

WTM/AB/WRO/PLO/13/2020-21

SECURITIES AND EXCHANGE BOARD OF INDIA
FINAL ORDER

UNDER SECTIONS 11(1), 11(4) and 11B OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992.

In respect of:

Noticee No.	Name of the entity	PAN No.
1.	M/s. Capital Money Mantra (Proprietor: Mr. Gaurav Yadav)	AAZPY1259J

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1. Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) had received complaints against M/s. Capital Money Mantra wherein it was *prima facie* alleged that that the Noticees were engaged in ‘investment advisory services’ without having the requisite registration as mandated under the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as “**SEBI Act, 1992**”) and SEBI (Investment Advisers) Regulations, 2013 (hereinafter referred to as “**IA Regulations, 2013**”).
 2. Based on the same, an examination of the complaints was carried out by SEBI, wherein, it was observed that:
 - A. The website www.capitalmoneymantra.co.in of the Noticees was browsed for information, but the same was not currently active. The archive pages of the website was downloaded from www.archive.org to gather information. From the pages downloaded, it is observed that the Noticees had disclosed the following in its website:
 - a. *Capital Money Mantra since its commencement has grown in leaps and*

bounds providing excellent services to Stock brokers, Full time traders and HNI...We are introducing ourselves as an Investment advisor to help you in making graceful decisions with our high quality research.

- b. They offer a diversified range of services and provide each call with sure level and Stop loss. They assure 85-90% accuracy in their recommendations and provide 24/7 customer support, proper follow ups, Live Support from analyst through phone/email.
 - c. They provide services in various categories viz., Stock Cash, Comex, MCX HNI, Future Tips, Intraday Tips, BTST/STBT, Base Metal & Energy, etc.
 - d. Various packages were being offered for subscription at specified rates and for specific products with fee upto to Rs. 5,50,000/-.
 - e. The payment to subscribe to the services can be made directly to the bank accounts opened in the name of Capital Money Mantra with ICICI Bank, HDFC Bank and Axis Bank, the details of which were mentioned on their website and alternatively, through PayU money.
- B. The Account Opening Forms (AOF), KYC documents and transaction / account statements of bank accounts of Capital Money Mantra obtained from ICICI Bank, HDFC Bank and Axis Bank were examined and the following observations were made:
- a. **ICICI Bank (A/c No. 185905000263) -**
 - i. A/c No. 185905000263 was opened in October 2015 in the name of Capital Money Mantra, having its address at 388, IIIrd floor, PU – 4, Scheme No.54, Vijay Nagar, Indore.
 - ii. The sole proprietor is Gaurav Yadav, having PAN: AAZPY1259J and email id gauravjpyadav@gmail.com.
 - iii. As per the AOF, the type of profession is Consultancy.
 - iv. The entity has received credits aggregating to Rs.24,32,546/-during the period October, 2015 and July, 2017.
 - v. Bank statement was obtained from date of opening of the account till November 01, 2018, however, the transaction statements had entries up to September 25, 2017 and had Nil balance.

b. HDFC Bank (A/c No. 50200013713266) -

- i. A/c No.50200013713266 was opened in October 2015 in the name of Capital Money Mantra, having its address at 388, IIIrd floor, PU – 4, Scheme NO.54, Vijay Nagar, Indore.
- ii. The sole proprietor is Gaurav Yadav, having PAN: AAZPY1259J and email id shsharma188@gmail.com.
- iii. As per the AOF, the type of profession is Consultancy.
- iv. As per the District Labour Office, Indore, Capital Money Mantra is into 'Any Other Commercial Establishment'.
- v. The entity has received credits aggregating to Rs.82,94,402/- during the period October, 2015 and October, 2017. Out of the said amount, credits into HDFC Bank account from PayU Money amounted to Rs. 64,93,867/-.
- vi. Bank statement was obtained from date of opening of the account till November 01, 2018, however, the transaction statements had entries up to November 07, 2017 and had balance of Rs.31,648.44/-.

c. Axis Bank (A/c No. 915020050222831) -

- i. A/c No. 915020050222831 was opened in October 2015 in the name of Capital Money Mantra, having its address at 388, IIIrd floor, PU – 4, Scheme NO.54, Vijay Nagar, Indore.
- ii. The sole proprietor is Gaurav Yadav, having PAN: AAZPY1259J and email id gauravjpyadav@gmail.com.
- iii. As per the AOF, the type of business activity is Advisory service.
- iv. The entity has received credits aggregating to Rs.12,11,452/- during the period October, 2015 and February, 2017.
- v. Bank statement was obtained from date of opening of the account till November 01, 2018, however, the transaction statements had entries up to July 22, 2017 and had Nil balance.

- d. A tabular depiction of money credited into the various bank accounts held by the Noticees is as under:

Sl. No.	Bank Account No	Transaction Period	Aggregate Value of Credit Transactions (in Rs.)
1.	ICICI Bank A/c No.185905000263	October 2015 to July 2017	24,32,546
2.	HDFC Bank A/c No.50200013713266	October 2015 to Oct 2017	82,94,402
3.	Axis Bank A/c No. 915020050222831	October 2015 to Feb 2017	12,11,452
	Total		1,19,38,400
4.	Credits through PayU Money		64,93,867

In aggregate, it appears that Noticees have collected Rs. 1,19,38,400/- in the name of advisory fee.

C. Further, complaints filed against the Noticees were examined and the same is as under:

- a. Mr. Amit Verma has *inter-alia*, alleged that the Noticees have collected huge service premium and not provided services, and the Noticees also offered 40% profit sharing plan.
- b. Mr. Yavan Kumar had alleged that he got a call from the Noticees having SEBI Regn No. INA000005473 (the registration no. belongs to SEBI regd. IA M/s. Wealth IT Global) wherein the Noticees offered Profit Commitment Plan.

3. In view of the above, a show cause notice dated September 14, 2020 (hereinafter referred to as “**SCN**”) was issued to Capital Money Mantra and its sole proprietor i.e. Shri Gaurav Yadav, (hereinafter collectively referred to as “**the Noticees**”), alleging that the Noticees have carried out investment advisory activities without obtaining a certificate of registration from SEBI. Accordingly, it was alleged that the Noticees have violated Section 12(1) of SEBI Act, 1992 read with Regulation 3(1) of the IA Regulations, 2013. The SCN called upon the Noticees to show cause as to why suitable directions including debarment from securities market, refund of fees collected, non-association with listed entities, intermediaries, etc., should not be passed under Sections 11(1), 11(4) and 11B of the SEBI Act, 1992 for violation of Section 12(1) of the SEBI Act read with Regulation 3(1) of the IA Regulations,

2013.

4. The Noticees were provided with the opportunity to file their objections/reply, if any, within 21 days from the receipt of the notice. The Noticees did not file any reply to the SCN. Thereafter, the matter was then placed before me on November 17, 2020 and following the principles of natural justice, an opportunity of personal hearing was granted to the Noticees on January 21, 2021. However, the Noticees vide letter dated January 20, 2021 sought an adjournment on medical grounds. Further, vide the same letter, the Noticees sought 4 weeks' time for filing its reply to the SCN. Accordingly, a final opportunity for personal hearing was granted to the Noticees on April 08, 2021 and the Noticees vide letter dated March 03, 2021 confirmed their presence for the scheduled hearing on April 08, 2021. However, due to official exigencies, the hearing had to be rescheduled and accordingly, vide letter dated March 30, 2021, the Noticees were informed that the hearing for April 08, 2021 has been rescheduled to May 04, 2021. However, on May 04, 2021, the Noticees did not appear for the hearing nor did they file any letter seeking adjournment. I also note that the Noticees have not filed any reply/objections to the SCN, as sought to be filed by them in their letter dated January 20, 2021. Hence, I shall now proceed to examine the matter on the basis of material available on record.
5. I note that the definition of investment adviser, as given in Regulation 2(1)(m) of IA Regulations, 2013, provides 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"*. Regulation 2(1)(l) of the IA Regulations 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."*
6. I note that the Noticees had a website www.capitalmoneymantra.co.in and the Noticees had claimed on their website that they are providing investment advisory services and that they offer a diversified range of services and provide each call

with sure level and Stop loss. As per the website, they assured 85-90% accuracy in their recommendations and provided 24/7 customer support, proper follow ups, Live Support from analyst through phone/email. They also claimed on their website that they are providing services in various categories viz., Stock Cash, Comex, MCX HNI, Future Tips, Intraday Tips, BTST/STBT, Base Metal & Energy, etc. and offered various packages for subscription at specified rates and for specific products with fee upto to Rs. 5,50,000. I find that these services were being offered by the Noticees in lieu of the consideration which could be paid by the investor concerned directly to the bank accounts opened in the name of Capital Money Mantra with ICICI Bank (A/c No. 185905000263), HDFC Bank (A/c No. 50200013713266) and Axis Bank (A/c No. 915020050222831), the details of which were mentioned on their website and alternatively, through PayU money. Details of the money credited into the various bank accounts held by the Noticees is as under:

Sl. No.	Bank Account No	Transaction Period	Aggregate Value of Credit Transactions (in Rs.)
4.	ICICI Bank A/c No.185905000263	October 2015 to July 2017	24,32,546
5.	HDFC Bank A/c No.50200013713266	October 2015 to Oct 2017	82,94,402
6.	Axis Bank A/c No. 915020050222831	October 2015 to Feb 2017	12,11,452
	Total		1,19,38,400
4.	Credits through PayU Money		64,93,867

7. From the aforesaid facts, I find that Capital Money Mantra was engaged in giving advice relating to investing in, purchasing, selling or otherwise dealing in securities or investment products, through its website www.capitalmoneymantra.co.in. I note that the Account Opening Form for the ICICI Bank Account and HDFC Bank Account, copy of which was forwarded by the banks to SEBI, states that the type of profession of Capital Money Mantra is consultancy. I also note that the Account Opening Form for the Axis Bank Account, copy of which was forwarded by the bank to SEBI, states that the type of profession of Capital Money Mantra is Advisory service. The said Account Opening Forms for the ICICI, HDFC and Axis Bank

Accounts further show that the sole proprietor is Mr. Gaurav Yadav, having PAN: AAZPY1259J. Thus, I find that Capital Money Mantra was the proprietary concern of Mr. Gaurav Yadav and was engaged in investment advisory activity. In view of this, I find that Noticees were providing the investment advice, in lieu of consideration. In terms of Regulation 2(1) (l) of IA Regulations, 2013 such an advice is “investment advice”. Therefore, I find that Noticees were engaged in the business of providing investment advice to public, for consideration and were thus, acting as an investment adviser, as defined under Regulation 2(1) (m) of the IA Regulations, 2013.

8. Section 12(1) of the SEBI Act, 1992 provides 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.”

9. In order to protect the interest of investors and to maintain integrity of the securities market, IA Regulations, 2013 provides safeguards to ensure that the investors who receive investment advice are protected. One such safeguard is that any person carrying out investment advisory activities has to obtain registration from SEBI as required under Regulation 3(1) of the IA Regulations, 2013. Regulation 3(1) 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”* and conduct its activities in accordance with the provisions of IA Regulations. Further, safeguards provided under IA Regulations, 2013 includes continued minimum professional qualification and net-worth requirement for investment adviser, disclosure of all conflict of interest, prohibition on entering into transactions which are contrary to advice given for 15 days, risk profiling of investors, maintaining documented process for selecting investment for client based on client’s objective and risk profile, understanding the nature and risks of products or assets selected for clients, etc.

10. The activities of the Noticees, as brought out from the various materials described above, seen in the backdrop of the aforesaid provisions show that the Noticees were holding themselves out and acting as an investment adviser. However, it is noted that Capital Money Mantra is not registered with SEBI in the capacity of Investment Advisor. Hence, I find that these activities/ representations as being made by the Noticees without holding the certificate of registration as investment adviser are in violation of Section 12(1) of SEBI Act, 1992 read with Regulation 3(1) of the IA Regulations, 2013.
11. I note that the material available on record does not indicate the exact amount of fees collected by the Noticees, as a result of providing investment advice to investors, in violation of the provisions of the IA Regulations, 2013. However, I note that the complainant Mr. Yavan Kumar has claimed that he had paid an amount of Rs. 76,000/-to the Noticees, for availing investment advisory services from the Noticees. Further, the complainant Mr. Amit Verma has claimed that he had paid an amount of Rs. 30,000/-to the Noticees, for availing investment advisory services from the Noticees.
12. In view of the foregoing, I, in exercise of the powers conferred upon me under Sections 11(1), 11(4) and 11B, read with of Section 19 of the SEBI Act, 1992, hereby direct that:
 - (i) The Noticees shall within a period of three months from the date of coming into force of this direction, refund the money received from the clients/investors/complainant, as fees or consideration or in any other form, in respect of their unregistered investment advisory activities;
 - (ii) The Noticees shall issue public notice in all editions of two National Dailies (one English and one Hindi) and in one local daily with wide circulation, detailing the modalities for refund, including the details of contact person such as names, addresses and contact details, within 15 days of coming into force of this direction;

- (iii) The repayments to the clients/investors shall be effected only through Bank Demand Draft or Pay Order or electronic fund transfer or through any other appropriate banking channels, which ensures audit trails to identify the beneficiaries of repayments;
- (iv) The Noticees are prevented from selling their assets, properties and holding of mutual funds/shares/securities held by them in demat and physical form except for the sole purpose of making the refunds as directed above.
- (v) ICICI Bank, HDFC Bank and Axis Bank wherein Capital Money Mantra is holding accounts, are directed not to allow any debits/ withdrawals from and credits to the aforesaid accounts, except for debits for the purposes of the refunds as directed in para 12(i) above. ICICI Bank, HDFC Bank and Axis Bank are directed to ensure that all the above directions are strictly enforced.
- (vi) The Depositories are directed to ensure that till further directions no debits are made in the demat accounts of Capital Money Mantra and its proprietor, Mr. Gaurav Yadav, held jointly or severally.
- (vii) After completing the aforesaid repayments, the Noticees shall file a report of such completion with SEBI addressed to the Division Chief, CIS Division, Investment Management Department, SEBI Bhavan, Plot No. C4 A, G Block, Bandra Kurla Complex, Bandra (East), Mumbai – 400051, within a period of 15 days, after completion of three months from the coming into force of direction given in para 12(i) above, duly certified by an independent Chartered Accountant. The restraint contained in para 12(iv) and (v) shall cease to operate once the refund to the investors is complete and the report as contemplated herein is filed;
- (viii) In case of failure of the Noticees to comply with the aforesaid directions in sub-para (i) and (vii) above, SEBI, on the expiry of the stipulated time period therein may recover the amounts mentioned in para 11 above or any other amount, as may be found to have been raised by the Noticees, from the

Noticees, in accordance with Section 28A of the SEBI Act, 1992 including such other provisions contained in securities laws;

- (ix) The Noticees are debarred from accessing the securities market, directly or indirectly and are prohibited from buying, selling or otherwise dealing in the securities market, directly or indirectly in any manner whatsoever, for a period of 2 (two) years from the date of this order or till the expiry of 2 (two) years from the date of completion of refunds to investors as directed in paragraph 12(i) above, whichever is later;
 - (x) The Noticees are also restrained from associating with any company whose securities are listed on a recognized stock exchange and any company which intends to raise money from the public, or any intermediary registered with SEBI in any capacity for a period of 2 (two) years from the date of this order or till the expiry of 2 (two) years from the date of completion of refunds to investors as directed in paragraph 12(i) above, whichever is later; and
 - (xi) The Noticees shall not undertake, either during or after the expiry of the period of debarment/restraint as mentioned in paragraph 12(ix) and (x) above, 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.
13. The direction for refund, as given in paragraph 12(i) above, does not preclude the clients/investors to pursue the other legal remedies available to them under any other law, against the Noticees for refund of money or deficiency in service before any appropriate forum of competent jurisdiction.
14. This order comes into force with immediate effect. However, in view of the exceptional circumstances emerged due to the outbreak of a COVID-19 and consequential lockdowns imposed in different parts of the country, the direction given in paragraph 12 (i) and (ii) above, shall come into force on July 01, 2021.
15. A copy of this order shall be sent to the Noticees, recognized Stock Exchanges,

the relevant banks, Depositories and Registrar and Transfer Agents of Mutual Funds to ensure that the directions given above are strictly complied with.

Place: Mumbai

Date: June 10, 2021

Sd/-

ANANTA BARUA

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA