

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: MADHABI PURI BUCH, WHOLE TIME MEMBER

ORDER

Under Sections 11, 11B and 11D of the Securities and Exchange Board of India Act, 1992

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

In respect of:

Sr. No.	Name	PAN
1	Highbrow Market Research Private Limited (ways 2 Capital).	AACCH8077M
2	Chandan Singh Rajput	AWYPR5207Q
3	Rahul Trivedi	AQNPT9607R
4	Sunil Atode	PAN - Not available: DIN - 07857476
5	Girish Kumar Pahwani	CILPP0738B
6	Laxmikant Sharma	BNYPS4320M
7	Mohit Chhaparwal	AGOPC0896Q
8	Hemant Agrawal	AOBPA3520Q
9	Swapnil Prajapati	BTWPP9571K

Background:

1. Highbrow Market Research Private Limited (also known as “ways2capital”) (hereinafter referred to as the "Highbrow/IA") is registered as an Investment Adviser under the Securities and Exchange Board of India (Investment Advisers) Regulations, 2013 (hereinafter referred to as the "IA Regulations") with effect from February 21, 2014. Highbrow is a corporate body

and the Corporate Identification Number of Highbrow is U74140MP2011PTC027364. Registered office of Highbrow is at 515-516, Shagun Arcade, Scheme no. 54, Vijay Nagar Square, A B Road, Indore – Madhya Pradesh. Website address of Highbrow is <https://www.ways2capital.com>.

2. SEBI had been receiving a large number of complaints against Highbrow since 2015. Till March 31, 2019, a total of 488 complaints have been received against Highbrow in SCORES portal. Many of them are duplicate/ multiple complaints. The number of unique complaints (by unique complainants) received against Highbrow is 281. Further, SEBI also received references from Vijay Nagar Police Station, Indore, Madhya Pradesh and Office of the Commissioner of Police, Cyberabad whereby it has been informed that several complaints/FIRs have been filed by investors alleging cheating by Highbrow. It has also been learnt that one of the directors of Highbrow namely, Mr. Swapnil Prajapati was arrested by the Police in connection with alleged cheating/fraud by Highbrow. Preliminary examination of the material on record led to the following, *prima facie*, observations:

- 2.1. The Noticee is running a profit counter which is aimed at luring the investors to subscribe for packages offered by it.
- 2.2. The Noticee was promising/ assuring/ committing targets/ approachable profits to investors.
- 2.3. The Noticee was making such assurances being fully aware of the fact that the advice related to investments in stocks, derivatives, commodity derivatives, etc., which are subject to market risk.
- 2.4. The operations of the Noticee are aimed at maximizing its profits (i.e., service fee) by selling more and more packages to clients in complete disregard of the financial capacity or investment objective of the clients.
- 2.5. The Noticee is opaque in its dealings with the clients as it does not even disclose the amount which the client is required to invest to achieve the target or approachable profit.
- 2.6. The Noticee is fabricating Risk Profiles of clients to advise risky products to maximize fee for its own benefit rather than acting in the interest of his clients.

- 2.7. Investors are initially lured and inducted as clients with payment of smaller amounts for a basic package. Once the clients are lured with partial payment, several packages are allotted to them without their consent and then strict deadlines are put on them for the remaining payment and they are told that in the event of their failure to make the balance payment, no service would be provided thereby implying that the amount earlier paid by them would be forfeited.
- 2.8. The payment made by client is not adjusted towards old dues, rather newer and more expensive packages are allotted to the client without his/her consent and some amount is again shown as due from the client.
- 2.9. The same modus operandi is used again and again to extract more and more money from the clients.
- 2.10. In certain cases, once the investors were inducted as clients, money was extracted from them in the garb of payment for weekly reports and GST (which was not informed to the clients upfront).
- 2.11. The Noticee has also indulged in other unfair dealings such as obtaining the details of trading accounts including user ID and password from clients, splitting fee among the relatives of the client and denying to acknowledge clients even after receiving payment, creation of fake email IDs in the name of clients, etc.
- 2.12. The Noticee has not redressed Investor grievances as per the prescribed timelines by SEBI.
3. In addition to the documents, written communications and other material, SEBI also examined the records of telephonic conversation between the clients/ complainants and the employees/ representatives of the Noticee, which were submitted by the complainants. The following unfair dealings were carried out by the Noticee, through its representatives, while interacting with clients on telephone:
- 3.1. Assurance of profit to the clients by employees of Highbrow
- 3.2. Use of fictitious names and designation by highbrow's representatives
- 3.3. Obtaining Credit Card / Demat account details from client to indulge in fraudulent activity

3.4.Misrepresentation by the employees of highbrow

3.5.Coercing the clients and dictating to them to write appreciation letters for Highbrow

4. In view of the above observations, it was found, *prima facie*, that the Noticee had violated the following provisions:

4.1.Section 12A(a), (b) and (c) of the SEBI Act, 1992 and Regulations 3 (b), (c) and (d) and 4(1) and 4(2) (k) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (“PFUTP Regulations”).

4.2.Regulations 15(1) and 15(2) of the IA Regulations.

4.3.Regulation 16 of the IA Regulations.

4.4.Regulation 17 of the IA Regulations.

4.5.Regulation 21 of the IA Regulations read with SEBI Circular CIR/OIAE/2014 dated December 18, 2014.

4.6.Clause 1, 2, 3, 4, 5, 6 and 8 of the Code of Conduct for Investment Advisers read with Regulation 15(9) of the IA Regulations.

5. In view of the, *prima facie*, violations of the provisions of securities laws and the findings against the Noticee, SEBI, vide an *ad interim ex parte* order dated May 23, 2019, passed the following directions against the Noticee:

5.1.*Highbrow and its directors (present and past) are restrained from buying, selling or dealing in the securities market or associating themselves with securities market, either directly or indirectly, in any manner whatsoever, till further directions.*

5.2.*The Noticees and any other employee/person working under them as part of the overall modus operandi discussed in this order shall cease and desist from undertaking any activity in the securities market including the activity of acting and representing through any media (physical or digital) as an investment advisor, directly or indirectly, in any manner whatsoever till further directions.*

- 5.3. *The Noticees are directed 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.*
- 5.4. *Highbrow is directed 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.*
- 5.5. *The depositories are directed to ensure that till further directions no debits are made in the demat accounts, of Highbrow held jointly or severally.*
- 5.6. *The banks are directed to ensure that till further directions, no debits are made in the bank accounts held by Highbrow jointly or severally.*
- 5.7. *The Registrar and Transfer Agents are also directed to ensure that till further directions the securities held in the name of Highbrow, jointly or severally, are not transferred.*

Service of the interim order and filing of replies by the Noticees:

6. The interim order was served on the Noticees and an interim reply was provided by Noticee No. 1 vide letter dated June 13, 2019. Noticee No. 1 availed the opportunity of document inspection on July 12, 2019, while one of the past directors, Mr. Mohit Chhapparwal, Noticee No. 7, was provided the documents through a CD vide letter dated July 25, 2019.
7. All the Noticees were granted opportunity of hearing on September 04, 2019. Vide email dated August 23, 2019, Noticee No. 1 i.e., Highbrow, sought an extension and accordingly, the hearing date was extended to September 16, 2019. Vide email dated September 12, 2019, the Noticee No. 1 again sought an extension of three to four weeks as they were unable to appear on Sept 16, 2019, due to certain unforeseen circumstances. Further, Noticee No. 9, Mr. Swapnil Prajapati, sought extension as his counsel was traveling outside and adequate time was needed to file written replies. In order to have a consolidated hearing, a new hearing date of October 09, 2019, was administrative work exigencies. Thereafter, Noticee No. 1, vide

email dated October 16, 2019, again requested that the hearing be rescheduled to, preferably the second week of November 2019. Noticee No. 6, Mr. Laxmikant Sharma, also sought extension. In view of the same, a new hearing date of October 24, 2019, was given to all the Noticees. Repeat request of the Noticee No. 1 for change of hearing date was not accepted and hearing for Noticees No. 1, 2, 3, 6, 8 and 9 was held on October 24, 2019. The hearing in respect of Noticee No. 7 was held on November 14, 2019.

8. The Noticees have filed their initial replies vide letters dated June 13, 2019, August 30, 2019, October 18, 2019, October 23, 2019, and subsequent to the hearings, submissions have been received vide letters dated November 29, 2019 and December 03, 2019.

Prayers made by the Noticees:

9. The Noticees have made the following prayers:

Noticees No. 1, 2 and 3:

- 1. Be pleased to revoke the suspension of business activities of the Noticee and allow the Noticee to cater/ provide services to its existing client with a condition to not solicit business to any new clients.*
- 2. Be pleased to allow the Noticee to make its website operational with such disclaimer as the Ld. Whole Time Member may deem fit.*
- 3. Be pleased to allow Noticee to operate its bank accounts with limited access for disbursement of salaries to its employees and to pay existing government dues such as taxes, TDS and PF under Indore Local Office of SEBI's supervision.*
- 4. Be pleased to provide a copy of all the data and records based upon which the order under objection is passed by the Ld. Whole Time Member.*
- 5. Be pleased to grant liberty to the Noticee to file a detailed reply within such time after making of the records as prayed for in prayer clause (c) available.*
- 6. Be pleased to pass such order and further directions in the interest of justice and equity.*

Noticee Nos. 4 & 5: No replies have been received from them.

Noticee No. 6: *Directions issued in the interim order be discontinued.*

Noticee No. 7: *Charges alleged in the Interim Order may please be dropped with immediate effect and the directions issued thereunder be vacated and the Noticee be permitted to redeem the mutual fund securities held by him for payment of EMI, educational fees of children and for household expenses.*

Noticees No. 8 & 9: *SEBI to issue appropriate directions to modify the Interim Order qua the Noticees by setting aside all restrictions imposed on them.*

10. I shall now proceed to examine the submissions made by each of the Noticees vis-à-vis the findings of the Interim Order.

Replies and Submissions of Noticees No. 1, 2 and 3:

11. The replies and submissions, oral and written, of the Noticee are summarized as under:

11.1. Introductory submissions:

11.1.1. Investment advisory services have been provided to more than 9000 customers for the period December 26, 2011 till May 23, 2019. As on date of interim order, the Noticee had approximately 4000 ongoing customers. The total number of complaints received against the Noticee are 329 out of which 230 are unique, i.e., approximately 2.56% of total clientele of Noticee have complained, while the rest are happy and satisfied with its services.

11.1.2. While 91 complaints are pending, it is pertinent to note that 29 complaints have been resolved, 2 complainants are not their clients and 3 complainants have lodged FIR. Hence, only 57 complaints were pending for resolution when the interim order was passed. For the 29 complaints, ATR has been sent on SCORES but the complaint has not been closed by SEBI. As no further directions were given by SEBI, it may not be construed that these complaints are pending with the Noticee. It is also requested that the degree of “large number of complaints” may be tested and evaluated against the overall number of clients of the Noticee. The Noticee has submitted that it shall give a detailed reply with respect to unresolved complaints.

11.1.3. Noticee advertises its services on various social media platforms and prospective clients are redirected to its website. The client is directed to the free trial page where client is required to fill details like name, mobile number, PAN, DOB, email ID, agreement to terms and conditions, etc.

11.1.4. The investor fills the free trial form and then the Risk Analysis Department talks to these investors and offers them 2 days free trial after doing a risk profile of the lead through a questionnaire. A KYC form is also sent to the client at this stage and the Noticee has a process to check the PAN Card of the prospective client in the KRA for the purpose of KYC. The client is informed of his/ her risk profile through a welcome mail (brief details of website, terms and conditions, no refund and no guarantee policy, etc.). After the 2 day free trial, the client is transferred to the sales department. During the duration of the free trial, the revenue generation team and risk assessment team regularly take follow up of the lead and guide them and advise them not to trade but to keenly observe the trial. This process of preliminary risk profiling was started post inspection of SEBI in FY 2015-16.

11.1.5. Once trial is over, only revenue generation team communicate with the lead and again carry out a risk profile of the lead. During the free trial, the team approaches the client and offers them various services of the company. Once the risk profiling

is communicated and acknowledged with suitability assessment by the client with welcome mail based upon their risk profile.

11.2. Profit counter run by Highbrow: The said profit counter is for trial basis. Further, the Noticee is under no obligation as per the prevailing law to run a trial counter and provide any analysis/ rationale. The trial counter is only for the purpose of training/ educating clients and for providing them with a preliminary idea and is based on hypothetical data. A disclaimer to this effect has been provided and nowhere has it been represented that the returns are assured; hence, the same does not amount to fraud by any means.

11.3. Promising and assuring unrealistic targets/ approachable profits to investors:

11.3.1. Highbrow has never promised or assured any profits to the clients and all clients were aware that investments are subject to market risk.

11.3.2. The term “approachable profit” in the payment receipts issued to the clients refers to the amount of return which the client is expected to get through the trading recommendations provided by the Noticee.

11.3.3. It has been clearly mentioned in the receipts that the same is not guaranteed or assured and the receipts are duly signed by the client indicating that the client is well aware of the profit that is neither assured nor guaranteed. The term “approachable profit” is never mentioned on any kind of agreements nor in MOU with the clients.

11.3.4. “Approachable profits” are basically the profits which can be achieved but are not guaranteed. The target column or head under payment receipt refers to the amount until it is been achieved by the client, services will be continued. The target mentioned in payment receipts are not always 4 times of the investment amount.

11.3.5. If in the case of any client, the “approachable profit” is not generated then the Noticee will provide complimentary services till such time unless the profit generation is done as per the approachable profit. The Noticee intends that the clients profit from the services and will provide services till their satisfaction. As market conditions are always unpredictable, if client continuously hits losses, then

it would be highly unfair for the Noticee to discontinue the services upon expiry of the period of the service and allow the client to lose their hard earned money.

11.3.6. The trades for clients are intra-day trades and hence, volume of trades is higher, the tips for profit and in case a particular call goes wrong, the stop loss tips are always in the range of 1 to 2%, hence, thereby taking care of risk appetite of the client. The proposed investment and targeted return are real figures and approachable profits are computed based upon continuous trade and not in a single or overnight trade. As a matter of policy, the trade calls are restricted to trades at a time in a particular segment and both profit closure and stop loss calls are restricted in the range of 1 or 2% in the most given scenarios, unless the research team has indicated otherwise. Hence, executing multiple calls in a given day does not hurt the risk appetite of the client.

11.3.7. With respect to client Mr. Ashish Makati, he has paid the amount for the service after looking at the past performance of the relevant services. As his investment is of 2-5 lacs, client needs to trade upon 2 lots on minimum basis also the profit calculation is done on the basis of 2 lots only. It can be verified that Mr. Ashish Makati must have earned profit through the recommendations of Highbrow from February 28, 2018 to October 05, 2018, amounting to Rs. 36,60,935/- and the said profit has been delivered and can be verified from SMS logs attached. A 'P & L Statement' showing the profit earned from each service which Mr. Makati had subscribed to. Further, Mr. Makati has signed all payment receipts and has paid Rs. 18,36,803/- and not Rs. 72,45,738/-, as per the records of the Noticee. Noticee has denied that any such alleged commitment was given by the Noticee/ its employees and demands strict proof of the same.

11.3.8. With respect to client Mr. Dipak Thakkar, he has signed all the documents where it is clearly mentioned that approachable profit is not guaranteed/ assured and the client has also signed payment receipts where it is clearly mentioned that Highbrow does not provide guaranteed returns and the allegations are denied. It is also denied that the client was lured by Noticee or its employees.

- 11.3.9. With respect to client Mr. Antos Vaz, he was aware that the profit is not guaranteed or assured and that he is making false statements.
- 11.3.10. Approachable profit is only indication of past performance of the Noticee and an assurance of continued service beyond the time specified in case profit is not achieved.
- 11.3.11. The Noticee submitted the past performance delivered by its packages/ services in support of its submissions.
- 11.3.12. With regard to allegation of concealing material fact of investment required to be made by the client, the Noticee has submitted that the quantity to be traded or amount of investment required is mentioned in the package details available on the website and the same can easily be done under the financial capacity of the client as per his proposed investment. For e.g., in the features of the Trace Pack, it has been mentioned that “Client need to trade on minimum 2 lots and maximum 3 lots on each and every call”. Similarly, for the Candid Cash Pack, the “Client need to trade with 3 lac on each and every call”. The Noticee has also provided a strict stop loss along with each advice; hence, the risk of client running his investment to zero is minimized.

11.4. Highbrow sold multiple packages to clients with threat of forfeiture, has charged unreasonable and undisclosed fee and has indulged in unfair dealings:

- 11.4.1. The Noticee has denied that packages were sold to extract money from clients and Highbrow has never forced any client to upgrade or buy new services. In fact, it was based upon the reputation and past performance of the Noticee that the clients have opted for such services. After paying such huge amounts through net-banking, the client cannot cry foul that the same was done under coercion/ misrepresentation. These clients are fully conscious and educated and have read all the terms and conditions, have signed on all the documents, traded for long period and have subsequently launched such complaints on some pretext or other.

- 11.4.2. Clients have opted for different packages or services as per his/ her financial capacity and will. Clients were aware of the proposed investment amount, it was informed to the clients that the trades are intra-day and client is aware of past performance. Clients have also earned good profits from the service provided by the Noticee. Investors are never lured and leads are generated when investor shows interest. All packages are allotted to clients with their free consent. The Noticee has submitted details of certain packages where the minimum investment amount / number of lots to be traded upon is mentioned. These are minimum traded quantity suggested by the Noticee and they also make track records on the aforementioned quantities. Client might have traded on more quantity.
- 11.4.3. There is no bar in law or any circular issued by SEBI regarding the amount of fees that can be charged by the Noticee to the client. The IA Regulations only expect the IA to charge reasonable fees.
- 11.4.4. With respect to analysis of payment receipts of Mr. Anto Vaz, the Noticee has submitted that due to some server issues, they do not have the payment receipts and are attempting to retrieve the same and shall confirm them once retrieved.
- 11.4.5. It is not necessary that the receipts contain the amount to be invested as in the package details the minimum and maximum lot needed to trades is mentioned. If client had any issue they should have written an email; however, there is nothing of this sort on record. The Noticee has always provided all the necessary information and disclosures to the clients so that client can opt for services as per their risk capacity and appetite.
- 11.4.6. No pressure has been put by the Noticee to make the payment and multiple packages are sold with free consent and full knowledge of the client. Every time a service is sold, a payment receipt is communicated and client signs all required documents and sends it back to the Noticee. If client does not want additional service, he should not have made the payment.
- 11.4.7. Payments are accounted for as and when they are received and it is not for SEBI or any regulatory agency, in absence of any law, to infer that part payments by client cannot be accepted by the Noticee. All emails mentioned categorically state “in

furtherance of the discussion” and the emails must be read completely. The emails may not mention which documents are required to be submitted but all documents were subsequently mailed, signed and executed by both parties. Completion of documents means the signature of the client on the documents which must be issued post expected payment.

11.4.8. The email sent to Mr. Vaz is mutual conversation with client and Noticee and it is not intended to discontinue the services and forfeit the paid amount as such a thing is never mentioned in the email.

11.5. Highbrow has manipulated the risk profiles of clients and has failed to conduct due diligence:

11.5.1. The Noticee always communicates the risk profiling to client via email and the same is done on the basis of information provided by the client. The client sends back the signed risk profile form thereby confirming that the all the information filled and intimated by him is correct. The Noticee has not fabricated any risk profile. Client signing the risk profile itself clearly establishes that he has verified the information provided.

11.5.2. With respect to risk profile of Mr. Ashish Makati, all information has been provided by the complainant and he has signed on the risk profile form. There is a disclaimer at the end stating that “All the details of risk profiling form (including client’s name and ID) has been filled on the basis of the response received from client.” As per their knowledge, they do not have any employee ID card with KYC since they only have his UID & PAN Card as his photo & address proof. Hence, complainant has given wrong information to SEBI.

11.5.3. With respect to risk profile of Mr. Raj Kumar Sidam, Highbrow has relied on the information submitted by the complainant and he has signed and verified the same. However, issue with complainant has been settled and some agreed amount has already been refunded. As Noticee’s accounts are blocked, remaining amount is yet to be refunded.

- 11.5.4. With respect to risk profile of Mr. Ganesh Chakrabarti, complainant has provided all details on basis of which risk profiling has been done and client has signed and validated the information and if information was wrong, then client should not have signed on it.
- 11.5.5. With respect to risk profile of Mr. Umashankar Sharma, complainant has provided all the information on basis of which profiling was done. Client has signed on the same and has validated the information and should have denied if any of the information was wrong. Further, he has a demat account with a broker since August 2014 and hence, his statement that he has no trading account is false.
- 11.5.6. A preliminary risk profiling and KYC is done by the Noticee at the time of pre-trial. Thereafter, a proper and detailed risk profiling is done and communicated to the client. Once a package is sold, the risk profiling is repeated. However, risk profiling is done to assess the risk appetite of the client. Advises are sent to the client as per his risk profile. The sequence of event does not matter but the substratum of conduct and facts matter in the present case. SEBI should verify if any package was sold against the risk profile. Whenever client has wanted a higher risk package for which they are not suitable as per analysis of Noticee, then due disclaimer is taken and their free consent is taken for such packages. While there are instances where money has been collected prior to risk profiling, there is not a single instance where the service was started before the risk profiling was carried out. In case, after finding out that the package was not appropriate for the client as per the risk profiling, the Noticee may have shifted the client to a difference package/ service.

11.6. Failure of Highbrow to abide by principles of Suitability:

- 11.6.1. Noticee has always taken all necessary information for the purpose of risk profiling. To avoid any misrepresentation, the same is forwarded to the client who confirms the same and signs on the risk profile.
- 11.6.2. As much as possible, dual risk profiling is done. First one is done prior to offering free trial and if client is taking a subscription, then another risk profiling is done.

This process of preliminary risk profiling was started post inspection of SEBI in FY 2015-16.

- 11.6.3. With respect to Mr. Makati, he has paid Rs. 18.36 lacs as fees and not Rs. 72 lacs and the same was paid in parts. Mr. Makati has sent emails stating that he is willfully making the payment. Further, investment of Rs. 2-5 lacs is sufficient to trade and advice given is mostly intra-day in nature.
- 11.6.4. With respect to Mr. Raj Kumar Sidam, first payment was made on 06/02/2015 and his services were started on 09/02/2015 and he has paid at regular intervals after being satisfied of the services. He has made further payments starting from 06/02/2015 to 18/03/2016. He has sent satisfactory emails at various dates. If his income range was only Rs. 5-10 lacs, then why has he paid Rs. 43 lacs. His strength and financial capacity has to be taken into consideration for purpose of advice and not for purpose of fees.
- 11.6.5. With respect to Mr. Ganesh Chakraborti, he has made fees at regular intervals and Highbrow has not collected fees in one time. He has acknowledged the payment by signing the receipts. Upgradation of services or opting new service is client's will and he has sent satisfaction email to Noticee.
- 11.6.6. With respect to Mr. Umashankar Sharma, he has made payments at different intervals between September 07, 2017 to June 14, 2018, he has also earned decent amount of profit and has made further payment after that. He has sent satisfactory emails.
- 11.6.7. With respect to Mr. Anto Vaz, he has made payments at different intervals and every time he has shown that he is willing to opt for the services as he has signed necessary documents, payment receipts and MOU. He has never sent us any denial that his investment is not sufficient. Hence, Rs. 2-5 lacs cannot be correlated with Rs. 60 lacs of fees in its basic figure but has to be seen from the perspective of how many trades will be executed.
- 11.6.8. On a standard basis, Noticee provides 3-4 calls/ tips every day for separate package (with two calls open at a time). The Noticee also provides follow up messages for timely updation and also keeps 2-3 calls open at a time so that margin requirements

of client must not fall short. Also, next tip is provided only after one of the call/ tip (avoid, loss or target achievement) is closed or the contracts open at a time are never that much that a client cannot trade as per his initial proposed investments. Also, the Noticee has never received any concern from client on number of messages. Hundreds of messages are never sent and there are several follow up messages, repeat messages and opening messages at start of trading hours as well.

11.6.9. Maximum 2-3 open positions in a particular service are kept so that client can meet margin obligations also it is taken care that the client must have earned profit prior to providing more than 2-3 services. Clients opt for different packages and if he has opted for 5 packages, he will receive tips for 5 packages every day, with two open positions in each. But he may want to trade only in one or two segments on a given day and trade on another segment on any other day. The Noticee cannot stop the service on the ground that too many messages will be sent to the client nor has the client ever objected to the same.

11.6.10. With respect to the complaints of Mr. Sidam and Mr. Dipak Thakkar, at a particular time in a service opted by the clients, maximum only 2-3 contracts are open and hence, execution of contracts can be done with the proposed investment. The clients have also made profit and have never complained about execution of contracts due to lack of investment. Mr. Thakkar has also sent a service agreement where it is mentioned that he has made profit from the services opted.

11.6.11. Multiple packages are offered only as per client wishes and consent. It is clearly mentioned in the payment receipt that upgradation or to opt for other services depends on client's will and if client is forced by Noticee's representative, then they can report the same to the Noticee.

11.6.12. It is the contention of the Noticee that trade calls are issued considering the overall trade that will be executed by a particular client.

11.6.13. Every investment advice is backed by rationale and Noticee also provides client investment roadmap in order for better understanding of securities market.

11.7. Undisclosed additional fee:

11.7.1. All pricing details are available on the website of the Noticee and that all service charges are exclusive of GST. All payment receipts clearly indicate the GST.

11.7.2. Weekly reports contain fundamental as well as technical study of capital markets and along with that 3-4 positional recommendation are provided based upon technical analysis. All payments are made by clients only after opting for a particular service. Highbrow does not force or threaten any client to opt for any service. Weekly reports were sold only to those who opted for it and hence no separate explanation was required for it.

11.7.3. Weekly reports are independent service from their other packages. These reports were made by their NISM certified research representatives. These reports were detailed description of market activities, data and events in Capital and Commodity segments, along with the technical and fundamental analysis of index and major scripts/ counters. They were also providing some tips with target and proper stop loss. These tips were different and independent from tips of other packages.

11.8. Obtaining details of trading account of clients: Noticee has never provided execution services. Noticee or its employees have never executed trades on behalf of Mr. Umashankar Sharma and Mr. Durgesh Kumar. Unless the IP addresses belong to the Noticee's PC, it cannot be conclusively said that the same was done by the Noticee.

11.9. Splitting of fee among the relatives of the client and denying to acknowledge clients even after receiving payment:

11.9.1. Noticee has never intended to receive payments from relatives of clients and each and every client is treated separately. Every client has subscribed as a client with his/her own wish. The client may give reference of Highbrow to relatives/ friends and modus operandi of Noticee is never to push/ force client for references. Wherever KYC and risk profiling was not done, service was not provided.

- 11.9.2. In the case of wife of Mr. Sidam, client sent her documents and we communicated the risk profile to her. However, in absence of her signature, we have not rendered her any service and it has never been the intention to forfeit the amount provided by the client.
- 11.9.3. For client Ms. Chandramitra Chakrabarti, all documents have been signed and client holds demat account also. KYC and risk profiling was done and from the KYC done by the broker, it can be seen that the client preferred all segments for trading and investment. Most importantly wives who has no personal income normally trade from their husband's money.
- 11.9.4. Client Ms. Meenu Jennifer signed the risk profile herself along with payment receipts and KYC. As per risk profile done on basis of information provided by the client, it is clear that her source of income is business, which has been duly signed by the client. Noticee cannot check whether she has a demat account or not and there is no obligation under the IA Regulation that service is to be provided only to demat account holders. At times people trade from friends or family member's account on which Noticee may not have control.
- 11.9.5. Client Ms. Lalitaben Thakkar has a demat account and as per risk profile, she has experience in the market.
- 11.9.6. Client Mr. Suraj Sharma also has a demat account and risk profile is duly signed by him as proof of him having a demat account.
- 11.9.7. Mr. Dipak Karpate is not its client and invoice may have been issued but he has not paid any amount. Strict proof from Mr. Karpate is required.

11.10. Creation of fake email ID by Highbrow:

- 11.10.1. The Noticee has never created any email ID for any client. In case of Mr. Dipak Thakkar, he has sent his signed documents from the email IDs dipakkumar8569@outlook.com and 20061973dipakbhaithakkar@gmail.com to Highbrow, which shows that these IDs were created and utilized by the client himself.

11.10.2. Complainant has failed to make allegation of forgery of his signature on the documents. Further, even while making an email ID, a mobile number is required to which an OTP is sent. The same cannot be manipulated by the Noticee.

11.10.3. Even if assuming that some employee has created the email ID, it could have been at the request of the complainant. Further, how these email IDs were misused, there is no finding to that effect.

11.11. Other submissions:

11.11.1. The Noticee has always intended to do fair dealings with its clients and all necessary disclosures have been made.

11.11.2. Clients have made payments at regular intervals which means that they have seen, utilized and got returns from the service and then paid further.

11.11.3. As per the track records of the Noticee, it has most of the times delivered the returns through investment advice in the past and the Noticee is fully compliant with the IA Regulations and is not in breach of the PFUTP Regulations.

11.11.4. The Noticee has delivered decent returns to clients time to time through its investment advice if client has utilized whole service and acted as per the instructions. It is denied that Noticee has any pre-mediated device to lure investors.

11.11.5. The Noticee had contact numbers which were changed at some point of time due to some unavoidable service issues with operators. Highbrow also has various departments.

11.11.6. The Noticee does not call on any random number based on any database. Clients who are interested can register themselves for 2 days free trial.

11.11.7. Assurance of profit to the clients by employees of Highbrow: The Noticee has never assured any kind of profit to the client and it must be noted that the communication submitted by clients may not be complete or manipulated. The conversation between the employee of Noticee and the complainant would have to be heard in full and demeanor and tone of the language would have to be seen

to ascertain the meaning. The Noticee has not authorized any of its employees to make such commitments. It is also important to examine whether these calls were prior to subscription of services or post.

11.11.8. Use of fictitious names and designation by Highbrow's representatives: Highbrow has never used fictitious names; however, at times to protect privacy of female staff who are stalked on social media by clients, some staff members have introduced themselves with changed names but these names have been uniform through such staff's dealings.

11.11.9. Obtaining credit card/ demat account details from client to indulge in fraudulent activity: The Noticee is not involved in taking demat or bank account details from the clients but in some cases where client find it difficult to make payment due to technical or any other issue, the client has shared his details with his consent. Also for any transaction, an OTP is required and thus, Noticee has never misused the details of banking. Further, we have sent the invoice to the client for payment made via taking card detail of client and client has to acknowledge the same by giving signature on the invoice.

- **Raj Kumar Sidam:** In case of Mr. Sidam, client has himself provided the card details as he was finding it difficult to make payment due to some issues and further, without OTP, the amount cannot be transferred. As per mail dated July 18, 2015, Highbrow has acknowledged the details and payment made by the client and no complaint has been raised by Mr. Sidam.
- **Ashish Makati:** Noticee has not asked for his bank account details. In case of Mr. Makati, client has sent his bank account details and demat use ID and password with unknown purpose to the personal email ID of Mr. Swapnil Prajapati, which is not in control of the Noticee. He has not marked a copy of the mail to any official of Highbrow. Further the data related to personal email ID of Mr. Prajapati must be acquainted from some unauthorized means. It must also be noted that call record may be manipulated or incomplete.
- **Anto Vaz:** The call recording dated November 29, 2017, with respect to Mr. Vaz is denied.

11.11.10. Misrepresentation by the employees of Highbrow:

11.11.10.1. **Anto Vaz:** The conversation dated December 01, 2017, with Mr. Vaz is incomplete and the client should explain why such huge amounts were paid by him if only basic service was subscribed by him.

11.11.10.2. **Ashish Makati:** The conversations with Mr. Makati will have to be examined to verify its genuineness. The Noticee has submitted that it does have process of welcome call post first payment which indicates the amount received and all terms and conditions on phone to the client, but they do not have this data since all the server related welcome call data is with Telangana police. Also as required in the IA Regulations, it is clearly mentioned that they need to keep record of investment advised provided verbally or written, which is done as all the investment advice is provided via SMS. As a sample, the Noticee has provided the welcome call for client Mr. Ashish Makati.

11.11.11. **Coercing clients and dictating them to write appreciation letter for Highbrow:** With respect to appreciation letters/ emails sent by clients, the client may not know the content to be written for communication of resolution of any issue. Hence, some staff may have voluntarily helped the clients but that does not amount to coercion. Further no one can force anyone to write any mails. All emails were written with free consent and free will of the clients.

11.11.12. **Non-Redressal of Investor Grievances:** The Noticee intends to resolve the complaints received from any source and first ATR of almost every complaint has been submitted in 7 days and there is no delay in sending ATR. In case of long pending complaints, it must be noted that the same were pending either with SEBI officials or with investor for a very long time. Noticee shall submit a detailed reply with respect to unresolved complaints.

11.11.13. Tele-callers are important as all the issues of the client have to be discussed and resolved and hence, Noticee had a strong tele-caller.

11.11.14. Noticee submitted the data of employees for the month of December 2018 (230 employees) and has submitted that it had 5 members in its research teams and all were NISM certified.

Replies and Submissions of Noticee No. 6 (Mr. Laxmikant Sharma):

12. Vide letter dated October 23, 2019, the Noticee has submitted the following:

12.1. He was a director in Highbrow for the period December 2011 to March 2016. During his tenure, he was in charge of conducting trainings in the organization and job was to train fresh recruits and enable them to work as professionals and to teach them introductory courses, rules and regulations of SEBI, etc.

12.2. He has not been involved in sales or marketing functions in the company. The allegations in the order do not pertain to his role in the organization and as detailed reply has been given by the company, he adopts the reply to the extent the same is not contrary or inconsistent to what is stated in his submissions.

12.3. No allegations have been levelled against him except that he has been asked to show cause purely on ground that he held the office of director of company and having shareholding in company.

12.4. The order does not mention any specific finding or assertion stating how he was involved or what role he had to play in the affairs of the company or how he was liable for any of the alleged violations.

12.5. Reliance was placed on judgment in the case of P. G. Electroplast vs. SEBI (Hon'ble SAT Appeal No. 281 of 2017, order passed on August 02, 2019).

Replies and Submissions of Noticee No. 7 (Mr. Mohit Chhaparwal):

13. Vide letters dated August 30, 2019, and November 29, 2019, the Noticee has submitted the following:

- 13.1. The Noticee became a director in Highbrow on December 26, 2011, and his profile was mainly pertaining to Human Resources and handling tax profiles of employees, tax deductions and HR obligations. During the relevant period he was not associated with the sales and marketing of products and schemes introduced by Highbrow, management, operations, regular affairs of the company and was not a party to decision making, strategizing or commercial transactions of Highbrow. He ceased to be a director in Highbrow since April 01, 2016 and thereafter, he has not been associated with Highbrow and/ or the other Noticees in any manner. The Board of Highbrow has unanimously accepted his resignation w.e.f. April 01, 2016. After submission of resignation, he has not attended any of the Board meetings of Highbrow. In or around March 2017, he has sold 5% shares in Highbrow and has been re-classified from promoter category to public category on June 23, 2017. He has submitted pay slips wherein his designation has been mentioned as 'HR Head'.
- 13.2. The complaints that were received during the period when he was a Director were resolved in a time-bound manner and there were no pending grievances. There are no specific complaints/ grievances against the Noticee and he cannot be held responsible for acts which have occurred subsequent to his resignation.
- 13.3. SEBI had inspected Highbrow in February 2016 and had communicated the inspection findings vide letter dated September 01, 2016. Most of the findings in the inspection were of routine nature. Further there are no adverse findings in the compliance audit report for FY 2015-16 and Highbrow has been fully compliant with risk profiling and suitability assessment. No enforcement action was initiated for the inspection findings and Highbrow was advised to correct the deficiencies.
- 13.4. One of the inspection finding was that the Noticee was charging fees to clients for the services provided in product namely Bonanza services which was not found fair and reasonable. In this regard, the company had stopped marketing this product in January 2016 i.e., before the resignation of the Noticee. However, it seems to have been recommenced by changing certain terms and conditions.
- 13.5. During his tenure as director, there were two unique complaints in 2014, 33 in 2015 and 16 complaints in 2016 (till April 01, 2016) and all were resolved.

- 13.6. The interim order is based on complaints and references from MP police which pertain to the period after the resignation of the Noticee. All pending 91 complaints pertain to period 2018 and 2019 i.e., for period much after the resignation of the Noticee. Only one complaint, that of Mr. Dipak Thakkar, pertains to December 22, 2015 till January 11, 2016, i.e., during his tenure as director. This period was covered in SEBI inspection and no observation regarding the same have been made in the report of SEBI.
- 13.7. During his association with Highbrow, there was no profit counter which essentially showed the amount of profit made by the investor. There were no targeted returns assured to the investors based on hypothetical data as per the best knowledge of the Noticee. The targeted returns and approachable profits may have been introduced after the resignation of the Noticee; however, he was not associated with Highbrow at that time.
- 13.8. Further, as per the audio recording of Dipak Thakkar, the amount of Rs. 9,35,000/- was the amount of investment and not the fees paid by him. There are no documents adduced on record by SEBI to show that this amount was collected as fees from Mr. Thakkar. The Noticee is in no manner concerned with this allegation as he was handling HR matters and he cannot be called upon by SEBI to adduce proof of the allegations made by SEBI. The interim order mentions that several messages were sent by Highbrow to complainant in 2017 and this period falls much beyond the period when Noticee was director. The complaint of Dipak Thakkar regarding fake email ID has been closed by SEBI as complainant could not submit any written evidence.
- 13.9. The amount of Rs. 105,15,53,705/- credited to the bank accounts of Highbrow since its inception till 2018-19 has wrongly been observed as having been collected towards fraudulent investment advisory activities. Highbrow was registered in February 2014 and any amount credited till 2014-15 cannot be taken into consideration. Further, Highbrow was provided other advisory services in respect whereof no allegations have been made in the order. The amount credited may also include some other amounts towards FD interest etc. and SEBI has made a sweeping conclusion in this regard.
- 13.10. The Noticee cannot be held liable unless it is proved that the breach was committed with his knowledge or that he had not exercised due diligence to prevent the commission of such breach or the breach is attributable to any neglect on his part. Various courts and

tribunals have upheld the same. In this regard, reliance was placed on the following two judgments:

- i. Sayanti Sen vs. SEBI (Hon'ble SAT Appeal No. 163 of 2018, order passed on August 09, 2019) and
- ii. Pritha Bag vs. SEBI (Hon'ble SAT Appeal No. 291 of 2017, order passed on February 14, 2019)

Replies and Submissions of Noticees No. 8 & 9 (Mr. Hemant Agarwal and Mr. Swapnil Prajapati)):

14. The Noticees vide letter dated October 18, 2019, have made the following submissions:

14.1.They deny the allegations and averments in the interim order. The directions issued against the Noticees are erroneous as they fail to achieve the intended purpose of Sections 11 and 11B of the SEBI Act. Only preventive and remedial actions can be taken under these sections. A preventive measure seeks to prevent commissions of further violations in future, while remedial action is normally seen as one intended to correct the fault. Further, ex-parte interim orders cannot be passed in every case by SEBI.

14.2.SEBI has failed to elucidate how restraining the Noticees from accessing the securities market will help in prevention of any fraudulent activities by Highbrow. The Noticees did not indulge in or facilitate the commission of any alleged fraudulent investment advisory activities. SEBI has also not furnished any evidence for the same. Further, the instances placed on records are from a period when the Noticees were not directors in Highbrow. As the Noticees did not commit any of the alleged activities, restraining them will not remedy any alleged mischief as no amount can be recovered from the Noticees to refund to any client of Highbrow who is aggrieved.

14.3.SEBI has not made any specific allegations against the Noticees and not drawn any causal link between the Noticees and the alleged fraudulent activities of Highbrow. Further, the

restrictions imposed on the Noticees amount to a punitive action which is in excess of the powers exercisable by SEBI under Sections 11 and 11B.

14.4. The Noticees have tendered their resignations as directors of Highbrow on July 01, 2017, and they cannot be held liable for offences alleged to have been committed when they were not directors. A limited number of instances of the alleged unfair activities took places when the Noticees were directors. With respect to the same, the Noticees had no knowledge of and did not indulge in or facilitate the commission of any alleged fraudulent investment advisory activities during their tenure as directors. Therefore they cannot be automatically/ vicariously be held liable for the alleged violations committed by Highbrow till July 01, 2017. Courts have held that all the directors of the company cannot automatically be held vicariously liable for offences of the company.

14.5. SEBI has erroneously held the Noticees vicariously liable for the alleged offences of the Company even when they had no knowledge of and did not indulge in or facilitate the commission of any the alleged violations. It is unreasonable to hold the ex-directors of the company liable for alleged violations of a company which is managed and controlled by other individuals/ entities. The role of the directors has not been examined and no evidence has been placed on record to prove that the Noticees had indulged in or facilitated the commissions of the alleged violations. It is submitted that the Noticees did not exercise any control over the management of Highbrow and they did not indulge in or facilitate the commissions of the alleged violations. No specific averments made to demonstrate that the Noticees had on their own or in collusion with others indulged in or facilitated the commissions of the alleged violations. No shred of evidence has been adduced by SEBI. Adverse directions have been issued against the Noticees merely on grounds of surmises and conjectures and without the support of any clear and cogent evidence of wrongdoing on their part. Mere suspicion is not sufficient to hold a person liable for an offence.

14.6. In case of serious violations of fraud, it is mandatory for SEBI to impute specific allegations against an individual/ entity to hold him/ the entity liable for violations of SEBI Act and PFUTP Regulations. In the present matter, no specific allegation has been made against the Noticees for having indulged in or facilitated the commissions of the

alleged violations. Courts have held that fraud is a serious offence and therefore the standard of proof must be of a higher degree and mere conjecture and surmises will not be sufficient.

14.7. The directions in the order are violative of Article 19(1)(g) of the Constitution of India and has gravely tarnished the reputation and crippled the Noticees financially. This has destroyed the reputation of the Noticees which was painstakingly built by them over several years. Without any specific findings against the Noticees, SEBI has imposed a blanket ban on the Noticees from dealing in/ associating themselves in the securities market. Any restriction imposed on the fundamental right must pass the test of reasonableness and the restrictions imposed should not be arbitrary, disproportionate or of an excessive nature, beyond what is required in the interest of general public.

14.8. Reliance has been placed on the following judgments:

- i. Sterlite Industries Ltd. vs. SEBI (Hon'ble SAT Appeal No. 20/2001 dated Oct 22, 2001) – Only preventive and remedial measures and not penal measures can be undertaken under Section 11 and 11B of the SEBI Act.
- ii. Roopram Sharma vs. SEBI (Hon'ble SAT Appeal No. 20/2002 dated Sep 19, 2002) – Debarment directions do not prevent entity from indulging in market manipulation again.
- iii. North End Foods Marketing Pvt. Ltd. vs. SEBI (Hon'ble SAT Appeal No. 80/2019 dated March 12, 2019) – Ex-parte interim order with restraint orders cannot be passed in every case as it can have severe consequences. There should be some shred of evidence and not mere suspicion to come to a, *prima facie*, conclusion.
- iv. M. P. Mehrotra and Ors. vs. SEBI (Hon'ble SAT Appeal No. 95/2002 dated March 28, 2003) – Debarment directions cannot be resorted to unless illegality or violations stands established.
- v. Gulshan Nirman India Limited, SEBI order dated January 24, 2018 – Past and present directors are liable to refund money collected during their respective period of directorships.

- vi. Barun Kumar Nandi vs. SEBI (Civil Appeal No. 17979 of 2017 dated January 23, 2017 in the Hon'ble Supreme Court) – Director who has resigned prior to date of offence cannot be held liable.
- vii. Sayanti Sen vs. SEBI (Hon'ble SAT Appeal No. 163 of 2018, order passed on August 09, 2019) – For offenses of company, all directors of the company cannot automatically be held vicariously liable.
- viii. SMS Pharmaceuticals Ltd. vs. Neeta Bhalla and Anr. (AIR 2005 SC 3512) dated Feb 20, 2007 – By merely being a director of a company, one cannot always be held responsible for the day-to-day affairs of the company.
- ix. Agritech Hatcheris & Food Ltd. vs. Valuable Steels India Pvt. Ltd. (Madras High Court) – Individual cannot be held liable for the offences of a company without identifying the role played by him in commission of the offence.
- x. Nand Kishore Prasad vs. State of Bihar (Hon'ble Supreme Court) – There should be some shred of evidence and not mere suspicion to come to a prima facie conclusion.
- xi. Union of India vs. Chaturbhai M. Patil and Co. (Hon'ble Supreme Court) – There should be some shred of evidence and not mere suspicion to come to a prima facie conclusion.
- xii. A.L.N. Narayanan Chettiar vs. Official Assignee (Privy Council) – There should be some shred of evidence and not mere suspicion to come to a prima facie conclusion.
- xiii. KSL & Industries Ltd. vs. SEBI (Hon'ble SAT Appeal No. 126/2013 dated Oct 25, 2016) – Wild allegation of fraud without convincing evidence cannot be sustained.
- xiv. SEBI and Ors. vs. Kanaiyalal Baldevbhai Patel and Ors. (Civil Appeal No. 2595 of 2013 dated Sep 20, 2017, Hon'ble Supreme Court) – Charges under the PFUTP regulations need to be established as per applicable standards rather on mere conjectures and surmises.
- xv. Chintaman Rao vs. State of Madhya Pradesh (Hon'ble Supreme Court) – Limitation on fundamental rights.

Consideration of Issues:

15. I have considered the replies/ oral submissions/ written submissions filed by the Noticees. The issue to be considered at this stage is as follows:

Whether in light of the facts and circumstances of the case, the findings of the interim order and the submissions of the Noticees in response thereto, the directions issued against the Noticees vide the interim order need to be confirmed, revoked or modified in any manner?

Whether in light of the facts and circumstances of the case, the findings of the interim order and the submissions of the Noticees in response thereto, the prayers of the Noticees need to be granted or denied?

16. The consideration of the issues in light of the oral/ written submissions made by the Noticees is contained in subsequent paragraphs.

A. Noticees No. 1, 2 and 3:

17. Profit counter run by Highbrow:

17.1. The Noticee has submitted that the profit counter is only for the purpose of training/ educating clients and for providing them with a preliminary idea. The same is based on hypothetical data and necessary disclaimer has been provided. Further, there is no obligation as per the prevailing law to run a trial counter and provide any analysis/ rationale.

17.2. In this regard, it is observed that the profit calculation projected by using this trial counter remained unchanged regardless of the market segment and riskiness of contracts in which the investment was made.

17.3.I find that the very act of placing a profit counter based on hypothetical data on the website amounts to an act of misrepresentation, as any information related to profit generation, which is related to the performance of the investment advisory services of the Noticee, needs to be backed with real data along with a detailed analysis/ rationale in order for it to not mislead any prospective clients. The Noticee has submitted that this trial profit counter is meant only for the purpose of training/ educating clients and for providing them with a preliminary idea of its performance/ services. Further, the trial profit counter shows a fixed return regardless of the market segment/ security in which the investment is made. Being a SEBI registered intermediary, the Noticee is well aware that such a fixed return cannot be committed or even indicated since investments are subject to market risks and placing such information on its website, without full backing of auditable track record, is akin to knowingly misrepresenting facts to prospective clients and is covered within the definition of “fraud” as defined in the PFUTP Regulations. In terms of the IA Regulations, the Noticee has to act, at all times, in fiduciary capacity and in the best interests of investors. As such there is an obligation on the Noticee that any information put out by it for consumption of investors has to be in the best interests of the investors. By merely placing a disclaimer that the counter is based on hypothetical data, the Noticee cannot absolve itself of its liability in making such a misrepresentation to prospective clients especially when the same is meant to give prospective clients a preliminary idea of its performance/ services.

In view of the above, I note that the submissions of the Noticee are devoid of merit and therefore, cannot be accepted.

18. Promising and assuring/ committing targets/ approachable profits to investors:

18.1.I note from payment receipts issued to the clients and MOU/ agreement it entered into with the clients that the Noticee has been promising targeted returns (terming them as “*approachable profit*”) under various pre-defined packages on the investments made by the clients.

18.2. The Noticee has submitted it has never promised or assured any profits to the clients and all clients were aware that investments are subject to market risk. It has submitted that “approachable profits” are basically the profits which can be achieved but are not guaranteed. If in the case of any client, the “approachable profit” is not generated then the Noticee will provide complimentary services till such time unless the profit generation is done as per the approachable profit.

18.3. I do not accept this interpretation of the Noticee with respect to “approachable profit”.

The Noticee has contended that it does not assure/ guarantee an “approachable profit” to its investors; instead it is committing to its clients that it will continue to provide investment advisory services to its clients till such time that the “approachable profit” is achieved. In other words, the Noticee is assuring the client that if he/ she continues to act on the investment advice given by the Noticee, he/ she will achieve a certain quantifiable return, at some time or the other. This aspect is further strengthened by the observation that on payment receipts, the “approachable profit” has been clearly mentioned against “For a Profit of”. The intent of the Noticee in representing to clients that the payment received is for delivery of a profit of “X” amount is clear from the same. It is a known fact that all investments in the stock market are subject to market risk and a particular return, or for that matter, any form of return on an investment cannot be guaranteed, no matter how long the period for which the investment is held or advice on that investment is offered to the client. I note that the Noticee, being a registered SEBI intermediary having obtained the necessary certifications, is well aware of this fact and that despite this knowledge has provided such an assurance to its clients.

18.4. I find that the Noticee, through the use of such terms/ clauses, is committing to the client that (i) he/ she will achieve the “approachable profit” mentioned in the payment receipts/ MOU/ agreement (entered into between Highbrow and client Mr. Sanjay Kadian) by acting on the investment advice provided AND (ii) the investment advice will be provided till the time such “approachable profit” has been achieved. I find that the commitment of the Noticee to the client that the service offered will continue till the “approachable profit”

is achieved is tantamount to offering an assured/ guaranteed return and is an active concealment of the fact that any return on an investment cannot be guaranteed as all investments in the securities market are subject to market risk. There may be a scenario where the capital deployed by the investor gets eroded as the investment advice provided by the Noticee turns out to be incorrect due to market risk. In such scenario, it does not matter if the Noticee has also provided stop loss figures as part of its advice as the same will only limit the loss and not eliminate loss on the trade and in a series of transactions, a large part of the capital of the investor can be lost, with no possibility of it being recovered with the meagre capital remaining. Hence, I am of the view that committing to deliver “approachable profit” to the investor is grossly misleading and fraudulent.

18.5. The Noticee has contended that it has been clearly mentioned in the receipts that the targeted return i.e., the “approachable profit” is not guaranteed or assured and the receipts are duly signed by the client. I find that a mere standard statement in the receipt that the “approachable profit” is not guaranteed/ assured cannot dilute the conduct of the Noticee in making false representation that it can deliver the “approachable profit”. If the Noticee knows that the investments are subject to market risks, it cannot make any representation that it can deliver any “approachable profit” as mentioned in the payment receipts. Therefore, it is clear that Noticee is making a misrepresentation of being capable of delivering the “approachable profit”. The Noticee cannot escape its liability for making such misrepresentation to the investor merely on the ground that the investor is aware that his investments are subject to market risks.

18.6. The Noticee has also contended that “approachable profit” is only an indication of past performance and has submitted the past performance delivered by its packages/ services in support of its submissions. During the personal hearing, the Noticee was advised to submit the following information:

- i. Records of any client who would have achieved the targeted profits in a format which can be verified.

- ii. Evidence to substantiate that the service is provided till the time the targeted profit is achieved.
- iii. Basis on which the targeted return has been computed for each package/ service in a format which can be verified.

18.7.I note that the Noticee has merely submitted a 'P & L Statement' for a client, namely, Mr. Ashish Makati but has not demonstrated how its calls/ investment advice have enabled the client to achieve the purported profit figures. The Noticee has not explained, moment by moment, on a daily basis, how the client was able to execute each and every investment advice provided by the Noticee taking into account the amount of capital that he was capable of investing on a daily basis. The Noticee has also not demonstrated, mathematically, how the profit/ loss generated by each call was affected after taking into account the position taken/ squared off by the investor, margin requirements, capital deployed, profit/ loss made for each transaction and how all these factors resulted in the profit commitment made to the investor. The Noticee has also not demonstrated any case where it has continued to provide service to a client till the time he/ she has achieved the targeted return.

18.8.As regards the details of targeted returns and the basis of its computation, I find that the Noticee has details of targeted returns for its packages, the time period that may be required to achieve the same as per past performance and the time period in which it was actually achieved by the Noticee in the past. For e.g., for the 'Bounce Cash Pack", the Noticee has submitted the following:

Services Name	Service Amount (in Rs.)	Target (in Rs.)	Time Period As Per Past Performance	Time Period when It's Done
Bounce Cash Pack	3,01,000	10,53,500	200 - 1895 Days	04 Dec 2017 to 10 Oct 2018

18.9. The Noticee has not demonstrated, with even a shred of evidence, as to how this target has been achieved during the time period of December 04, 2017-October 10, 2018. Further, hypothetically, even it is assumed that such a targeted return was met in this period, there is no guarantee that similar market conditions will be available in future. Moreover, the past performance of the Noticee has to be backed up with data that can be verified and is fully auditable. As per Noticee's submissions, achieving this targeted return may take as high as 1695 trading days i.e., the client may also have to trade for as long as 7 years to achieve this return (assuming 240-250 trading days each year). It is a matter of record that the Noticee itself has been in existence for 5 years till the interim order was passed and no calculations have been provided to justify the outer limit of 1895 days.

18.10. As regards the charge that the investment amount required to achieve the 'approachable profit' has not been communicated to the clients, I find that the Noticee has submitted that this detail is available in the features/ characteristics of the package/ service. In this regard, I note that the instruction mentioned on one of the package features states "*Client need to trade on minimum 2 lots and maximum 3 lots on each & every call.*" I note here that the Noticee has failed to show how trading in minimum 2/ maximum 3 lots on each and every call is linked to the maximum investment that the client has said that he can make.

In view of the above, I note that the submissions of the Noticee are devoid of merit and therefore, cannot be accepted.

19. Highbrow sold multiple packages to clients with threat of forfeiture and has indulged in unfair dealings:

19.1. I note that the Noticee has not provided any explanation for the finding regarding extraction of huge amount of service fee from clients by allotting multiple packages to in a very short span of time, apart from stating that clients have agreed to make the payments

and have opted for such services based upon the reputation and past performance of the Noticee. The Noticee has merely stated that no pressure has been put on the client to make the payment and multiple packages are sold with free consent and full knowledge of the client. Every time a service is sold, a payment receipt is communicated and client signs the same and sends it back to the Noticee. It has also been submitted that there is no bar in law or any circular issued by SEBI regarding the amount of fees that can be charged by the Noticee to the client and that the IA Regulations only expect the IA to charge reasonable fees. A detailed example regarding the fees charged from a particular client namely, Mr. Anto Vaz, was also provided in the interim order, which showed how the Noticee has sold multiple packages to the client in a short period of time, same package is sold again even when previous package is still active, etc. I note that the Noticee has not offered any submissions regarding the same. No submissions have been made as to how the fee being charged was “reasonable”.

19.2. As already noted earlier, the Noticee made misrepresentations to investors by using terms such as targeted returns and approachable profits. Use of “claimed” past performance data, without any evidence to comprehensively back the same, in order to lure investors to opt for its services, is a practice which is not in the best interests of the investors and is tantamount to fraud.

19.3. As per the prescribed Code of Conduct, investment advisers shall ensure that fees charged to the clients are fair and reasonable. In order to determine the “reasonableness” of the fee charged, I note that while no fixed standard can be devised to term whether the fees charged answers the test of reasonableness, it cannot be stated that the reasonableness of the fee charged cannot be judged at all. The IA Regulations provides for principle based determination of fee to be charged by the investment adviser, indicating that such fees have to be fair and reasonable and the same can be tested as a violation of the Code of Conduct. What is reasonable in a particular circumstance may be the outcome of several competing factors which are relevant for such determination. While determining the reasonableness of the fee, the same has to be seen from the perspective of various factors

such as proportionality, uniformity, etc. However, the test of “reasonableness” of the fee, in my view does not mean, the same has been “agreed to and paid” by the client just because the client has signed on the payment receipt. If such a standard is adopted, the reasonableness of the fee cannot be tested if the client has agreed to and paid the same.

19.4. In the instant case, it is seen that client Mr. Anto Vaz has indicated his investment amount as Rs. 2-5 lacs, while against this amount, as per payment receipts, the Noticee has taken fees worth Rs. 60 lacs. These fees cannot be considered as reasonable and the same have been paid by the client only because of the lure of the ‘approachable profit’ of Rs. 2,20,52,217/-. I also note that for the same service, fee has been taken twice for different durations with the durations overlapping. It does not stand to reason why fee for same service is taken for overlapping durations. Firstly, the Noticee has sold a service/ product in this manner without giving an opportunity to the client to even experience the service. Secondly, the fee charged in this manner amounts to a “double charge” for the overlapping period. In my view, the fees obtained from a client in such a manner qualifies to be called as “unreasonable”. Thirdly, though, the “reasonableness” can accommodate the commercial realities where “discounts” for longer commitment of the clients in terms of money and duration with the investment adviser are extended, the same cannot be termed as “reasonable” where the clients commit to a longer relationship with the investment adviser and effectively pay more for their longer commitment.

19.5. Similarly, the adoption of “fee” as a tool to force the investors to continue with the investment adviser without any opportunity to sever their ties in case of dis-satisfaction, would in my view, surely be considered as “unreasonable”. In a scenario like this, even if the fee is considered reasonable on a standalone basis, which it is not in the instant case, the end for which it is used should also qualify as reasonable. There are instances where even before the service period for the particular product has expired, the same product is sold again under the threat of discontinuing the original service, so that the client has no option but to continue with the investment adviser. In my view, such practice of using fee

as a tool to force the client to continue with the investment adviser should also qualify as “unreasonable”

19.6. As regards the charge of placing strict deadlines on clients for making payments, the Noticee has denied the same and has submitted that there was no intention to discontinue the service and forfeit the amount already paid. The interim order contained examples of emails sent by the Noticee to the client wherein it was clearly mentioned that the payment has to be made within a strict timeframe, which is on the same day on which the email was sent and within a few hours, minutes in some cases, of the email being sent. I find that the use of a very short date and time deadline for making payment read with the instruction that the services taken will continue only after the payment is made is meant to put pressure on the client to make the payment or else face forfeiture due to the non-refund policy of the Noticee.

19.7. The acceptance of part payments by the Noticee towards services/ packages has to be seen in the light of the above observations. While there is no restriction on acceptance of part payments towards delivery of a service, subsequent payments received from the client, instead of being set off against pending payment of an earlier package/ service, are accounted towards an entirely new package/ service. This practice enables the Noticee to always keep some amount outstanding towards a particular service/ package and then pressurize the client for payment of the same. I am of the view that this practice of the Noticee, coupled with the non-refund policy of fees paid, should also qualify as “unreasonable”. The findings of the interim order in respect of selling multiple packages with the huge fee amount not being in consonance with the proposed investment as per client’s risk profile has not been contested by the Noticee.

19.8. It is clear from the above observations that the sole intention of the Noticee is to enroll its clients to as many packages as possible, with no regards to their risk profile/ appetite, as detailed in subsequent paragraphs, and to collect service fees for its own benefit.

In view of the above, I note that the submissions of the Noticee are devoid of merit and therefore, cannot be accepted.

20. Highbrow has manipulated the risk profiles of clients and has failed to conduct due diligence:

20.1. The Noticee has submitted that the following process is carried out for risk profiling:

- i. Risk profiling is done on the basis of the information provided by the clients themselves.
- ii. Noticee relies on this information and sends a pre-filled risk profile form to the clients.
- iii. Client signs on this pre-filled risk profile form and sends it to the Noticee.
- iv. As client has signed on this pre-filled risk profile form, it means that client has verified the information and that it is correct and true.

For the observations made in the interim order regarding risk profiling, the Noticee has merely replied that they have relied on the information given by the client.

20.2. I note that Regulation 16 of the IA Regulations, *inter alia*, requires that the investment adviser shall obtain from its clients information necessary for the purpose of giving investment advice, such as, their age, investment objective, income details, prior experience, existing investments, risk appetite, liabilities/ borrowings, etc. The objective behind this provision is that the clients get only that investment advice which is consistent with their risk appetite. If the IA Regulations are interpreted that that there is no requirement for verification of the information provided by the client and that mere signature of the client on the information provided is enough verification, then the entire objective behind the provision would be defeated as in that case, the possible advice given by the investment adviser would become inconsistent with the real risk appetite of the client. It is noted that even for KYC requirements, the information provided by the clients is required to be verified. In my opinion, in matters pertaining to investment advice given

by registered investment advisers, the verification of information for risk assessment stands, if not at a higher footing, then atleast on the same footing with verification of information provided for carrying out KYC.

20.3. The submission of the Noticee that it does not matter if the fees were taken from the client prior to risk profiling being carried out is against the very spirit of risk profiling. Further, it has been submitted by the Noticee during the hearing that in case a certain package is not suitable for the client, the money collected is not returned to the client; instead the client is shifted to another package. This practice of the Noticee has to be seen in conjunction with its practice of subscribing clients to multiple packages in a short span of time and thereby, collecting an unreasonable amount of fees from them. For e.g., in the case of client Mr. Ashish Makati, as per submissions of the Noticee, the pre-trial risk profiling was done around October 27, 2016 (records are not available with the Noticee due to a fire incident on March 01, 2017, as claimed by the Noticee), and the period of free trial was from November 01-02, 2016. The pre-filled risk profile form i.e., the actual risk profiling of the client and KYC was sent to Mr. Makati on February 22, 2018, while between February 06-22, 2018, the Noticee has collected around Rs. 8 lacs from the client even before the proper and detailed risk profiling for the client was carried out. Further, in February 2018, the Noticee had no recourse to the pre-trial risk profile of this client as by its own submission, the same was not available with it in February 2018. It is also noted from the payment receipts dated February 06, 2018 till February 22, 2018, that the risk profile of Mr. Makati is “High” i.e., the risk appetite of the client has already been determined as high even before the risk profile was sent to him. The possibility that the risk profile form has been filled up by the Noticee in such a manner so as to achieve a “High” risk rating cannot be ruled out, especially when the client is already locked in with the Noticee by virtue of having paid Rs. 8 lacs to it.

20.4. In the case of client Mr. Uma Shankar Sharma, it is seen that the Noticee has started taking payment from the client from September 07, 2017, onwards, while the free trial period is September 11-12, 2017. As per the own submissions of the Noticee, the MOU with the

client was executed on September 08, 2017, i.e., even before the client has undergone the free trial period. The pre-filled risk profile form and KYC documents have been sent to the client on September 08, 2017, i.e., after taking money from the client and before the free trial period has started. As per the Noticee's own submissions, the pre-trial risk profiling was never sent to the client due to unavailability of the client's email ID and funds have been collected from the client even before he has had a chance to experience the free trial.

20.5. In the case of Mr. Dipak Kumar Thakkar, the Noticee has submitted that the service for this client was commenced on January 12, 2016. However, it is seen that even before commencement of service, fees worth Rs. 9,35,000/- have been collected from the client (from December 22, 2015 till January 11, 2016). As per payment receipts issued to the client, his risk profile is rated as "High. The Noticee has submitted an email sent to this client at email ID 20061973dipakbhaithakkar@gmail.com, which has the Risk profile as an attachment; however, I note that the client has contested that this email ID has been created by the Noticee itself. The Noticee has also submitted a service agreement that was executed with the client after the client has already statedly paid Rs. 33 lacs to the Noticee. Further, this service agreement also contains a clause on suitability assessment, wherein it is stated that "*Despite of your Age, Income and Occupation, you with free consent have agreed to work in high risk profile services.*" In other words, high risk products/ services have been sold to the client and post-facto, the client has been made to sign on an agreement stating that he is agreeable to high-risk services on his own accord.

20.6. In the case of client Mr. Raj Kumar Sidam, basic verification of information such as that of age of the client has not been carried out. At the time the risk profiling was purportedly carried out by the Noticee, the client's age was between 46-55 (the risk profiling was carried out in 2015 and the client is born in 1967 as per the PAN), while in the form it has been marked as 'Under 45'. If the correct age group was marked, the risk score of the client would have reduced. Hence, a pre-filled risk profile form being sent to the client is in the interests of the Noticee as the answers to the questions can be filled in a manner to

achieve a high risk appetite. Similarly, the field for 'Product Selection' has been marked as 'All', while actual experience in forex products is marked as 'No experience'. This would justify the advice of the Noticee to invest in forex products. Further, in the case of this client, the Noticee has submitted that it has settled the matter with the client and has already refunded some amount; however, no details regarding the settlement terms, amount, etc., have been provided.

20.7. From the above, I find that the Noticee's intent is to first make the client pay towards the service without having any regard for his/her risk appetite. The risk profile is filled by the Noticee in a manner so as to achieve a high risk appetite score and is then sent to the client for his/ her signature. The client, having already committed a substantial amount of funds with the Noticee, has no option but to sign on the form and return it to the Noticee or the client stands the risk of forfeiting the money already paid.

In view of the above, I note that the submissions of the Noticee are devoid of merit and therefore, cannot be accepted.

21. Failure of Highbrow to abide by principles of Suitability:

21.1. The Noticee's submission that it abides with the principle of suitability as all necessary information for the purpose of risk profiling is taken from the client and the same is validated by the client by signing on the pre-filled risk profile form. In view of my observations made in the preceding paragraphs, I note that this submission of the Noticee is not valid and cannot be accepted.

21.2. It was observed in the interim order that the amount of fees collected from the clients are disproportionately larger in comparison with the proposed investment of the client. For e.g., client Mr. Anto Vaz has a proposed investment amount of only Rs. 2-5 lacs, while it is observed from the payment receipts that the Noticee has collected upwards of Rs. 60

lacs from him as service fees. The unreasonableness of these fees collected from clients has already been discussed in earlier paragraphs.

21.3. In the case of Mr. Dipak Kumar Thakkar, the Noticee has sent the welcome email to the client on December 23, 2015. The Noticee has submitted a 'Service Agreement' executed between it and the client, wherein no 'Suitability Assessment' has been carried out by the Noticee for this client. Instead the client has been made to sign on a blanket statement that he wants to avail high risk profile services of his own accord. It is seen that this so called 'Suitability Assessment' has been carried out after the client has been assigned packages, sent advice, and fees worth Rs. 33 lacs have been statedly collected.

21.4. It was also observed in the interim order that the Noticee has been sending a large number of tips/ calls to clients each day. The Noticee has submitted that at any point in time a maximum of 2-3 open positions in a particular service are kept so that client can meet margin obligations and also it is taken care that the client must have earned profit prior to providing more than 2-3 services. Here I note that suitability of investment advice does not only mean that the advice is in accordance with the risk profile of the client but it also has to take into account the ability and capability of the client to execute such advice on a daily basis considering the investible funds available with him, time required to place the orders, monitor them and so on. If a client has opted for 5 services and at any particular time even 3 positions are kept open, then the client is required to be monitoring, at a minimum, 15 open positions across equity, derivatives and commodity markets. The client would also be required to ensure that adequate funds are available with him/ her to meet margin requirements, transaction charges, etc.

21.5. I note that the Noticee has failed to demonstrate that it makes this assessment vis-à-vis the amount the client can invest before enrolling him for multiple packages. For example, Mr. Anto Vaz has proposed to invest only Rs. 2-5 lacs, while he has been enrolled in packages for which service fee of Rs. 60 lacs has been charged. The Noticee has not

submitted any details of how the packages that he was enrolled for were suitable for him vis-à-vis the amount that he has proposed to invest.

21.6. In this regard, with respect to the SMS log for client Mr. Dipak Thakkar, for the date October 27, 2017, I note the following:

- i. Between 10:15 AM and 11:29 AM, the Noticee has sent messages to the client to take positions in 5 contracts, across equity and commodities market. At this point, three contracts, which have been executed on previous trading days, are also open. Subsequently between 11:42 AM and 12:08 PM, two calls got executed, while one call was partially executed.
- ii. Thereafter, between 12:27 PM and 12:37 PM, the Noticee has sent messages to take position in 3 more contracts. Hence, the client now has 9-10 positions which are open at this point in time. Subsequently between 12:38 PM and 01:14 PM, two calls got executed, while one partially executed call was fully executed. The client now has 7 open positions.
- iii. Between 01:19 PM and 01:36 PM, the client has been advised to take positions in 6 more contracts and has a total of 13 open positions. Subsequently, between 01:41 PM and 2:48 PM, Noticee has sent 12 messages to the client to close the open positions.
- iv. Thereafter, Noticee has asked the client to take position in 2 more contracts and subsequently has advised him to close all the intra-day positions.

The Noticee has not taken into account the losses, if any, that the client may incur in these trades. I note from the above that for Mr. Dipak Thakkar, in the absence of any 'Suitability Assessment', the Noticee has not justified how the client would be able to execute the above investment advice without any regard to the capacity of the client to make such investment on daily basis.

In view of the above, I note that the submissions of the Noticee are devoid of merit and therefore, cannot be accepted.

22. Undisclosed additional fee:

22.1. It was observed in the interim order that the Noticee is charging its client's additional fee for buying weekly reports on a pretext that calls/tips given based on such reports will only deliver profit to the clients. The subscription for these weekly reports was for a period of one year or more and the clients were never informed of the utility of these weekly reports and why they were required for such long durations. The Noticee has claimed that weekly reports were sold only to those who opted for it and hence no separate explanation was required for it. Weekly reports are independent service from their other packages and the tips were different and independent from tips of other packages.

22.2. I note that the Noticee has not submitted any documents to show that these clients have opted for the weekly reports. The Noticee has also not provided any explanation as to why these clients were subscribed to weekly reports whose duration is longer than the service tenure of the package. From the sample weekly reports submitted by the Noticee, I find that Noticee has not explained the utility of the same which merits separate fee. Moreover, if these weekly reports are independent to the packages and the tips given are also independent, then in view of the Noticee's commitment to deliver "approachable profit" to the client, these weekly reports and tips should have been free of charge as the client has already paid for the services of the main package. It appears that weekly reports have been sold to clients to generate additional fees for the Noticee, without having any regard to the interests of the client. Further, no evidence has been provided by the Noticee to show that these weekly reports were actually delivered to the clients who had paid for them.

In view of the above, I note that the submissions of the Noticee are devoid of merit and therefore, cannot be accepted.

23. Obtaining details of trading account of clients: The Noticee has submitted that it has never provided execution services and it or its employees have never executed trades on behalf of

Mr. Umashankar Sharma and Mr. Durgesh Kumar. The Noticee has also submitted that unless the IP addresses belong to the Noticee's PC, it cannot be conclusively said that the same was done by the Noticee. I note here that this aspect can be conclusively determined only after a detailed examination.

24. Splitting of fee among the relatives of the client and denying to acknowledge clients even after receiving payment:

24.1. It was observed that the Noticee would split the payment received from the primary client among his relatives in order to show that it is not charging exorbitant fee from a single client. The Noticee has submitted that every client has subscribed on his/ her own wish and KYC and risk profiling has been carried out.

24.2. It was observed that around Rs. 8 lacs was accounted in the name of the spouse of Mr. Raj Kumar Sidam; however, as per Noticee's own submissions, she has not signed any document such as risk profile, KYC, etc. and therefore no service was provided. This proves that the Noticee has collected fees from its client even without carrying out KYC and risk profiling. Further, the fees accounted in her name have never been returned to her and the Noticee has merely stated that it had no intention to forfeit the fees.

24.3. Further, as regards the observation regarding fees being accounted in the name of Ms. Chandamitra Chakrabarti, Ms. Meenu Jennifer and Ms. Lalitaben Thakkar, the Noticee has not submitted any details regarding the investment advice sent to them in lieu of the service fee charged. Therefore, the fees have been accounted in names of relatives of the primary client only to give an impression that exorbitant fees have not been charged to a single client.

24.4. With regard to the observation regarding Mr. Dipak Karpate, the submissions of the Noticee cannot be accepted. As per available documents on record, the Noticee has issued a payment invoice dated September 30, 2016, in the name of Mr. Dipak Karpate, for the

amount of Rs. 1,50,000/- (Rs.1,30,050/- as payment towards the service and Rs. 19,950/- as Service tax). It is mentioned in the payment invoice that the mode of payment is Cash Deposit made in ICICI Bank. From a verification of the ICICI bank statement of the Noticee, I observe that on September 30, 2016, two cash deposits totaling to Rs. 1,50,000/- have been made in the account. I note that the Noticee has also been given inspection of documents relied upon when issuing the interim order and the Noticee has not provided any further submissions regarding this receipt except by merely denying that Mr. Karpate is not its client.

In view of the above, I note that the submissions of the Noticee are devoid of any merit and therefore, reject the same.

25. Creation of fake email ID by Highbrow:

25.1. From the submissions of the Noticee, it can be seen that the first communication with Mr. Thakkar has been sent to the email ID: 20061973dipakbhaithakkar@gmail.com on December 23, 2015. This email has the KYC and client risk profile as its attachments. Till January 07, 2016, the Noticee has sent communications regarding Mr. Thakkar to this email ID. However, on January 11, 2016, i.e., one day before actually starting the service for Mr. Thakkar, the Noticee has sent documents pertaining to Mr. Thakkar (KYC, risk profile, etc.) to email ID dipak.lt25@gmail.com and lalvanipatan@gmail.com. Subsequent communications from the Noticee have been sent to these email IDs. I note that the Noticee has not offered any explanation regarding these email IDs, apart from denying the allegation.

25.2. Further, it is observed that from November 2016 onwards, all communication regarding Mr. Thakkar has been sent to email ID dipakkumar8569@outlook.com. No explanation has been provided by the Noticee as to why there has been a change in the email ID of the client, whether the client himself has asked for a change in the email ID, etc. The

Noticee has also provided emails which have been sent from this email ID to its official ID; however, the documents attached with these emails have not been provided.

25.3. However, I also note that emails have purportedly been sent from these email ID to the Noticee by the client with signed documents and the Noticee has contended that the complainant has not alleged any forgery of signature by the Noticee.

In view of the above, I note that the charge of creation of fake email ID cannot be established without a further detailed examination.

26. Assurance of profit to the clients by employees of Highbrow:

26.1. It was observed in the interim order that employees of the Noticee were found to be telling clients the amount of profit they would make from their investment. Transcripts of a few such conversations were mentioned in the order, wherein it is observed that the employee of the Noticee is telling the client that he/ she will receive 'X' times the investment made. The contention of the Noticee that such conversations would have to be heard in full and that the tone and demeanor would have to be seen to ascertain the meaning does not hold good. The Noticee has not provided any clarification as to under what circumstances this did not tantamount to a profit commitment. Thus I am of the view that the statement of the employee is unambiguous and clear that a profit commitment is being made to the client.

26.2. Further, it does not matter if these calls were made prior to subscription of services or post. If these calls were made prior to the client having subscribed to the services, then it ties in with the observation that the Noticee has used the device to lure clients to take their services. If these calls were made after the client has subscribed and paid for the services, then it ties in with the observation that substantial amount of advance payments are taken from the client to force him/ her to continue with the Noticee and subscribe to additional services.

In view of the above, I note that the submissions of the Noticee are devoid of merit and therefore, cannot be accepted.

27. Use of fictitious names and designation by Highbrow's representatives:

27.1. I note that the Noticee has accepted that sometimes its female employees would use different names when dealing with clients and that the same name was used uniformly through such staff's dealing. However, no evidence to back up this submission has been provided by the Noticee.

27.2. Further, the interim order contained two examples wherein a male employee has used fictitious names when dealing with clients. In one case, the Noticee has also accepted that it did not have any employee named 'Rajat Singhania' on its rolls. The Noticee has not provided any further explanation regarding these examples, except merely denying the same.

In view of the above, I note that the submissions of the Noticee are devoid of merit and therefore, cannot be accepted.

28. Obtaining credit card/ demat account details from client to indulge in fraudulent activity: In the case of Mr. Sidam, the Noticee has submitted that the card details were provided by the client himself as he was finding it difficult to make payment due to some technical issues. While the transaction has gone through, I note here that there is no communication from the client that he is providing the card details due to technical difficulties. It is the Noticee who has emailed to the client, after the transaction has gone through, stating that the client has shared the card details due to technical difficulties. There is no email or communication from the client that he had shared the card details due to some technical difficulties. I note here that it is not prudent on part of the Noticee to allow its employees to collect such sensitive details from clients.

In view of the above, I note that the submissions of the Noticee are devoid of merit and therefore, cannot be accepted.

29. Misrepresentation by the employees of Highbrow:

29.1. With respect to Mr. Anto Vaz, the Noticee has submitted that the client should explain why such huge amounts were paid by him if only basic service was subscribed by him. This aspect has already been covered in this order in earlier paragraphs viz., advance payments collected prior to risk profiling, pressurizing client to make payments with strict deadlines or face forfeiture, etc.

29.2. With respect to Mr. Ashish Makati, the Noticee has submitted that it needs to examine and verify the genuineness of the conversation. I note that these call records have been given to the Noticee as part of document inspection and no further comments/submissions have been received from the Noticee. Noticee has not denied the genuineness of the conversation and has merely stated that it needs to examine and verify the genuineness of the conversation. Therefore, additional findings rendered in view of the call records holds good on prima facie level.

In view of the above, I note that the submissions of the Noticee are devoid of merit and therefore, cannot be accepted.

30. Coercing clients and dictating to them to write appreciation letters for Highbrow:

30.1. The Noticee has accepted that the contents of these emails may have been dictated by its employees to clients as the client may not know what is to be written exactly and the same does not amount to coercion.

30.2. In this regard, it is relevant to note the observation regarding the collection of advance payments by the Noticee in order to force the client to continue with it. For e.g., the client

Mr. Chakrabarti has sent a resolution email on July 06, 2017. It may be noted here that by this date, the Noticee has already extracted around Rs. 6.13 lacs from the client as service fees. The client would have no option but to agree to send the email, as dictated by employees of the Noticee, or face forfeiture of the fees paid by him till date.

In view of the above, I note that the submissions of the Noticee are devoid of merit and therefore, cannot be accepted.

31. Non-redressal of investor grievances:

31.1.As per SEBI records, the number of unique complaints received against the Noticee is 281. While this number may be relatively small as compared to the client base of the Noticee, it is the nature of these complaints that needs to be considered. I note that the complaints received against the Noticee are not basic in nature but pertain to commitment of assured returns from investing in the market, allegations of fraud, extraction of large amounts of service fee from clients, etc. SEBI has also received references from law enforcement agencies regarding the filing of complaints/ FIRs against the Noticee and its directors by investors.

31.2.Further, on the observation regarding non-redressal of investor grievances as per prescribed timelines, I note that the Noticee has merely submitted that it has sent the ATR in respect of 29 complaints to SEBI and the same is pending either with SEBI or with the client for a very long time. The Noticee has not substantiated its submissions for all 29 complaints as to how it has resolved the same within the prescribed timelines. Without prejudice to the above, it is also relevant to mention that the claimed resolution of complaints does not alter the nature of “investment advisory activity” which was being carried out by the Noticee, which has been, *prima facie*, found to be fraudulent and in violation of the provisions of securities laws.

31.3.As regards the unresolved complaints, no reply from the Noticee has been received till date.

In view of the above, I note that the submissions of the Noticee are devoid of any merit and therefore, cannot be accepted.

32. In view of the considerations made above, I find the Noticee to be responsible for (a) committing to provide guaranteed/ assured returns to its clients, (b) not discharging their fiduciary responsibility towards its clients, (c) non-redressal of investor grievances, (d) extracting money from clients, (e) misrepresentation made by its employees to the clients and (f) not carrying out risk profiling of its clients in accordance with the IA Regulations. These acts of the Noticee also amount to fraud, as defined in the PFUTP Regulations. Hence, I find that the Noticee is in contravention of various provisions of the SEBI Act, the IA Regulations and the PFUTP Regulations, as outlined in the Interim Order.

33. Consideration of Prayers of Highbrow and its present directors:

33.1.As the very nature of the investment advisory activity being practiced by the Highbrow is, *prima facie*, fraudulent and in violation of the provisions of SEBI Act, the PFUTP Regulations and the IA Regulations, the balance of convenience is not in favor of permitting the Noticee to provide investment advisory services, either to new clients or to existing clients. I note here that existing clients have been lured to deal in securities on the pretext of false assurances of profit and if the Noticee is permitted to service only its existing clients, then these investors are at risk of losing their capital/ savings while acting under the false assurances of the Noticee. Hence, the prayer of the Noticee to revoke its suspension and provide services only to existing clients cannot be accepted. The request of the Noticee to make its website operational also cannot be accepted. If accepted it may result in the prospective investors getting attracted to the service which has been *prima facie* held to be “fraudulent”

33.2. The Noticee has prayed for de-freezing of its bank accounts to permit it to meet its salary expenses, pay government dues, etc., under the supervision of SEBI's Indore Local Office. I note that the Noticee has not provided any supporting documents to support his relief on salary expenses, government dues, taxes, etc., for payment of which it has prayed for de-freezing of its bank accounts. It is also noted that SEBI has powers under Sections 11B and 11(4) of SEBI Act, in the interest of investors, to pass final direction against the Noticee to repay such money received from various investors after giving a fair opportunity of hearing. The interim order has been passed in order to maintain the status quo, so that on final adjudication after granting fair opportunity of hearing on merits, if the liability to repay is established, the possible direction in the final order does not become infructuous. Therefore, I find that the balance of convenience is not in favor of the applicant. In view of this, the prayer to de-freeze the bank accounts cannot be acceded to at this stage.

33.3. I note that inspection of documents has already been provided to Highbrow on July 12, 2019. Personal hearing was granted on October 24, 2019, and submissions post hearing have also been received.

Hence, there is no need to revoke or modify the directions issued against Highbrow and its present directors vide the interim order.

B. Liability of Directors:

34. The very nature of the investment advisory activity being practiced by the Noticee appears to be, *prima facie*, fraudulent and in violation of the provisions of SEBI Act, the PFUTP Regulations and the IA Regulations. It is a settled position of law that in cases of fraud the corporate veil can be lifted and the directors can be held liable for the fraud perpetrated by the corporate entity. I also note here that the Hon'ble Supreme Court, 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". These observations of the Hon'ble Supreme Court are relevant in order to establish the liability of a director in case of fraud perpetrated by a Company.

35. I shall now consider the submissions made by the past directors of the Noticee.

36. **Mr. Laxmikant Sharma:** The Noticee has submitted that he was a director in Highbrow from December 2011 till March 2016. I note from MCA records that his resignation has been accepted with effect from April 01, 2016. Mr. Sharma has submitted that during his tenure he was not been involved in sales or marketing functions of Highbrow and that was in charge of conducting trainings in the organization and his job was to train fresh recruits. Mr. Sharma has asserted that the interim order does not mention any specific finding or assertion stating how he was involved or what role he had to play in the affairs of the company or how he was liable for any of the alleged violations. Reliance has been placed on judgment of the Hon'ble SAT in the case of P. G. Electroplast vs. SEBI, wherein it has been opined that SEBI must provide a specific finding that the director was responsible for the alleged violation and was in charge of the affairs of a company.

37. In this regard, I note the following:

37.1. Mr. Sharma has not provided any documentary evidence to substantiate his contention that during his tenure as a director with Highbrow, he was only in charge of conducting trainings in the organization, training of fresh recruits, etc. In the absence of documentary evidence, the contention of Mr. Sharma that he was not involved in sales/ marketing functions of Highbrow cannot be accepted. Even otherwise, the directors are conferred powers to conduct the business of the company in meeting the objects of the company. Having conferred the power under Section 291 of Companies Act, 1956, the directors

liability flows from non-exercise/omission to exercise of powers as well. Therefore, even if the director was only in charge of a specific operational area, the responsibility of the of the board of directors, as per Section 291 of Companies Act, 1956, is to exercise all such powers, and to do all such acts and things, as the company is authorized to exercise and do. The omission to exercise that power could also lead to the liability on the part of the directors.

37.2. From the documents submitted by Highbrow at the time of seeking registration from SEBI (Highbrow got registered in February 2014), it has been mentioned that Mr. Laxmikant Sharma shall be in charge of handling and redressal of client grievances. Further, I observe from documents downloaded from the MCA website that Mr. Sharma has signed on the adopted financial statements for the financial year 2014-15. These statements have been approved by the Board of Directors of Highbrow and it is observed that the Board's report in this regard has also been signed by Mr. Sharma. In view of the above, I note that Mr. Sharma has had a long association with Highbrow (since 2011) and even a superficial examination of the signed financials would have made him aware of the unreasonable fees being charged by Highbrow, especially as clients have been paying in lakhs towards these fees. Hence, by virtue of these observations, it appears that, *prima facie*, Mr. Laxmikant Sharma, had knowledge of and was involved in the affairs/ operations of the company.

37.3. Two of the clients mentioned in the interim order, namely, Mr. Raj Kumar Sidam and Mr. Dipak Kumar Thakkar, have joined the services of Highbrow from February 2015 and December 2015, respectively, i.e., when Mr. Sharma was a director in Highbrow. The conduct of Highbrow with respect to these clients i.e., risk profiling, collection of advance payments, etc., is deemed to be, *prima facie*, fraudulent, as mentioned in previous paragraphs. Hence, I note that there are specific findings regarding the conduct of Highbrow that have occurred during the tenure of Mr. Sharma.

In view of the above and, I find no reason to accept the submissions of Mr. Laxmikant Sharma.

38. **Mr. Mohit Chhapparwal:** The Noticee became a director in Highbrow on December 26, 2011, and I note from MCA records that his resignation has been accepted with effect from April 01, 2016. Mr. Chhapparwal has submitted that after April 01, 2016, he has been in no manner associated with the Company and/ or other Noticees. Further, it is clarified that during his tenure as director, his profile was mainly pertaining to Human Resources and handling tax profiles of employees, tax deductions and HR obligations and that during the relevant period he was not associated with the sales and marketing of products and schemes introduced by Highbrow, management, operations, regular affairs of the company and was not a party to decision making, strategizing or commercial transactions of Highbrow.

39. In this regard, I note the following:

39.1. The pay slips submitted by Mr. Chhapparwal are for the months of January 2018 and February 2018; however, as per the submissions of Mr. Chhapparwal, he has not been associated with Highbrow in any manner after his resignation which has been accepted with effect from April 01, 2016. Therefore, it appears that, *prima facie*, either Mr. Chhapparwal has submitted fabricated pay slips or that he has continued to be associated with Highbrow even after his resignation as director. In view of the same, I cannot accept the contention of Mr. Chhapparwal about the period of his association with Highbrow after his tenure as a director of Highbrow.

39.2. Further, I observe from documents downloaded from the MCA website that Mr. Chhapparwal has signed on the adopted financial statements for the financial year 2014-15. These statements have been approved by the Board of Directors of Highbrow and it is observed that the Board's report in this regard has also been signed by Mr. Chhapparwal. I note that Mr. Chhapparwal has had a long association with Highbrow (since 2011) and even a superficial examination of the signed financials would have made him aware of the unreasonable fees being charged by Highbrow, especially as clients have been paying in lakhs towards these fees. Hence, by virtue of having signed the financial statements for

Highbrow, it appears that, *prima facie*, Mr. Mohit Chhapparwal, had knowledge of and was involved in the affairs/ operations of the company.

39.3. Two of the clients mentioned in the interim order, namely, Mr. Raj Kumar Sidam and Mr. Dipak Kumar Thakkar, have joined the services of Highbrow from February 2015 and December 2015, respectively, i.e., when Mr. Chhapparwal was a director in Highbrow. The conduct of Highbrow with respect to these clients i.e., risk profiling, collection of advance payments, etc., is deemed to be, *prima facie*, fraudulent, as mentioned in previous paragraphs. Hence, I note that there are specific findings regarding the conduct of Highbrow that pertain to the tenure of Mr. Chhapparwal.

39.4. Mr. Chhapparwal has submitted that there was no profit counter on the website of the Highbrow during his association with it; however, from archives of the website www.ways2capital.com (available on www.archive.org), it is observed that there was a profit counter on the website during the month of December 2015 i.e., when Mr. Chhapparwal was a director with Highbrow. Thus, his statement is observed to be false.

39.5. The submission regarding Mr. Dipak Thakkar cannot be accepted since as per the payment details submitted by Highbrow, fees worth Rs. 9,35,000/- have been collected from the client between December 22, 2015, and January 11, 2016, i.e., when Mr. Chhapparwal was a director in Highbrow. However, I note here that as per Mr. Chhapparwal's submission this amount is the investment amount and is not fees paid by the client. If the same is taken as an investment amount, it would imply that Highbrow has access to the trading/ demat account of its clients and would be trading on this amount. I note that instances have been observed where Highbrow and its employees have tried to obtain trading/ demat details from its clients. Hence, this finding requires further examination. As regards the charge of creation of fake email ID for Mr. Thakkar, it has already been mentioned in preceding paragraphs that the same requires further examination. Closure of a complaint by SEBI in this regard does not imply that the

regulatory issues thrown up from the complaint cannot be examined further, if circumstances so warrant.

39.6.Mr. Chhaparwal has also contended that SEBI had inspected the operations of Highbrow during his tenure and the findings were of a routine nature which did not merit initiation of enforcement action. I note here that SEBI conducts inspections of registered intermediaries periodically covering a certain period of the operations of the intermediary and the conclusion of the inspection without any enforcement action does not preclude the present proceeding, which holistically considers the conduct and operations of Highbrow and receipt of additional inputs over the last 4-5 years.

39.7.Mr. Chhaparwal has furnished two judgments in support of his contentions, viz., judgments of the Hon'ble Securities Appellate Tribunal in the matter of Sayanti Sen vs. SEBI and Pritha Bag vs. SEBI. These judgments pertain to repayment liability of directors of a company where the company has issued shares/ debentures to general public without the compliance of the relevant permissions under the Companies Act, 1956, while the present proceedings relate to alleged violations of the SEBI Act, the PFUTP and the IA Regulations. Further, the decision in the matter of Sayanti Sen vs. SEBI was appealed by SEBI before the Hon'ble Supreme Court, which vide order dated November 13, 2019, while dismissing the appeal has mentioned that the order of the Hon'ble SAT shall not be treated as a precedent. The directors are conferred powers to conduct the business of the company in meeting the objects of the company. Having conferred the power under Section 291 of Companies Act, 1956, the directors liability flows from non-exercise/omission to exercise of powers as well. Therefore, even if the director was only in charge of a specific operational area, the responsibility of the of the board of directors, as per Section 291 of Companies Act, 1956, is to exercise all such powers, and to do all such acts and things, as the company is authorized to exercise and do. The omission to exercise that power could also lead the liability on the part of the directors.

39.8.Mr. Chhaparwal has also submitted that SEBI's finding that the entire money collected in the bank accounts of Highbrow since its inception till 2018-19, has been collected towards fraudulent investment advisory activities, is incorrect. I note here that the same remains to be established as a detailed examination is still pending in the matter.

In view of the above, I find no reason to accept the submissions of Mr. Mohit Chhaparwal.

40. Mr. Swapnil Prajapati and Mr. Hemant Agrawal:

40.1.I note that Mr. Prajapati and Mr. Agrawal were directors in Highbrow from December 26, 2011, till July 01, 2017. As already mentioned above, it has been, *prima facie*, established that Highbrow has acted in a fraudulent manner with clients who have been associated with it since February 2015. The relationship of these clients has continued with Highbrow during their tenure. It is also noted that during the period April 01, 2016, till June 22, 2017, i.e., during the period after the resignation of Mr. Laxmikant Sharma and Mr. Mohit Sharma and the appointment of Mr. Girish Kumar Pahwani and Mr. Sunil Atode, Mr. Swapnil Prajapati and Mr. Hemant Agrawal, were the only directors in Highbrow and as such, they were liable for the acts and omissions committed during this period. I note that the finding regarding collection of fees from Ms. Manda Sidam, spouse of client Mr. Raj Kumar Sidam, without carrying out any risk profiling and KYC, pertains to the period April-September 2016. Further, these fees were forfeited and not returned to the client although by the own submission of Highbrow, no services were provided. Further, the finding regarding acceptance of payment from Mr. Dipak Karpate also pertains to this period. Hence, the contention of these directors that they did not exercise control over the management of Highbrow at any point in time and they did not indulge in or facilitate the commissions of the alleged violations is not acceptable.

40.2.Mr. Prajapati and Mr. Agrawal have contended that the directions issued against them vide the interim order amount to a punitive action and the same are not preventive/remedial in nature. I note here that a detailed examination of the matter is still pending

and there is a possibility that after completion of the detailed examination, the fees collected from clients may result in liability of refund, jointly and severally, by Highbrow as well by the directors during whose tenures the violations have occurred. As such, the interim order has been passed in order to maintain the status quo, so that on final adjudication after granting fair opportunity of hearing on merits, if the liability to repay is established, the possible directions in the final order do not become infructuous. If debarment as a preventive direction is not imposed, the existing assets in the securities market may be liquidated by way of sale. The urgency of these directions being issued was in order to protect the interests of investors who have already availed the services of Highbrow and may have to be refunded their fees. Further, allegations of fraud against Highbrow were made in the interim order and it has been shown in this order that these violations have occurred during the tenure of directorship of Mr. Prajapati and Mr. Agrawal. Hence, appropriate directions have been passed in order to prevent them from being associated with and undertaking any activity in the securities market, directly or indirectly, in order to protect the interest of investors. Therefore, the directions passed against any of the directors of Highbrow are purely preventive in nature and not punitive.

40.3. The interim order was also passed after a preliminary inquiry showed that the operations of Highbrow have been conducted in a manner that is fraudulent and is detrimental to the interests of investors. There was, *prima facie*, evidence on record, not just mere suspicion, that the past and present directors were responsible for this conduct of Highbrow and the same has now been further enhanced by the findings in this order.

40.4. I note that Article 19(1)(g) guarantees to all citizens, the right to practice any profession or to carry on any occupation, trade or business. However, at the same time it is pertinent to mention that this freedom is not unbridled, as Clause (6) of Article 19 authorizes legislation which imposes reasonable restrictions on this right in the interest of general public. The SEBI Act, 1992, is a special Act enacted by the Parliament that confers on SEBI the duty to protect the interests of investors in the securities and to promote the development of, and to regulate the securities market, by such measures as it thinks fit.

Such reasonable restrictions have been imposed through delegated legislation such as the IA Regulations and granting of powers to passing of interim orders for violations of these Regulations in the interest of investors. In the present case, the interim order has been passed by SEBI in exercise of the powers conferred upon it by law and towards fulfilment of the duties cast under the SEBI Act. As noted in the interim order, the conduct of Highbrow Market Research Private Limited has been found to be, *prima facie*, fraudulent and in violation of the PFUTP and the IA Regulations and therefore directions have been issued against Highbrow and its directors, both past and present. It is a settled law that while exercising his fundamental rights, a person cannot commit an act which is forbidden by law. In view of the above, the interim order against Highbrow and its directors, during whose tenures such violations occurred, is not in violation of Article 19(1) (g) of the Constitution of India.

40.5. I also note here that that principles and ratio laid down in various case laws, referred to by Mr. Prajapati and Mr. Agrawal, are predominantly in respect of the subject matter where the dispute pertains to criminal liability and the same cannot be equally extended in determining the scope and extend of civil liability for violations of SEBI Act and of the Regulations framed thereunder.

In view of the above, I find no reason to accept the submissions of Mr. Swapnil Prajapati and Mr. Hemant Agrawal.

41. **Mr. Girish Kumar Pahwani and Mr. Sunil Atode:** As per records, no reply has been received from these past directors of Highbrow. However, I note that they were directors in Highbrow during June 23, 2017, and May 01, 2018. In view of the findings in this order, relating particularly to violations of PFUTP Regulations, I note that Mr. Girish Kumar Pahwani and Mr. Sunil Atode, in their capacity as directors of Highbrow, are also liable for its acts and omissions that occurred during their tenure.

42. Consideration of Prayers of Past Directors:

42.1. The very nature of the investment advisory activity being practiced by the Highbrow is found to be, *prima facie*, fraudulent and in violation of the provisions of SEBI Act, the PFUTP Regulations and the IA Regulations. It has also been established that, *prima facie*, the past directors of Highbrow were also responsible for the acts and omissions of Highbrow conducted during their tenure. I note here that a detailed examination of the matter is still pending and there is a possibility that after completion of the detailed examination, the fees collected from clients may have to be refunded. The interim order has been passed in order to maintain the status quo, so that on final adjudication after granting fair opportunity of hearing on merits, if the liability to repay is established, the possible directions in the final order do not become infructuous.

42.2. I also note that Mr. Mohit Chhapparwal has not any submitted details of EMI, education expenses for children and household expenses to enable a view to be taken regarding his request to permit him to redeem mutual fund units held by him.

42.3. In this regard, the balance of convenience is not in favor of revoking the directions issued against the past Directors of Highbrow viz., Mr. Laxmikant Sharma, Mr. Mohit Chhapparwal, Mr. Swapnil Prajapati, Mr. Hemant Agrawal, Mr. Girish Kumar Pahlwani and Mr. Sunil Atode.

43. Accordingly, necessary directions in this regard are issued in the following paragraph.

Order:

44. In view of the foregoing paragraphs, pending detailed examination, I, in exercise of the powers conferred upon me in terms of Section 19 of the SEBI Act, 1992, read with Sections 11, 11B and 11D thereof, hereby confirm the directions issued vide ex-parte ad interim order dated May 23, 2019, in the matter of Highbrow Market Research Private Limited.

45. This order shall come into force with immediate effect. A copy of this order shall be served upon all the Noticees, Banks, Stock Exchanges, Depositories and Registrar and Transfer Agents for necessary action and compliance with the above directions.

Sd/-

Date: January 30, 2020

MADHABI PURI BUCH

Place: Mumbai

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA