

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: MADHABI PURI BUCH, WHOLE TIME MEMBER

INTERIM ORDER

Under Sections 11, 11(4), 11B and 11D of the Securities and Exchange Board of India Act, 1992 and Regulation 35, Chapter VI of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008

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

In respect of:

Sr. No.	Name of the Entities	SEBI Registration	PAN
1	Chetan Yashwant Shukla	INH000001402	ABBPS2467H

Brief Background:

1. Chetan Yashwant Shukla (“**Chetan Shukla /RA/the Noticee**”) is registered as Research Analyst (“**RA**”) in individual capacity bearing Registration Number INH000001402 (PAN: ABBPS2467H) from August 14, 2015, at the registered address of A- 601, Bhounik Apartment, Ram Lane, Kandivali (West), Mumbai – 400067.
2. Securities and Exchange Board of India (“**SEBI**”) received several complaints against Chetan Shukla that he is inter-*alia*, alleged to be indulged in giving advisory/stock tips, frauds by taking money in lieu of opening Demat account etc.

3. As per the data available on SCORES, as on November 28, 2019, there are 14 complaints pending against the RA out of which 9 complaints are pending for redressal by the entity for more than 6 months. The details regarding 14 pending complaints are stated as under:

Sr. No.	Complainant Name	Status	Date of Receipt	Date of Forwarding to RA	Last communication received from RA	Last Reminder Sent to RA
1	Hariharan	Pending	17-02-2018	13-04-2018	27-04-2019	17-09-2019
2	Hrushikesh Mahanta	Pending	30-06-2018	06-07-2018	31-08-2019	17-09-2019
3	Rajwinder Singh	Pending	18-11-2018	27-11-2018	26-03-2019	24-08-2019
4	Anil Kumar	Pending	30-11-2018	10-12-2018	21-08-2019	28-11-2019
5	Miteshkumar Bharatbhai Patel	Pending	26-12-2018	31-12-2018	21-08-2019	26-06-2019
6	Vikash Gupta	Pending	14-02-2019	25-02-2019	21-08-2019	26-06-2019
7	Prakhar Rajput	Pending	05-05-2019	12-06-2019	None	26-06-2019
8	Jayesh Joshi	Pending	17-05-2019	12-06-2019	21-08-2019	26-06-2019
9	Sanjaykumar Bhagvanbhai Sudani	Pending	09-07-2019	24-09-2019	None	24-09-2019
10	Vishal Sanjay Salunkhe	Pending	13-08-2019	13-09-2019	None	24-09-2019
11	Prakash Bhanushali	Pending	27-08-2019	13-09-2019	None	24-09-2019
12	Manish Kumar	Pending	09-09-2019	13-09-2019	None	24-09-2019
13	Ankur Gupta	Pending	20-10-2019	28-11-2019	None	None
14	Praveen Kumar	Pending	24-10-2019	28-11-2019	None	None

4. In view of the quantum of pending investor complaints against the RA, an Inspection notice was sent to the RA on the registered address and email id vide e-mail dated February 15,

2019 and advised him to submit the information for the inspection. As the RA did not submit any documents, site visit was conducted by the inspecting team at the registered address of the RA i.e., “A- 601, Bhoumik Apartment, Ram Lane, Kandivali (West), Mumbai – 400067” as well as the correspondence address i.e., “126, Xth Central Mall, Mahavir Nagar, Kandivali (West), Mumbai”. From the site visits, it was gathered that the RA had shifted from the said premises more than two years ago.

5. As the RA had earlier requested for a change in address and principal place of business to Indore, a site visit was conducted at the available addresses viz., *Plot No. 17, PU-4, Near Indo Thai, Vijay Nagar, Indore – 452010* and *Plot No.56, PU-4, Near Hotel Clif, Vijay Nagar*. A restaurant named ‘Loca Mocha Lounge’ was found operating on the first address whereas construction of a new building was going on in the second address. A site visit was also conducted at the address mentioned in the change of address request viz., *Plot No. 17, PU-4, Near Indo Thai, Vijay Nagar, Indore – 452010* on three different days and premises was found locked on all the three occasions.

SEBI’s Examination:

6. Based on the PAN of the Noticee available on record, bank account statements, Account opening Form (AoF) and KYC details were sought from SBI, Axis Bank, ICICI Bank, HDFC Bank and IndusInd Bank vide e-mail dated October 30, 2019.
 - i. SBI has informed that Chetan Shukla had two accounts in SBI and both were closed in 2009.
 - ii. Further, HDFC Bank vide mail dated November 1, 2019, has informed that only one account was found with the PAN details and it was closed on January 22, 2011

PAN	Customer Name	Bank Account	A/c Open Date	A/c Closure Date	A/c Status
ABBPS2467H	CHETAN YASHWANT SHUKLA	04191000037306	09-07-2010	22-01-2011	CLOSED

- iii. IndusInd Bank, vide mail dated November 13, 2019, has mentioned that on the basis of PAN number of the Noticee, three accounts could be traced. The details are as below:

Sl. No	Account Number	Account Name	Account Type	Account Open Date	Account Close Date
1	258169846047	CHETAN YASHWANT SHUKLA	Current A/C	20-04-2019	Active
2	100008164374 * Old A/C no : 0153YN6110001	CHETAN YASHWANT SHUKLA	Saving A/C	19-05-2012	09-07-2013
3	201002562316	CHETAN YASHWANT SHUKLA	Current A/C	05-07-2018	14-09-2018

- iv. ICICI Bank vide its e-mail dated November 12, 2019 has submitted the details of the following 10 bank accounts:

Sl. No	Account Number	Account Name	Account Type	1 st transaction Date	Last transaction Date	Active/ Closed
1	053901511826	CHETAN YASHWANT SHUKLA	Saving A/C	09-06-2017	09-07-2019	Closed
2	053901511127	CHETAN YASHWANT SHUKLA	Saving A/C	04-05-2016	09-06-2017	Closed
3	053901509806	CHETAN YASHWANT SHUKLA	Saving A/C	21-08-2015	30-03-2016	Closed
4	053901508588	CHETAN YASHWANT SHUKLA	Saving A/C	12-01-2015	20-01-2015	Closed
5	026101503126	CHETAN YASHWANT SHUKLA	Saving A/C	No transaction		Active
6	053905500121	CHETAN YASHWANT SHUKLA	Current A/C	16-06-2012	04-07-2012	Closed
7	120601001514	CHETAN YASHWANT SHUKLA	Saving A/C	19-09-2018	29-09-2018	Closed
8	053905500319	CHETAN YASHWANT SHUKLA	Current A/C	07-08-2014	14-08-2014	Closed
9	053905500483	CHETAN YASHWANT SHUKLA	Current A/C	16-06-2016	23-06-2016	Closed
10	053901505715	CHETAN YASHWANT SHUKLA	Saving A/C	04-06-2012	31-12-2015	Closed

- v. Axis Bank in its response, vide e-mail dated October 30, 2019, submitted bank account statements of three bank accounts. The details of the three bank accounts are as under:

Sl. No	Account Number	Account Name	Account Type	Account Open Date	Account Close Date
1	912020067502170	CHETAN YASHWANT SHUKLA	Current A/C	26/12/2012	05/10/2017
2	912010022630556	CHETAN YASHWANT SHUKLA	Saving A/C	26/04/2012	Active
3	911010035521116	CHETAN YASHWANT SHUKLA	Saving A/C	13/07/2011	Active

7. Upon preliminary examination of the Complaints, SEBI observed that most of the complaints are pertaining to investment advisory services offered by the Noticee through its website viz., Ways2star.in. To that end the website of the firm and particulars of its bank accounts were perused to gather information. Currently, the website is not active however, the print outs of the webpages are taken and placed on record. The website provides information that the firm offers products and services relating to equity market, future market, option market, index option and commodity market. The payment gateway *easebuzz* is mentioned for payment on the website.
8. I have accordingly perused the materials available on record such as complaints, information available on the website of the Noticee and information obtained from various banks, etc. A preliminary examination of the material available on record has been made in order to verify whether Chetan Shukla, a SEBI registered RA has offered investment advisory services and collected money from various investors without registration from SEBI as an investment advisor. In this context, *prima facie*, the following issues arise for determination in the instant matter:

1) Whether the representations made by the Noticee amount to Investment Advice in view of his holding certificate of registration as a Research Analyst?

2) Whether Chetan Shukla is, prima facie, holding himself out and/or acting as an investment adviser?

3) If answer to aforesaid issue is in affirmative, whether Chetan Shukla has, prima facie, violated any provisions of SEBI Act read with IA Regulations and PFUTP Regulations?

4) If answer to Issue No. (2) is affirmative, whether urgent directions, if any should be issued against Chetan Shukla for the violations?

Issue No. 1: Whether the representations made by the Noticee amount to Investment Advice in view of his holding certificate of registration as a Research Analyst?

9. As regards the first issue, I note that the Noticee Chetan Shukla is SEBI registered Research Analyst having registration number INH000001402. In this regard the following information was gathered from the website of Chetan Shukla:

a) Under the heading “About us”, the firm claims as follows:

“Ways2star Financial Services is a leading market research company in India, we can advice to your future. Our main focus is on consistently delivering high quality financial products and services to our customers.

We have legal entity SEBI Reg. No. INH000001402.”

b) Under the head “Services” they provide the following services:

- i. Basic equity services such as stock cash, stock future, stock option, index services, all equity combo pack.
- ii. Basic MCX Services such as Bullion Services, Energy services, Basic Metal Services, All MCX combo pack and NCDEX Services.
- iii. They also provide premium equity services and Premium MCX services etc.

c) As part of its services for the various segments of the securities market as mentioned above, the firm has multiple packages. For example, the following package as shown under the head “pricing” is reproduced hereunder for reference:

	Basic Services	Premium Services	Golden Services	Golden HNI
Monthly	9000	16864	26164	32400
Quarterly	28418	45100	68492	87200
Half Yearly	55100	90184	136984	184400
Yearly	92000	178000	313968	388800
2 Yearly	244000	404736	627936	777600

- 9.1 The website also mentions that they offer Equity Premium Tips-Signature Plan (Combo), Premium Tips- Signature Plan (Combo), etc.
- 9.2 Payment for these services can be done through payment gateway easebuzz.
- 9.3 The website also hosts a detailed risk profiling form for the clients who subscribe to their services. It is mentioned that KYC and risk profiling are mandatory for the customers.
10. I note from the definition of Research Analyst as given in Regulation 2 (1) (u) of the Research Analysts Regulations, which states that “*Research Analyst means who is primarily responsible for- i. preparation or publication of the content of the research report; or ii. providing research report; or iii. making 'buy/sell/hold' recommendation; or iv. giving price target; or v. offering an opinion concerning public offer, with respect to securities that are listed or to be listed in a stock exchange, whether or not any such person has the job title of 'research analyst' and includes any other entities engaged in issuance of research report or research analysis*”. I have also perused Regulation 2 (1) (l) of the IA Regulations which defines Investment Advice as “*advice relating to investing in, purchasing, selling or otherwise dealing in securities or investment products, and advice on investment portfolio containing securities or investment products, whether written, oral or through any other means of communication for the benefit of the client and shall include financial planning.*”
11. I note that the Research Analysts are not mandated to do risk profiling and though they give buy/sell/hold recommendations and price targets the same is “securities-specific” without considering the “investor specific” aspect mandated to be taken into account by the Investment Adviser. In order to ascertain those “investor specific” aspects of advice, the Investment

Advisor is mandated to do appropriate risk profiling of the clients and should have a process to arrive at suitable advice in line with the client's requirements based on his financial situation, investment experience, risk appetite and investment objectives. The decision of selection of products based on suitability is inherent part of investment advice. It is a different case, an unregistered investment advice may not follow such requirements imposed under the IA Regulations. But what is relevant to distinguish an advice given by the Registered Research Analyst from the "investment advice" is whether such registered research analyst is giving "investor specific" advice.

12. From the analysis of details provided by the Complainants such as e-mails, payment receipts, and website contents, that the Noticee is offering Basic equity services, Basic MCX Services, premium equity services and Premium MCX services. It also includes various packages for Basic, Premium, Golden and Golden HNI Services to its individual customers. It is also noted from the website that risk profiling is mandatory requirement for availing the Investment Advisory services. The fact that the risk profiling is mandatory requirement shows that the above mentioned services are meant for individual investors based on their risk profile and the suitability of products is meant to be based on the risk profile.
13. Therefore, I find that the website representation as mentioned above, offering packages meant to be sold on the basis of "investor specific" risk profile and product suitability to specific investors or clients evidences that the packages are meant for investment advice as defined under Regulation 2 (1) (l) of the IA Regulations.

Issue No. 2: Whether Chetan Shukla is, prima facie, holding himself out and/or acting as an investment adviser?

14. Having seen from the contents of the website the Noticee is representing himself as IA and providing subscription based services to the clients, I note the following information gathered from the KYC documents and bank account statements collected from various banks as mentioned above as part of the second issue:
 - 10.1 As per the statements of IndusInd Bank, it is observed that the following amounts were received by the Noticee during the existence of the said bank accounts:

Account no.	Total amount credited (Rs.)	Actual amount credited in Rs.
258169846047 (from 20/04/2019)	96,69,340.00	15,00,000.00
201002562316 (from 05/07/2018 to 14/09/2018)	22,700.00	22,700.00
Total		15,22,700.00

10.2 As per the statements of the ICICI Bank accounts which are relevant for the Noticee, it is observed that the following amounts were received by him during the existence of the said bank accounts:

Account no.	Total amount credited (Rs.)	Actual amount credited in Rs
053901511826 From 31/10/2017 to 09/07/2019	1,43,18,762.51	1,43,18,762.51
Total		Rs. 1,43,18,762.51

10.3 As per the statements of the Axis Bank accounts, it is observed that the following amounts were received by the Noticee during the existence of the said bank accounts:

Account No.	Total amount credited (Rs.)	Actual amount credited in Rs.
912010022630556 From 31/10/2017 to 12/10/2019	14,007	14,007
Total		14,007

11 From the analysis of account statements mentioned for the relevant period as detailed above, it has been observed that the entity has been receiving credits continuously. From the narration of above mentioned entries as noted from the Bank Statements of Chetan Shukla and also

from the analysis of the nature of services offered by him as noted from the website and e-mails, payment receipts sent to the complainants, I, *prima facie*, observe that Chetan Shukla inter alia through his website www.Ways2star.in has represented as follows:

- a) Chetan Shukla is offering investment advisory services that provides tips for the stock and commodity markets.
 - b) Chetan Shukla offers services in investment planning and strategy for consideration.
- 12 Considering the above facts and circumstances, especially the content of the website of Chetan Shukla coupled with the credit transactions in the Bank Account of Chetan Shukla as detailed in the preceding paragraphs and the complaints received from various investors more specifically, complaint of Mr. Rajvinder Singh for the services of HNI Cash for a period of one month starting from 8/10/2018 to 31/10/2018 for an amount of Rs.15, 000/- , *prima facie*, it is inferred that the fees/ funds credited to the Bank Accounts, were for the purpose of providing the services indicated on the website of Chetan Shukla.
- 13 It is, *prima facie*, observed that Chetan Shukla is placing information in public domain/ advertising by using his website about the various services offered by it in the securities market. Further, it is also, *prima facie*, observed that various packages were offered by Chetan Shukla through its website to avail its services.
- 14 I have perused the definition of Investment Adviser as given in Regulation 2(m) of the IA Regulations, which states that Investment Adviser means “*any person, who for consideration, is engaged in the business of providing investment advice to clients or other persons or group of persons and includes any person who holds out himself as an investment adviser, by whatever name called*”. Further, I have perused Regulation 2(l) of the IA Regulations which defines Investment Advice as “*advice relating to investing in, purchasing, selling or otherwise dealing in securities or investment products, and advice on investment portfolio containing securities or investment products, whether written, oral or through any other means of communication for the benefit of the client and shall include financial planning.*”

- 15 Therefore, the activity of Chetan Shukla through the website representation as mentioned above amounts to holding itself to be giving trading tips, stock specific recommendations, etc. to the investors and general public. The fact that payment receipt to the complainant has been given indicating the payment was made for receiving investment advice, and the email contents of investment advice provided to the complainant and the receipt of money in the bank statements, *prima facie*, shows, on preponderance of probability, that the credit for payment of fees is in fact meant for the advisory services actually rendered by him. Therefore, Chetan Shukla has not only held himself out as investment adviser but has also acted as investment adviser for consideration apart from being a registered research analyst.

Issue No.3: If answer to aforesaid issue is in affirmative, whether Chetan Shukla has, prima facie, violated any provisions of SEBI Act read with IA Regulations and PFUTP Regulations?

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

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

Further, as per Regulation 3(1) of the SEBI (Investment Advisers) Regulations, 2013 (hereinafter referred to as the IA Regulations), the registration of the investment advisers is mandatory. It provides that, “*On and from the commencement of these*

regulations, no person shall act as an investment adviser or hold itself out as an investment adviser unless he has obtained a certificate of registration from the Board under these regulations”.

- 17 The activities of Chetan Shukla, as brought out from the various materials described above, seen in the backdrop of the aforesaid provisions show that Chetan Shukla is holding itself out and acting as an investment adviser. However, no material is available on record to indicate that Chetan Shukla is having a certificate of registration as investment adviser. In this context, it is noted that Chetan Shukla is not registered with SEBI in the capacity of Investment Advisor and the characteristics and features of the business activity carried out by it, as discussed in the preceding issue, *prima facie*, leads to the conclusion that Chetan Shukla is holding itself out and acting as an investment adviser without a certificate of registration.
- 18 In my view, these activities/ representations are in violation of various provisions of the IA Regulations. Thus, the activities of Chetan Shukla is, *prima facie*, in violation of Section 12(1) of SEBI Act read with Regulation 3(1) of the IA Regulations.
- 19 I note that Chetan Shukla is registered with SEBI as a Research Analyst. A Research Analyst is an entity who writes, publishes research report on securities whereas an investment advisor is an entity or an individual who gives investment advice to a particular client based on his/her financial situation and needs. I also note that Chetan Shukla being a registered Research Analyst cannot act as an investment advisor without having registration as an investment advisor under the IA Regulations. This restriction on RA not to engage in IA activity is mandated by SEBI because a registered IA has to mandatorily do many requirements which are “investor specific” such as suitability and risk profiling of the individual clients to whom they are providing investment advisory services. Whereas such requirement is not there for a registered Research Analyst.
- 20 I note that there are several complaints pending against the RA without resolving for more than 6 months and SEBI has initiated Adjudication proceedings against the RA for the same.

I also note that Chetan Shukla is not available in any of its available addresses nor has responded from his registered e-mail id. Further, proceedings are also initiated for non-cooperation in inspection, failure to provide information, etc.

- 21 Further, I would like to refer to the relevant provisions of securities laws which are applicable to the present case i.e. Sections 12A (a), (b), (c) of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as “SEBI Act”) and regulations 3 (a), (b), (c), (d) and regulations 4(1) and 4(2)(k) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as “PFUTP Regulations”). The text of the aforesaid provisions is reproduced below:

SEBI Act

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

Section 12A: No person shall directly or indirectly:

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

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

(c) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, dealing in securities which are listed or proposed to be listed on a recognised stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;

PFUTP Regulations

Regulation 3. Prohibition of certain dealings in securities

No person shall directly or indirectly-

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

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

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

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

4. Prohibition of manipulative, fraudulent and unfair trade practices

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

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

...

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

- 22 In my view, unregistered investment advisor like Chetan Shukla can put investors at great risk by misleading them. The analysis of details of bank accounts shows that Chetan Shukla has received money in various denominations from various individuals. These proceeds, as discussed in preceding paragraphs, *prima facie*, leads to the inference that they are consideration for the services that Chetan Shukla provides in the securities market. Further, he does not have a registration with SEBI to provide investment advisory services and has knowingly misrepresented on its website his SEBI Registration for Research Analyst services for doing investment advisory services. The same can be inferred from the fact that the website shows that risk profiling is mandatory for availing the services. This clearly shows that the Noticee is aware of requirements of IA Regulations. It appears that, *prima facie*, Chetan Shukla has mislead the investors, as discussed above, giving an contextual impression that it

is registered with Regulator, as an investment advisor thereby luring and inducing investors to deal in securities by availing its services. These acts of the Noticee are misleading in the sense that the public are effectively made to believe that the Noticee is registered with the Regulator and therefore, authorized to deal in securities market while, in fact, he does not have the certificate of registration and is defrauding the public by luring/ inducing them to avail its services to deal in securities. Furthermore, the firm has claimed the following through the website:

- “97% increase in revenue
- 100% profit increment”

Thus, by making the aforesaid claims through the website, Chetan Shukla is inducing investors to deal in securities by availing its services. Such modus operandi is being continuously used by Chetan Shukla, which is evident from the fact that there are continuous credits in its bank accounts.

23 It is also, prima facie, observed that the conduct of Chetan Shukla in claiming that he can provide “97% revenue”, “100% profit”, etc., is an active concealment of the material fact that every investment in the market is subject to market risk and any investment made by the client can also run into losses and even become zero. Considering the dynamics of the market, the returns from the investment in the market are unpredictable, no matter how much and for how long the investment is made. In light of the same, the act of the firm to assure returns to the clients is a non-genuine and deceptive act and has been, prima facie, made with an intent to influence the client to avail its advisory services.

24 The above discussed non-genuine and deceptive activities of Chetan Shukla are, prima facie, fraudulent and are covered within the definition of “fraud” defined under Regulation 2(1)(c) of the PFUTP Regulations, which reads as under:

“fraud” includes any act, expression, omission or concealment committed whether in a deceitful manner or not by a person or by any other person with his connivance or by his agent while dealing in securities in order to induce another person or his agent to deal in securities, whether or not there is any wrongful gain or avoidance of any loss, and shall also include--

(1) a knowing misrepresentation of the truth or concealment of material fact in order that another person may act to his detriment;

- (2) a suggestion as to a fact which is not true by one who does not believe it to be true;
- (3) an active concealment of a fact by a person having knowledge or belief of the fact;
- (4) a promise made without any intention of performing it;
- (5) a representation made in a reckless and careless manner whether it be true or false;
- (6) any such act or omission as any other law specifically declares to be fraudulent;
- (7) deceptive behavior by a person depriving another of informed consent or full participation;
- (8) a false statement made without reasonable ground for believing it to be true;
- (9) the act of an issuer of securities giving out misinformation that affects the market price of the security, resulting in investors being effectively misled even though they did not rely on the statement itself or anything derived from it other than the market price.

And “fraudulent” shall be construed accordingly;

- 25 It is noted that *prima facie*, fraudulent activities/ the conduct/ act/ practice of Chetan Shukla as discussed above are *prima facie* in violation of provisions of Section 12A (a), (b), (c) of SEBI Act and Regulations 3 (a), (b), (c), (d) and Regulations 4(1) and 4(2)(k) of PFUTP Regulations.

Issue No.4: If answers to Issue No. (2) is affirmative, whether urgent directions, if any should be issued against Chetan Shukla?

- 26 SEBI has a statutory duty to protect the interests of investors in securities and promote the development of, and to regulate, the securities market. Section 11 of the SEBI Act has empowered it to take such measures as it thinks fit for fulfilling its legislative mandate. The PFUTP Regulations and the IA Regulations have been formulated with the main objective of regulating such activities to safeguard the interests of investors and hence registration of such activities with SEBI has been made mandatory. The IA Regulations, inter alia, seek to create a structure within which investment advisers will operate and also make them duly accountable for their investment advice by requiring investment advisers to comply with the criteria set out in the relevant provisions of the IA Regulations. The same is imperative for the protection of interests of investors and to safeguard the integrity of the securities market. In the instant case, Chetan Shukla is soliciting and inducing the investors to deal in securities

market on the basis of investment advice, stock tips etc., *prima facie*, without having the requisite registration/ certification as mandated under the IA Regulations. Similarly, the PFUTP Regulations seeks to curb fraudulent and manipulative activities in the securities market in order to boost investor confidence in the securities market and to provide an environment conducive to increased participation and investment in the securities market which is vital to the growth and development of the economy.

- 27 Considering the facts and circumstances of the present matter and on the basis of the *prima facie* findings, it is necessary to take urgent preventive action in this matter and to take immediate steps to prevent Chetan Shukla from collecting any more fees from the public and indulging in unauthorized investment advisory activities. I note that the website was active as on date of the examination and the investors can also reach Chetan Shukla (+916232690171 and +918878483330) through telephone also as the said telephone number is also active as per <https://www.findandtrace.com>. Therefore, the threat of investors getting lured towards the unregistered activity of Chetan Shukla in the securities market is still in existence and imminent. The amount of money, *prima facie*, observed to have been collected by Chetan Shukla is Rs.1,58,55,469.51 (from the date of registration of website *ways2star.in* i.e. October 31, 2017 till the date of examination) and indicate the magnitude of the prospective threat to the investors. However, I note that the bank accounts (accounts with IndusInd Bank, Axis Bank and ICICI Bank) which are relevant to the present case are not active as on date.
- 28 It is noted that permitting the investors to receive an investment advisory service from an unregistered entity, in effect means, the same is received from the unqualified person without following the safeguards mentioned in the IA Regulations. An investor receiving a service from unregistered investment advisor vis-a-vis an investor who receives such service from a registered investment adviser in consonance with the IA Regulations stands at a disadvantageous position in respect of his protection as an investor as envisaged under the IA regulations. An unregistered investment adviser has not satisfied the Regulator that he is a fit and proper person to hold the certificate of registration as investment adviser. Availing of service from such persons is detrimental to investors and such unqualified service would result

in irreparable damage as the investors' money is invested based on unqualified and unregulated service. Exposing investors to such service also has the effect of interfering with the development of securities market, as victim of such services tend to lose faith in the securities market. Such an injury/detriment to the development of the securities market also qualifies as an "irreparable injury". The objective of SEBI as enshrined in the SEBI Act is not only the protection of investors but also orderly development of securities market.

- 29 Further if an ex-parte order is not passed, many prospective investors may subscribe by parting with significant fees and may cause irreparable injury to themselves as discussed earlier. However, if an ex-parte order is passed, what is at stake is right of the current entity herein vis-a-vis multitude of prospective and current clients of the entity. It may be noted that one of the underlying differences between the ex-parte orders in the case of private suits and ex-parte public enforcement actions, is the identification of the injured party. In private damage suits, the injured individual, as "whole", is identifiable whereas ex-parte public enforcement actions, seeks to protect the floating multitude of investing public by preventing, continuous and imminent violations of the securities laws. Though, it can be argued that a final remedy by way of refund is available, as against the step of passing an ex-parte interim order, the potential loss of investment by the investors by following the advice from an unqualified person and resultant loss of investor's confidence and reliability of securities market, cannot be retrieved, if prima facie unregistered investment advice is permitted to be extended to the investors by not passing an *exparte-interim order* at this stage. Therefore, I consider the balance of convenience is also not in favour of the entity.
- 30 Considering the facts and circumstances of the present matter and on the basis of the, prima facie, findings, it is necessary to take urgent preventive action in this matter and to take immediate steps to prevent Chetan Shukla from collecting any more fees from the public and indulging in unauthorized investment advisory activities. I note from the *Google search* that though website is not active, they are active through '*Facebook*' (*Ways2star is shown as SEBI registered entity*) and '*linkedIn*' and the investors can reach Chetan Shukla through telephone as well. Therefore, the threat of investors getting lured towards the

unregistered activity of Chetan Shukla in the securities market is still in existence and imminent. In light of the same, I find that there is no other alternative but to take recourse through an interim ex-parte order against Chetan Shukla for preventing them from collecting funds by defrauding investors and by indulging in unauthorized investment advisory services without obtaining the mandatory registrations from SEBI in accordance with the law.

Order

31 In view of the above, pending detailed investigation, I, in exercise of the powers conferred upon me by virtue of Section 19 read with Sections 11, 11(4), 11B and 11D read with Section 19 of the SEBI Act, 1992 and Regulation 35, Chapter VI of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008, hereby issue by way of this *interim ex-parte order*, the following directions:

I. Chetan Shukla is directed:

- i. *To cease and desist from acting as an investment advisor and cease to solicit or undertake such activity or any other activities in the securities market, directly or indirectly, in any matter whatsoever until further orders;*
- ii. *To not to access the securities market and buy, sell or otherwise deal in securities in any manner whatsoever, directly or indirectly, till further orders;*
- iii. *To not to associate or work with any intermediary, listed entities in the securities market in any manner whatsoever;*
- iv. *To provide a full inventory of all assets, 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;*

- v. *To not to dispose of or alienate any assets, whether movable or immovable, (or any interest or investment or charge on any of such assets), including moneys lying in any bank accounts except with the prior permission of SEBI.*
 - vi. *Not to divert any funds raised from investors, kept in bank account(s) and/or in their custody until further orders.*
 - II. *immediately withdraw and remove all advertisements, representations, literatures, brochures, materials, publications, documents, websites, etc. in relation to their investment advisory and or any other unregistered activity in the securities market.*
 - III. *If Chetan Shukla has any open positions in any exchange traded derivative contracts, as on the date of the order, he can close out/ square off such open positions within 3 months from the date of order or at the expiry of such contracts, whichever is earlier. Chetan Shukla is permitted to settle the pay-in and pay-out obligations in respect of transactions, if any, which have taken place before the close of trading on the date of this order.*
 - IV. *The Depositories are directed to ensure that till further directions no debits and credits are made in the demat accounts of Chetan Shukla.*
 - V. *The Registrar and Transfer Agents are also directed to ensure that till further directions the securities, including Mutual Fund units, held in the name of Chetan Shukla, are not transferred or redeemed.*
- 32 This order shall come into force with immediate effect and shall be in force until further orders. This order is without prejudice to the right of SEBI to take any other action that may be initiated against the aforementioned entity in accordance with law.
- 33 This Order shall also be treated as a Show Cause Notice and Chetan Shukla is show caused as to why the various representations made/ services offered by him in securities market may not be treated as a fraudulent practice/ act/ conduct, in terms of PFUTP Regulations, why the

investment advisory plans floated by him should not be held as “Investment Advisory Services” in terms of the IA Regulations and thereby the activity of Chetan Shukla be treated as unregistered activity under the SEBI Act and relevant Regulations.

- 34 Chetan Shukla is also show caused as to why appropriate directions, under Sections 11, 11(4), 11B(1) and 11D of the SEBI Act and relevant SEBI Rules/Regulations, including directions to continue the prohibition on them from buying, selling or otherwise dealing in securities market, either directly or indirectly, in any manner whatsoever, for a particular period, directions to not be associated with any registered intermediary/ listed entity in the securities market, in any manner whatsoever, and why any direction to refund the amount collected from the investors/clients for its various schemes under Sections 11 and 11B (1) of SEBI Act should not be issued against him.
- 35 The *prima facie* observations contained in this Order, pending enquiry, are made on the basis of the material available on record and based on a strong prima facie case and keeping in view of the balance of convenience in the interest of investors. In this context, Chetan Shukla may file his objections, if any, within 21 (twenty-one) days from the date of this Order and, if he so desires, avail himself of an opportunity of personal hearing before SEBI, on a date and time to be fixed on a specific request to be made in that regard.
- 36 A copy of the order shall be served upon the entity, Stock Exchanges, Depositories and Registrar and Transfer Agents for necessary action and compliance with the above directions.

Date: August 04, 2020

Place: Mumbai

MADHABI PURI BUCH

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA