

WTM/AB/SRO/SRO/16539/2022-23

SECURITIES AND EXCHANGE BOARD OF INDIA

FINAL ORDER

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

In Respect of:

Sr. No.	Name of the Entity	PAN
1	Minance Technologies Private Limited	AAKCM6309D
2	Anurag Bhatia	AVEPB6967G
3	Adhiraj Singh	EFDPS1272E
4	Soham Soumya Sarkar	CKNPS9233A

In the matter of unregistered portfolio manager services by Minance Technologies Private Limited

(Aforesaid entities are hereinafter individually referred to by their respective name or Noticee number and collectively as “the Noticees”.)

1. The present proceedings emanate from an *ad interim ex parte order* cum show cause notice dated December 07, 2020 (hereinafter referred to as “**the interim order**” or “**SCN**”) passed by the Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) against Minance Technologies Private Limited (hereinafter also referred to as “**MTPL**”) and its directors Mr. Anurag Bhatia, Mr. Adhiraj Singh and Mr. Soham Soumya Sarkar, as the unregistered portfolio manager activities of the Noticees were *prima facie* found to be in violation of the provisions of Section 12(1) of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as “**SEBI Act, 1992**”) and Regulation 3 of SEBI (Portfolio Managers) Regulations, 1993 (since repealed) (hereinafter referred to as “**PMS Regulations, 1993**”). By the interim order, *inter alia* following directions were issued to the Noticees.

“

28.1 MTPL and its Directors viz., Soham Soumya Sarkar, Adhiraj Singh and Anurag Bhatia are directed not to access the securities market and buy, sell or otherwise

deal in securities or associate themselves with securities market, either directly or indirectly, in any manner whatsoever, until further orders;

28.2 MTPL and its Directors viz., Soham Soumya Sarkar, Adhiraj Singh and Anurag Bhatia are directed to cease and desist from undertaking any activity in the securities market including the activity of acting and representing through any media (physical or digital) as a portfolio manager, directly or indirectly, in any matter whatsoever, until further orders;

28.3 If MTPL or its Directors viz., Soham Soumya Sarkar, Adhiraj Singh and Anurag Bhatia 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. MTPL and its Directors are permitted to settle the pay-in and pay-out obligations in respect of transactions, if any, which have taken place before the close of trading on the date of this order.

28.4 MTPL and its directors are directed to not divert any funds raised from investors, kept in bank account(s) and/or in their custody until further orders;

28.5 MTPL and its directors viz., Soham Soumya Sarkar, Adhiraj Singh and Anurag Bhatia are directed to 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, except with the prior permission of SEBI.

28.6 MTPL is directed to immediately withdraw and remove all advertisements, representations, literatures, brochures, materials, publications, documents, websites, communications etc. if any, in relation to their PMS activity or any other unregistered activity in the securities market until further orders.

28.7 MTPL and its Directors viz., Soham Soumya Sarkar, Adhiraj Singh and Anurag Bhatia is directed to provide a full inventory of all assets held in their name, whether movable or immovable, or any interest or investment or charge on any of such assets, including details of all bank accounts, demat accounts and mutual fund investments, immediately but not later than 5 working days from the date of receipt of this order.

28.8 MTPL is directed to submit the number and details of the clients who availed Portfolio Management Services, money collected from them client wise and the amount of fee collected as Portfolio Manager to SEBI immediately but not later than 5 working days from the date of receipt of this order.

28.9 Banks viz., Kotak Bank (account number: 9912354553), ICICI Bank (account number: 5305500490), HDFC Bank (account number: 50200026823764) wherein Bank account is held in the name of MTPL are directed not to allow any debits / withdrawals and not to allow any credits to the said accounts, without the permission of SEBI, until further orders. The Banks are also directed to ensure that this direction is strictly enforced.

28.10 The Depositories are directed to ensure that no debits and credits are permitted in the demat account(s) held in the name of MTPL till further directions. The Depositories are also directed to ensure that no debits and credits are permitted in the demat account(s) of Soham Soumya Sarkar, Adhiraj Singh and Anurag Bhatia, held jointly or individually, till further directions.

28.11 The Registrar and Transfer Agents are directed to ensure that the securities, including Mutual Fund units, held in the name of MTPL are not transferred or redeemed till further directions. Further, the Registrar and Transfer Agents are also directed to ensure that the securities, including Mutual Fund units, held in the name of Soham Soumya Sarkar, Adhiraj Singh and Anurag Bhatia, jointly or individually, are not transferred or redeemed till further directions.”

2. The interim order was also in the nature of a show cause notice wherein the Noticees were provided with the opportunity to file their objections/reply, if any, within 21 days from the date of service of the interim order and were also provided with an opportunity of personal hearing before SEBI, on a date and time to be fixed on a specific request to be made by the Noticees. In this regard, Interim Order directed as under:

“32. This Order shall also be treated as a show cause notice and MTPL and its Directors are show caused as to why the services offered by them should not be held as PMS in terms of PMS Regulations and thereby their activity be treated as unregistered activity under PMS Regulations, why appropriate directions, under Sections 11(1), 11 (4), 11B (1) and 11D of the SEBI Act and relevant SEBI Rules/Regulations including directions for prohibition on them from buying, selling or otherwise dealing in securities market, either directly or indirectly, in any manner whatsoever, for a particular period and directions not to be associated with any listed public company and any public company which intends to raise money from the public, or any intermediary registered with SEBI for a particular period should not be passed against them. MTPL and its Directors are also show caused as to why they should not be directed to refund, jointly and severally, the fees collected from the investors/clients for its unregistered PMS activities under Sections 11 and 11B (1) of SEBI Act, should not be issued against them.”

3. The interim order was served upon all the Noticees. The interim order was served upon MTPL by way of affixture and was served upon Noticees no. 2, 3 and 4 by speed post with due acknowledgement from all the Noticees. Noticee no. 4 filed his reply on merits to the Interim Order vide an undated letter received by SEBI on December 28, 2020 and sought for an opportunity

for personal hearing. Noticees no. 1, 2 and 3 did not file their replies to the interim order nor did they file any letter seeking an opportunity of personal hearing. The matter was first placed before another Whole Time Member, however, in view of his term coming to an end, the matter was placed before the undersigned on August 17, 2021 for granting date for personal hearing in the matter and hearing was scheduled on December 28, 2021. I note that the hearing notice served by speed post to MTPL and Noticee no. 2 returned undelivered. Since MTPL is a private company and Noticee no. 2 holds 94% of shareholding of the Company, the hearing notice was served on MTPL and Noticee no. 2 through emails of Noticee no. 2, i.e. anurag@minance.com (through which the Noticee no. 2 has communicated with SEBI prior to interim order) and anuragbhatia2210@gmail.com (as available on the Noticee's bank account opening forms obtained from the Banks). On the scheduled date and time of hearing, Noticee no. 4 appeared on behalf of himself via videoconferencing and made submissions. Noticees no. 1, 2 and 3 did not appear for the hearing nor did they seek any adjournment of the personal hearing granted to them. Accordingly, hearing qua Noticees no. 1, 2 and 3 stood concluded. However, Noticee no. 3 vide letter dated April 13, 2022 sought for personal hearing submitting that the SEBI email intimating about the date of hearing on December 28, 2021 had been misplaced. Accordingly, an opportunity of personal hearing was granted to the Noticee no. 3 on April 29, 2022. On the scheduled date and time of hearing, the advocate for Noticee no. 4 appeared via videoconferencing and made submissions and also filed his reply dated April 28, 2022 to the interim order.

4. I note that the following facts have *inter alia* been recorded in the interim order dated January 25, 2021 against the Noticees:
- (i) *Securities and Exchange Board of India ('SEBI') received complaints against MTPL inter alia alleging that it indulged in unregistered Portfolio Manager activities. Pursuant to the Complaints, SEBI carried out an examination to ascertain whether unregistered portfolio management activities are being carried out by MTPL. The preliminary examination entailed inter alia an analysis of investor complaints, reply of the Company, information available on the website of the entities and their bank statements etc.*
 - (ii) *SEBI's preliminary examination brought out the following:*

- a) *As per the information available on MCA portal, Anurag Bhatia, Soham Soumya Sarkar and Adhiraj singh are/were directors of MTPL.*
 - b) *Mr. Anurag Bhatia vide his email dated December 12, 2019 stated that MTPL was providing Portfolio Management Services since February 2017.*
 - c) *The present website of the Minance group is minance.com. The content of the said website did not indicate any portfolio management activity.*
 - d) *The entity had another website minancecapital.com. The said website is not active and the same was accessed from archive.org and the printouts of the webpages are placed on record. As per the said website, the entity provides managed account service (MAS).*
 - e) *The entity is not registered with SEBI in any capacity.*
- (iii) *From the website minancecapital.com it was observed that the entity provides managed account service (MAS). Following are the features of the said service:*
- a) *Managed Accounts: Accounts are held in investors name and managed by its team of traders and researchers. Investor will have full access to their account every time of that day.*
 - b) *They are partners with Angel Broking, India's largest broking house. Investor's demat and trading account are with Angel Broking.*
 - c) *They design and develop quantitative strategies and use them to invest clients' money. Quant strategies are math based and take human inefficiencies out of investing.*
 - d) *Once account is opened with Angel Broking and Initial Investment is transferred their traders and researchers take it over from there. They will invest while clients relax.*
- (iv) *From the reply dated December 13, 2019 filed by Anurag Bhatia, Director of MTPL the following were observed:*
- a) *MTPL has AMFI registration for mutual fund distribution and was an authorised person from 2016 to 2019. MTPL also has the licence to do Tax filing.*
 - b) *The business of MTPL are as follows:*
 - 1. *Dealing in unlisted stocks*
 - 2. *Tax filing*
 - 3. *Proprietary trading*
 - 4. *Sub broking (no longer existent)*
 - 5. *Wealth management and PMS for clients*
 - c) *Since 2017 Portfolio Management services are provided*
 - d) *All solicited money is via bank transfers into the allocated bank accounts*
 - e) *Mobilised funds were invested in unlisted equity, equities, Mutual Funds and Derivative strategies.*
- (v) *From the Investment Partnership Agreement entered between MTPL and the complainant/investor the following were observed:*

- a) *The purpose of the agreement is to invest the investment capital of Minance Partner (i.e. investor/the complainant) in Indian equity, equity derivatives and commodity markets.*
- b) *MTPL will invest the investment capital of Minance Partner to the best of its abilities in line with each and every security, financial, investment and taxation related regulations. The Minance partner shall not purchase, sell or deal in any securities on his or her own discretion.*
- c) *Profits generated on the portfolio will be shared in 80:20 ratio between Minance partner and MTPL respectively.*
- d) *All losses are capped at 5% of the Minance partner's Investment Capital and any losses more than 5% will be borne by MTPL.*
- e) *The Minance partner shall inform MTPL five business days prior to the day of redemption in writing and Minance will deduct its 20% performance fee at the time of redemption.*

5. I note that after considering the facts and circumstances of the case, the interim order had observed as follows.

"11. The activities of MTPL as brought out from the various materials described above, seen in the backdrop of the aforesaid provisions shows that MTPL has acted as Portfolio Manager. However, no material was available on record to indicate that MTPL had a certificate of registration as a Portfolio Manager. Therefore, pursuant to a contract between MTPL and its clients, MTPL on behalf of its clients has undertaken the management of funds as well as the securities of its clients since 2017 prima facie indicates that MTPL is acting as unregistered portfolio manager and is engaged in providing unregistered Portfolio Management Services.

12. It is noted that MTPL is not registered with SEBI in the capacity of a portfolio manager. I also note that the directors viz., Soham Soumya Sarkar, Adhiraj Singh and Anurag Bhatia are not registered with SEBI, in their individual capacity as a Portfolio Manager or any other capacity. The characteristics and features of the business activity carried out by MTPL as discussed in the preceding paragraphs, prima facie, leads to the conclusion that MTPL had provided services of a portfolio manager without a certificate of registration from 2017 till date and has collected an amount of Rs. 64,70,15,194/- as fee."

6. I note that the Noticee no. 3 vide his reply dated April 28, 2022, to interim order December 07, 2020 has *inter alia* submitted as follows.

- a. *I would seek to establish that I was not aware of any illegality which was being carried out by MTPL or its Managing Director/CEO, Mr. Anurag Bhatia, a person against whom the Interim Ex Parte Order has also been passed, and upon the first*

seed of doubt of any purported illegality, I questioned the Company / Mr. Anurag Bhatia and on not receiving any satisfactory response, I resigned from the Company. I had a limited role at MTPL, which had nothing to do with the business decisions and functioning of MTPL. I was only in charge of client relationships and attempted to resolve their queries by getting information from relevant personnel of MTPL or Mr. Anurag Bhatia and passing along the same to the relevant client. I have never been involved in any decision making for or on behalf of MTPL. I have not traded or taken any investment decisions for or on behalf of any of the clients of MTPL and have never imparted any advice to any clients with respect to any trades executed by them or by MTPL.

- b. Managing Director of MTPL, Mr. Anurag Bhatia was in charge of and responsible for all affairs, businesses and ensuring compliances with applicable laws by MTPL. It is also to be noted that in the complaints received by SEBI against MTPL, it is mentioned that all the clients were approached by Mr. Anurag Bhatia and it was him who handled all the trading in the clients account. My role in the Company was very limited which is already explained in detail in the present reply.*
- c. At the time of incorporation of MTPL, I was instructed by my employer Mr. Anurag Bhatia to accept appointment as director of MTPL since a minimum of two directors were required to incorporate the company. Further, as per Mr. Anurag Bhatia's instructions, I also became a subscriber to the Memorandum of Association of MTPL where 1200 equity shares of MTPL were allotted to me. I was required to subscribe to the Memorandum of Association of MTPL since a minimum of two subscribers were required to sign the Memorandum of Association. Mr. Anurag Bhatia himself paid the share subscription amount of Rs, 12,000/- (rupees twelve thousand only) for the said 1200 shares of MTPL on my behalf. As such, I held of 6% of the shareholding at MTPL while Mr. Anurag Bhatia held the balance 94% of the shareholding at the MTPL.*
- d. I was 22 years old and had only about one year of professional working experience when I joined MTPL and became director of MTPL on 28th September 2016. My role continued to be as described above, i.e. client relationship / investor relations – replying to queries of clients by passing on the query to the relevant department and reverting with the response so received. I do not recollect attending a single board meeting where any business decisions were discussed or voted upon.*
- e. I was neither involved in, nor was I aware of the portfolio management decisions or the financial and investment transactions made by MTPL. All investment activities at MTPL were exclusively managed by Mr. Anurag Bhatia and the trading team. My role has been limited to client relationship management only. Since I joined MTPL, I have no knowledge or oversight of any investment and financial transactions of MTPL. Even Mr. Anurag Bhatia has acknowledged the limited nature of my role*

and my exclusion from any trading activities or financial decisions of MTPL in an email dated 14.10.2019. The said email is annexed herewith as Exhibit D.

- f. I tendered my resignation from the office of director of MTPL with immediate effect from 21.06.2019, by way of a letter dated 21.06.2019. At the time of resignation, a Share Purchase Agreement dated 26.06.2019 ("Agreement") was also executed by me with MTPL, Mr. Anurag Bhatia and Minance Investment Advisors Private Limited ("MIAPL") whereby I transferred the 1200 shares held by me in MTPL to Mr. Anurag Bhatia at face value for a total consideration amount of Rs. 12,000/- (rupees twelve thousand only). As per clause 3.1 of the Agreement, "Company, Subsidiary and Anurag acknowledge and agree that Adhiraj has not been involved in management level meetings, has not had decision making authority or influenced the Board of Directors of the Company or Subsidiary, or Anurag in any decision making and has not had the authority or knowledge of investment decisions made by the Company and/or the Subsidiary with respect to its Customers".*
- g. I submit that I have not made any undue gains. I have not misappropriated any sums from MTPL or the other Minance Companies. Please also note that I have filed a police complaint dated 12.09.2020 against Mr. Anurag Bhatia before the Bengaluru Police Station.*

7. I note that the Noticee no. 4 vide his undated reply, received by SEBI on December 28, 2020, to interim order December 07, 2020 has *inter alia* submitted as follows.

".....

- a. The Appellant submits that as soon as they joined the Board of directors, they started getting calls from aggrieved customers seeking for the refund of their investment. The Appellant and his friend brought the same to the notice of Mr. Anurag Bhatia and other executives to act upon the same and resolve it immediately. The Appellant was assured by Mr. Anurag Bhatia that all the necessary steps would be taken by him to stop the said activities of investors as they were not involved in it. It is also worthy to note that Mr. Anurag Bhatia, assured to resolve the same, but nothing transpired in spite of his assurances. It is pertinent to state that the appellant and his friend continued to get calls from aggrieved customers, at the said juncture appellant and his friend realised the fact that they were inducted as directors only to face the consequences of the irregularities committed by Mr. Anurag Bhatia and his team and had no intention of funding their startup. It is also relevant to state that Mr. Anurag Bhatia neither funded the project of the Appellant and his friend nor allowed the Appellant and his friend to act as directors. The Appellant and his friend having realised the irregularities committed by Mr. Anurag Bhatia and his team through their email dated 11-09-2019 offered to resign from the board, the Appellant resigned on 13-09-*

2019 and his friend on 16-09-2019. At the time when the Appellant and his friend resigned from the directorship of the companies, at this point of time they had to file the requisite forms with the ministry of corporate affairs, they became aware of the fact that the date of joining of the companies was fraudulently backdated to June 18, 2019. Even after their resignation they continued to receive emails and threatening calls from the customers.

- b. The appellant submits that thereafter, on the request of the Appellant and his friend, Mr. Anurag Bhatia executed a letter titled as "UNDERTAKING CUM INDEMNITY" admitting the fraud committed by him to the Appellant and his friend. It is also pertinent to state that Mr. Anurag Bhatia admitted the fact that the Appellant and his friend were not involved in any of the activities of the company and were also not authorised signatories of the company.
- c. The Appellant submits that in one of the emails by Mr. Anurag Bhatia to SEBI he also admitted and highlighted the non-involvement of the Appellant and his friend.
- d. During the same time the Appellant had also filed a police complaint against Mr. Anurag Bhatia for defrauding them.
- e. The Hon'ble Tribunal only allegation against the Appellant is that he was the director of the company from 2-07-2019 to 13-09-2019. Because of the fraud played by Mr. Anurag Bhatia and his peers he was shown as director from early as 18-06-2019.
- f. The appellant submits that he had joined the Minance Technologies Private Limited as director only on 29-07-2019 and resigned on 13-09-2019. The sole purpose of the Appellant in joining the Minance Technologies Private Limited was to secure funding for his startup. When he realised that he is being duped and defrauded and is not allowed to act as a director of Minance Technologies Private Limited, he immediately resigned as also filed complaint to the police against Mr. Anurag Bhatia for fraud.
- g. The Appellant also submits that he had no role in the functioning of the company and he immediately resigned from the service after he realised fraud being played by Mr. Anurag Bhatia. The Appellant was inducted in the company with an intention to dupe and cheat him in the irregularities committed by Mr. Anurag Bhatia.
- h. The Appellant submits at the cost of repetition that the company has been functioning and doing business since 2016 and the appellant joined board only on 29-07-2019 and resigned on 13-09-2019. The Appellant was in board for only around 45 days. In this short tenure he came to know about the financial irregularities and also questioned Mr. Anurag Bhatia about that, when he did not resolve the same and did not provide details about the company, the Appellant resigned from it immediately.
- i. The Appellant submits that he has not committed any negligence as attributed by the SEBI in its order. Under the circumstances the order against the Appellant herein be set aside.
- j. The Appellant was not involved in any financial transaction, decision making or was not even aware of the day-to-day activities of the company. The Appellant was not even

authorised to sign the bank accounts and papers. The Appellant has not received a single penny from Mr. Anurag Bhatia and/or Minance Companies before, during and after his tenure as director of M/s Minance Technologies Private Limited.”

8. I have considered the allegations made in the interim order dated December 07, 2020 along with the findings of the examination by SEBI stated therein and replies received in the matter and submissions made by the Noticees during the personal hearing.

9. In this regard, I note that the definition of portfolio manager as given in Regulation 2(cb) of the PMS Regulations, 1993 is as follows:

“portfolio manager “means any person who pursuant to a contractor arrangement with a client, advises or directs or undertakes on behalf of the client (whether as a discretionary portfolio manager or otherwise) the management or administration of a portfolio of securities or goods or the funds of the client, as the case may be”

10. I note that pursuant to receipt of complaints against MTPL *inter alia* alleging that MTPL had indulged in unregistered portfolio manager activities, SEBI conducted an examination in relation to the affairs of the Noticees to ascertain possible violation, if any, of the provisions of SEBI Act, 1992 and rules and regulations made thereunder. On an examination by SEBI, it was found that Noticees no. 2, 3 and 4 were directors of MTPL and the Noticees were running websites www.minance.com and www.minancecapital.com. It was observed that the website www.minance.com did not indicate any portfolio management activity. The website www.minancecapital.com was not an active website but upon perusal of the webpages of the said website accessed from archive.org, it was observed that the entity provided managed account service (MAS). Following are the features of the said managed account service, as obtained from the website:

- a. Managed Accounts: Accounts are held in investors name and managed by its team of traders and researchers. Investor will have full access to their account every time of that day.
- b. They are partners with Angel Broking, India's largest broking house. Investor's demat and trading account are with Angel Broking.

- c. They design and develop quantitative strategies and use them to invest clients' money. Quant strategies are math based and take human inefficiencies out of investing.
- d. Once account is opened with Angel Broking and Initial Investment is transferred, their traders and researchers take it over from there. They will invest while clients relax.

11. I note from the interim order, that Noticee no. 2, Director of MTPL, vide his reply dated December 12, 2019, submitted that MTPL was offering portfolio management services since 2017. I note that MTPL had entered into Investment Partnership Agreements with investors for offering portfolio management services and from the copies of the Investment Partnership Agreement entered between MTPL and investors (referred to as "Minance Partner" in the Investment Partnership Agreements), as provided by the complainants Zeeshan Patel, Rohit Sharma and Deepa Ramakrishna among others, the following were *inter alia* noted:

- a) The purpose of the agreement is to invest the investment capital of Minance Partner (i.e. investor) in Indian equity, equity derivatives and commodity markets.
- b) MTPL will invest the investment capital of Minance Partner to the best of its abilities in line with each and every security, financial, investment and taxation related regulations. The Minance partner shall not purchase, sell or deal in any securities on his or her own discretion.
- c) Profits generated on the portfolio will be shared in 80:20 ratio between Minance partner and MTPL, respectively.
- d) All losses are capped at 5% of the Minance partner's Investment Capital and any losses more than 5% will be borne by MTPL.
- e) The Minance partner shall inform MTPL five business days prior to the day of redemption in writing and Minance will deduct its 20% performance fee at the time of redemption.

12. From the above terms of the agreement, it was observed that clients have entered into discretionary portfolio services at a profit sharing of 80:20 ratio. In this regard, I note from the reply dated December 12, 2019 filed by Noticee no. 2, Director of MTPL, as noted in the interim order, that portfolio management services were provided since 2017 and all solicited money was received via bank transfers into the allocated bank accounts. I note from the interim order that the following information was gathered from the Bank Account details, transaction documents and KYC documents collected from the Kotak Bank, ICICI Bank and HDFC Bank w.r.t. bank accounts of MTPL held with these banks:

- a) MTPL is having accounts in Kotak Bank (Account number: 9912354553), ICICI Bank (Account Number: 5305500490) and HDFC Bank (Account Number: 50200026823764)
- b) From the analysis of Bank statements of Kotak Bank account for the period October 19, 2016 to January 28, 2020, it is noted that a total of 1,825 credit transactions were made from different sources into the said account since October 19, 2016 and the total credit received in the aforesaid account with Kotak Bank is Rs. 56,40,59,782/-.
- c) From the analysis of Bank statements of ICICI Bank account for the period April 26, 2019 to October 31, 2020, it is noted that a total of 226 credit transactions were made from different sources into the said account since April 26, 2019, and the total credit received in the aforesaid account with ICICI Bank is Rs. 4,99,43,498/-.
- d) From the analysis of Bank Statements of HDFC Bank for the period August 01, 2017 to November 19, 2020, it is noted that a total of 67 credit transactions were made from different sources into the said account since August 01, 2017 and the total credit received in the aforesaid account with HDFC Bank is Rs. 3,30,11,913/-.

13. From the above details received from the Banks, I note that MTPL has received a total credit of Rs. 64,70,15,194/- in its bank accounts with Kotak Bank, ICICI Bank and HDFC Bank since the time it started its portfolio management services in 2017. I note from the investment partnership agreements entered between MTPL and investors, as discussed in para 11 above, that MTPL would invest the investment capital of the investor at its discretion and the profits generated on the portfolio will be shared in 80:20 ratio between the investor and MTPL, respectively. Further, all losses were capped at 5% of the investors investment capital and any losses more than 5% would be borne by MTPL. I also note that the investors could not purchase, sell or deal in any securities on his or her own discretion. Hence, I note that MTPL was offering discretionary portfolio management services to investors and investors have given the funds to MTPL for investment purposes directly to the aforesaid bank accounts of MTPL.
14. I also note that various complaints have been received by SEBI against MTPL. I note that many of the complaints have been made against Minance Investment Advisors Pvt. Ltd. (hereinafter referred to as “**MIAPL**”) and primarily with reference to Anurag Bhatia (Noticee no. 2). In this regard, I note that 99% shareholding of MIAPL is with MTPL and Noticee no. 2 is also the Promoter director of MIAPL and from a perusal of the various complaints, it appears that the complainants/clients have been approached through MIAPL (a SEBI registered investment advisor) but have been provided portfolio management services and the clients have been asked to transfer the funds to the bank accounts of MTPL. Sample of some of the complaints received by SEBI are as under:
- a. **Filed by Prasanna KN Rao (Mangalore)** – *“Mr. Anurag Bhatia, CEO of Minance.. collected funds for HFT account. He is misrepresenting and says he has HFT licence for this company. Since he was not refunding the performance bonus, I requested for closure of my account on 8th July 2019. Now not repaying the money after account*

closure. We are following up from March 31st 2019. He is cheating people.”

- b. **Filed by Ramakrishna S/ Deepa R (Mumbai)** – *“Dear Chairperson I invested principal of INR 67,00,000/- hard earned funds in equity products, HFT as solicited by Minance..... Even after 3 months of redemption, they have not provided my INR 94.23 lacs. 6 chqs have bounced from Minance Anurag, drawn on HDFC Bank 1 chq, Kotak Bank 5 chqs.”*
- c. **Filed by Gopi P C (Chennai)** - *“Anurag Bhatia, the CEO of Minance has fraudulently taken money from me in the name of investment management and portfolio management services showing me that he was a SEBI registered advisor. He has made me to transfer 4 lakh rupees into the bank account of Minance Investment Advisors bank account and another 25 lakhs into the bank account of Minance Technologies. He has told me to transfer to the account of Minance Technologies stating reasons of money management. He has not returned the money and the cheques given by him have bounced. I have invested my family lifetime savings with him and he has robbed me in daylight showing SEBIs registration and license.”*
- d. **Filed by Thejaswini Shivaramaiah (Bengaluru):** *Complaint against Minance Investment Advisor Pvt. Ltd. “Invested 7 lakhs with Minance by transferring the fund to Minance Tech bank account from my personal account. CEO Anurag Bhatia.”*
- e. **Filed by Varun Kumar Mishra (Bengaluru):** *“Anurag Bhatia (CEO) and his close associates have duped me for 20 lac INR by making false promises around new investment product which could yield 18 percent per annum interest and conned me to transfer the amount from demat (Angel) account linked with Minance to Minance Technologies Pvt. Ltd. bank account.”*
- f. **Filed by Yashaswini Shivaramaiah (Bengaluru):** *“My name is Yashaswini Shivaramaiah, presently based out of New Jersey and I have invested INR 10,00,000 in Minance Investment Advisors P. Ltd.*

Anurag has directed me to transfer some funds to Minance Technology Account too.”

- g. **Filed by Dipankar Rath (Bhubaneswar):** *“Minance Technologies Pvt Ltd and Minance Investment Advisors Pvt Ltd has defrauded me and my family to the tune of Rs 1 crore through fraudulent promises of investing the money in their HFT schemes and have not returned the amount since 2 years. Attaching the details of the same.”*

15. From the above, I note that in many cases, the fees/funds of clients collected for MIAPL was transferred to the bank accounts of MTPL. Further, I note that most of the complaints do not pertain to the investment advisory services offered by MIAPL. The complaints are mostly against Noticee no. 2 and the Minance Group of companies for cheating the investors through various schemes like promising high returns by trading in shares of unlisted entities, losses incurred in portfolio management etc. Therefore, it appears from many of the complaints that Noticee no. 2 has through its registered investment advisor MIAPL, lured its clients and provided them unregistered portfolio management services through MTPL and made them transfer their fees/funds to the bank account of MTPL. I note that Noticee no. 2 is the Promoter Director of both MIAPL and MTPL. I also note that MIAPL is a subsidiary of MTPL (99.9% shareholding with MTPL and 0.01% with Noticee no. 2) and that Noticee no. 2 is the major shareholder holding 94% shares of MTPL. Hence, it is noted that Noticee no. 2 owns and is running both MIAPL and MTPL. In this regard, I note that separate proceedings were initiated against MIAPL and interim and confirmatory orders have been passed against MIAPL and Noticee no. 2, *inter alia* debarring them from the securities market and enquiry proceedings have been initiated against MIAPL. Further, I note that most of the complaints have been filed with reference to Noticee no. 2 as the person with whom all communications were made. I also note that many of the complainants have submitted a copy of the police complaints filed against Noticee no. 2 for cheating and fraud.

16. Therefore, from the Investment Partnership Agreement with investors to manage their portfolio, the various complaints filed against MTPL, the admission of Noticee no. 2 that MTPL was doing portfolio management services since 2017, the credit transactions in the bank accounts of MTPL and the fact that MTPL is not registered with SEBI as a portfolio manager, I find that MTPL on behalf of its clients has undertaken the management of funds as well as securities since 2017 and the fees/funds were collected through the Bank accounts were for the purpose of availing the Portfolio Management Services. In view of the above, I find that MTPL has acted as an unregistered portfolio manager in violation of Section 12(1) of SEBI Act, 1992 and Regulation 3 of the PMS Regulations, 1993 (since repealed).

17. I note that the Company has not replied to the interim order. From the MCA website, the details of the appointment and resignation of directors of MTPL are as follows:

Name of the Directors	Date of Appointment	Date of Cessation
Anurag Bhatia (Noticee no. 2)	28/09/2016	Continuing
Adhiraj Singh (Noticee no. 3)	28/09/2016	21/06/2019
Soham Soumya Sarkar (Noticee no. 4)	18/06/2019	13/09/2019

18. I note that Noticee no. 3 was appointed as director of MTPL on September 28, 2016 and has resigned on June 21, 2019. Noticee no. 3 has submitted that he was 22 years old with only one year of working experience when he joined and had nothing to do with the business decisions and functioning of MTPL and was only in charge of client relationships and attempted to resolve their queries and replied to them by getting information from relevant personnel of MTPL or Mr. Anurag Bhatia (Noticee no. 2). Further, that he has never been involved in any decision making for or on behalf of MTPL and has not traded or taken any investment decisions for or on behalf of any of the clients of MTPL and have never imparted any advice to any clients with respect to any trades executed by them or by MTPL. Noticee no. 3 has submitted that Noticee no. 2 was in charge of and responsible for all affairs, businesses and

ensuring compliances with applicable laws by MTPL. Noticee no. 3 has also submitted that in the complaints received by SEBI against MTPL, it is mentioned that all the clients were approached by Noticee no. 2 and it was Noticee no. 2 who handled all the trading in the clients account and all the investment activities at MTPL. I note that Noticee no. 3 has also submitted a copy of the share purchase agreement dated June 26, 2019 executed between Noticees no. 1, 2, 3 and Minance Investment Advisors Pvt. Ltd., wherein, as per clause 3.1 of the Agreement, *“Company, Subsidiary and Anurag acknowledge and agree that Adhiraj has not been involved in management level meetings, has not had decision making authority or influenced the Board of Directors of the Company or Subsidiary, or Anurag in any decision making and has not had the authority or knowledge of investment decisions made by the Company and/or the Subsidiary with respect to its Customers”*.

19. With regard to the submissions made by Noticee no. 3, I note that Noticee no. 3 has been appointed as director of MTPL since its inception on September 28, 2016 and has resigned on June 21, 2019. As submitted by the Noticee, he became a subscriber to the Memorandum of Association of MTPL where 1200 equity shares of MTPL were allotted to him. Further, he was handling client relationship management and replying to queries of clients by passing on the query to the relevant department and reverting with the response so received. Further, I note that the Noticee has submitted in his reply that he was required to *“conduct sales and communicate with clients”*. I also note from the submissions of the Noticee no. 3 that he was receiving Rs. 60,000/- as salary when he started working with MTPL. Therefore, even if Noticee no. 3 was not part of the trading or financial decisions of MTPL, as submitted by him, I find that Noticee no. 3 was still part of the unregistered portfolio management services/activities of MTPL by conducting sales and managing the client and investor queries from September 28, 2016 to June 21, 2019, during which he was receiving remuneration of Rs. 60,000/- per month. Given that Noticee no. 3 was conducting sales and handling client and investor communications of MTPL, he cannot plead ignorance of the unregistered portfolio management

services/activities of MTPL. Further, I find that a share purchase agreement (dated June 26, 2019) cannot absolve the Noticee no. 3 of his role and participation in the unregistered portfolio management activities of MTPL, where he served as a director for 3 years. As submitted by the Noticee no. 3, he graduated from Manipal University with a degree of Business Management and therefore, is not a layman that has been duped and roped in as director of a company. Further, I note that Noticee no. 3 has not denied that he was a director of MTPL from September 28, 2016 to June 21, 2019. In view of the above, I find the submissions of the Noticee no. 3 that he is completely innocent and wholly unaware of the portfolio management activities of MTPL, as untenable.

20. I note that Noticee no. 4 has submitted that he joined MTPL to secure funding for his startup and when he realised that he was being duped and defrauded and was not allowed to act as a director of MTPL, he immediately resigned and also filed police complaint against Noticee no. 2 for fraud. Noticee no. 4 has submitted that he joined MTPL only on July 29, 2019 and resigned on September 13, 2019, i.e. for 45 days and was not involved in any financial transaction, decision making or was not even aware of the day-to-day activities of the company. Further, that he was not even authorised to sign the bank accounts and papers has not received a single penny from Noticee no. 2 and/or Minance Companies before, during and after his tenure as director of MTPL. Noticee no. 4 has also submitted that Noticee no. 2 executed a letter titled as "UNDERTAKING CUM INDEMNITY" admitting the fraud committed by him to Noticee no. 4, wherein, Noticee no. 2 admitted that Noticee no. 4 was not involved in any of the activities of the company and was also not an authorised signatory of the company. With regard to the submissions made by Noticee no. 2, I note that as per the documents available on record, Noticee no. 4 became a director of MTPL on June 18, 2019 and resigned on September 13, 2019. I note that there is no evidence before me that Noticee no. 4 has participated or was involved in the unregistered portfolio management activities of MTPL during his short tenure at MTPL. Therefore, in view of the evidence available before me and in light of the fact that Noticee

no. 4 has been a director of MTPL for 3 months, I find that the allegations in the SCN against Noticee no. 4 cannot be sustained.

21. I note that Noticee no. 2 has not submitted any reply to the interim order. I note that Noticee no. 2 has been the director of MTPL since its inception on September 28, 2016. I note that he was the main person behind the Minance group of companies and that various police complaints have been filed against Noticee no. 2 for fraud and as per newspaper reports, Noticee no. 2 has also been arrested for the same. From the various complaints filed with SEBI before me, I note that majority of the complaints have been raised with reference to Noticee no 2 and therefore, I note that Noticee no. 2 was the main source of contact for all the clients. I note that Noticee no. 2 is the promoter director of MTPL and I note from the Memorandum of Association of MTPL, as submitted by Noticee no. 3 with his reply, that Noticee no. 2 holds 94% of the shareholding of MTPL and had complete control of MTPL. I note from the submissions made by Noticee no. 3 and 4 that Noticee no. 2 was the main director in charge of all the portfolio management activities and trading/investment decisions of MTPL. I note that Noticee no. 2 in his letter dated December 12, 2019 filed prior to the interim order, had submitted that MTPL provided portfolio management services since 2017, however, as discussed in the aforesaid paras, I note that MTPL was not registered with SEBI as a portfolio manager. In view of the above, I find that Noticee no. 2 was having complete control and in charge of MTPL and is primarily responsible for the unregistered portfolio management activities being carried out by MTPL.
22. Considering the above factual analysis about the activities of the Noticees as proclaimed on their websites, the complaints received against the Noticees, the bank statements of the Noticees, I find that MTPL was engaged in unregistered portfolio management services in securities or investment products through its website www.minancecapital.com and received payment from investors for the same to its various bank accounts, as detailed in para 12 above. Therefore, I find that MTPL and its directors i.e. Noticees no. 2 and

3, had undertaken the management of funds as well as securities since 2017 on behalf of its clients and were collecting fees/funds from the clients through its Kotak, ICICI and HDFC Bank Accounts by acting as a Portfolio Manager, as defined under Regulation 2(cb) of the PMS Regulations, 1993 (since repealed).

23. I also note that, it is imperative that any person carrying out portfolio management activities has to necessarily obtain registration from SEBI and conduct its activities in accordance with the provisions of SEBI Act, 1992 and Regulations framed thereunder. Section 12(1) of SEBI Act, 1992 reads as under:

“No stock broker, sub broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market shall buy, sell or deal in securities except under, and in accordance with, the conditions of a certificate of registration obtained from the Board in accordance with the regulations made under this Act.”

24. I note that for seeking a certificate of registration for acting as portfolio manager, the entity was required to satisfy *inter alia* the various requirements, as provided under the PMS Regulations, 1993. The activities engaged in by the Noticees, as brought out from the various materials described above, seen in the backdrop of the regulatory provisions show that the Noticees were acting as portfolio manager, although the Noticees were not registered with SEBI in the capacity of a portfolio manager. Hence, I find that these activities as were being made by the Noticees no. 1, 2 and 3 without holding the mandatory certificate of registration as portfolio manager, are in violation of Section 12(1) of SEBI Act, 1992 read with Regulation 3 of the PMS Regulations, 1993 and Regulation 42 of the PMS Regulations, 2020.

25. I note that the Noticees no. 1, 2 and 3 have been found to be in violation of the provisions of the PMS Regulations, 1993. I note that the PMS Regulations, 1993 have been repealed by Regulation 42 of the PMS Regulations, 2020. Regulation 42(2)(a) of the PMS Regulations, 2020 provides that “*Notwithstanding such repeal, — (a) anything done or any action taken or purported to have been done or taken including registration or approval granted, fees collected, registration or approval, suspended or cancelled, any adjudication, enquiry or investigation commenced or show-cause notice issued under the repealed regulations, prior to such repeal, shall be deemed to have been done or taken under the corresponding provisions of these regulations;*”
26. In this regard, it would be appropriate to refer to the judgment of Hon'ble Supreme Court of India in **Sahara Real Estate Corporation and Others Vs. SEBI (2013) 1 SCC1**, wherein, it was held that:

103. Repeal and Saving Clause under ICDR 2009 would clearly indicate that the violation under DIP Guidelines was a continuing one. Regulation 111 of ICDR reads as follows:

“Repeal and Savings

111. (1) On and from the commencement of these regulations, the Securities and Exchange Board of India (Disclosure and Investor Protection) Guidelines, 2000 shall stand rescinded.

(2) Notwithstanding such rescission;

(a) anything done or any action taken or purported to have been done or taken including observation made in respect of any draft offer document, any enquiry or investigation commenced or show cause notice issued in respect of the said Guidelines shall be deemed to have been done or taken under the corresponding provisions of these regulations;

(b) any offer documents, whether draft or otherwise, filed or application made to the Board under the said Guidelines and pending before it shall be deemed to have been filed or made under the corresponding provisions of these regulations.”

104. Regulation 111(1) of ICDR 2009 rescinded the DIP Guidelines from 26.8.2009 and clause (2) of Regulation 111 contains the saving clause. The expression “anything done” or “any action taken” under Regulation 111(1) are of wide import and would take anything done by the company omitted to be done which they legally ought to have done. Non-performance of statutory obligations purposely or otherwise may also fall within the above mentioned expressions. Failure to take any action by SEBI under DIP Guidelines, in spite of the fact that Saharas did not discharge their statutory obligation, would not be a ground to contend that 2009 Regulations would not apply as also the saving clause. 2009 Regulations, in my view, will apply to all companies whether listed or unlisted. Further, in the

instant case, SEBI was not informed of the issuance of securities by the Saharas while the DIP Guidelines were in force and Saharas continued to mobilize funds from the public which was nothing but continued violation which started when the DIP Guidelines were in force and also when they were replaced by 2009 Regulations. Further, it may also be recalled that any solicitation for subscription from public can be regulated only after complying with the requirements stipulated by SEBI, in fact, an amendment was made to Schedule II of the Companies Act vide notification No. GSR 650(3) dated 17.9.2002 by inserting a declaration which has to be signed by the directors of the company filing the prospectus, which reads as under:

“That all the relevant provisions of the Companies Act, 1956, and the guidelines issued by the Government or the guidelines issued by the Securities and Exchange Board of India established under Section 3 of the Securities and Exchange Board of India Act, 1992, as the case may be, have been complied with and no statement made in prospectus is contrary to the provisions of the Companies Act, 1956 or the securities and Exchange Board of India Act, 1992 or rules made there-under or guidelines issued, as the case may be.”

27. I find that ratio of the aforesaid judgment of Hon'ble Supreme Court in Sahara case (*supra*) with respect to interpretation of repeal and saving clause of ICDR 2009 squarely applies to the facts of the present case. Therefore, violation of PMS Regulations, 1993 can be pursued under the corresponding provisions of the PMS Regulations, 2020.
28. The Noticees in their Kotak Bank (Account number: 9912354553), ICICI Bank (Account Number: 5305500490) and HDFC Bank (Account Number: 50200026823764) which were in the name of 'Minance Technologies Pvt. Ltd' had received Rs. 64,70,15,194/- during the period February, 2017 to October, 2020 through unregistered portfolio management services as observed above. Further, from para 14 above, I note that complainants had claimed that they had paid various amounts ranging from 10 lakhs to a crore to the Noticees for availing portfolio management services from the Noticees. Further, I note that it was Noticee no. 2 who was in charge of MTPL and handling all the portfolio management and investment decisions of MTPL and that most of the complaints were made with reference to Noticee no. 2.

Directions:

29. 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 that:

- a) The Noticees no. 1 and 2 shall within a period of three months from the date of coming into force of this order, jointly and severally, refund the money received from any complainants and/or investors, as fees or consideration or in any other form, in respect of their unregistered portfolio management activities;
- b) The Noticees no. 1 and 2 shall issue public notice in all editions of two National Dailies (one English and one Hindi) and in one local daily with wide circulation, detailing the modalities for refund, including the details of contact person such as names, addresses and contact details, within 15 days of coming into force of this order;
- c) The repayments to the complainants and/or 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;
- d) The Noticees no. 1 and 2 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/ complainants who were availing the portfolio management services from the Noticees, as directed in this order, from the bank accounts of the Noticees no. 1 and 2;

- e) After completing the aforesaid repayments, the Noticees no. 1 and 2 shall file a report of such completion with SEBI addressed to the Division Chief, Investment Management Department, SEBI Southern Regional Office, 7th Floor, 756-L, Anna Salai, Chennai - 600002, Tamil Nadu, 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 and the direction at paragraph 29(d) above shall cease to operate upon filing of such report on completion of refunds to complainants/ investors;
- f) The Noticees no. 1 and 2 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 3 (three) years from the date of this order or till the expiry of 3 (three) years from the date of completion of refunds to complainants/ investors as directed in paragraph 29(a) above, whichever is later;
- g) The Noticee no. 3 is 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 1 (one) year from the date of this order.
- h) The Noticees shall not undertake, either during or after the expiry of the period of debarment/restraint as mentioned in paragraph 29 (f) and (g) above, either directly or indirectly, portfolio management services or any activity in the securities market without obtaining a certificate of registration from SEBI as required under the securities laws.
- i) The proceedings against Noticee no. 4 is disposed of for reasons stated in para 20 above.

30. The direction for refund, as given in paragraph 29(a) above, does not preclude the clients/investors to pursue the other legal remedies available to them under any other law, against the Noticees for refund of money or deficiency in service before any appropriate forum of competent jurisdiction.

31. This order comes into force with immediate effect.

32. A copy of this order shall be sent to the Noticees, recognized Stock Exchanges, the relevant banks, Depositories and Registrar and Transfer Agents of Mutual Funds to ensure that the directions given above are strictly complied with.

Date: May 27, 2022

Place: Mumbai

Sd/-

ANANTA BARUA

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA