WTM/MPB/IMD/WRO/144/2020

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: Violation of provisions of Securities and Exchange Board of India (Investment Advisers) Regulations, 2013

In respect of:

Name of the Entity	PAN
Tips4Market (Prop. Mr. Mahesh Vaghajibhai Ramani)	AMUPR3076P

1. SEBI was in receipt of complaint dated June 15, 2020, received against an entity named Tips4Market (hereinafter referred to as **"T4M/ Company"**), wherein, *inter alia*, the complainant alleged that he received calls from the entity for demo calls for the stock market and further, the calls received from T4M resulted in a loss. The complainant went through the website of the entity www.tips4market.com and observed that the entity is not registered and providing services in stock cash/ future, nifty/bank nifty future, options HNI services etc. Thereafter, the matter was taken up for preliminary examination by SEBI.

SEBI's Examination:

2. As per the intermediary database on SEBI website, it is observed that the company is not registered with SEBI in any capacity. The website has been perused and is still active. While no bank account details are available on the present website, there is a

link available for making payment. From archived webpages of the site available on archive.org, it was observed that since 2013 onwards T4M was using a bank account having number 025201524531 held with ICICI Bank for accepting payments. Accordingly, KYC/ AOF and bank statements for this account were sought from ICICI Bank. SEBI's examination found that T4M and its proprietor Mr. Mahesh Vaghajibhai Ramani held itself out and acted as an Investment Advisor for providing tips and trading calls in the commodities market without obtaining a registration under SEBI (Investment Advisers) Regulations, 2013 (hereinafter referred to as **"IA Regulations"**).

CONSIDERATION & PRIMA FACIE FINDINGS

4. I have perused the material available on record such as information available on the website of T4M and the information obtained from ICICI Bank. In this context, *prima facie*, the following issues arise for determination:

4.1. ***Whether T4M is holding itself out and/or acting as investment adviser?***

4.2. ***If answer to the aforesaid issue is in affirmative, whether T4M has, prima facie, violated any provisions of Securities and Exchange Board of India Act, 1992 ("SEBI Act") read with SEBI (Investment Advisers) Regulations, 2013 ("IA Regulations")?***

4.3. ***If answers to Issue Nos. (1) & (2) are affirmative, who are responsible for the violations?***

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

Issue No. 1: Whether T4M is holding itself 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. The following services are mentioned on the website of T4M:

5.1.1. *T4M claims to provide services to clients in stock cash, stock future, Nifty/ Bank Nifty future, Options, Combo, HNI Services, Bullion, Energy, Base Metals and Commodity Combo. The following is mentioned against each service:*

Service	***Description***
Stock cash	*"You will get 2-3 calls weekly with 90% accuracy. Calls will be intraday as well as delivery. You can also avail free trial for one days if satisfied you can join in this service. You get sufficient time to enter I our calls and can maximize your profit with us."*
Stock future	*"Every Day You Will Get 1 sure shot Calls With 95% Accuracy From Nifty Future Stocks. It will be for intraday as well as delivery. It will be mentioned in a message whether tips is for intraday or delivery. In a week you will get 3 calls for delivery. You can also avail Free Trial Stock Tips for 1 days to test our accuracy and if satisfied you can join stock cash services. You get sufficient time to enter in our calls and can maximize your profit with us."*
Nifty/ Bank nifty future	*"Every Day You Will Get 1 Nifty/Bank NIfty Calls With 90% Accuracy. You can also avail Free Triall Nifty/Bank Nifty futures Tips for 1 days if you satisfied can join this service with Silicon Point Financials. You get sufficient time to enter in our calls and can maximize your profit with Us"*
Options	*"You will get 2-3 Calls Weekly With 90% Accuracy. Calls will be intrady as well as delivery. We will mention in message whether tips is for intraday or delivery. You can also avail Free Trail for 1 days if satisfied you can join this service. You get sufficient time to enter in our calls and can maximize your profit with us."*
HNI	*"HNI service is a highly personalized service with a one-to-one contact with the client. Every HNI client is assigned an experienced Relationship Manager, through whom the calls and updates are given to the client. The medium of the calls are through a direct telephone call to the HNI client by the concerned Relationship Manager. The client is most welcome to ask query(s) about their existing portfolio and get the analysts view on the market. There is a separate service for HNI Equity, HNI Derivatives and HNI Commodity and the client has the option of availing either one or all the services. The HNI client is advised regarding the quantity of shares/lots to be purchased/sold at the given level and the level at which the profit is to be booked by his /her Relationship Manager. As the calls are filtered after a lot of efforts put by the team of experienced analysts the numbers of calls are less but the accuracy level is very high"*
Bullion	*"In this service we provide 1-2 intraday calls in MCX with an accuracy of more than 85%. The calls are given in Gold & Silver. You can also avail Free Trial for One days to test our accuracy and if satisfied you can join the services with Silicon Point Financials. You get sufficient time to enter in our calls and can maximize your profit with us".*

Service	***Description***
Energy	*"In this service we provide Daily 1 intraday calls in MCX with an accuracy of more than 85%. The calls are given in Crude Oil and Natural Gas. You can also avail Free Trial for One days to test our accuracy and if satisfied you can join the services with Silicon Point Financials. You get sufficient time to enter in our calls and can maximize your profit with us."*
Base metals	*"In this service we provide 1-2 intraday calls in MCX with an accuracy of more than 85%. The calls are given in MCX - Copper, Zinc, Lead, Nickel and Aluminum. You can also avail Free Trial for One days to test our accuracy and if satisfied you can join the services with Silicon Point Financials. You get sufficient time to enter in our calls and can maximize your profit with us."*
Commodity combo	*"This is a Premium Pack which caters to the needs of those intraday traders who trade in Bullion, Energy & Base Metals. We provide 3-4 intraday calls in MCX Bullion, Base Metals & Energy. You get sufficient time to enter in our calls and can maximize your profit with us"*

5.1.2. *The pricing for the products mentioned on its website are given below:*

(In Rs)

Product	**3 months**	**6 months**	**1 year**
Stock cash	23,986	40,986	70,986
Stock future	24,986	42,986	72,986
Nifty /bank nifty	22,986	39,986	54,986
Options	20,986	32,986	55,986
Combo0	44,986	75,986	99,986
Bullion	25,986	42,986	80,986
Energy	21,986	36,986	60,986
Base metals	22,986	42,986	72,986
Combo	44,986	75,986	99,986

From the above it is seen that the service fee charged by T4M for its various packages ranges from Rs. 20,986/- to Rs. 99,986/-.

6. The following information is gathered from the bank KYC/AOF:

Bank	**Name of Account holder**	**Date of Account Opening**
ICICI Bank	Mahesh Vaghajibhai Ramani	August 18, 2011

Hence, the bank account mentioned on the website of T4M belongs to an individual namely Mr. Mahesh Vaghajibhai Ramani. The address of Mr. Mahesh Ramani

mentioned is: 423, Kumar Pra Shala, Navolo Vista, Shriram Plot, Lilapur 2, Jasdan Rajkot 360050.

7. The following information is gathered from the bank account statement (upto 05/11/2020):

Account Number & Bank	Period for which bank statement is obtained	Total Credits (Rs.)	Last Credit Transaction date	Closing Balance (Rs.)
025201524531 (ICICI Bank)	29-08-2011 to 05-11-2020	96,60,532.27	November 02, 2020	12,39,784 (as on November 05, 2020)

Hence, it can be seen that the account is active as on date and receiving continuous credits, with the last credit of Rs. 7500/- received on November 02, 2020. The narration of this credit is *"MMT/IMPS/030721277709/SureshShareMark/RAJKUMAR K t"*. It can be seen that for several credit descriptions the words "share market", "stock market", "trade", etc., appear in the narration.

8. Considering the analysis of the details on the website of T4M and information from the account opened with the banks, I, *prima facie*, observe that T4M has represented that it is an investment advisory firm for advice on stocks and commodity markets.

9. Considering the above facts and circumstances, especially the contents of the website of T4M coupled with the credit transactions directly made in the bank account of Mr. Mahesh Ramani, as detailed above, *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 T4M. From the domain details available from whois.com, it can be seen that the website of T4M was created on October 02, 2012. However, from the bank statement, it can be seen that between the period starting from date of account opening till October, 02, 2012, there are credit transactions with narrations such as "Live tips market", "Share Market", "Live tips market research" etc., which, *prima facie*,

indicate that funds were being collected even before this specific website was created. Hence, as reflected from the bank statement, I note that, *prima facie*, T4M has commenced with the collection of fees/ funds for the purpose of providing the services from August 2011 and has continued the same, at least till the period of examination.

10. It is, *prima facie*, observed that T4M is placing information about various services offered by it in the securities market, in public domain by using its website. Further, it is also, *prima facie*, observed that various packages are being offered by T4M through its website to avail its services. The website categorically mentions the "advantages of availing its services in various fields of securities market" and the advice they offer to their clients in the securities market through daily SMSs.

11. In this regard, 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."*

12. In light of the aforesaid definitions, it is observed from the contents of the website that T4M is holding itself out as investment adviser by, *prima facie*, offering to provide services related to investing in, purchasing and selling in securities and is also offering various investment packages for subscription and as such, these services fall within the definition of "Investment Advice" under Regulation 2(l) of the IA Regulations. Further, multiple credit entries have been received in the bank account, which when seen together with the contents of the website, leads to, on preponderance of probability basis, a, *prima facie*, conclusion that the credit entries in the bank account

are for consideration for the investment advice given by T4M to its clients. Thus, *prima facie*, T4M is an investment adviser as defined under Regulation 2(m) of the IA Regulations.

13. Therefore, T4M has not only held itself 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 T4M has, prima facie, violated any provisions of Securities and Exchange Board of India Act, 1992 ("SEBI Act") read with SEBI (Investment Advisers) Regulations, 2013 ("IA Regulations")?

14. 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*:"

15. Further, as per Regulation 3(1) of 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".*

16. It is noted that T4M is not registered with SEBI in the capacity of an investment adviser, while the characteristics and features of the business activity carried out by it, as discussed in the preceding issue, *prima facie*, lead to the conclusion that it is holding itself out and acting as an investment adviser without a certificate of registration.

17. In my view, these activities/ representations of T4M without holding the certificate of registration as an investment adviser is, *prima facie*, in violation of Section 12(1) of SEBI Act read with Regulation 3(1) of the IA Regulations.

Issue No.3 If answers to Issue Nos. (1) & (2) are affirmative, who are all responsible for the violations?

18. I note that Mr. Mahesh Vaghajibhai Ramani is the sole proprietor of T4M. Further, the money received for the unregistered activities of T4M have been credited to a bank account held in the name of Mr. Mahesh Vaghajibhai Ramani with ICICI Bank. I note the legal status of a proprietary firm from the judgment of the Hon'ble Supreme court in *Ashok Transport Agency v. Awadhesh Kumar & another*, [(1998) 5 SCC 567], wherein it was stated that:

"…..A proprietary concern is only the business name in which the proprietor of the business carries on the business. . A suit by or against a proprietary concern is by or against the proprietor of the business…".

19. Therefore, I find that Mr. Mahesh Vaghajibhai Ramani is liable for the acts of T4M.

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

20. 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 activities related to investment advice to safeguard the interests of investors and hence registration for 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.

21. In the instant case, T4M is soliciting and inducing members of the public 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, that the website is active as on date and money has been credited to the bank account even recently during the period of examination. Thus, the entity and its bank account is active and can continue to be used to collect fees from unsuspecting members of the public.

22. 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 T4M from collecting any more fees from the public and from indulging in unauthorized investment advisory activities. I note that the website is active as on date. Therefore, the threat of investors getting lured towards the unregistered services provided by T4M in the securities market is still in existence and imminent. The amount of money, *prima facie*, observed to have been collected by T4M is Rs. 96,60,532/- and the same indicates the magnitude of the prospective threat to the investors.

23. 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 an 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 SEBI registered investment adviser 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 even satisfied the Regulator that he is a fit and proper person to hold the certificate of registration as investment adviser. Availing such services from unregistered entities is detrimental to investors and such unregistered 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 victims 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.

24. Further, if an ex-parte order is not passed, many prospective investors may have to part with large 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 the 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 deployment of funds 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 T4M and its Proprietor.

25. 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 T4M and its proprietor from collecting any more fees from the public and from indulging in unauthorized investment advisory activities.

26. I note that the amount of Rs. 96,60,532/- has been collected in the bank accounts of T4M. In light of the same, I find that there is no other alternative but to take recourse through an interim ex-parte order against T4M and its proprietor, Mr. Mahesh Vaghajibhai Ramani, for preventing them 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 is active, the balance of convenience demands the preventive measure of stopping the collection of money from investors in the bank account linked with T4M, which is nothing but the bank account of its proprietor. The same can be effectively achieved by an appropriate direction of stopping the credit into the bank account of the Proprietor of T4M. As T4M and its Proprietor have already evaded the jurisdiction of SEBI by, *prima facie*, acting as unregistered investment adviser, the balance of convenience also demands that T4M and its Proprietor need 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 the Proprietor of T4M has been incorporated.

27. With the initiation of quasi-judicial proceedings, it is highly probable that T4M may divert the money collected from the subscribers/ clients. The same may result in

defeating the effective implementation of the direction of refund, if any, to be passed after deciding the matter on merits. It therefore becomes necessary for SEBI to take urgent steps to prevent T4M from diverting the money collected from the subscribers / clients. It is also essential to take urgent steps to prevent them from alienating any assets, whether movable or immovable, or any interest or investment or charge in any of such assets, so that the final remedies, if any, do not become infructuous. In view of the facts and circumstances discussed hereinabove, and considering the interests of already existing clients of T4M and also the interests of those who may fall prey to the unregistered investment advisory by reaching T4M through the website, the balance of convenience lies against T4M, and requires immediate action against them including not to divert the money collected from the subscribers / clients / investors.

Order

28. In view of the above, pending conclusion of enquiry on granting of hearing opportunity as per this Order to T4M/ its Proprietor Mr. Mahesh Vaghajibhai Ramani, 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:

28.1. *T4M and its Proprietor Mr. Mahesh Vaghajibhai Ramani (PAN: AMUPR3076P) are directed to:*

28.1.1. *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.*

28.1.2. *Not to divert any funds raised from investors, kept in bank account(s) and/or in their custody until further orders.*

28.1.3. *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.*

28.1.4. *Immediately withdraw and remove all advertisements, representations, literatures, brochures, materials, publications, documents, communications etc., physical or digital in relation to their investment advisory activity or any other unregistered activity in the securities market until further orders.*

28.1.5. *Not to access the securities market and buy, sell or otherwise deal in securities in any manner whatsoever, directly or indirectly, until further orders.*

28.1.6. *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.*

28.2. *If T4M/ its Proprietor Mr. Mahesh Vaghajibhai Ramani have 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 this Order or at the expiry of such contracts, whichever is earlier. T4M/ its Proprietor Mr. Mahesh Vaghajibhai Ramani are 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.*

28.3. *ICICI Bank, wherein the proprietor of T4M, Mr. Mahesh Vaghajibhai Ramani, is holding bank account with number 025201524531, is directed not to allow any*

debits/ withdrawals from and credits to the said accounts, without the

32.4. *In case of failure of T4M and its Proprietor Mr. Mahesh Vaghajibhai Ramani to comply with the aforesaid directions, SEBI, on the expiry of three months' period from the end of the prescribed period, may recover such amounts, as mentioned in this Order, from T4M and its Proprietor Mr. Mahesh Vaghajibhai Ramani, in accordance with Section 28A of the SEBI Act, including such other provisions contained in securities laws.*

32.5. *T4M and its Proprietor Mr. Mahesh Vaghajibhai Ramani are directed not to, directly or indirectly, access the securities market, and are prohibited from buying, selling or otherwise dealing in the securities market, directly or indirectly in whatsoever manner, till the expiry of 5 years from the date of refund of the money, as directed in Para 28.1. T4M and its Proprietor Mr. Mahesh Vaghajibhai Ramani are also restrained from associating with any listed public company and any public company which intends to raise money from the public, or any intermediary registered with SEBI till the expiry of 5 years from the date of date of refund of the money, as directed in Para 28.1.*

32.6. *T4M and its Proprietor Mr. Mahesh Vaghajibhai Ramani shall not undertake, either directly or indirectly, investment advisory services or any activity in the securities market without obtaining a certificate of registration from SEBI as required under the securities laws after the expiry of the period of debarment mentioned in Para 32.5.*

33. The interim directions at Para 28.1 shall take effect immediately. If objections/request for personal hearing are not filed and received by SEBI within the prescribed period, then the interim directions at Para 28.1 shall operate till the prescribed period and thereafter the final directions at Para 32 shall take effect. If objections/request for personal hearing are filed by T4M and/ or its Proprietor Mr. Mahesh Vaghajibhai Ramani, receivable by SEBI within the prescribed period, the interim directions mentioned in Para 28.1 above shall continue qua T4M and its Proprietor Mr. Mahesh Vaghajibhai Ramani, till disposal of the said objections/submissions in personal

hearing and the directions at Para 32 passed herein shall be made applicable subject to the determination on the objections/submissions.

34. 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.

35. A copy of the Order shall be served upon T4M and its Proprietor Mr. Mahesh Vaghajibhai Ramani, ICICI Bank, Stock Exchanges, Depositories and Registrar and Transfer Agents for necessary action and compliance with the above directions.

Sd/-

Date: November 20, 2020 **MADHABI PURI BUCH**

Place: Mumbai **WHOLE TIME MEMBER**

SECURITIES AND EXCHANGE BOARD OF INDIA