentioned submission of Noticee, the DA found the Noticee has merely stated so as he has failed to demonstrate the same by adducing documents in support of the said claims. The DA also found that the Noticee was required to redress the grievance within 30 days, however, as noted from material available on record the Noticee took 54 days to 220 days to resolve the 13 complaints received through SCORES, besides the subject matter of the instant proceedings are regarding the time taken to resolve the complaints and not about the number of complaints pending. In view of the above, the DA did not accept the said contentions of the Noticee. Furthermore, since the Noticee has neither disputed nor denied the alleged delay in the time range taken by Noticee in resolving the complaints, the DA rejected all of the Noticee's contentions and found the Noticee guilty of violating the said charge.
- iv. In this regard, I note that the SEBI Circular dated March 26, 2018, mandates that all SEBI registered intermediaries are to take resolve the complaints within a period of thirty days as per Regulation 21(1) of the IA Regulations including filling an ATR with SEBI as per para 8 (c) of SEBI Circular No. SEBI/ HO/OIAE/IGRD/CIR/P2018/58 dated March 26, 2018, which in this case the Noticee failed to do. Also, I note that Regulation 15(9) of IA

Regulations, requires IAs to abide by the Code of Conduct specified in the third schedule, which in turn requires IAs to act with due skill, care and diligence in the best interest of their clients, shall comply with all regulatory requirements while conducting their business to promote best interest of the clients and the integrity of the market, which the Noticee has failed to do in this case. In this regard, while agreeing with the findings of the DA, I also note that the Noticee as a registered IA is expected to comply with the extant regulatory and statutory requirements. It is a settled position that the obligation under the IA Regulations that timely redressal of investor grievances is mandatory. In view of the above, I find that by not redressing the grievances of the investors within prescribed time of 30 days, the Noticee has violated Regulation 21(1) read with para 8 (c) of SEBI Circular No. SEBI/ HO/OIAE/IGRD/CIR/P2018/58 dated March 26, 2018 and Clause 2 and 8 of Code of Conduct read with Regulation 15(9) of IA Regulations.

16. In view of the facts and circumstances of the case, material placed before me as discussed above and the violations as brought out above, I find that the acts of Noticee are detrimental to the interest of the investors in the securities market. Investment Advisors play a crucial role in guiding investors with their financial decisions and instances of IAs not adhering to the prescribed regulations and/or code of conduct can affect the investors to a large extent. Regulatory oversight cannot be excused and needs to be countered with stringent enforcement measures in order to ensure that IAs uphold the ethical standards and prioritize the financial well-being of their clients. In this regard, SEBI also has the duty to ensure speedy resolution of investor grievances and to further the cause, it has come out with SCORES which is a centralized web based complaints redress system that enable the investors to lodge and follow up their complaint from any location. It is of utmost importance that every listed company assigns high priority to investor grievances and takes all necessary steps to redress the complaints received from investors at the earliest. Taking into consideration the above, I find that the Noticee is liable for action under the Intermediaries Regulations, SEBI Act, 1992 and the IA Regulations and I am of the opinion that the Noticee being prohibited

from taking up any new assignments or contract or launching a new scheme for a period of 6 months, may meet the ends of justice.

17. Therefore, I agree with the recommendations given by DA vide report dated February 29, 2024 that the Noticee (having SEBI registration number – INA000003668), being prohibited from taking up any new assignments or contract or launching a new scheme for a period of 6 months.

Directions:

18. In view of the foregoing, I, in exercise of the powers conferred upon me in terms of Section 19 of SEBI Act, 1992 read with Regulation 27 of the Intermediaries Regulations and Regulation 28 of the IA Regulations, hereby prohibit the Noticee i.e. Rajiv Kumar Singh Proprietor of Elite Investment Advisory Services, having SEBI registration number – INA000003668, from taking up any new assignments or contract or launching a new scheme for a period of 6 months.

19. This order comes into force with immediate effect.

20. A copy of this order shall be forwarded to the Noticee.

DATE: MAY 29, 2024

PLACE: MUMBAI

G. RAMAR

CHIEF GENERAL MANAGER

SECURITIES AND EXCHANGE BOARD OF INDIA