National Stock Exchange of India
Circular

Department: Investigation	
Download Ref No: NSE/INVG/52854	Date: July 01, 2022
Circular Ref. No: 83/2022	

To All NSE Members

Sub: **Final Order in the matter of Sublime Financial Advisory**

SEBI vide its Order no. WTM/AB/SRO/SRO/17294/2022-23 dated July 01, 2022, has hereby debarred Mr. Rahul Tayal (Prop. Sublime Financial Advisory) (PAN: - AMMPT8645E) from accessing the securities market, directly or indirectly and has prohibited from buying, selling or otherwise dealing in the securities market, directly or indirectly in any manner whatsoever, for a period of 6 (six) months from the date of the Order or till the expiry of 6 (six) months from the date of completion of refunds to complainants/investors as directed in paragraph 21(a) of the SEBI Order, whichever is later.

This order comes into force with immediate effect.

The detailed order is available on SEBI website (http://www.sebi.gov.in).

Further, the consolidated list of such entities is available on the Exchange website http://www.nseindia.com home page under "Home-Regulation-Members-Action against Members-Regulatory Actions".

Members are advised to take note of the above and ensure compliance.

In case of any further queries, members are requested to contact the following officials:

Mr. Rajkumar Jain (Extension: 23457), Mr. Anand Jangir (Extension: 22385)
Direct No: 022-26598417/18 Fax: 022-26598195

For and on behalf of

NSE

India@75
A guiding light, shining bright

National Stock Exchange of India

National Stock Exchange of India Limited

Anand Jangir
Manager

WTM/AB/SRO/SRO/17294/2022-23

SECURITIES AND EXCHANGE BOARD OF INDIA
FINAL ORDER

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

In Respect of:

Sr. No.	**Name of the Entity**	**PAN**
1	**Rahul Tayal (Prop. Sublime Financial Advisory)**	**AMMPT8645E**

In the matter of Unregistered Investment Advisory Services by Sublime Financial Advisory

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1. The present proceedings emanate from a Show Cause Notice dated September 09, 2021 (hereinafter referred to as "**SCN**") issued by the Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") against Sh. Rahul Tayal, Proprietor of Sublime Financial Advisory (hereinafter also referred to as the "**Noticee**"). It is alleged in the SCN that the Noticee has carried out investment advisory activities without obtaining registration of SEBI and is thus, alleged to have violated the provisions of Section 12(1) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred as '**SEBI Act, 1992'**) read with Regulation 3(1) of SEBI (Investment Advisers) Regulations, 2013 (hereinafter referred to as "**IA Regulations**").

2. In the SCN, the Noticee was called upon to show cause as to why suitable directions including refund of fees collected, debarment, non-association with listed entities, intermediaries, etc. should not be issued against him under sections 11B (1) / 11(4) of the SEBI Act, 1992. The SCN was served on the Noticee on one of his addresses and was sent on his email also. The Noticee, vide his email dated September 25, 2021 and letter received by SEBI on September 29, 2021, made his written submissions in reply to the SCN.

3. Thereafter, the matter was placed before me on October 22, 2021 for granting a date for personal hearing in the matter. The hearing was scheduled on March 23, 2022, and on the said date of hearing, the Noticee appeared in person and made submissions. The Noticee reiterated the contents of the written reply in the matter. Accordingly, the hearing was concluded qua the Noticee.

4. I note that the Noticee, in his written as well as oral submissions, has agreed to the allegations contained in the SCN and has accepted that it was his mistake to run the financial advisory firm without obtaining a registration certificate. The Noticee has submitted as follows.

"…..

I accept that it is my big mistake to run a financial advisory firm without taking a licence. Actually during the starting of the company, I had spoken to many people who are working in the stock market, they suggested to me that SEBI doesn't bother if you are giving proper research based stocks, always talk to clients despite loss or profit and working on a small scale. So I followed this. Later I came to know that NISM certification is a must so I cleared the RA exam.

Moreover, I have gained only stock market analysis skills in the last 10 years so you are requested not to debar me and allow me to work again in the financial market. Most of the fee I got in lieu of advisory has been spent on employees salary, office cost, marketing and my personal expenses. I made a sheer mistake and I realized it very late. Please suggest a way to start my journey in financial market again.

I would like to go through the hearing process if it can help me. I would like to start my investment advisory again as I worked really hard to understand market psychology.

…"

5. I have considered the allegations made in the SCN along with the findings of the examination by SEBI stated therein, reply received in the matter and submissions made by the Noticee during the hearing.

6. In this regard I note that the definition of Investment Adviser as given in Regulation 2(1) (m) of the IA Regulations, 2013 is as follows:

> *"investment adviser means any person, who for consideration, is engaged in the business of providing investment advice to clients or other persons or group of persons and includes any person who holds out himself as an investment adviser, by whatever name called;*

Further, Regulation 2(1)(l) of the IA Regulations, 2013 states as follows:

"investment advice means advice relating to investing in, purchasing, selling or otherwise dealing in securities or investment products, and advice on investment portfolio containing securities or investment products, whether written, oral or through any other means of communication for the benefit of the client and shall include financial planning:

Provided that investment advice given through newspaper, magazines, any electronic or broadcasting or telecommunications medium, which is widely available to the public shall not be considered as investment advice for the purpose of these regulations;"

7. Further, as per Regulation 3(1) of IA Regulations read with Section 12(1) of the SEBI Act, 1992, registration is mandatory for a person carrying out the activities of an investment adviser. Section 12(1) of the SEBI Act, 1992 and Regulation 3(1) of the IA Regulations provide as under:

Section 12(1) of SEBI Act, 1992

"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"

Regulation 3(1) of the IA Regulations

"On and from the commencement of these regulations, no person shall act as an investment adviser or hold itself out as an investment adviser unless he has obtained a certificate of registration from the Board under these regulations".

8. From the SCN, I note that SEBI had received a reference from the Reserve Bank of India against Sublime Financial Advisory. It was alleged that Sublime Financial Advisory claimed to be a leading advisory company providing reliable and most accurate advice for both trading and investment. Pursuant to SEBI's examination, it was noted that the Noticee had not obtained registration from SEBI, and was offering investment advisory services through its website www.sublimeadvisory.com. The SCN notes that the aforesaid website made the following claims/ statements:

a) *"….Sublime is a leading advisory company providing reliable and most accurate advice for both trading and investment*

b) *We give inputs on markets, trading tips with entry and exit points, stop-losses and do a complete hand holding. Our trading recommendations are completely based on technical analysis of the market.*

c) *We provide investment package and trading package*

d) *Pay now with PayUmoney, ICICI Bank (a/c no. 232405500058, JP Nagar Branch, Bangalore) and Axis Bank (a/c no. 916020000587088, Banashankari Branch, Bangalore)*

e) *Corporate Office Address – Novel Business Center 10, 100 ft Ring Road, BTM First stage, Bangalore. Landmark – near silk board junction.*

f) *The contact details were phone-8553585156 , 8065650146 and email – info@sublimeadvisory.com*

g) The website has claimed investment advice through the various investment advice packages and the details are given below:

Investment Package	**6 months plan**	**1 Year Fee in Rs.**	**2 Year Fee in Rs.**	**3 Year Fee in Rs.**	**5 Year Fee in Rs.**	**Additional Information**
Turnaround Recommendations Plan	N.A.	80,000	1,00,000	N.A.	N.A.	Time frame – 3 – 5 years; no. of calls per annum 9-10;mode-email / SMS
Standard Investment Plan – Mid Term Investment Plan	15,000	25,000	N.A.	N.A.	N.A.	We generate 12-15 opportunities in a year with expected return of 25% - 40% from the market with the holding period of 2-4 months.
Standard Investment Plan – Long Term Investment Plan	10,000	15,000	N.A.	N.A.	N.A.	N.A.
Standard Investment Plan – Insurizon PMS Plan	N.A.	20,000	N.A.	35,000	55,000	N.A.
Premium Investment Plan – Customised Portfolio Management Service	N.A.	50,000	N.A.	1,00,000	1,35,000	N.A.
Trading Package	**1 month Fees in Rs.**	**3 months fee in Rs.**	**6 months fee in Rs.**	**1 year fee in Rs.**		
Cash Trading Plan- Intraday	10,000	20,000	30,000	40,000	-	2 – 5% return in any call

Investment Package	6 months plan	1 Year Fee in Rs.	2 Year Fee in Rs.	3 Year Fee in Rs.	5 Year Fee in Rs.	Additional Information
Cash Trading Plan - Positional	10,000	20,000	30,000	40,000	-	8 – 10% return in any call
Future Trading Plan - Intraday	10,000	20,000	30,000	40,000	-	6 k-8 k return on total investment in any Call
Future Trading Plan - Positional	10,000	20,000	30,000	40,000	-	INR 25 K TO 30 K return on total investment in any Call.
Option Trading Plan - Intraday	10,000	20,000	30,000	40,000	-	Average profit per call will be INR 5-6K
Option Trading Plan - Positional	10,000	20,000	30,000	40,000	-	Average minimum return based on last 8 months statistic is somewhere between 50-100% per month
Index Trading Plan – Index Future Intraday	10,000	20,000	30,000	40,000	-	5 k-7 k return per lot in any Call
Index Trading Plan – Index Option Intraday	10,000	20,000	30,000	40,000	-	4 k-6 k return per lot in any Call
Trading Combo PMS	25,000	50,000	80,000	1,20,000	-	On 5lac model, client can expect 1.2 to 1.50 profit month on month

…"

9. I note that the SCN has observed that the Noticee was offering various packages for investment advisory services and was using PayU money, ICICI Bank (A/c no. 232405500058, JP Nagar Branch, Bangalore) and Axis Bank (A/c no. 916020000587088, Banashankari Branch, Bangalore) to receive the payments from clients. As noted in the SCN, during SEBI's examination, information was sought from certain clients of the Noticee on random sampling basis, and it was observed from the information provided by these clients that the Noticee was offering investment advisory services for a fee to the clients.

10. From the SCN, I note that KYC documents were sought from the ICICI bank, Axis bank and details were sought from the payment gateway PayU money. The following was noted from the information obtained through banks:

Account holder	Bank Name	Bank A/c. No.	Authorised Signatory
Sublime Financial Advisory (Proprietor - Rahul Tayal, PAN: AMMPT8645E)	ICICI	232405500058	Rahul Tayal
	Axis	916020000587088	
	PayU money	232405500058 is linked with the payment gateway	

11. From the information obtained from banks and PayU money, it was found that the Noticee is the authorized signatory and beneficiary of the bank accounts. The SCN notes that in the account statement received from ICICI Bank, Axis bank and PayU money, the narration of the many credit transactions in the bank account had the terms related to investment advice viz., tips, advisory, advice, charges, trade, fees, registration, option, call, future, nifty, share, etc. It is clear that the bank accounts were used to receive fees related to investment advisory activities. PayU money payment gateway link was mentioned in the website and the credits received through PayU money also related to investment advisory activities.

12. I note that the SCN has observed that a total of 1,231 credits were made from different sources into PayU money, ICICI bank and Axis bank accounts since 11.12.2015 and the total credit received in the aforesaid accounts are Rs. 1,05,49,339.49. It is observed from the credit transactions in PayU money, ICICI and Axis bank accounts that the Noticee had collected fees of Rs. 1,05,49,339.49/- during the period from 11.12.2015 to 06.10.2020. The summary of the credit transactions is given below:

Transaction Period	Mode of receipt	No. of transactions	Amount Collected in Rs.
11.12.2015 to 04.10.2020	Through PayU money	733	58,03,630.00
18.12.2015 to 06.10.2020	Direct Credits to ICICI Bank a/c no. 232405500058 (Other than PayU money credits) #	389	31,86,605.20
02.01.2016 to 15.12.2019	Direct Credits to Axis Bank a/c no. 916020000587088 #	109	15,59,104.29
	Total	**1,231**	**1,05,49,339.49**

'#' – Credits greater than or equal to Rs. 1000/- have been considered. The transaction period is from date of first credit transaction/account opening till date of account closure / reply from the payment gateway/bank.

13. As noted above, the SCN mentions that the Noticee had collected a total of Rs. 1,05,49,339.49 from his clients as investment advisory fees. I note that during SEBI's examination, information was also sought from the Noticee regarding the same. Vide a letter dated November 11, 2020 and email dated June 7, 2021 the Noticee had *inter alia* submitted an excel sheet showing the list of clients who had paid for investment advisory services. As per the said excel sheet the Noticee had collected fees amounting to Rs. 1,04,98,059.00/- from clients for unregistered investment advisory services from December, 2015 to October, 2020. I note that the amount in the excel sheet is lesser than the amount in the SCN by Rs.51,280.49/-. However, the Noticee has not provided any explanation regarding the difference. Therefore, the amount stated in the SCN, i.e., Rs. 1,05,49,339.49/- which has been calculated by SEBI based on the bank statements of the Noticee, is taken as correct.

14. From the aforesaid facts, I find that Sublime Financial Advisory, which is the proprietorship concern of Rahul Tayal, was engaged in giving advice relating to investing in, purchasing, selling or otherwise dealing in securities or investment products, through its website www.sublimeadvisory.com. Therefore, I find that in terms of Regulation 2(1)(l) of IA Regulations, 2013, the Noticee was providing "investment advice" through its website.

15. I note that if an entity is engaged in providing advice relating to investing in, purchasing, selling or otherwise dealing in securities or investment products, and advice on investment portfolio containing securities or investment products, whether written, oral or through any other means of communication for the benefit of the client in lieu of consideration, including entities which are holding themselves out as investment advisers, such an entity will be covered by the definition of "Investment Adviser" as given in Regulation2(1)(m) of the IA Regulations, 2013. As noted above, the Noticee had collected fees of 1,05,49,339.49 for the investment advisory services provided by him. Hence, I find that these services were being offered by the Noticee in lieu of the consideration, as noted above.

16. I note that the Noticee has not denied any of the observations or allegations made in the SCN. The Noticee has, in fact, agreed to the observation that he was running the financial advisory firm without obtaining mandatory registration certificate from SEBI. I note that, it is imperative that any person carrying out investment advisory activities has to necessarily obtain registration from SEBI and conduct its activities in accordance with the provisions of SEBI Act, 1992 and Regulations framed thereunder.

17. It is relevant to note that in order to protect the interest of investors and to preserve the integrity of the securities market, the IA Regulations have been framed by SEBI which provide various safeguards to ensure that the interest of the investors who receive investment advice are protected. One such safeguard provided under the said Regulations is that any person carrying out investment advisory activities has to first obtain a certificate of registration from SEBI as mandated under Regulation 3(1) of the IA Regulations, which, inter alia, provides that, no person shall act as an investment adviser or hold itself out as an investment adviser unless he has obtained a certificate of registration from SEBI and it has to conduct its activities in accordance with the provisions of IA Regulations. Further safeguards provided under IA Regulations include continued minimum professional qualification and compliance with net-worth requirement for acting as an investment adviser, prior disclosure of all conflicts of interest, prohibition on entering into transactions which are contrary to advice given to the clients at least for 15 days from the date of giving advice to the clients, mandatory risk profiling of investors, maintaining documented process for selecting investment products for clients based on client's investment objective and risk profile and understanding of the nature and risks of products or assets selected for such client, etc.

18. I note that for seeking a certificate of registration for acting as an investment adviser, an entity is required to satisfy *inter alia* the following requirements, as provided under IA Regulations:

(i) An application for seeking certificate of registration to be made to Local Office, Regional Office or Head Office, of SEBI, as the case may be, in Form A as specified in the First Schedule to IA Regulations, 2013 alongwith requisite non-refundable application fee;

(ii) The applicant, in case of an individual investment adviser or its principal officer in case of a non-individual investment adviser shall be appropriately qualified and certified as under:

a. A professional qualification or post-graduate degree or post graduate diploma (minimum two years in duration) in finance, accountancy, business management, commerce, economics, capital market, banking, insurance or actuarial science from a university or an institution recognized by the Central Government or any State Government or a recognised foreign university or institution or association or a professional qualification by completing a Post Graduate Program in the Securities Market (Investment Advisory) from NISM of a duration not less than one year or a professional qualification by obtaining a CFA Charter from the CFA Institute;

b. An experience of at least five years in activities relating to advice in financial products or securities or fund or asset or portfolio management;

c. Applicant in case of individual investment adviser or its principal officer in case of a non-individual investment adviser, and persons associated with investment advice shall have, at all times a certification on financial planning or fund or asset or portfolio management or investment advisory services, from (a) NISM; or (b) any other organization or institution including Financial Planning Standards Board of India or any recognized stock exchange in India provided such certification is accredited by NISM.

(iii) Individual applicant must have net worth of not less than 5 lakh rupees and non-individual applicant must have net worth of not less than 50 lakh rupees.

19. The activities engaged in by the Noticee, as brought out from the various materials described above, seen in the backdrop of the aforesaid regulatory provisions show that the Noticee was acting as an IA, although the Noticee was not registered with SEBI in the capacity of IA. Hence, I find that these activities as was being carried out by the Noticee without holding the mandatory certificate of registration as investment adviser, are in violation of Section 12(1) of SEBI Act, 1992 read with Regulation 3(1) of the IA Regulations.

20. I note that the Noticee has collected fees of Rs. 1,05,49,339.49/- during the period from 11.12.2015 to 06.10.2020 in its bank accounts of ICICI and Axis bank and from PayU money account linked to its ICICI Bank account.

Directions:

21. In view of the foregoing, I, in exercise of the powers conferred upon me in terms Sections 11(4) and 11B(1) read with Section 19 of the SEBI Act, 1992, hereby direct that:

a) The Noticee shall within a period of three months from the date of coming into force of this direction, jointly and severally, refund the money received from any complainants/ investors, as fees or consideration or in any other form, in respect of their unregistered investment advisory activities;

b) The Noticee shall issue a public notice in all editions of two National Dailies (one English and one Hindi) and in one local daily with wide circulation, detailing the modalities for refund, including the details of contact person such as names, addresses and contact details, within 15 days of coming into force of this direction;

c) The repayments to the complainants/ 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 Noticee is prevented from selling his assets, properties and holding of mutual funds/shares/securities held by him 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 investment advisory services from the Noticee, as directed in this order, from the bank accounts of the Noticee;

e) After completing the aforesaid repayments, the Noticee shall file a report of such completion with SEBI addressed to the Division Chief, Market Intermediaries Regulation and Supervision Department (MIRSD), SEBI Bhavan, Plot No. C4 A, G Block, Bandra Kurla Complex, Bandra (East) Mumbai –400051, within a period of 15 days, after completion of three months from the coming into force of this order, duly certified by an independent Chartered Accountant and the direction at paragraph 21(d) above shall cease to operate upon filing of such report on completion of refunds to complainants/ investors;

f) The Noticee is debarred from accessing the securities market, directly or indirectly and is prohibited from buying, selling or otherwise dealing in the securities market, directly or indirectly in any manner whatsoever, for a period of 6 (six) months from the date of this order or till the expiry of 6 (six) months from the date of completion of refunds to complainants/ investors as directed in paragraph 21(a) above, whichever is later;

g) The Noticee shall not undertake, either during or after the expiry of the period of debarment/restraint as mentioned in paragraph 21(f) above, either directly or indirectly, investment advisory services or any activity in the securities market without obtaining a certificate of registration from SEBI as required under the securities laws.

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

23. This order comes into force with immediate effect.

24. 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: July 1, 2022 **ANANTA BARUA**

Place: Mumbai **WHOLE TIME MEMBER**

SECURITIES AND EXCHANGE BOARD OF INDIA