

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: MADHABI PURI BUCH, WHOLE TIME MEMBER

INTERIM ORDER

**Under Sections 11, 11(4), 11B (1) and 11D of the Securities and Exchange Board of
India Act, 1992**

In Re: Securities and Exchange Board of India (Investment Advisers) Regulations, 2013

In respect of:

Sr. No.	Name of the Entities	PAN
1	Mr. Krishnamurthy G.	BSFPPK6683P

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1. Securities and Exchange Board of India (“**SEBI**”) received a complaint on January 07, 2019 against M/s NIFM Research alleging the following:
 - i. The complainant received phone calls from persons associated with the firm called ‘NIFM Research’, claiming to be a SEBI registered Investment Adviser (IA). They lured the complainant with the promise of giving trading tips on Commodity Derivatives traded at MCX with 95% accuracy.
 - ii. After receiving two trading tips for free, the complainant was asked to subscribe for their investment advisory services by paying subscription fees in to the bank account of one Mr. Krishnamurthy G (“**Krishnamurthy**”).
 - iii. Subsequently, the complainant transferred Rs.2,500/- and Rs.5,000/- on 03.12.2018 and 17.12.2018 respectively to the bank accounts of Mr. Krishnamurthy G.

- iv. The complainant alleged that he has lost money on acting upon the recommendations given by them and has sought a refund of the investment advisory fees paid by him.

SEBI's Examination:

2. In view of the complaint received, SEBI carried out a preliminary examination to ascertain whether unregistered investment advisory activities are being carried out by the firm. No records were found in the SEBI Intermediary database against the name 'NIFM Research' or 'Krishnamurthy G'. The details of bank accounts of Krishnamurthy mentioned in the complaint are found in one of the web pages of the website viz., www.tragroups.com. To that end the website and particulars of bank accounts of Krishnamurthy were perused to gather information. It is noted that above website is active and the print out of the web pages of the website are taken and have been placed on record.
3. SEBI's preliminary examination found as follows:
 - 3.1 The entity is not registered with SEBI.
 - 3.2 The website viz., www.tragroups.com offers packages in Stock Cash, Stock Futures, Nifty Future, Combo Equity, Options, Bullion, Base metals, Energy and commodity Combo, etc. to its clients as part of its advisory activity.
 - 3.3 Bank accounts displayed on the website for clients who wish to subscribe to its 'advisory services' are the Bank Accounts viz., South Indian Bank (SIB) and Punjab and Maharashtra Co-operative Bank (PMC).
 - 3.4 As per the information obtained from the bank account viz., South Indian Bank mentioned on the website, it is noted that the account is in the name of Krishnamurthy. Considering the same, I note that the beneficiary of the website viz., www.tragroups.com is Krishnamurthy.

CONSIDERATION & PRIMA FACIE FINDINGS

4. I have perused the material available on record such as investor complaint, information available on the website *www.tragroups.com* and information obtained from the South Indian Bank. A preliminary examination of the material available on record was made in order to verify whether Krishnamurthy through *www.tragroups.com* has offered investment advisory services and collected money from various investors without registration from SEBI. In this context, *prima facie*, the following issues arise for determination in the instant matter:

1) Whether Krishnamurthy is holding himself out and/or acting as investment adviser?

2) If answer to the aforesaid issue is in affirmative, whether Krishnamurthy has, prima facie, violated any provisions of SEBI Act read with IA Regulations?

3) If answer to Issue No. (2) is affirmative, whether urgent directions, if any should be issued against those who are responsible for the violations?

Issue No. 1: Whether Krishnamurthy is holding himself out and/or acting as investment adviser?

5. As regards the first issue, I note the following from the material available on record:
- 5.1 As per the information gathered from the website of Krishnamurthy viz., *www.tragroups.com* which is active as on date, the following claims are noted:
- “TRA Groups is a leading Stocks and Commodity Advisory Company, having a strong hold in providing most accurate Equity Tips as well as Commodity Tips. TRA Groups since its inception has grown in leaps & bounds providing quality services to Stock Brokers and Customers, Full time traders and HNI. We maintain well qualified analysts supported by dynamic team who are skilled and impeccable in*

their analysis. TRA Groups is an Investment Advisory Company that produces and delivers tips and recommendations for... ”

“We provide recommendations through SMS and Phone Call based on customer options. Our SMS facility is a very efficient system ensuring the instant delivery of Message without any loss of time with proper details. So, the clients get adequate time to enter into the trade and fetch the profit. It enables us to maintain a large clientele base as compared to any other Advisory Services. We assure you and take the responsibility of providing you with an immediate alternative, if in case you are stuck up in any position in market.”

5.2 The following are noted from the information relating to or available on the website of Krishnamurthy:

- i. As per the information available on the website www.whoisrequest.com regarding particulars of hosting the website of www.tragroups.com based on its domain name, it is noted that Krishnamurthy has started his operation on August 01, 2018 through www.tragroups.com
- ii. The advisory business of Krishnamurthy is based on ‘subscription model’.
- iii. The advisory fee is charged from clients based on the product subscribed and the subscription period.
- iv. Advice given by Krishnamurthy is through SMSes and telephone calls.
- v. Krishnamurthy through his website- www.tragroups.com offers advisory services in Stock Cash, Stock Futures, Nifty Future. Combo Equity, Options, Bullion, Base metals, Energy and commodity Combo to his clients as part of its advisory activity.
- vi. The charges for the packages depend upon the period of subscription.

5.3 Illustration of some of the subscription packages provided by Krishnamurthy through his website www.tragroups.com and the fees for the same are as under:

Stock Cash (Rs)	
3 Months	20,000
6 Months	40,000
1 Year	65,000

Stock Future(Rs)	
3 Months	24,000
6 Months	40,000
1 Year	70,000

Nifty Future(Rs)	
3 Months	16,000
6 Months	30,000
1 Year	45,000

Combo equity(Rs)	
3 Months	60,000
6 Months	95,000
1 Year	1,30,000

5.4 As per the information available on the website, payment to subscribe to the services could be made directly to the South Indian Bank account number 0731053000000473 and PMC Bank account number 32810010000328.

6. I note the following information gathered from the KYC documents and bank account statements collected from the South Indian Bank (SIB):
- i. The Bank account is in the name of Krishnamurthy G.
 - ii. The PAN of Krishnamurthy is BSFPK6683P and the address of residence is at Balur, Karnataka.
 - iii. Investment advisory subscription payment of Rs.5,000/- paid by the complainant on December 17, 2018 is evidenced in the statement furnished by SIB.

- iv. The total number of credit transactions into the aforementioned SIB account during December 2018 to May 28, 2020 was 243 aggregating to Rs. 16,30,563.53.
- v. Out of the 243 credit transactions, 170, transactions were greater than or equal to Rs.1,000/- aggregating to Rs. 16,30,563.53. and out of these 170 transactions, 36 transactions aggregating to Rs. 3,36,900 relates to payments received from 'Zerodha Client account' and 5 transactions aggregating to Rs. 34883.53 was from 'Astha Credit and Securities client account'. I note that letter dated February 13, 2020 issued to Krishnamurthy was returned undelivered. In the absence of any reply from the entity, as indicated by the names, the preponderance of probability is that the said amounts may have been credited to the account in his personal capacity and cannot be considered as investment advisory subscriptions from the clients. Remaining 129 credit transactions aggregating to Rs. 12,58,780 can be attributed to investment advisory subscriptions. The summary of transactions is as under:

Account Number, (Bank)	Period for which bank statement is obtained	Total filtered Credits (Rs.)	No. of credit transaction s	Closing Balanc e (Rs.)
0731053000000473 (South Indian Bank)	April 01, 2018 to May 28, 2020	12,58,780	129	3.94

7. Considering the above analysis of the details on the website of Krishnamurthy, payment receipt, and bank statement of Krishnamurthy, I, prima facie, observe that Krishnamurthy through www.tragroups.com has represented as follows:
- a) Krishnamurthy is an investment advisor who provides tips for the stock and commodity markets through website www.tragroups.com and Krishnamurthy is the sole beneficiary of the website and the name 'NIFM Research' appears to have been used to conceal his identity to the investors.

- b) Krishnamurthy through www.tragroups.com offers services in investment planning and strategy for consideration.
8. Considering the above facts and circumstances, especially the contents of the website www.tragroups.com coupled with the credit transactions in the Bank Accounts of Krishnamurthy and payments made by the Complainant as detailed in preceding paragraphs, *prima facie*, it is inferred that the fees/ funds credited to the Bank Account were for the purpose of providing the services indicated on the website of Krishnamurthy. Hence, as reflected in the bank statements referred to above, I note that Krishnamurthy through www.tragroups.com has commenced with the collection of fees/ funds for the purpose of providing the services from August 2018 and has continued the same at least till the period of examination.
9. It is, *prima facie*, observed that Krishnamurthy is placing information in public domain/ advertising by using his website about various services offered by him in the securities market. Further, it is also, *prima facie*, observed that various packages are being offered by Krishnamurthy through his website www.tragroups.com to avail his services. The website categorically mentions the “advantages of availing its services in various fields of securities market and the “independent advice” they offer to their clients in the securities market through telephone calls and SMSes”.
10. 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.”

11. In light of the aforesaid definitions, it is observed from the contents of the website *www.tragroups.com* that Krishnamurthy is holding himself out as an investment adviser by *prima facie* offering to provide investment advice as defined under regulation 2(1) of IA Regulations by offering to give advice related to investing in, purchasing and selling in securities and is also offering various investment packages for subscription. Further, as noted from the bank account mentioned on its website that there are multiple credit entries which when seen together with the contents of the website leads to a *prima facie* conclusion that the credit entries in the bank account are for consideration for the investment advice given by Krishnamurthy to his clients. Thus, *prima facie* Krishnamurthy is an investment adviser as defined under regulation 2 (m) of IA Regulations.
12. Therefore, the activity of the Krishnamurthy by virtue of his website contents amounts to holding himself 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 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, Krishnamurthy through *www.tragroups.com* has not only held himself out as an investment adviser but has also acted as an investment adviser for consideration.

Issue No.2: If answer to the aforesaid issue is in affirmative, whether Krishnamurthy has, prima facie, violated any provisions of SEBI Act read with IA Regulations?

13. 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”*.

14. The activities of Krishnamurthy, as brought out from the various materials described above, seen in the backdrop of the aforesaid provisions show that he is holding himself out and acting as an investment adviser. However, no material is available on record to indicate that Krishnamurthy is holding a certificate of registration as investment adviser. In this context, it is noted that Krishnamurthy is not registered with SEBI in the capacity of Investment Advisor and the characteristics and features of the business activity carried out by Krishnamurthy, as discussed in the preceding issue, *prima facie*, leads to the conclusion that he is holding himself out and acting as an investment adviser without a certificate of registration.

15. In my view, these activities/ representations are in violation of various provisions of the IA Regulations. Thus, the activities of Krishnamurthy are, *prima facie*, in violation of Section 12(1) of SEBI Act read with Regulation 3(1) of the IA Regulations.

Issue No. 3: If answer to Issue No. (2) is affirmative, whether urgent directions, if any should be issued against Krishnamurthy?

16. 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 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.
17. In the instant case, Krishnamurthy 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. Further, it is noted from material available on record, the website is active as on date and money has been credited to the Bank accounts of Krishnamurthy as recently as May 2020. Thus, the accounts are active and can continue to be used to collect fees from unsuspecting investors.
18. 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 Krishnamurthy from collecting any more fees

from the public and indulging in unauthorized investment advisory activities. I note that the website is active as on date and the investors can also reach Krishnamurthy (8884553160 and 7358927547 as mentioned on website) through telephone also. Therefore, the threat of investors getting lured towards the unregistered activity of Krishnamurthy in the securities market is still in existence and imminent. The amount of money, prima facie, observed to have been collected by Krishnamurthy in South Indian Bank is Rs.12.59 Lakhs and indicate the prospective threat to the investors. However, as the matter is still under further fact finding, the amount of money collected by Krishnamurthy for the investment advisory services through other banks including PMC needs to be further ascertained.

19. 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 un-regulated 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.
20. Further if an ex-parte order is not passed, many prospective investors may have to part with fees and investments resulting into 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.

21. 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 Krishnamurthy from collecting any more fees from the public and from indulging in unauthorized investment advisory activities. As noted in the preceding paragraphs, at least till the examination period, monies were being received in the bank account of Krishnamurthy and bank accounts are still active. Moreover, the website is still active. The aforesaid *prima facie* demonstrates that Krishnamurthy can still lure investors to deal in the securities market while acting on its advice and probability of investors reaching them is still high. Therefore, the threat of investors getting lured towards the unregistered activity of Krishnamurthy in the securities market is still in existence and imminent.
22. The amount of money, pending further examination, *prima facie*, observed to have been collected by Krishnamurthy, at this stage, is Rs.12.59 Lakhs and the same indicates the

prospective threat to the investors. In light of the same, I find that there is no other alternative but to take recourse through an interim ex-parte order against Krishnamurthy for preventing him from collecting funds by indulging in unauthorized investment advisory services without obtaining the mandatory registrations from SEBI in accordance with the law. As the website and bank account of Krishnamurthy is active and the investors can reach them through telephone also, the balance of convenience demands the preventive measure of stopping the collection of money in the bank accounts of Krishnamurthy from investors. The same can be effectively achieved by an appropriate direction of stopping the credit into the bank account of Krishnamurthy. As Krishnamurthy has already evaded the jurisdiction of SEBI by *prima facie*, acting as unregistered investment adviser, the balance of convenience also demands that Krishnamurthy needs to be prevented from diverting the funds collected from the investors through the unauthorized investment advisory activity. Accordingly, an appropriate direction stopping the debit from the bank account of Krishnamurthy has been incorporated.

Order

23. In view of the above, pending detailed examination, I, in exercise of the powers conferred upon me by virtue of Section 19 read with Sections 11, 11(4), 11B(1) and 11D read with Section 19 of the SEBI Act, 1992, hereby issue by way of this *interim ex-parte order*, the following directions:

a) *Krishnamurthy G. is directed to:*

- i. *Cease and desist from acting as an investment advisor including the activity of acting and representing through any media (physical or digital) as an investment advisor, directly or indirectly, and cease to solicit or undertake such activity or any other activities in the securities market, directly or indirectly, in any matter whatsoever, until further orders.*

- ii. *Not to divert any funds raised from investors, kept in bank account(s) and/or in their custody until further orders.*
- iii. *Not to dispose of or alienate any assets, whether movable or immovable, or any interest or investment or charge on any of such assets held in their name, including money lying in bank accounts except with the prior permission of SEBI.*
- iv. *Immediately withdraw and remove all advertisements, representations, literatures, brochures, materials, publications, documents, communications etc., in relation to their investment advisory activity or any other unregistered activity in the securities market until further orders.*
- v. *Not to access the securities market and buy, sell or otherwise deal in securities in any manner whatsoever, directly or indirectly, until further orders.*
- vi. *If Krishnamurthy has any open positions in any exchange traded derivative contracts, as on the date of the order, they 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. Krishnamurthy 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.*
- vii. *To provide a full inventory of all assets held in his 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.*
- viii. *South Indian Bank and PMC Bank wherein Krishnamurthy (SIB Account No. 0731053000000473 and PMC Bank account number 32810010000328) is holding bank accounts, are directed not to allow any debits/ withdrawals from and credits to the said accounts, without the permission of SEBI. The Banks are directed to ensure that all the above directions are strictly enforced.*

- ix. *The Depositories are directed to ensure that till further directions no debits are made in the demat accounts of Krishnamurthy.*
 - x. *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 Krishnamurthy is not transferred or redeemed.*
24. 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.
25. The *prima facie* observations contained in this Order, pending enquiry, are made on the basis of the material available on record and based on *prima facie* case and keeping in view of the balance of convenience in the interest of investors. In this context, Krishnamurthy may file his objections, if any, within 21 (twenty one) days from the date of this Order and, if it so desire, avail 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.
26. A copy of the order shall be served upon Krishnamurthy, South Indian Bank and PMC Bank, Stock Exchanges, Depositories and Registrar and Transfer Agents for necessary action and compliance with the above directions.

Date: September 07, 2020

Place: Mumbai

MADHABI PURI BUCH

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA