

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: S. K. MOHANTY, WHOLE TIME MEMBER

ORDER

UNDER SECTION 11(1), 11(4) AND 11B OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 IN THE MATTER OF HYBRID RESEARCH ADVISORY SERVICES, PROPRIETOR MR. NIKHIL KUMAR

In respect of:

Sr. No.	Name of the Entity	PAN
1	Hybrid Research Advisory Services (Proprietor: Mr. Nikhil Kumar)	BBSPK1145A

Background

1. The present proceedings have originated from an *ex-parte ad-interim* order dated December 07, 2020 (for convenience "*interim order*") passed by the Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") against Hybrid Research Advisory Services (for convenience "*Hybrid*") and its sole proprietor Mr. Nikhil Kumar (for convenience "*Nikhil*"), (hereinafter collectively referred to as "**the Noticees**"), as the unregistered investment advisory activities of the *Noticees* were *prime facie* found to be in violation of the provisions of Section 12(1) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act, 1992**") read with regulation 3(1) of the SEBI (Investment Advisers) Regulations, 2013 (hereinafter referred to as "**IA Regulations, 2013**"). Further, the *interim order* also alleges the above activities of the *Noticees* to be fraudulent and manipulative and in violation of provisions of Section 12A (a), (b) & (c) of the *SEBI*

Act, 1992 and regulations 3 (b), (c) & (d) and regulations 4(1) and 4(2)(k) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as “*PFUTP Regulations, 2003*”).

2. From the materials on record, it is noted that the *interim order* passed in the matter contained the following observations with respect to the activities of the *Notices*:

- i. SEBI received a complaint against *Hybrid* from one Haroon Ansari (complainant), *inter alia*, alleging that certain employees viz:- Mr. Samir Soni, Mr. Amit Kumar Divedi and Mr. Jagdip Rajpal working for *Hybrid* had collected INR 1 lakh from the complainant for investment in share market. Complainant was supposed to receive a profit of INR 7 lakhs, on the above investment however, subsequently, when the complainant tried reaching the aforesaid employees of *Hybrid*, their mobile phones were switched off.
- ii. The *Complainant* had also mentioned the bank account of the *Notices* held with ICICI Bank (Account Number: 004101575125) and Bank of India (Account Number: 691310110001145). It was revealed that the afore-stated Bank accounts were held in the name of the *Nikhil*, the sole proprietor of the *Hybrid*. It was further observed that the aforementioned Bank account maintained with Bank of India was linked to payments received by the *Notices* through payment gateway, PayUMoney.
- iii. From the statements of the aforementioned Bank Accounts, it was observed that around INR 3,85,19,442/- had been credited from the May 16, 2019 to August 11, 2020 into the above stated two Bank Accounts. Examination also revealed that large number of payments were received in the aforementioned account of *Notices* from various investors / clients.

- iv. It was further gathered that the *Noticees* were hosting several websites viz. www.hybridresearch.in, Jetresearch.co, Hybridresearch.co.in or Jetresearch.in. The first two web addresses were inactive at time of passing of *interim order*. However, the webpages were retrieved from Google cache pages and from webarchive.org. With regard to Hybridresearch.co.in and Jetresearch.in, both these websites direct the visitor to the same webpage (Jetresearch.in) which was active at time of passing of *interim order* (presently, none of the websites are active). The above noted websites, *inter alia*, proclaimed that the “*Hybrid is a SEBI registered investment advisory and provides you tips that will surely provide you a profit with proper target*”, and that it provides advice for stocks, futures & options, commodities and HNI Cash. Further, the following was also claimed on the said website “*Hybrid Research, is SEBI registered investment advisory, in which top experts forecast market by product smartly, keeping risk factors into their mind with a view to make computation and earn profit in the pocket of investing customer.*”
- v. The *Hybrid* held itself out as a registered Investment Advisor and collected subscription fees from the investors for providing stock recommendations, whereas the examination reveals that the advisory services were rendered without obtaining a registration under *IA Regulations, 2013*.

3. On the basis of the aforesaid observations, the information gathered from various sources and considering that the nature of the activities being undertaken by the *Noticees* was very sensitive which can grievously harm the interest of the investors, it was thought proper and urgent to pass an order and issue directions as a preventive measure to protect the interest of investors of securities market and consequently, following directions were issued against the *Noticees* in the said *interim order*:

- i. *The Noticees shall 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. *The Noticees shall not divert any funds raised from investors, kept in bank accounts and/or in their custody until further orders;*
- iii. *The Noticees shall not 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. *The Noticees shall 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;*
- v. *The Noticees shall not access the securities market and buy, sell or otherwise deal in securities in any manner whatsoever, directly or indirectly, until further orders;*
- vi. *The Noticees shall submit the number and details of clients who have availed their investment advisory services and to submit details of fees collected from each such client, immediately but not later than 5 working days from the date of receipt of this order;*
- vii. *ICICI Bank Ltd. (A/c no.: 004101575125) and Bank of India (A/c no.: 691310110001145), wherein Hybrid Research Advisory Services is holding an account, are directed not to permit any debits / withdrawals and not to allow credits, without the permission of SEBI. PayUMoney where Hybrid Research Advisory Services is holding an account, is directed to deactivate the said*

account. The Banks and payment gateway are directed to ensure that all the above directions are strictly enforced. and payment gateway;

viii. *The Depositories are directed to ensure that till further directions not to permit any debits and not to allow any credits in the demat accounts of Mr. Nikhil Kumar held jointly or individually;*

ix. *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 Hybrid Research Advisory Services are not transferred or redeemed. Further, Registrar and Transfer Agents are also directed to ensure that till further directions the securities, including mutual fund units, held in the name of Mr. Nikhil Kumar held jointly or individually, are not transferred or redeemed.*

4. The above stated *interim order* issued to the *Notices* also intimated to the *Notices* that the same is to be treated as a Show Cause Notice (hereinafter also referred to “SCN”), in response to which the *Notices* were asked to file their objections/reply, if any, within 21 days from the date of the said *interim order*. The *Notices* were also provided with an opportunity of personal hearing on a date and time to be fixed on the basis of a specific request to be made by the *Notices*. In this regard, it is noted from the records available before me that an attempt was made to serve a copy of the *interim order* upon the *Notices* through letters dated December 10, 2020 on the last known addresses of the *Notices* that are (i) “Office No. 23, Ground Floor, Orbit Mall, Vijay Nagar, Indore, Madhya Pradesh – 452001”, (ii) “422, Jagjeevan Ram Nagar, Near Atal Dwar, LIG, Indore, Madhya Pradesh - 452001”, (iii) “E K 121, Scheme No. 54, Near Vikas Garden, Vijay Nagar, Indore, Madhya Pradesh – 452001” and (iv) “C K 49, Bhulaten, Varanasi Nagar Nigam, Varanasi, Uttar Pradesh – 221001”. However, the letters of the *interim order* were returned undelivered. Therefore, the *interim order* was served upon the *Notices* through publication made on April 09, 2020 in the newspapers namely, *Times of India* (Indore Edition), *Patrika* (Indore Edition) and *Dainik Jagran* (Varanasi Edition). It is further noted that even

after serving the *interim order* cum SCN through newspaper publication, the *Notices* have neither filed any reply/objections to the *interim order* nor have made any request for personal hearing. Nevertheless, in conformity with the principles of natural justice, an opportunity of personal hearing was provided to the *Notices* on October 13, 2021 for which an attempt was again made to serve the hearing notice upon the *Notices* through SPAD vide letters dated August 13, 2021 on the aforementioned last known addresses of the *Notices*. However, as the aforesaid hearing notice returned undelivered, the said notice about the personal hearing was served upon the *Notices* through newspaper publication dated September 30, 2021 in the newspapers namely, *Times of India (Indore and Varanasi edition)*, *Nai Duniya (Indore edition)* and *Dainik Bhaskar (Varanasi edition)*. I note that no one appeared before me on the scheduled date of personal hearing i.e. October 13, 2021 which was notified to the *Notices* through the aforesaid newspaper publications. Under the circumstances, I observe that the principles of natural justice have been complied with adequately in the present matter, and as the *Notices* have preferred to not participate in the present proceedings before me, I am constrained to deal with the matter on merit based on the material available on record. After considering the charges levelled in the instant matter as spelt out in the *interim order*, it leads me to examine of the following issue:

- *Whether acts of the Notices as imputed in the interim order, have violated the provisions of SEBI Act, 1992 read with IA Regulations, 2013 and PFUTP Regulations, 2003 while providing the services related to Investment Advisory.*

5. Before adverting to the facts of the case to deal the aforesaid issue, it is apposite to refer to the relevant provisions of law the violations of which have been alleged against the *Notices* in the *interim order* cum SCN and those provisions are reproduced herein for ready reference:

SEBI Act, 1992

Section 12 (1): "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:"

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;"

SEBI (Investment Adviser) Regulations, 2013

Regulation 3 (1): "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".

SEBI PFUTP Regulations, 2003

Regulation 2 (c): "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 behaviour 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 ...”

“Prohibition of certain dealings in securities

3. No person shall directly or indirectly –

.....

- (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"*

6. As noted above, SEBI received a complaint against *Hybrid inter alia*, alleging that it had through its employees collected fees from the investors at large by enticing them with a promise that on acting on the advice rendered by them, an

investor can earn return up to INR 7 lakh on an investment of INR 1 lakh. Subsequently, based an examination was conducted by SEBI after receipt of the said complaint and it was observed in the examination that although the investors have invested based on the representations of the *Notices*, subsequently they found out that the employees of *Hybrid* were not even reachable and their mobile phones were also switched off.

7. From further scrutiny and examination, it emerged that the *Notices* were hosting various websites viz. www.hybridresearch.in, Jetresearch.co, Hybridresearch.co.in or Jetresearch.in, out of which two were inactive and other two were active at the time of passing of *interim order*. As per the information gathered from the above noted websites of the firm, it was noticed that *Hybrid* was making the following claims before the public about its Investment Advisory Services: -

www.hybridresearch.in

- i. *"Hybrid Research Advisory Service is a team of expert analyst with vast experience in commodity market research. We provide recommendations commodities including bullion, agri and metals traded in MCX and NCDEX. Hybrid Research feels proud for the role we have played in enabling and empowering self directed and non directed traders and investors for several years. Since years, our enduring individuals have put their trust in us to score incredible success rewards and personalized service that supports their needs and helps them define their own financial success. We have best SEBI investment advisor which gives you profitable call, so that you can earn much better than from other advisors.*
- ii. *Hybrid Research is SEBI registered firm in India...We are SEBI registered tips provider and provides you tips that will surely provide you a profit with proper target.*

- iii. *Hybrid Research, is SEBI registered investment advisory, in which top experts forecast market by product smartly, keeping risk factors into their mind with a view to make computation and earn profit in the pocket of investing customer.*

Jetresearch.co

- iv. *Jet Research is a SEBI (Security and Exchange Board of India) registered investment advisory firm, which follow all the norms made by SEBI for the investors protection. This difference from others make us more disciplined, experienced, skillful and quantitative to make you desired profit from financial market by providing recommendation on suitable segment as per your risk bearing capacity. Every individual's reason to invest and trade on their own fundamentals is unique.*

Equity Cash

- v. *We provide Equity Cash High accuracy Intraday & Positional call. All the calls given to you are well researched by certified Researcher & Analysts.*

Future & Options

- vi. *We provide Future & Options High accuracy Intraday & Positional call. All the calls given to you are well researched by certified Researcher & Analysts.*

HNI cash

- vii. *We provide HNI cash High accuracy Intraday & Positional call. All the calls given to you are well researched by certified Researcher & Analysts*

Hybridresearch.co.in or Jetresearch.in

- viii. *Jet Research is India's one of the best stock advisory who caters & delivers best stock recommendation in Equity Market, Commodity Market.*
- ix. *We give the most reliable advices for letting your money to flow in right direction. We understand the uncertainty & every moves of stock market & all our highly skilled team who always keep updates to our clients by that they are*

able to take advantage of each of their trade & make more & more profit from stock market.

- x. *We have an excellent research team who provides genuine & most authentic research in Stock Market- Cash, F&O, traded in NSE, Commodity Market- Metal, Base Metal, Agri Commodity traded in MCX, NCDEX Exchange-tips. We help traders & investors by providing them deep research calls & research reports so that they can understand the market chaos & take benefits from complex market too.*
- xi. *We provide most authentic tips with 24/7 proper assistance & fast SMS/ messenger facility. Here we fulfill your dreams to make money from stock market."*

8. The records before me also clearly suggest that the *Notices* had come out with a schedule of fees that would be charged from the investors in lieu of their advisory services. In this respect, it is noted that the following pricing details for availing various investment advisory services from the *Notices* were indicated on the website (www.hybridresearch.co.in) of the *Notices*:

Service Name	Pricing		
	Quarterly (Rs.)	Half Yearly (Rs.)	Yearly (Rs.)
a) Stock Cash	18,900	33,600	54,600
b) Metal Services	21,600	38,400	62,400
c) Option Call-Put	18,900	33,600	54,600
d) Energy Services	21,600	38,400	62,400

9. In addition to the above, following features of services were also displayed on one of their websites (www.hybridresearch.co.in):

Stock Cash: Service Features

- *We will provide you 3-4 calls every day.*
- *Proper entry and exit timing.*

- *Calls via SMS, social platforms and phone.*
- *Profit summary on regular basis*

Stock Future Premium: Service Features

- *There will be up to 1-2 trading calls on daily basis.*
- *Important Global Market Updates.*
- *Maximum 1 open position at a time.*
- *Every call will have 2 targets and 1 proper SL.*
- *Follow up messages on every call.*

10. From the aforesaid facts, I note that *Hybrid*, which is the sole proprietorship concern of *Nikhil* was allegedly engaged in giving advice relating to investing in, purchasing, selling or otherwise dealing in securities or investment products, as proclaimed by the said firm through its websites including www.hybridresearch.co.in. At this juncture, it is pertinent to look at the definition of Investment Adviser (or short “IA”) as defined in regulation 2(m) of the *IA Regulations, 2013* 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 also perused regulation 2(l) of the *IA Regulations, 2013* 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 the light of the aforesaid definition and various information and declarations found to be published on the websites of the *Noticees* as well as the allegations imputed in the *interim order*, I find that the *Noticees* had in fact

categorically claimed on their websites that *Hybrid* is an entity having been registered with SEBI as an IA thereby presenting to the public at large that it has the requisite legal authority to provide investment advisory services to investors. From the perusal of the contents displayed on the websites and also the observations thereon made in the *interim order*, I find that the *Notices* have not only claimed to be registered with SBEI but have further represented that it is one of the best stock advisory firm who caters & delivers the best stock recommendations in Equity Market and Commodity Market and that it has teams comprising of expert analysts with vast experience. The *Notices* have further represented that *Hybrid* had a vast experience in the field of providing investment advisory services as it has been engaged in these activities for several years has been and providing tips that would surely generate a profit with proper target. Considering the aforesaid and the factual backdrop that led to the commencement of the instant proceedings, it leaves no doubt in my mind that the above noted activities indulged in by the *Notices*, squarely satisfied the conditions for heading *Hybrid* to be engaged in providing investment advisory services to investors of securities market. The above observation further finds strength from the fact that the *Notices* have not placed any records / evidences contrary to the allegation made in the *interim order* to dispel the above finding that the *Notices*, through their websites were indeed offering investment advice as defined under regulation 2(l) of the *IA Regulations, 2013*. Thus there is nothing on record to dispute that the *Notices* were offering advices to the investors, related to investing in, purchasing and selling of securities and were also offering various service packages to the investors at large for subscription into those packages in exchange of the services of investment advisory being rendered by the *Notices*.

12. The *interim order* has recorded that the aforesaid investment advisory services were being offered by the *Notices* in lieu of monetary considerations which is further corroborated by the entries of credit of fees into the bank accounts of the *Notices* held with ICICI Bank (Account Number: 004101575125) and Bank of

India (Account Number: 691310110001145). The ICICI Bank account statement of the *Notices* reveals that around INR 94,42,326/- have been credited to the said account during a period from May 16, 2019 to March 11, 2020. Similarly, the Bank of India account statement of the *Notices* reveals that around INR 2,90,77,116 have been credited into it between from period May 16, 2019 and August 11, 2020. Therefore, during a period from May 16, 2019 to August 11, 2020, it is noticed that a total sum of credits amounting to approximately INR 3.85 crores was credited to the aforementioned two Bank accounts of the *Notices*.

13. Considering the above factual analysis about the activities of the *Notices* as proclaimed on their websites, the complaint received against the *Notices*, the bank statements of the *Notices* disclosing the credits of fees towards rendering advisory services and most importantly, the fact that no submission and no evidence have been put forth by the *Notices* to controverting the *prima facie* findings recorded in the *interim order*, I am constrained to conclude that the alleged advisory activities of the *Notices* squarely place *Hybrid* under the category of 'investment adviser' as defined under regulation 2 (m) of the *IA Regulations, 2013*.

14. Further, considering the fact that the websites of the *Notices* clearly showed that their services were in the nature of investment advisory services coupled with the fact that the two Bank accounts of the *Notices* have received an aggregate deposits worth of INR 3.85 crores during the period of May 16, 2019 to March 11, 2020, it leads to an unassailable conclusion that the said proceeds and credit entities as reflected in the said Bank Accounts (ICICI and Bank of India) of the *Notices* were in fact received towards consideration for providing the advisory services offered by the *Notices*. Thus, the records before me are self-evident of the fact that the *Notices* were engaged in offering investment advice to the investors on the basis of subscription made by the investors through its websites. The *Notices* by preferring to remain absent from attending the personal hearing and further by choosing not to file any reply rebutting the allegations and observation

recorded in the *interim order* including have not even made any attempt to suggest that the received by them in the above referred bank accounts, pertained to some activities other than the investment advisory. Under the circumstances, there is no other option but to come to a finding that the entire amount of INR 3.85 Crores credited in the bank accounts of the *Noticees* represented the fees received by the *Noticees* from their business of investment advisory only.

15. In view of the foregoing observations, I have no doubt that the *Noticees* were providing investment advice, in lieu of consideration which was received in their Bank Accounts (ICICI and Bank of India) and as discussed earlier, in terms of regulation 2(l) of *IA regulations, 2013* such kind of advice was in fact “investment advice”. Therefore, there is no ambiguity left that *Hybrid*, and its proprietor *Nikhil* were engaged in the business of providing investment advice to the public, in lieu of monetary consideration and were thus, acting as an ‘investment adviser’, as defined under regulation 2(m) of the *IA Regulations, 2013*.

16. At this juncture, it is relevant to note that in order to protect the interest of investors and to preserve the integrity of the securities market, *IA Regulations, 2013* provide various safeguards to ensure that the interest of the investors who receive investment advice are protected. One such safeguard provided under the said Regulations is that any person carrying out investment advisory activities has to first obtain a certificate of registration from SEBI as mandated under regulation 3(1) of the *IA Regulations, 2013*, which, *inter alia*, provides that, 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 SEBI and it has to conduct its activities in accordance with the provisions of *IA Regulations, 2013*. Further safeguards provided under *IA Regulations, 2013* include continued minimum professional qualification and compliance with net-worth requirement for acting as an investment adviser, prior disclosure of all conflicts of interest, prohibition on entering into transactions which are contrary to advice given to the clients at least

for 15 days from the date of giving advice to the clients, mandatory risk profiling of investors, maintaining documented process for selecting investment products for clients based on client's investment objective and risk profile and understanding of the nature and risks of products or assets selected for such client, etc.

17. The activities engaged in by the *Noticees*, as brought out from the various materials described above, seen in the backdrop of the aforesaid regulatory provisions show that the *Noticees* were holding themselves out and were acting as an IA, although the *Noticees* were not registered with SEBI in the capacity of IA. Hence, I find that these activities/ representations as were being made by the *Noticees* without holding the mandatory 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*.

18. In my view, unregistered investment advisors like the *Noticees* in the present case, can put the interest of the investors at great risk by misleading them or misutilising their funds to the detriment of the interest of the investors. In the present case, *Noticees* on their website have, *inter alia*, mentioned that Hybrid Research Advisory Services offers advices in stocks, future and option (F&O) and provides *genuine & most authentic research in Stock Market- Cash, F&O, traded in NSE, Commodity Market- Metal, Base Metal, Agri Commodity traded in MCX, NCDEX, etc.* *Noticees* on their website have further represented that *Hybrid Research*, is SEBI registered investment advisory firm, in which top experts forecast market trends and recommend various by products smartly, keeping the risk factors into their mind with a view to bring profit in the pockets of the investing customer. As stated above, *SEBI Act, 1992* and *IA Regulations, 2013* mandate that an investment advisor has to hold a certificate of registration to act as such. However, as already pointed out above, I find that the *Noticees* were not holding any certificate of registration from SEBI to act as an investment advisor. Thus, the claims/representations made

by the *Noticees* on their websites were blatantly misleading and were made only to allure the investors to avail investment advisory services being offered by the *Noticees*. The *Noticees* have knowingly misrepresented on the websites floated by them and induced the investors to trade in securities by disclosing that they had teams comprising of experts in stock market analysis and are experienced in investment advisory and that by making investment on the lines of tips provided by its expert team will certainly earn profit. Thus, the *Noticees* offered their investment advisory services through their websites in an illegal manner to investors, with the sole objective of raising money from the investors by way of subscriptions to their various plans though while offering such investment plans or any investment related advisor services the *Noticees* were not holding any Investment Advisor registration certificate. Therefore, such misleading representations made by the *Noticees* are deceptive and fraudulent in nature and are well covered within the definition of “fraud” defined under regulation 2(1)(c) of the *PFUTP Regulations, 2003*. It is noted that the above discussed fraudulent activities/ conduct/ act/ practice of the *Noticees*, grossly amount to violation of provisions of Section 12A (c) of *SEBI Act, 1992* and regulations 3(d) and regulations 4(1) of *PFUTP Regulations, 2003*. Further, regulation 4(2)(k) of *PFUTP Regulations, 2003*, provides that dealing in securities shall be deemed to be a manipulative, fraudulent or an unfair trade practice if it involves even 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. In the present case as seen from the foregoing discussions, the *Noticees* without holding a certificate of registration as investment adviser have knowingly held themselves out as an Investment Adviser on their website. Thus, I find that the *Noticees* have also violated regulation 4(2)(k) of *PFUTP Regulations, 2003*.

19. I note that the materials available on record do not indicate the exact amount of fees collected by the *Noticees* by way of providing unauthorised

investment advisory service to investors in violation of the provisions of the *IA Regulations, 2013*. However, the *interim order* records that the *Notices* have received an aggregate sum of credits worth INR 3.85 crores (INR 3,85,19,442/-) in their two Bank Accounts (ICICI Bank - 004101575125 - and Bank of India - 691310110001145). In any case, from the complaint that was received by SEBI against the *Notices* it is observed that the *Complainant* had claimed that he had paid an amount of INR 1 lakh/- to the *Notices*, for availing investment advisory services from them, further reinforcing the unauthorised investment advisory services being rendered by the *Notices* holding out false promises to induce the innocent investors.

20. In view of the foregoing discussions and findings about the activities engaged in by the *Notices* in rendering investment advisory services in an unauthorised & illegal manner, I, in exercise of the powers conferred upon me in terms Sections 11, 11(4), 11B (1) and 11D, read with of Section 19 of the *SEBI Act, 1992* and regulation 11 of the *PFUTP Regulations, 2003*, while disposing of the allegations levelled in the *interim order* cum SCN hereby direct the following:

- i. The *Notices* shall within a period of three months from the date of this Order, 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 services;
- ii. The *Notices* 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 their contact person such as names, addresses and contact details, within 15 days of coming into force of this Order;
- 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. Further, the banks are directed to allow debit only for the purpose of making refunds to the clients/investors who were availing the investment advisory services from the *Noticees*, as directed in this Order, from the bank account of the *Noticees*, wherein debit has been frozen by virtue of *interim order* dated December 07, 2020;
- v. After completing the aforesaid repayments, the *Noticees* shall file a report of such completion with SEBI addressed to the Division Chief, 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 this Order, duly certified by an independent Chartered Accountant. The restraint on sale of assets in sub-paragraph (iv) shall cease to operate once the refund to the investors is complete and the report as contemplated herein is filed;
- vi. In case of failure of the *Noticees* to comply with the aforesaid directions in sub-paragraph (i) to (v), SEBI, on the expiry of the time period stipulated therein from the date of coming into force of this Order, may recover the amounts mentioned in paragraph 19 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;
- vii. 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 02 (two) years from the date of this Order or

till the expiry of 02 (two) years from the date of completion of refunds to investors as directed in sub-paragraph (i) above, whichever is later;

- viii. The *Notices* 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 02 (two) years from the date of this Order or till the expiry of 02 (two) years from the date of completion of refunds to investors as directed in sub-paragraph (i) above, whichever is later; and
- ix. The *Notices* shall not undertake, either during or after the expiry of the period of debarment/restraint as mentioned in sub-paragraph (vii) and (viii) above, either directly or indirectly, investment advisory services or any other activity in the securities market without obtaining a certificate of registration from SEBI as required under the securities law.

21. The direction for refund, as given in paragraph 20 (i) above, does not preclude the clients/investors from pursuing the other legal remedies available to them under any other law, against the *Notices* for refund of money or deficiency in service before any appropriate forum of competent jurisdiction.

22. This Order comes into force with immediate effect.

23. The directions issued under the *interim* order against the employees of the *Notices* are directed to be discontinued.

24. It is further clarified that during the period of restraint, the existing holding of securities including the holding of units of mutual funds of the *Notices* shall remain frozen.

25. Obligation of the *Notices*, in respect of settlement of securities, if any, purchased or sold in the cash segment of the recognized stock exchange (s), as existing on the date of this Order, can take place irrespective of the

restraint/prohibition imposed by this Order, only in respect of pending unsettled transactions, if any. Further, all open positions, if any, of the *Notices* in the F&O segment of the stock exchange, are permitted to be squared off, irrespective of the restraint/prohibition imposed by this Order.

26. A copy of this Order shall be served upon the *Notices*. A copy of this Order shall also be forwarded to:

- i. All the recognized Stock Exchanges, Depositories, Banks and Registrar and Transfer Agents for necessary compliance with the above directions; and
- ii. The Government of Madhya Pradesh for action, if any.

-Sd-

DATE: DECEMBER 13, 2021

S. K. MOHANTY

PLACE: MUMBAI

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA