

WTM/AB/WRO/WRO/14833/2021-22

SECURITIES AND EXCHANGE BOARD OF INDIA

FINAL ORDER

Under Sections 11(1), 11(4) and 11B (1) and 11D of the Securities and Exchange Board of India Act, 1992 and Regulation 35 of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008.

In respect of:

S. No.	Name of the Noticee	PAN
1.	Mr. Nilesh Vispute (Proprietor of the GRS Solution)	AOBPV4061M

In the matter of the GRS Solution

1. The present proceedings emanate from an order cum show cause notice dated September 14, 2021 (hereinafter referred to as “**Order-cum-SCN**”) passed by the Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) against the GRS Solution (GRS) and its sole proprietor, Mr. Nilesh Vispute (hereinafter also referred to as “**the Noticee**”), registered with SEBI as an Investment Advisor (IA) under the Securities and Exchange Board of India (Investment Advisers) Regulations, 2013 (hereinafter referred to “**the IA Regulations, 2013**”).
2. The Order-cum-SCN was issued pursuant to an offsite inspection conducted by SEBI in relation to the affairs of GRS during November 23, 2020 to December 10, 2020, to ascertain compliance with the provisions of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as “**SEBI Act**”) and rules and regulations made thereunder. The period covered in inspection was from April 01, 2019 till the date of inspection i.e. September 22, 2020 (hereinafter referred as “**Inspection Period**”). Based on the findings

of the inspection / information provided and submission made by GRS, SEBI *prima facie* found the following:

- a. GRS has offered assured/expected returns to its clients in violation of IA Regulations, 2013;
- b. GRS did not have risk profiling and suitability assessment policy as per the provision of IA Regulations, 2013;
- c. GRS has not maintained the records/information of the documents for the requisite period;
- d. GRS has forged and manipulated documents submitted to SEBI during the course of Inspection;
- e. GRS has manipulated risk profiling to deceive and misrepresent to the clients;
- f. GRS by collecting upfront fees thereby locking up the clients with its service/product due to no refund policy.

3. In view of the above, the Order-cum-SCN alleged that GRS and its proprietor Mr. Nilesh Vispute, have *prima facie* violated the provisions of Regulations 7(2), 15(1), 16, 17, and 19 and Clauses 1, 2, 3 & 8 of the Code of Conduct for IA read with Regulation 15(9) of the IA Regulations, 2013, Section 12A(a), (b) & (c) of the SEBI Act and Regulations 3(a), (b) & (c), 4 (1) and 4 (2)(k), (o) & (s) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as “**PFUTP Regulations, 2003**”). Vide the Order-cum-SCN, the following directions were issued against the Noticee:

“GRS and its Proprietor Mr. Nilesh Vispute are directed: -

- (a) *not to access the securities market and buy, sell or otherwise deal in securities or associates themselves with securities market, directly or indirectly, in any manner whatsoever either directly or on behalf of any of its clients through their accounts;*
- (b) *to 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;*

- (c) *not to divert any funds raised from investors, kept in bank account(s) and/or in their custody;*
- (d) *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;*
- (e) *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;*
- (f) *to immediately withdraw and remove all advertisements, representations, literatures, brochures, materials, publications, documents, communications etc., in digital mode or otherwise, in relation to its investment advisory activity or any other activity in the securities market;*
- (g) *to remove all contents from website immediately and display only the content in its website that SEBI has passed Order-cum-SCN dated January 06, 2021 reproducing the directions mentioned in paragraph 20.1 and submit copy of the relevant web page to SEBI within five working days from the date of the receipt of this order.*
- (h) *If GRS and its Proprietor Mr. Nilesh Vispute have any open position 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. GRS and its Proprietor Mr. Nilesh Vispute 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.*
- (i) *Banks namely, ICICI Bank, HDFC Bank, State Bank of India, Axis Bank Limited and Kotak Mahindra wherein GRS and its Proprietor Mr. Nilesh Vispute are holding an account, are directed not to allow any debits / withdrawals from or credits to the following accounts, without the permission of SEBI.*

S. No.	Bank Name	Branch Address	Account No.	IFSC code
1	ICICI Bank Ltd.	Y.N. Road, Indore	328705000135	ICIC0003287
2	State Bank of India Ltd.	IFB Branch, Indore	37793496056	SBIN0030340
3	HDFC Bank Ltd.	Trade House, South Tukoganj, Indore	50200032363854	HDFC0000036
4	Axis Bank Ltd.	Vijay Nagar Branch, Indore	918020051966377	UTIB0000568
5	Kotak Mahindra Bank	MG Road, Indore	7312007932	KKBK0000751

- (j) *PayU Money and Google Pay where GRS and its Proprietor Mr. Nilesh Vispute are holding account linked with PAN AOBPV4061M and/or contact nos. 6232952149 and 6260808547 are directed to deactivate said accounts. Banks namely, ICICI Bank, HDFC Bank, State Bank of India, Axis Bank Limited and Kotak Mahindra, PayU Money and Google Pay are directed to ensure that these directions are strictly enforced*

(k) *The Depositories are directed to ensure, that they neither permit any debits nor any credits in the demat accounts held by Mr. Nilesh Vispute either individually or jointly.*

(l) *The Registrar and Transfer Agents are directed to ensure, that they neither permit any transfer nor redemption of the securities, including Mutual Funds units, held by (a) GRS and (b) Mr. Nilesh Vispute either individually or jointly.....”*

4. The Order-cum-SCN issued to the Noticee provided that the Noticee may, within 21 days from the date of receipt of the Order-cum-SCN, file his reply/objections, if any, to the Order-cum-SCN and may also indicate whether he desired to avail an opportunity of personal hearing on a date and time to be fixed on a specific request to be made in that regard. The Order-cum-SCN was duly served on the Noticee on September 15, 2021. In response to the same, the Noticee vide email dated September 22, 2021 submitted details of the movable and immovable assets of the Noticee as on the date of the email. However, the Noticee did not submit any reply on merit.

5. The Noticee was granted an opportunity of personal hearing on December 20, 2021 which was attended by the Noticee in person through video conferencing. The Noticee made oral submissions during the hearing and he was granted 10 days' time to file his written submissions. Subsequently, the Noticee vide email dated December 29, 2021 submitted his written submissions. A gist of his submissions is as follows:

(a) SEBI has observed that GRS has been promising assured profit / returns on investment made by the clients and luring them to avail its services. SEBI has also cited certain instances / content of website, wherein the accuracy levels were stated. The same were just marketing /advertising tools which is done by every entity to sell its products. The Noticee has no way guaranteed the returns. Further, on its website, it was clearly mentioned that “We do not provide any guaranteed returns.” Furthermore, in the Noticee’s welcome mail, which was sent to every client while on boarding him / her, this line was mentioned: “Stock market has inherent

market risk, hence we do not claim any profit guaranteed services". A copy of the welcome email is attached. It is thus clear that the Noticee does not provide any guaranteed returns and in no way he lured customers.

- (b) The Noticee had disclosed all the information related to itself and the business to all the clients on its website and in the welcome mail sent to the clients. It has in no way made false and misleading representation to the clients /investors. Thus, the observations made in the Order-cum-SCN in this regard are not correct.
- (c) As regards the issue of lack of policy for risk profiling and suitability assessment, as per regulation 16(b) of the IA Regulations, IA shall have a process for assessing the risk a client is willing and able to take. However, it has nowhere been mentioned in the IA Regulations that IA shall have suitability and risk profiling policy. Since the policy is not mandated, SEBI cannot insist on it.
- (d) The Noticee had the process to do the risk profiling and suitability of the clients, which it had followed with all clients. Further, the Noticee used to assess the risk profile of a client through a questionnaire, which included all the requisite questions as mandated by the IA Regulations, which was submitted to SEBI at the time of inspection. Further, the said process and questionnaire was approved by SEBI at the time of grant of registration in 2017. A blank sample questionnaire for risk profile and suitability process is attached herewith.
- (e) As regards the observation of non-availability and maintenance of documents made in the Order-cum-SCN, the same is not correct. The Noticee has maintained all the requisite documents as mandated in the IA Regulations, such as KYC Records of the clients, risk profiling and risk assessment of the client, suitability of the advice being provided, copies of agreements with clients, if any, investment advice provided, whether written or oral, rationale for arriving at investment advice, duly signed and dated and a register or record containing list of clients with other details

regarding services provided to them. The Noticee also has records of all the investment advice provided (sms logs along with its delivery report which contain details of every advice provided to each client.

- (f) The IA Regulations also mandate to communicate the risk profile to each client, which the Noticee has duly done. Risk profiling was filled by the client on the website and a copy of it was received by the Noticee through the server. After receiving the same, the Noticee used to assess the same and categorize the clients, post that the Noticee used to sign the said document and send to the client for his record. Further, if the client had any query related to the said risk profile, then he was required to reply on the same mail.
- (g) Except call recording of carrying out risk profiling, which is nowhere mandated in the SEBI Regulations to be maintained, the Noticee has obtained / maintained all the records, contrary to the observations in the Order-cum-SCN.
- (h) The Order-cum-SCN has observed that the Noticee by not obtaining documents from the clients for the purpose of KYC, risk profiling etc. has violated the provisions of the IA Regulations. In this regard, the Noticee submits that since the client was filling all the information, there was no point to ask for supporting documents with respect to his income. Further, the client was made aware that he needs to fill all the correct information, as filling false information would lead to carrying out wrong risk profiling.
- (i) The observation in the Order-cum-SCN that wrong and manipulated information / submissions were provided by the Noticee to SEBI is not true. No information was manipulated. The documents were arranged properly for the convenience of SEBI Officers during inspection. However, in the instance of client Mr. Prem Nath, as mentioned in the Order-cum-SCN, his invoice was missing from records, so new invoice was created. There was no forgery. In another instance, SEBI had found 4 risk profiles of a client. However, the same was done by the client by filling the risk profiling form

multiple times. No documentation was manipulated. The said client had paid fees on his own without any force.

- (j) Risk profiling and suitability assessment had been done for each and every client.
- (k) At the time of inspection, only 6 employees were working with the Noticee. The other employees found by SEBI during inspection had just come to office to settle their dues. The same can be checked through the salary statement of the said employees. Further, Ms. Priya Kumari was only an assistant and was in no way related to stock market research. Only the Noticee was engaged in the research.
- (l) During the inspection period, there was no regulation which mandated that employees in sales department need to be qualified and certified. These requirements came in effect from Sept 30, 2020, which was post the inspection period. Further, the employees who were dealing with the clients were not rendering investment advice on Noticee's behalf nor were they authorized representatives. They were just normal employees engaged in delivering services. The Noticee himself was assessing the risk profile, conducting research and providing the recommendations. The said recommendations were sent through sms, which was done automatically through server. Hence, no incorrect, falsified and manipulated information / documents were provided to SEBI during inspection.
- (m) Contrary to the observations in the Order-cum-SCN, the clients were not locked in by advance fee. The firm had refunded to many clients who were dissatisfied with the services or by any means. The same can be checked through SEBI SCORES complaints and bank statements. The Noticee admits that the website contained the line which stated that it does not have any refund policy. However, the Noticee had made refunds of fees to many clients and did not lock in any client. The Noticee has kept client's interest ahead at every point and has solved their grievances.

- (n) All the submissions taken from the Noticee during his SEBI visit on December 15, 2000 were under coercion / undue influence of SEBI Officer. They had threatened him that if he would not sign the submissions, then they would call the cops and start criminal proceedings against the Noticee. Hence, all points in the submissions are false. The said submissions should not be discarded and not relied upon.
- (o) The inspection has not been done in an ideal way and false claims have been made. The Noticee has been in this business for more than 4 years and has served thousands of clients out of which only few were dissatisfied or having grievances, which were duly solved in a timely manner. Further, the officers during the course of inspection checked less than 30 clients and gave the verdict. The Noticee admits that he might have made some mistakes, but those mistakes are not so severe that such strict directions have been passed against him.
- (p) The Noticee prays for setting aside the Order-cum-SCN and let the Noticee continue its business by de-freezing its bank accounts.

- 6. I have considered the prima facie observations as mentioned in the Order-cum-SCN and the submissions made by the Noticee in respect of them. Now I proceed to look consider them one by one.
- 7. Before proceeding any further, it would be appropriate to refer to provisions of SEBI Act, 1992, IA Regulations, 2013 and PFUTP Regulations, 2003 which are alleged to have been violated by the Noticee. Relevant extracts of such provisions is as under:

Relevant extract of provisions of SEBI Act, 1992:

“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 recognized stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;”

Relevant extract of provisions of IA Regulations, 2013:

Regulation 2(1) (r) Persons associated with investment advice” shall mean any member, partner, officer, director or employee or any sales staff of such investment adviser including any person occupying a similar status or performing a similar function irrespective of the nature of association with the investment adviser who is engaged in providing investment advisory services to the clients of the investment adviser;

Explanation. —All client-facing persons such as sales staff, service relationship managers, client relationship managers, etc. by whatever name called shall be deemed to be persons associated with investment advice, but do not include persons who discharge clerical or office administrative functions where there is no client interface.]

Regulation 7(2) An individual registered as an investment adviser and partners and representatives of investment advisers registered under these regulations offering investment advice shall have, at all times, a certification on financial planning or fund or asset or portfolio management or investment advisory services:

(a) from NISM; or

(b) from any other organization or institution including Financial Planning Standards Board India or any recognized stock exchange in India provided that such certification is accredited by NISM.:

Regulation 15(1) An investment adviser shall act in a fiduciary capacity towards its clients and shall disclose all conflicts of interests as and when they arise.

Regulation 15(9) An investment adviser shall abide by Code of Conduct as specified in Third Schedule:

THIRD SCHEDULE

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

[See sub-regulation (9) of regulation 15]

CODE OF CONDUCT FOR INVESTMENT ADVISER

1. Honesty and fairness: An investment adviser shall act honestly, fairly and in the best interests of its clients and in the integrity of the market.

2. Diligence: An investment adviser shall act with due skill, care and diligence in the best interests of its clients and shall ensure that its advice is offered after thorough analysis and taking into account available alternatives.

3. Capabilities. An investment adviser shall have and employ effectively appropriate resources and procedures which are needed for the efficient performance of its business activities

4. Information about clients: An investment adviser shall seek from its clients, information about their financial situation, investment experience and investment objectives relevant to the services to be provided and maintain confidentiality of such information.

5. Information to its clients: An investment adviser shall make adequate disclosures of relevant material information while dealing with its clients.

8. Compliance: An investment adviser including its [partners, principal officer and persons associated with investment advice] shall comply with all regulatory requirements applicable to the conduct of its business activities so as to promote the best interests of clients and the integrity of the market.

9. Responsibility of senior management: The senior management of a body corporate which is registered as investment adviser shall bear primary responsibility for ensuring the maintenance of appropriate standards of conduct and adherence to proper procedures by the body corporate.

Regulation 16: Risk profiling:

Investment adviser shall ensure that:

(a) it obtains from the client, such information as is necessary for the purpose of giving investment advice, including (i) age; (ii) investment objectives including time for which they wish to stay invested, the purposes of the investment; (iii) income details; (iv) existing investments/ assets; (v) risk appetite/ tolerance; (vi) liability/borrowing details.

(b) it has a process for assessing the risk a client is willing and able to take, including: (i) assessing a client's capacity for absorbing loss; (ii) identifying whether client is unwilling or unable to accept the risk of loss of capital; (iii) appropriately interpreting client responses to questions and not attributing inappropriate weight to certain answers.

(d) any questions or description in any questionnaires used to establish the risk a client is willing and able to take are fair, clear and not misleading, and should ensure that: (i) questionnaire is not vague or use double negatives or in a complex language that the client may not understand; (ii) questionnaire is not structured in a way that it contains leading questions

(e) risk profile of the client is communicated to the client after risk assessment is done;

Regulation 17 Suitability:

Investment adviser shall ensure that-

(a) All investments on which investment advice is provided is appropriate to the risk profile of the client;

(b) It has a documented process for selecting investments based on client's investment objectives and financial situation;

(c) It understands the nature and risks of products or assets selected for clients;

(d) It has a reasonable basis for believing that a recommendation or transaction entered into: (i) meets the client's investment objectives; (ii) is such that the client is able to bear any related investment risks consistent with its investment objectives and risk tolerance; (iii) is such that the client has the necessary experience and knowledge to understand the risks involved in the transaction.

(e) Whenever a recommendation is given to a client to purchase of a particular complex financial product, such recommendation or advice is based upon a reasonable assessment that the structure and risk reward profile of financial product is consistent with clients experience, knowledge, investment objectives, risk appetite and capacity for absorbing loss

Regulations 19: Maintenance of records:

(1) An investment adviser shall maintain the following records;

a) Know Your Client records of the client;

b) Risk profiling and risk assessment of the client;

c) Suitability assessment of the advice being provided;

d) Copies of agreements with clients, incorporating the terms and conditions as may be specified by the Board;

e) Investment advice provided, whether written or oral;

f) Rationale for arriving at investment advice, duly signed and dated;

g) A register or record containing list of the clients, the date of advice, nature of the advice, the products/securities in which advice was rendered and fee, if any charged for such advice.

(2) All records shall be maintained either in physical or electronic form and preserved for a minimum period of five years:

Relevant extract of provisions of PFUTP Regulations, 2003:

Regulation 2(1)(c):

"(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 ...”

Regulation 3. *No person shall directly or indirectly—*

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

- (a) 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;*
- (b) 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;*
- (c) 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.*

Regulations 4. *Prohibition of manipulative, fraudulent and unfair trade practices*

- (1) Without prejudice to the provisions of regulation 3, no person shall indulge in a manipulative, fraudulent or an unfair trade practice in securities market.*
- (2) Dealing in securities shall be deemed to be a manipulative fraudulent or an unfair trade practice if it involves any of the following: -*

...

(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”.

(o) fraudulent inducement of any person by a market participant to deal in securities with the objective of enhancing his brokerage or commission or income

(s) mis-selling of securities or services relating to securities market by (i) knowingly making a false or misleading statement, or (ii) knowingly concealing or omitting material facts, or (iii) knowingly concealing the associated risk, or (iv) not taking reasonable care to ensure suitability of the securities or service to the buyer

Promising assured returns and profits:

8. The Order-cum-SCN observes that GRS had been promising assured profit / returns on the investment made by the clients and luring them to avail its services. The website of GRS i.e. www.thegrssolution.com (snapshot taken on December 9, 2020) showed that the following content has been mentioned/displayed in the nature of promising assured returns, to lure clients to take GRS services;

*“Investor **obtains High return on Investment** on our expert tips from market other than fixed deposits, gold and other typical areas of investment such as F&O Stock Tips Multibagger.”*

*“Register for India's Best Financial Services Now!! Make Your Investment Grow with **High Accurate 1-2 Sure Calls**. Work with Stock Market Expert with proper Follow-ups which insure you **recover all your losses**.”*

*“Stock Cash Tips: We provide **assure 80-85% accuracy** with all our Stock Cash Tips under this plan.”*

*“Option Tips: We always maintain **80% - 85% accuracy**.”*

*“MCX Tips: .In this package **you can surely earn a maximize profit** with our highly accurate calls with good percent of accuracy. In commodity segment **we provide sure shot levels and calls** on gold and silver with a high margin. ”*

*“Nifty Future Tips: We maintain **80% - 85% accuracy**.”*

*"NCDEX Agri Services: The GRS Services offers the promise of high GRS Services offers the **promise of high success rates NCDEX calls.**"*

9. The Order-cum-SCN further observed that the following telephonic conversations between representative/employee of GRS with the complainant indicated that the complainant was being assured of return of principal as well as profit.

Recording Transcript 1

GRS representative: *"Total amount ke liye aap mujhe 20 din ka time de dijiye"*

Client: *"Matlab jo maine 17 lakh diya hai uska"*

GRS representative: *"Nahi main apka pura profit bhi dilvaungi, paisa diya hai woh to ayega hi ayega, aur profit bhi ayega"*

Recording Transcript 2

GRS representative: *"Jo mere trade rahenge jinki ek dum surety rehegi sir aap no. of lot jitney ho sab uthalena no. of lot jitne ho sake sab uthalena uski responsibility meri rehegi usme aapko losses nahi honge main nikalungi jaada se jaada tin din mein 4 ya 5 trade 4 se 5 lakh ka profit ye rahega"*

Client: *"Ji"*

Recording Transcript 3

GRS representative: *"I suggest you something"*

Client: *"Yeah tell me"*

GRS representative: *"Ok. Basically we are working for last 7 years in this market right ok and if you have 3 Lakhs rupees for an example in working on intraday ok so i will give you the profit minimum on minimum 2k to 3K on daily basis right."*

Client: *"Hota nahi hai i tell you hello it is not simple"*

10. In view of the above, the Order-cum-SCN *prima facie* observed that the IA has been promising assured return / profits, if the clients availed its services, thereby making false and misleading representation to its clients/investors. Thus, IA has, *prima facie*, violated regulation 15(1) and Clauses 1 and 2 of Code of Conduct as mentioned in Schedule III read with regulation 15(9) of IA Regulations, 2013.

11. I have examined the abovementioned observations of the Order-cum-SCN and have considered the reply of the Noticee in this regard. I note that the Noticee has submitted that the accuracy levels shown on its website were just marketing /advertising tool. It has further stated that it had in no way guaranteed the returns. As per the Noticee, on its website, it was clearly mentioned that *"We do not provide any guaranteed returns."* Furthermore, in the Noticee's welcome mail, which was sent to every client while on boarding him / her, this line was mentioned: "Stock market has inherent market risk, hence we do not claim any profit guaranteed services". It has, thus, in no way made false and misleading representation to the clients /investors. Thus, the observations made in the Order-cum-SCN in this regard are not correct. The Noticee has also provided a copy of the welcome email.
12. I note from the contents of the website, as mentioned in the Order-cum-SCN, that the same refers to *"80-85% accuracy"* of the Noticee's tips. The other phrases used are *"high return on investment"*, *"high accurate 1-2 calls"*, *"maximize profit"* and *"promise of high success rates"*. It appears to me that the figure of 80-85% is in the context of accuracy of tips and not the assured rate of return promised on investment made. I further note that phrases like *"high return on investment"*, *"high accurate 1-2 calls"*, *"maximize profit"* and *"promise of high success rates"* without mention of any specific rate of return is mere representation about quality / accuracy of his tips and does not amount to promising assured returns. In my view, promise of assured return would imply that the investor is being promised a specified rate of return on his investment, under any circumstances. I further note from the copy of the sample welcome mail which the Noticee purportedly sends to each client, as provided by the Noticee, that the same refers to investments in the securities market as being subject to risks. As regards the transcripts of the conversation between the employees of the Noticee and the clients, as quoted above from the Order-cum-SCN, I note that the same appear to be merely marketing gimmicks rather than being an actual promise of assured returns. In view of the above, I find that the allegations of offering assured returns against the Noticee are not made out.

Lack of Policy for Risk Profiling and Suitability Assessment

13. The Order-cum-SCN observes that the Noticee did not have a risk profiling policy and a documented process for selecting investments for its clients. The Order-cum-SCN has thus alleged that the Noticee has failed to comply with Regulation 16(b) and 17(b) of the IA Regulations, 2013.
14. I note that the Noticee has submitted that under Regulation 16(b), what is required is a process for assessing the risk a client is willing to take and not necessarily a policy, as claimed in the Order-cum-SCN. The Noticee has submitted that it had a process of assessing the risk profile of the clients through a questionnaire, which included all the requisite questions as mandated by the IA Regulations, 2013, which was submitted to SEBI at the time of inspection. Furthermore, the said process and questionnaire were approved by SEBI at the time of giving registration to the Noticee in 2017.
15. I note that regulation 16 (b) of the IA Regulations, 2013 requires an IA to have a process for assessing the risk a client is willing and able to take, including, capacity to absorb loss, willingness and/or ability to accept risk of loss of capital. Further, Regulation 17(b) of IA Regulations, 2013 requires an IA to have documented process for selecting investments for its clients based on their investment objective and financial situation. I further note that the Noticee has submitted a copy of the questionnaire which it purportedly asks its clients to fill for assessing the risk profile and product suitability. The said questionnaire contains multiple queries in respect of which the client has to choose a response out of the given options. The options are assigned predetermined marks and the cumulative score obtained by a client after filling the questionnaire determines his risk profile. At the end of the questionnaire, there is a mention of risk based classification of services offered by the Noticee. I find that the said questionnaire fulfils the requirement of having a documented process for assessing the risk profile and product suitability. Considering that Regulations 16(b) read with Regulation 17 (b) only insist on having a documented process and do not refer to the requirement of a policy, I am inclined to accept the contention of the Noticee.

Non availability and maintenance of documents

16. The Order-cum-SCN observes that GRS did not submit to SEBI any documents related to KYC, financials of the clients and acknowledgement of risk profiling/suitability from the clients. The Noticee had submitted that representatives of IA (Risk Profiling Team) used to seek response from clients telephonically and did not meet the client personally.
17. Regulation 16(a) of IA Regulations, 2013 provides that an IA shall ensure that it obtains from the client, such information as is necessary for the purpose of giving investment advice, including age, investment objective, income details, existing investment/assets, risk appetite/tolerance, liability/borrowing details., etc. Further Regulation 16(b) requires an IA to ensure having a process for assessing the risk profile. Further, Regulation 16 (e) requires an IA to communicate risk profile of the client to the client after risk assessment is done. Further, Regulation 17(b) the IA Regulations, 2013 requires an IA to have documented process for selecting investments for its clients based on their investment objective and financial situation. Further, Regulations 19 (1) and (2) of IA Regulations, 2013 require an IA to obtain the following documents and maintain these documents either in physical or electronic form and preserve them for a minimum period of 5 years:
 - a. Know Your Client records of the client;
 - b. Risk profiling and risk assessment of the client;
 - c. Suitability assessment of the advice being provided;
 - d. Copies of agreements with clients, incorporating the terms and conditions as may be specified by the Board;
 - e. Investment advice provided, whether written or oral;
 - f. Rationale for arriving at investment advice, duly signed and dated;
 - g. A register or record containing list of the clients, the date of advice, nature of the advice, the products/securities in which advice was rendered and fee, if any charged for such advice.
18. The Order-cum-SCN has alleged that the Noticee has not obtained any documents/ evidence / information from clients while doing KYC and risk profiling

of client, including telephone recordings of purported risk assessment carried out over telephone. Thus, the Noticee is alleged to have failed to comply with the abovementioned provisions of IA Regulations, 2013.

19. I note that the Noticee in the above regard has submitted that it has maintained all the requisite documents as mandated under the IA Regulations, 2013, such as KYC Records of the clients, risk profiling and risk assessment of the client, suitability of the advice being provided, copies of agreements with clients, if any, investment advice provided, whether written or oral, rationale for arriving at investment advice, duly signed and dated and a register or record containing list of clients with other details regarding services provided to them. The Noticee has claimed that it has records of all the investment advice provided (sms logs along with its delivery report which contain details of every advice provided to each client.) Further, the IA has claimed to have duly communicated the risk profile to each client. As per the Noticee, risk profiling was filled by the client on the website and a copy of it was received by the Noticee through the server. After receiving the same, the Noticee used to assess the same and categorize the clients, post that the Noticee used to sign the said document and send to the client for his record. The Noticee has further submitted that it had obtained / maintained all the required documents except call recording of carrying out risk profiling, which is nowhere required in the SEBI Regulations to be maintained. As per the Noticee, the client used to fill the risk profiling questionnaire by himself only on the website. Since the client was filling all the information, there was no point to ask for supporting documents with respect to his income. Further, the Noticee has claimed to have made aware the client that he needed to fill all the correct information, as filling false information would lead to carrying out wrong risk profiling.
20. I further note that even though the Noticee has contended that he had obtained and maintained all the required documents, as mentioned under Regulation 19(1) & 19(2) of the IA Regulations, 2013, he has not provided any documentary evidence in support of his claim. The Noticee has claimed that he used to send the signed copy of the filled questionnaire after risk profiling to the client, however, he has failed to produce any documentary proof of such dispatch. Further, the Noticee has admitted in its submissions to me that he had not obtained any supporting

documents like income proof etc. from the client. I note that in the absence of supporting documents like income proof, an IA cannot effectively carry out risk profiling and suitability assessment of a client. Considering all these factors, I find that the Noticee has failed to maintain the documents as required under the provisions of IA Regulations, 2013. Consequently, the allegations against the Noticee in this regard sustain.

Wrong and manipulative information/submission to SEBI

21. The Order-cum-SCN observes that during the analysis and scrutiny of the information and submission made during inspection, it was observed that the invoices and risk profiling contained contradictory information. Few instances of contrary details and manipulation/creation of the documents/information submitted to SEBI, as brought out in the Order-cum-SCN, are as below:

- (a) It was seen that in case of client, Mr. Prem Nath, the Noticee sent the PDF version of the invoices to SEBI where the invoice date was different from the PDF file creation date of the document, as shown below:

S. No.	Invoice Date	Invoice creation date of PDF file
1	18-Apr-19	8-Dec-19
2	20-Apr-19	8-Dec-19
3	23-Apr-19	8-Dec-19
4	09-July-19	8-Dec-19
5	18-July-19	8-Dec-19

- (b) It was also observed that the invoices sent to clients usually contained digital signature of Mr. Nilesh Vispute on behalf of GRS. However, for few clients, such as Mr. Prem Nath, the invoices did not have any such digital signature. GRS itself has admitted the falsification in the documents indicating that the dates in the invoices have been manipulated.

- (c) It was observed in case of client Mr. Raghawendra Kant that GRS had produced four Risk Profiling Forms (RPFs) of different dates which contained contradictory information. The details of the same are as follows:

		1 st RPF (RPF-1)	2 nd RPF (RPF-2)	3 rd RPF (RPF-1)	4 th RPF (RPF-1)
S. No.	Question	October 14, 2019,	October 17, 2019	October 17, 2019	November 4, 2019
1	Would you invest where a small return is earned associated with small risk instead of a high return associated with high risk?	<u>prefer</u>		<u>Do not prefer</u>	<u>Indifferent</u>
2	When market is not performing well would you like to invest in more risky investment instead of less risky investment to earn high return?	prefer		Strongly prefer	Strongly prefer
3	High risk is associated with high return, Medium risk is associated with medium returns and low risk is associated with low returns? What risks can you bear (not prefer)?	Medium		High	High
4	What is the duration of investment you are looking forward to keep invested?	Intraday	Intraday	Intraday	Intraday
5	What is your Age Group?	Under 45	Under 45	Under 45	Under 45
6	Investment Goal	Regular Income	Regular Income	Regular Income	Regular Income
7	Proposed Investment Amount	2-5 lacs	1-2 lacs	2-5 lacs	1-2 lacs
8	Gross Annual Income details	1-5 lac,	1-5 lac,	1-5 lac,	1-5 lac,
9	Market Value of portfolio held	1-2 lacs	1-2 lacs	2-5 lacs	2-5 lacs
10	Investment Experience	< 3 years	3-5 years	< 3 years	< 3 years
11	How many dependents do you financially support?	4+	Between 1-3	4+	4+
12	What is the size of your emergency fund?	3-6 months income	> 6 months income	3-6 months income	3-6 months income
13	What is your experience with investments in past?	Good	Very Good	Very Good	Very Good
14	What percentage of monthly income is allocated to pay off debt [all EMIs]?	Between 20% - 35%	None	Between 0% -20%	Between 0% -20%
15	Occupation (please select the appropriate)	Government sector	Government sector	Private sector service	Government sector
	Total Score	280	360	350	330

- (d) From the four RPFs of client, it was observed that the changes made in risk profile of client were significant as well as contradictory. Percentage of monthly income to pay off debt was changed from 20%-35% to Nil and there was change in occupation, etc. The modification in the RPF was to change total risk profile score from 280 to 360, resulting in moving the client from Medium risk category to High risk category. With respect to this client, though his annual income was between 1-5 Lacs, and proposed investment 1-2 lacs, yet, as per GRS submission, a total of Rs. 14,73,401 was collected as service charges/fees. Such collection of huge amount of fee by selling products beyond the income capacity of the client showed that GRS had not followed the suitability requirements on this ground as well.
22. It was observed that due to lack of any policy of risk profiling and suitability, the whole process lacked the due diligence, skill, care and compliance with respect to the risk profiling and suitability and if at all any risk profiling and suitability was even done the same had been manipulated and amounted to lack of honesty and fairness in the dealing.
23. Apart from the above, the Order-cum-SCN observed that vide email dated November 25, 2020, complete employee data was sought from GRS w.r.t inspection period. Vide reply dated November 25, 2020, GRS submitted details of 36 employees who had left during the inspection period and 6 employees who were working with the Noticee at that time. Subsequently, during the onsite inspection, it was observed that many other employees were employed with GRS during the inspection period and GRS had deliberately hidden their information from SEBI. SEBI recovered leaving/no dues letters from these employees to GRS.
24. The Order-cum-SCN further observes that as per the designation of the employees' details retrieved by SEBI from the Noticee, it was observed that the said employees were all part of Customer Representative Department and were engaged in rendering investment advice on behalf of the investment adviser. It was observed that GRS was hiding information about these employees as these employees though involved in rendering investment advisory services on behalf of

GRS during the Inspection Period had not fulfilled the requirements of qualification and certification contained in Regulation 7(2) of IA Regulations, 2013.

25. In view of the above, the Order-cum-SCN found that GRS and its representatives/employees dealing with the clients did not have requisite qualification and certification and had therefore, violated regulation 15(13) read with regulation 7 of IA Regulations, 2013 and Clauses 1, 2, 3 and 8 of Code of conduct for Investment Advisers as specified under Schedule III read with regulation 15(9) of IA Regulations, 2013. Further in view of the incorrect, falsified and manipulated information/documents provided to SEBI during the course of Inspection, GRS is alleged to have violated Regulation 15(9) read with clause 1 and 8 of Code of Conduct provided in Third Schedule of the IA Regulations, 2013.
26. I note that the Noticee in respect of the above findings has submitted that the observation in the Order-cum-SCN that wrong and manipulated information / submissions were provided by the Noticee to SEBI, is not true and no information was manipulated. The documents were arranged properly for the convenience of SEBI Officers during inspection. However, in the instance of client Mr. Prem Nath, as mentioned in the Order-cum-SCN, his invoice was missing from records, so new invoice was created. There was no forgery. Further, as regards 4 risk profiles of a client, the same was done by the client by filling the risk profiling form multiple times and no documentation was manipulated. As regards the fees paid by the said client, the same was done by the client on his own without any force. The Noticee has further contended that risk profiling and suitability assessment had been done for each and every client. As regards the number of employees, the Noticee has submitted that at the time of inspection, only 6 employees were working with the Noticee. The other employees found by SEBI during inspection had just come to office to settle their dues. The same can be checked through the salary statement of the said employees. Further, Ms. Priya Kumari was only an assistant and was in no way related to stock market research. Only the Noticee was engaged in the research.
27. I note that as regards four risk profile forms from a single client, the Noticee has submitted that the same was due to a client filling the risk profiling form multiple

times. However, I note that since the Noticee had accepted all four forms and not the final version alone, I agree with the findings of the Order-cum-SCN that it was done to manipulate the risk profile score of the client. Similarly, as regards the mismatch in the date of invoices and date of PDF file creation, as detailed above, I note that the Noticee has admitted that the invoices were missing from the records, so new invoices were created later. Thus, I find that the Noticee has fabricated records, as alleged in the Order-cum-SCN.

28. I note that as regards the number of employees working with the Noticee, the Noticee has submitted that at the time of inspection, only 6 employees were working with the Noticee and the other employees found by SEBI during inspection had just come to office to settle their dues, which can be checked through the salary statement of the said employees. However, since SEBI had recovered leaving / no dues letters pertaining to more employees, the contention of the Noticee in this regard is found untenable.
29. As regards the finding in the Order-cum-SCN that all the Noticee's employees were engaged in rendering investment advice on behalf of the IA and they did not have requisite qualification and certification, the Noticee has submitted that during the inspection period, there was no regulation which mandated that employees in sales department need to be qualified and certified. These requirements came in effect from Sept 30, 2020, which was post the inspection period. Further, according to the Noticee, the employees who were dealing with the clients were not rendering investment advice on Noticee's behalf nor were they authorized representatives of the Noticee. They were just normal employees engaged in delivering services. As per the Noticee, he himself was assessing the risk profile, conducting research and providing the recommendations. The said recommendations were sent through sms, which was done automatically through server. Hence, no incorrect, falsified and manipulated information / documents were provided to SEBI during inspection.
30. I note that while it is true that the definition of *Persons associated with investment advice* under Regulation 2(1)(r) of the IA Regulations, 2013, which includes within such definition the employees in the sales department, was introduced post the inspection period, the requirement of certification under Regulation 7(2) was

already there for partners and representatives of IAs offering investment advice. I note that Noticee's employee's details, as retrieved by SEBI during the inspection, all the Noticee's employees were part of Customer Representative Department and were engaged in rendering investment advice on behalf of the IA without requisite certification. Since the employees of the Noticee were rendering investment advice on behalf of the Noticee, they were required to have, at all times, the certifications as mandated under Regulation 7(2) of the IA Regulations, 2013. I note that though the Noticee has denied the inspection's finding that its employees were engaged in rendering investment advice, considering the inspection's finding that the designation of the Noticee's employees, as appearing from the data retrieved from the Noticee, showed all the employees being part of Customer Representative Department and engaged in rendering investment advice on behalf of the IA, I am not inclined to accept the Noticee's contentions in this regard. Further, I also find that the Noticee has failed to disprove the said finding with any counter evidence.

Locking in the clients by advance fee for sale of products/packages without refund

31. The Order-cum-SCN observes that the IA used to lock in clients by collecting advance payment with no provision for refund. The fees were collected even before doing the KYC and the risk profiling and thus the package/service (suitability) was decided upfront without any risk profiling. Further, the risk profiles of clients were allegedly manipulated for higher advisory fees. The client allegedly did not have any option to discontinue with the services/product, since the payment for the services/product had been made by the client in advance and the client is locked in with the IA as GRS also has "*No Refund and Cancellation*" policy. It was thus observed that GRS has not been fair and transparent in its dealing with clients regarding the fees charged to the client and had adopted unethical business practices of collecting fees without even doing risk profiling, especially when there was no refund/cancellation policy. GRS acted in the above manner with an objective to maximize its fees and keeping its own interest ahead of the clients' interest. These acts of GRS were allegedly in complete disregard to the responsibility entrusted on him under the provisions of IA Regulations, 2013 to act in fiduciary capacity and in the best interest of its clients, which amounted to

violation of Regulation 15 (1) of IA Regulations, 2013, and Clauses 1 (honesty and fairness) and 8 (Compliance) of the Code of Conduct for IA as specified under Third Schedule read with Regulation 15(9) of the IA Regulations, 2013.

32. I note that the Noticee in the above regard has submitted that contrary to the observations in the Order-cum-SCN, the clients were not locked in by advance fee. The firm had refunded to many clients who were dissatisfied with the services or by any means, which can be checked through SEBI SCORES complaints and bank statements. The Noticee has contended that though the website contained the line which stated that it does not have any refund policy, it had made refunds of fees to many clients throughout its entire business tenure and it did not lock in any client. As per the Noticee, it has kept client's interest ahead at every point and has solved their grievances.
33. I note that though the Noticee has claimed to have refunded fees to many unsatisfied customers, it has failed to submit any documentary evidence in support of its contentions. Further, the Noticee has admitted that "no cancellation / refund policy" was mentioned on its website. Further, though the Noticee has claimed to have refunded money to a number of clients, it does not mean that there were no other dissatisfied customers / clients who did not or could not claim refund due to mention of no-refund policy on the website of the Noticee. I do not rule out the possibility that there were customers who, despite being completely unsatisfied with the services of the Noticee, did not approach the Noticee for refund due to the mentioning of no refund policy on the Noticee's website. Considering the same, I am not inclined to accept submissions of the Noticee. In view of the same, I find that the Noticee has failed to act in fiduciary capacity and in the best interest of its clients, which amounted to violation of Regulation 15 (1) of IA Regulations, 2013, and Clause 1 (honesty and fairness) & Clause 8 (Compliance) of the Code of Conduct for IA as specified under Third Schedule read with Regulation 15(9) of the IA Regulations, 2013.
34. I note from the Order-cum-SCN that the Noticee, by indulging in the abovementioned violations of the provisions of the IA Regulations, 2013, and by submitting forged and fabricated documents to SEBI has also allegedly violated the

provisions of Section 12A(a), (b) & (c) of the SEBI Act, 1992 and Regulations 3(a), (b) & (c), 4 (1) and 4 (2)(k), (o) & (s) of the PFUTP Regulations, 2003. However, since it appears to me that the acts of the Noticee were aimed at concealing the various violations under the IA Regulations, 2013 from SEBI rather than defrauding the investors, as required under the PFUTP Regulations, 2003, the abovementioned allegations of violations of provisions of the SEBI Act, 1992 and the PFUTP Regulations, 2003, do not sustain.

35. Considering the violations of the provisions of the IA Regulations, 2013, committed by the Noticee, I deem it fit to issue appropriate directions against the Noticee in the interest of the securities market.

DIRECTIONS:

31. In view of the foregoing, I, in exercise of the powers conferred upon me in terms Sections 11, 11(4) and 11B read with of Section 19 of the SEBI Act, 1992, hereby direct the following:

- (a) The Noticee shall continue to be prohibited from accessing the securities market and further be restrained from buying, selling or otherwise dealing in securities in any manner whatsoever, either directly or on behalf of any of his clients through their accounts, for a period of one year from the date of this order. However, while calculating the period of restraint / debarment as directed above, the period of restraint / prohibition already undergone by the Noticee as per the directions contained in the Order-cum-SCN shall be set off against the period of restraint / prohibition directed above.
- (b) The Noticee is directed to resolve the complaints pending against him in the SCORES and otherwise, within the period of 30 days from the date of this order and furnish a report to SEBI. Such report shall be filed within 3 months of this order.
- (c) In case of failure of the Noticee to comply with the aforesaid directions at sub-para (b) above, the directions issued at sub-para (a) shall continue to

be in force beyond the period of one year till the date of compliance with direction given in para (b) above, by the Noticee.

(d) During the period of restraint, the existing holdings of securities including the holdings of units of mutual funds, of the Noticee, shall remain frozen.

(e) Subject to the above directions, the restraint imposed on the Noticee vide the Order-cum-SCN from alienating the assets including the money in bank accounts etc., is directed to be discontinued.

32. This order comes into force with immediate effect.

33. A copy of this order shall be sent to the Noticee, 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.

Date: February 08, 2022

Place: Mumbai

Sd-

ANANTA BARUA

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA