

**BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA
CORAM: MADHABI PURI BUCH, WHOLE TIME MEMBER
INTERIM EX PARTE ORDER**

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

**In Re: Securities and Exchange Board of India (Investment Advisers) Regulations, 2013
and
Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade
Practices Relating to Securities Market) Regulations, 2003**

In respect of:

Sr. No.	Name of the Entities	PAN	DIN/ CIN
1	Fingravy Wealth Creation Services Pvt. Ltd.	AADCF2427Q	U73200MH2017 PTC301697
2	Mr. Dhiraj Gupta	CMVPG2518N	08355010
3	Mr. Sumit Kumar	CSIPK7343G	08357686
4	Mr. Hemanchal Singh	FPBPS3962E	07735818
5	Mr. Ravindra Singh	FOIPS5131B	08063861
6	Mr. Ashutosh Sharma	CBVPS2287K	07980975

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1. Securities and Exchange Board of India (“SEBI”) received a complaint from Finvasia Securities Private Limited wherein it was alleged that a website <https://fingravy.com> is illegally using its SEBI registration no. INZ000176037 to conduct business of investment advisory services. In this regard, Finvasia Securities Private Limited was requested to inform SEBI whether they have lodged a complaint/ First Information Report with the police authorities as this appears to be a case of impersonation/ fraud. Finvasia Securities Private Limited filed an email complaint with the local police station at IT Park, Chandigarh, and

informed SEBI that the police have refused to file an FIR, *inter alia*, stating that there is no monetary harm to Finvasia and this impersonation is just giving a bad image to their company.

2. With a view to determine if unregistered investment advisory activities are being carried out through www.fingravy.com, a preliminary examination was carried out in this matter and the, *prima facie*, findings of the same are given in the succeeding paragraphs.

SEBI's EXAMINATION AND PRIMA FACIE FINDINGS

3. As per the details available on the website, www.fingravy.com is run under a brand name called Fingravy Strategic, which was established in 2008 by Mr. Ashutosh Sharma. As on January 09, 2020, the aforesaid website is active. The entity also has a presence on Facebook.
4. While presently the website does not have the option of 'Payment' on its home page, from the past records of the website obtained from archive.org, it can be seen that the entity accepted payment through payment gateway "Avantgarde", which accepts payments via debit/ credit cards, net banking and wallets, if a client wishes to subscribe to their 'advisory services'. Further, the entity had provided the following bank accounts on its website for clients who wish to make offline payment:

Bank	Account No/ Account type	IFSC Code	Brach Code (Branch Name)
HDFC Bank	50200028467394 (Current)	HDFC0001240	452240005 (Race Course Road)
Axis Bank	917020083741307 (Current)	UTIB0003633	452211027 (Pardeshipura)
ICICI Bank	091605001648 (Current)	ICIC0000916	452229004 (Ratlam Kothi)

It is noted that the above mentioned bank accounts are in the name of an entity, Fingravy Wealth Creation Services Pvt. Ltd. (hereinafter referred to as "**Fingravy**"), which is registered with the Registrar of Companies, Mumbai.

5. The MCA Database was searched wherein the following details were found:

a. Fingravy is a Private Limited Company incorporated on 13 November 2017. It is registered at RoC, Mumbai having CIN U73200MH2017PTC301697. Its registered address is Shop No:-168, Citi Mall, C.T.S no. 621, Oshiwara, New Link Road Andheri West, Mumbai, 400058. Its registered Email ID is fingravy@gmail.com.

b. The details of the Present and Past Directors of Fingravy are as follows:

Sr. No.	DIN/ PAN	Name	Begin date	End date	Surrendered DIN
1	08355010	Dhiraj Gupta	15/01/2019	-	-
2	08357686	Sumit Kumar	15/01/2019	-	-
3	07735818	Hemanchal Singh	13/11/2017	09/02/2019	-
4	08063861	Ravindra Singh	09/05/2018	09/02/2019	-
5	07980975	Ashutosh Sharma	13/11/2017	09/05/2018	-

6. During the course of examination, SEBI received a number of complaints against Fingravy in respect of their unregistered investment advisory services. The details of the complaints received are as under:

a. Motilal Oswal Securities Ltd. (MOSL), vide its letter dated November 09, 2018, has alleged that certain third party persons are placing advisory calls to their clients and as per their investigations, they have identified Fingravy as one of these entities.

b. Mr. Vivekanand Tiwari has alleged that an employee from Fingravy called him and assured him profit if he takes registration with their company. The complainant has alleged that in March 2019 he initially paid a certain amount to register with the company and later on he was told about another offer, with a higher price, to which he subscribed. Subsequently, Fingravy offered him another service, which he refused and then they asked him to pay portfolio management fees. After his refusal, they are not providing him with any service.

- c. Mr. Sanjay Kumar Sharma has alleged that he received a call from Fingravy wherein they asked him to register with them and assured him Rs. 10-15 thousand daily income. He paid them Rs. 2,43,000/- as fees and within one month they caused him a loss of Rs.1,50,000/-.
- d. Mr. Ravindra Shelke has alleged that in December 2018 and January 2019, Fingravy has taken money from him in lieu of advisory services (Rs. 6 lakh as advisory fee, Rs. 3,85,000/- and Rs. 69,300/- as GST, Rs. 36,000 as terminal charges and Rs. 1 lakh as report charges).
- e. Mr. Sunil Chakravarti has alleged that in January 2019 he received a call from Fingravy and was asked to pay Rs. 2000/- in the first instance in lieu of investment advice. Subsequently, he was made to pay Rs. 11,000/- and Rs. 7000/-. However, he has not received any investment advice or bills/ documents from Fingravy.
7. It was observed from archives of the website that till as early as May 2019, Fingravy was displaying the SEBI Registration No. of INZ000176037, while presently, it is mentioned on their website that they have applied for a license from SEBI; however, it is observed from the records of SEBI that Fingravy is neither registered with SEBI in any capacity nor has it applied for registration as an Investment Adviser/ Research Analyst with SEBI. From the material available on record, I note the SEBI Registration No. of INZ000176037, in fact, belongs to SEBI Registered Stock broker, viz., Finvasia Securities Private Limited.
8. SEBI also attempted to visit the office address of Fingravy at Shop No:-168, Citi Mall, C.T.S no. 621, Oshiwara, New Link Road Andheri West, Mumbai, 400058. There is no such office of Fingravy at the mentioned address. The said premises are being occupied by some other entities. Inquiry regarding Fingravy was done with nearby shops; however, no information regarding the same could be obtained.
9. I have perused the materials available on record such as complaints, information available on the website of Fingravy (current and archives) and information obtained from various banks,

etc. A preliminary examination of the material available on record has been made in order to verify whether Fingravy has offered investment advisory services and collected money from various investors without registration from SEBI. In this context, *prima facie*, the following issues arise for determination in the instant matter:

- 1) Whether Fingravy is, *prima facie*, holding itself out and acting as an investment adviser?**
- 2) If answer to Issue No. (1) is affirmative, whether Fingravy has, *prima facie*, violated any securities laws?**
- 3) If answers to Issue Nos. (1) & (2) are affirmative, whether the present and past directors of Fingravy are responsible for the violations committed by Fingravy?**
- 4) If answers to Issue Nos. (2) & (3) are affirmative, whether urgent directions, if any should be issued against Fingravy and its present and past directors?**

Issue No. 1: Whether Fingravy is, *prima facie*, holding itself out and acting as an investment adviser?

10. As regards the first issue, I note the following from the material available on record:

- a. As per the information gathered from the website of Fingravy, the following claims are noted:
 - i. *Of the 18,000 financial advisers in India, we are part of a select group of under 90 who can call themselves truly independent. We provide strategic financial advice where your needs are the only factors that influence our decisions.*
 - ii. *As an independent advisor, we do not have a vested interest in specific products or services that can bias our judgment or recommendations.*

- iii. Our services range from Indian Stock Market Advisory, Intraday Tips, Stock Trading Tips, Share Market Tips, Super Power Tips, Growing Wealth, Tax Planning, Investment Planning and Strategy, etc.
- iv. As part of our services for the Equity Market, we have various packages for Intraday Cash, HNI Cash, Delivery Pack, Stock Cash BTST, Cash Blue Chip, etc., at various price points.

Illustration of one of the subscription package provided by Fingravy and the fees for the same are as under:

<i>Intraday Cash</i>	<i>Fees (in Rs.)</i>
Monthly	7,500/-
Quarterly	20,000/-
Half yearly	35,000/-
Yearly	50,000/-

<i>HNI Cash</i>	<i>Fees (in Rs.)</i>
Monthly	20,000/-
Quarterly	45,000/-
Half yearly	80,000/-
Yearly	1,00,000/-

<i>Commodity Bullion</i>	<i>Fees (in Rs.)</i>
Monthly	10,000/-
Quarterly	27,000/-
Half yearly	50,000/-
Yearly	90,000/-

11. Further, as per the website of Fingravy, it was observed that they charge advisory fee which ranges from:

Initial planning Fee	Monthly Retainer Fee
Rs 50,000- Rs 3,00,000	Rs. 50,000- Rs. 1,50,000

On the website, it is mentioned that the fee includes 2-3 meeting, ongoing review, annual comprehensive review, and anytime access for questions as they arise. Further, it is also stated that cost of planning will depend on its scope:

- a. Financial Advice/Analysis (minimum charge) → Rs 50,000
 - b. Retirement Planning “Mini- Strategies” → Rs 75,000- Rs 1,50,000
 - c. Comprehensive Financial Plan → Rs 1,75,000 – Rs 2,50,000
 - d. Hourly Rate for advance planning or consulting → Rs 2,360 (incl. GST)
12. From archived webpages of the website, it is noted that Fingravy has also placed track sheets for segments of Equity Cash, MCX, Stock Future and Stock Options on its website. These track sheets appear to be, *prima facie*, an indicator of the performance of the investment advice given by Fingravy.
13. From the complaint of Mr. Ravindra Shelke, the following details are observed:
- a. Payment receipts are issued by Fingravy to the complainant wherein it is mentioned that the Service Type is ‘Equity’ and the Risk Profile has been mentioned as ‘High’.
 - b. Payment receipts contain disclaimers/ directions, such as, investment in securities market are subject to market risk, services will be rendered only after KYC and risk profiling is done, client is required to trade on minimum 2 lots and maximum 3 lots on each and every call, etc.

The above terminology and disclaimers/ directions mentioned on the payment receipts are generally associated with entities engaging in providing investment advisory services.

14. Further, I note the following information gathered from the KYC documents and bank account statements collected from the banks viz., ICICI Bank, Axis Bank and HDFC Bank:

- a. The mailing address given at the time of account opening is 510, Shagun Tower Vijay Nagar, Indore, while the registered office address is Shop No:-168,Citi Mall, C.T.S no. 621, Oshiwara, New Link Road Andheri West, Mumbai, 400058.
- b. As per the KYC documents of these bank accounts, the nature of business/ type of profession of Fingravy has been stated to be as follows:

Bank	Nature of business/ Type of profession
ICICI Bank	Wealth Creation Services
Axis Bank	Service Providers (Personal Financial Advisors)
HDFC Bank	Service Providers (Financial Consultancy)

- c. The transactions observed in the above mentioned bank accounts are summarized as under:

Bank	Account Opening Date	Credits received from date of account opening till December 25, 2019	Balance (as on December 25, 2019)	Last Credit Transaction Date
ICICI Bank	January 10, 2018	Rs. 3,58,67,382.13/-	Rs. 976.93/-	Sept 18, 2019
Axis Bank	December 16, 2017	Rs. 40,19,856.3/-	Nil	Jul 29, 2019
HDFC Bank	December 13, 2017	Rs. 2,14,46,708.36/-	Rs. 1,290.74/-	Aug 23, 2019
Total		Rs. 6,13,33,946.79/-		

- d. It is observed that there are large number of payments received through various payment gateways/ IMPS or NEFT. From the narrative of the transactions, it appears that the payments have, *prima facie*, come from various individuals.
- e. The credit transactions in the bank accounts, *prima facie*, are proceeds from the business operations of Fingravy and considering that it is showing multiple advisory services as its

business operation in its website, it leads to the, *prima facie*, conclusion that the said proceeds are consideration for their advisory services.

15. Considering the above analysis of the details of website of Fingravy, payment receipts, and bank statement of Fingravy, I, *prima facie*, observe that Fingravy has represented as follows:
 - a. Fingravy is an investment advisory firm that provides tips for the stock and commodity markets.
 - b. Fingravy offers services in the area of tax planning and investment planning and strategy for consideration.
16. Considering the above facts and circumstances especially, the content of the website of Fingravy coupled with the credit transactions in the Bank Accounts, as detailed in preceding paragraphs, *prima facie*, it is inferred that the fees/ funds credited to the Bank Accounts, were for the purpose of availing the services indicated on the website of Fingravy.
17. Hence, as reflected in the bank statements referred to above, I note that Fingravy has commenced with the collection of fees/ funds for the purpose of availing the services, as indicated on its website, from December 2017 and has continued the same till September 2019.
18. It is, *prima facie*, observed that Fingravy is placing information in public domain/ advertising by using its website about the various services offered by it in the securities market. Further, it is also, *prima facie*, observed that various packages are being offered by Fingravy to avail its services. Currently, the website categorically mentions the advantages of availing its services in various fields of securities market and the “independent advice” they offer to their clients in the securities market. However, from the records of SEBI, it is observed that no entity with the name Fingravy is registered with SEBI as an investment adviser/ research analyst/stock broker. I also note that SEBI has not received any application for registration as

investment adviser from Fingravy. Further, in any case, even if Fingravy has applied for registration to SEBI, it cannot hold itself out and act as an Investment Adviser without actually obtaining the registration from SEBI.

19. I have perused the definition of Investment Adviser as given in Regulation 2(m) of the IA Regulations, which states that Investment Adviser means “*any person, who for consideration, is engaged in the business of providing investment advice to clients or other persons or group of persons and includes any person who holds out himself as an investment adviser, by whatever name called*”. Further, I have perused Regulation 2(l) of the IA Regulations which defines Investment Advice as “*advice relating to investing in, purchasing, selling or otherwise dealing in securities or investment products, and advice on investment portfolio containing securities or investment products, whether written, oral or through any other means of communication for the benefit of the client and shall include financial planning.*”
20. Therefore, the activity of Fingravy of holding itself to be giving trading tips, stock specific recommendations, etc., to the investors and general public, and payment receipts of the complainant indicating the payment was made for receiving investment advice, the bank statement, *prima facie*, showing the credit for payment of fees, indicates that there is a preponderance of probability that Fingravy has acted as an investment advisor for consideration.
21. In view of the aforesaid discussions, I, *prima facie*, note that apart from holding itself out and acting as an investment adviser, Fingravy, through its website, had earlier falsely represented itself as having a SEBI registration number, which belonged to another intermediary, as evidenced from the archive web pages, while presently it has represented that it has applied for a license from SEBI in order to deal in various fields of securities market. Therefore, it is, *prima facie*, held that Fingravy is claiming/ asserting to the general public of facts which it knows are not true i.e., Fingravy knows that the registration number mentioned on its website did not belong to it and that presently, it has not applied for any registration with SEBI and is also actively concealing the truth that it is not authorized to deal in the securities market in

any capacity on behalf of investors, so as to lure investors to deal in securities based on their advice.

Issue No. 2: If answer to Issue No. (1) is affirmative, whether Fingravy has, prima facie, violated any securities laws?

22. In order to ensure that the investors who receive investment advice are protected, it is imperative that any person carrying out investment advisory activities has to necessarily obtain registration from SEBI and conduct its activities in accordance with the provisions of SEBI Regulations. Section 12(1) of the Securities and Exchange Board of India Act, 1992 (“SEBI Act”) reads as under:

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

Further, as per Regulation 3(1) of the SEBI (Investment Advisers) Regulations, 2013 (hereinafter referred to as the IA Regulations), the registration of the investment advisers is mandatory. It provides that, *“On and from the commencement of these regulations, no person shall act as an investment adviser or hold itself out as an investment adviser unless he has obtained a certificate of registration from the Board under these regulations”*.

23. The activities of Fingravy, as brought out from the various materials described above, seen in the backdrop of the aforesaid provisions show that Fingravy has holding itself out and acting as an investment adviser. However, no material is available on record to indicate that Fingravy has a certificate of registration as investment adviser or has applied to SEBI for the same. In this context, it is noted that Fingravy is not registered with SEBI in the capacity of an

Investment Advisor and the characteristics and features of the business activity carried out by Fingravy, as discussed in the preceding issue, *prima facie*, leads to the conclusion that Fingravy is holding itself out and acting as an investment adviser without a certificate of registration.

24. In my view, these activities/ representations are in violation of various provisions of the IA Regulations. Thus, the activities of Fingravy are, *prima facie*, in violation of Section 12(1) of SEBI Act read with Regulation 3(1) of the IA Regulations.
25. As discussed in the preceding paragraphs, on their website, Fingravy had earlier displayed the SEBI Registration Number of another intermediary, while presently it has claimed to have applied for a license to SEBI for providing services in the securities market. Fingravy claims to provide “independent advice” in various field of securities markets. The analysis of bank accounts mentioned on the website shows that Fingravy has received money in various denominations from various individuals all across the country. These proceeds, as discussed in preceding paragraphs, *prima facie*, leads to the inference that they are consideration for the services that Fingravy provides in the securities market. Thus, Fingravy has misrepresented to the general public that (a) it was registered with SEBI (by displaying the registration number of another intermediary) and (b) it has applied for a license from SEBI. Through this misrepresentation, Fingravy has further concealed the truth that they are not authorized to deal in securities market as it does not have the certificate of registration and are defrauding the public by luring/ inducing to avail their services to deal in securities. Such misrepresentation is therefore, *prima facie*, fraudulent and is covered within the definition of “fraud” defined under Regulation 2(1)(c) of the PFUTP Regulations. I, therefore, *prima facie*, find the conduct/ act/ practice of Fingravy to be in violation of provisions of Section 12A (c) of Securities and Exchange Board of India Act, 1992 (“**SEBI Act**”) and Regulations 3 (a), (b), (c), (d) and Regulations 4(1) and 4(2)(k) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as the PFUTP Regulations). The text of the aforesaid provisions is reproduced below:

SEBI Act

Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control

Section 12A: No person shall directly or indirectly:

...

(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

Regulation 3. Prohibition of certain dealings in securities

No person shall directly or indirectly-

(a) buy, sell or otherwise deal in securities in a fraudulent manner;

(b) use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made there under;

(c) employ any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange;

(d) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made there under.

4. Prohibition of manipulative, fraudulent and unfair trade practices

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

*(2) Dealing in securities shall be deemed to be a fraudulent or an unfair trade practice if it involves fraud and may include all or any of the following, namely:-
.....*

(k) disseminating information or advice through any media, whether physical or digital, which the disseminator knows to be false or misleading and which is designed or likely to influence the decision of investors dealing in securities”.

Issue No. 3: If answers to Issue Nos. (1) & (2) are affirmative, whether the present and past directors of Fingravy are responsible for the violations committed by Fingravy?

26. Any Company though a legal entity cannot act by itself, it can act only through its Directors. They are expected to exercise their power on behalf of the company with utmost care, skill and diligence. In terms of Section 179 of the Companies Act, 2013, the Board of Directors of a company shall be entitled to exercise all such powers and do all such acts and things as the company is authorized to exercise and do. Therefore, the Board of Directors being responsible for the conduct of the business of a company are liable for any non-compliance of law and such liability shall be upon the individual directors also. The Hon’ble Supreme Court of India, while describing what is the duty of a Director of a company, held in *Official Liquidator v. P.A. Tendolkar* (1973) 1 SCC 602 that “A Director may be shown to be so placed and to have been so closely and so long associated personally with the management of the Company that he will be deemed to be not merely cognizant of but liable for fraud in the conduct of the business of a Company even though no specific act of dishonesty is proved against him personally. He cannot shut his eyes to what must be obvious to everyone who examines the affairs of the Company even superficially”. Further, in cases of fraud, it is a settled position

of law that the corporate veil can be lifted and the directors can be held liable for the fraud of the Company.

27. The directors are statutorily expected to exercise due care and diligence as expected from a prudent person which among other things entails running the affairs of the company within the four walls of the relevant statutory provisions. Here, I would like to refer to the observations of the Hon'ble High Court of Delhi in the matter of *Santanu Ray vs. Union of India* decided on August 12, 1989, wherein the Hon'ble Court observed as follows:

“12. In Pennington's Company Law, 5th edition, at page 58, the topic of evasion of obligation imposed by law is discussed. The courts have ignored separate legal personality of the company if it was formed or used to facilitate the evasion of legal obligations. The American courts have disregarded a company's separate legal personality when it was clearly formed or acquired to facilitate a breach of the general law. In CIT v, Meenakshi Mills Ltd., their Lordships expressed that it is well established that in a matter of this description, the income-tax authorities are entitled to pierce the veil of corporate entity and to look at the reality of the transaction. It is true that from the juristic point of view, the company is a legal personality entirely distinct from its members and the company is capable of enjoying rights and being subjected to duties which are not the same as those enjoyed or borne by its members. But, in certain exceptional cases, the court is entitle to lift the veil of corporate entity and to pay regard to the economic realities behind the legal facade.”

28. I also place reliance on the decision of Hon'ble Supreme Court (Larger Bench) in the matter of *LIC Vs. Escorts Limited* (1986 AIR 1370) , wherein while discussing the doctrine of corporate veil, the Court had observed: *“90. ... the corporate veil may be lifted where a statute itself contemplates lifting the veil, or fraud or improper conduct is intended to be prevented, or a taxing statute or a beneficent statute is sought to be evaded or where associated companies are inextricably connected as to be, in reality, part of one concern. It is neither necessary nor desirable to enumerate the classes of cases where lifting the veil is permissible, since that must necessarily depend on the relevant statutory or other provisions, the object*

sought to be achieved, the impugned conduct, the involvement of the element of the public interest, the effect on parties who may be affected, etc.”

29. In the present case, as noted earlier in paragraph 5 (b), the details of present and past directors of Fingravy are as below:

Sr. No.	DIN/ PAN	Name	Begin date	End date	Surrendered DIN
1	08355010	Dhiraj Gupta	15/01/2019	-	-
2	08357686	Sumit Kumar	15/01/2019	-	-
3	07735818	Hemanchal Singh	13/11/2017	09/02/2019	-
4	08063861	Ravindra Singh	09/05/2018	09/02/2019	-
5	07980975	Ashutosh Sharma	13/11/2017	09/05/2018	-

30. As noted in the preceding paragraphs, the earliest credits in the bank accounts of Fingravy have started in December 2017, while the latest credits have occurred in September 2019.
31. The fact that the money has been collected during the tenure of the above mentioned directors, both past and present, *prima facie*, in the form of fees for the services offered by Fingravy, indicates that the directors mentioned in the table above were involved at the time of the violations. Further the corporate entity has been used, *prima facie*, to perpetrate fraud on the investors. Thus, the, *prima facie*, violations committed by Fingravy, which have been discussed above, pertain to the time periods when the persons mentioned in the table above were acting as its directors. Therefore, I am of the view that all the present and past directors of Fingravy are, *prima facie*, responsible for the violations committed by it.

Issue No. 4: If answers to Issue Nos. (2) & (3) are affirmative, whether urgent directions, if any should be issued against Fingravy and its present and past directors?

32. SEBI has a statutory duty to protect the interests of investors in securities and promote the development of, and to regulate, the securities market. Section 11 of the SEBI Act has empowered it to take such measures as it thinks fit for fulfilling its legislative mandate. The

PFUTP Regulations and the IA Regulations have been formulated with the main objective of regulating such activities to safeguard the interests of investors and hence registration of such activities with SEBI has been made mandatory. The IA Regulations, *inter alia*, seek to create a structure within which investment advisers will operate and also make them duly accountable for their investment advice by requiring investment advisers to comply with the criteria set out in the relevant provisions of the IA Regulations. The same is imperative for the protection of interests of investors and to safeguard the integrity of the securities market. In the instant case, Fingravy is soliciting and inducing the investors to deal in securities market on the basis of investment advice, stock tips etc., *prima facie*, without having the requisite registration/ certification as mandated under the IA Regulations. Similarly, the PFUTP Regulations seeks to curb fraudulent and manipulative activities in the securities market in order to boost investor confidence in the securities market and to provide an environment conducive to increased participation and investment in the securities market which is vital to the growth and development of the economy. Further, it is noted from material available on record, money has been credited to the Bank accounts of Fingravy as recently as September 2019. This, *prima facie*, indicates that Fingravy not only continues to carry on its activity of holding itself to be an unregistered investment adviser, but is also continues to be acting as an unregistered investment advisor.

33. Considering the facts and circumstances of the present matter and on the basis of the, *prima facie*, findings, it is necessary to take urgent preventive action in this matter and to take immediate steps to prevent Fingravy from collecting any more funds from the public and indulging in unauthorized investment advisory activities. The website of Fingravy is active and can be accessed by investors. Fingravy also has a presence on social media, with the page/ account still accessible to clients/ investors. Therefore, Fingravy can still lure investors to deal through it in the securities market and probability of investors reaching Fingravy through the website is still high. Therefore, the threat of investors getting lured towards the unregistered activity of Fingravy in the securities market is still in existence and imminent. The amount of money, *prima facie*, observed to have been collected by Fingravy is approximately Rs. 6.13 crores and indicates the magnitude of the prospective threat to the investors. Therefore, even

today, investors can become prey to the different packages/ services offered by Fingravy. In light of the same, I find that there is no other alternative but to take recourse through an *interim ex-parte* order against Fingravy for preventing them from collecting funds by defrauding investors and by indulging in unauthorized investment advisory services without obtaining the mandatory registrations from SEBI in accordance with the law. In order to protect prospective investors from making payment to the bank accounts of Fingravy, credit into bank accounts needs to be stopped.

34. Further, one of the directions that can be passed against Fingravy, including the directors (past and present) in view of use of a corporate entity for unauthorized investment advisory service, subject to the adjudication of the allegation on the merits in the final order, under Sections 11, 11(4) and 11B of SEBI Act, is that of a direction to refund the money collected by them from their clients. With the initiation of quasi-judicial proceedings, it is possible that Fingravy may divert the money collected from their clients, especially taking into account the numerous withdrawals from the said bank accounts. It is also possible that the directors of Fingravy, both past and present, may also divert the money from their bank accounts to avoid their liability for the violations of Fingravy. The same may result in defeating the effective implementation of the direction of refund, if any to be passed after deciding the matter on merits. Non-interference by the Regulator at this stage would therefore result in irreparable injury to interests of the securities market and the investors. It therefore becomes necessary for SEBI to take urgent steps of stopping the debits from the bank accounts of Fingravy and its Directors.

35. In view of the foregoing, pending conclusion of enquiry, in order to protect the interests of investors and integrity of the securities market, I, in exercise of the powers conferred upon me under Sections 11, 11(4), 11B and 11D read with Section 19 of the SEBI Act hereby issue by way of this *interim ex-parte order*, the following directions:

a. *M/s. Fingravy Wealth Creation Services Pvt. Ltd. and its present directors namely, Mr. Dhiraj Gupta and Mr. Sumit Kumar, are directed to:*

- i. *Cease and desist from acting as an investment advisor including the activity of acting and representing through any media (physical or digital) as an investment advisor, directly or indirectly, and cease to solicit or undertake such activity or any other activities in the securities market, directly or indirectly, in any matter whatsoever, until further orders.*
 - ii. *Not to divert any funds raised from investors, kept in bank account(s) and/or in their custody until further orders.*
 - iii. *Not to dispose of or alienate any assets, whether movable or immovable, or any interest or investment or charge on any of such assets held in their name, including money lying in bank accounts except with the prior permission of SEBI.*
 - iv. *Immediately withdraw and remove all advertisements, representations, literatures, brochures, materials, publications, documents, websites, communications etc., in relation to their investment advisory activity or any other unregistered activity in the securities market until further orders.*
- b. *M/s. Fingravy Wealth Creation Services Pvt. Ltd. and its directors (present and past) namely, Mr. Dhiraj Gupta, Mr. Sumit Kumar, Mr. Hemanchal Singh, Mr. Ravindra Singh and Mr. Ashutosh Sharma, are directed to:*
 - i. *Not to access the securities market and buy, sell or otherwise deal in securities in any manner whatsoever, directly or indirectly, until further orders. If Fingravy Wealth Creation Services Pvt. Ltd. and its directors, named in this order, have any open position in any exchange traded derivative contracts, they are permitted to close out/ square off such open positions within one month from the date of receipt/knowledge of this order.*
 - ii. *To provide a full inventory of all assets held in their name, whether movable or immovable, or any interest or investment or charge on any of such assets, including*

details of all bank accounts, demat accounts and mutual fund investments, immediately but not later than 5 working days from the date of receipt of this order.

- c. Any person while working under Fingravy or any of the Directors under its/ their instructions as employee or otherwise, shall cease and desist from undertaking the activity of investment advisory services, including the activity of acting and representing through any media (physical or digital) as an investment advisor, directly or indirectly, till further orders.*
- d. Banks, including Axis Bank, ICICI Bank and HDFC Bank, wherein Fingravy is holding bank accounts, are directed not to allow any debits/ withdrawals from and credits to the said accounts, without the permission of SEBI. The Banks are directed to ensure that all the above directions are strictly enforced.*
- e. Banks wherein the directors of Fingravy, both present and past, namely, Mr. Dhiraj Gupta, Mr. Sumit Kumar, Mr. Hemanchal Singh, Mr. Ravindra Singh and Mr. Ashutosh Sharma are holding bank accounts, are directed not to allow any debits/ withdrawals from the said accounts, without the permission of SEBI. The Banks are directed to ensure that all the above directions are strictly enforced.*
- f. The Depositories are directed to ensure that till further directions no debits are made in the demat accounts of Fingravy and its directors (present and past) namely, Mr. Dhiraj Gupta, Mr. Sumit Kumar, Mr. Hemanchal Singh, Mr. Ravindra Singh and Mr. Ashutosh Sharma, held jointly or severally.*
- g. The Registrar and Transfer Agents are also directed to ensure that till further directions the securities, including Mutual Fund units, held in the name of Fingravy and its directors (present and past) namely, Mr. Dhiraj Gupta, Mr. Sumit Kumar, Mr. Hemanchal Singh, Mr. Ravindra Singh and Mr. Ashutosh Sharma, jointly or severally, are not transferred or redeemed.*

36. This Order is without prejudice to the right of SEBI to take any other action that may be initiated against Fingravy Wealth Creation Services Pvt. Ltd. and its directors (present and past) in accordance with law.
37. This Order shall be treated as a Show Cause Notice and Fingravy Wealth Creation Services Pvt. Ltd. and its directors (present and past) may show cause as to why the various representations made/ services offered by Fingravy in securities market may not be treated as a fraudulent practice/ act/ conduct, in terms of PFUTP Regulations, why the investment advisory plans floated by them should not be held as “Investment Advisory Services” in terms of the IA Regulations and thereby their activity be treated as unregistered activity under the SEBI Act and relevant Regulations.
38. Fingravy Wealth Creation Services Pvt. Ltd. and its directors (present and past) may also show cause as to why appropriate directions, under Sections 11, 11(4), 11B and 11D of the SEBI Act and relevant SEBI Rules/Regulations, including directions to continue the prohibition on them from buying, selling or otherwise dealing in securities market, either directly or indirectly, in any manner whatsoever, for a particular period, directions to not be associated with any registered intermediary/ listed entity in the securities market, in any manner whatsoever, and why any direction to refund the amount collected from the investors/clients for its various schemes under Sections 11 and 11B of SEBI Act should not be issued against them.
39. The, *prima facie*, observations contained in this Order are made on the basis of the material available on record. In this context, Fingravy Wealth Creation Services Pvt. Ltd. and its directors (present and past) may, within 21 days from the date of receipt of this Order, file their reply, if any, to this Order and may also indicate whether they desire to avail an opportunity of personal hearing on a date and time to be fixed on a specific request to be made in that regard.

40. The above directions shall take effect immediately and shall be in force until further orders.

41. A copy of this order shall be served upon Fingravy Wealth Creation Services Pvt. Ltd., its directors (past and present), Banks, Stock Exchanges, Depositories and Registrar and Transfer Agents for necessary action and compliance with the above directions.

Date: January 14, 2020

MADHABI PURI BUCH

Place: Mumbai

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA