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National Stock Exchange of India

Circular

Department: Investigation	
Download Ref No: NSE/INVG/53150	Date: July 29, 2022
Circular Ref. No: 100/2022	

To All NSE Members,

Sub: **Confirmatory Order in the matter of Alliance Research**

This is with reference to NSE Circular No. NSE/INVG/46928 dated January 06, 2021, in respect of SEBI Order No. WTM/MPB/IMD/WRO/164/2021 dated January 06, 2021.

SEBI now vide its Order No. WTM/SM/WRO/WRO/18145/2022-23 dated July 29, 2022, has hereby confirmed the directions of the Interim Order dated January 06, 2021 against the entity Mr. Mudassir Hasan, Proprietor Alliance Research (PAN: AGDPH7770D).

The Order shall come 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. Souradeep Ghosh (Extension: 23345), Mr. Anand Jangir (Extension: 22385)
Direct No: 022-26598417/18 Fax: 022-26598195

National Stock Exchange of India

For and on behalf of
National Stock Exchange of India Limited

Anand Jangir
Manager

ANNEXURE: Confirmatory Order in the matter of Alliance Research

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA
CORAM: SANTOSH KUMAR MOHANTY, WHOLE TIME MEMBER
CONFIRMATORY ORDER

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

In respect of:

Sl. No.	Name of the Entity	PAN
1	Mr. Mudassir Hasan, Proprietor Alliance Research	AGDPH7770D

In the matter of Alliance Research

Background

1. Mr. Mudassir Hasan, sole Proprietor of Alliance Research (hereinafter referred to as "**Entity**") is registered as an Investment Adviser (hereinafter referred to as "**IA**") under the Securities and Exchange Board of India (Investment Advisers) Regulations, 2013 (hereinafter referred to as "**IA Regulations**") with effect from April 16, 2015 under SEBI registration number INA000002934.
2. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") conducted an inspection in relation to the affairs of Alliance Research during February 11-15, 2020 to ascertain possible violation, if any, of the provisions of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act**") and rules and regulations made thereunder.

Interim Order

3. Pursuant to SEBI's finding from the preliminary inspection, an *Interim Order* dated January 6, 2021 (hereinafter referred to as "***Interim Order***") was passed by SEBI against Mr. Mudassir Hasan, Proprietor Alliance Research wherein *inter alia,* the following were noticed:

3.1. Alliance Research did not have any documented policy of suitability assessment for the advice provided to its clients, which was *prima facie* observed to be in non-compliance with the regulatory requirements relating to the suitability policy as the entity was not providing the investment advice as per the risk suitability of clients.

3.2. It was *prima facie* observed that Alliance Research had not done KYC, Risk Profiling and Suitability Assessment for its 14 clients (sample basis).

3.3. It was also *prima facie* observed that for 32 clients, Alliance Research did not send the risk profile and risk assessment form to the client. Alliance Research *prima facie* had a practice to crop the signature image of the client from his identity proof and place it electronically on the Risk Assessment Form and the clients had no means to know whether correct information related to them and their risk profilehas been included in the risk profile statement or not.

3.4. On a sample basis, it was *prima facie* observed that for 32 clients, Alliance Research had sold products/services which had 'High Risk' features to 'Medium Risk' and 'Low Risk' profile clients.

3.5. On a sample basis, it was *prima facie* observed that for 46 clients, Alliance Research had received advisory fees from its clients even prior to assessing and communicating the risk profiling to the clients.

3.6. It was *prima facie* observed that, Alliance Research had collected unreasonable / unfair fee by charging fees disproportionate to the annual income of the clients and disproportionate to the proposed investment disclosed by clients in their risk profiling form, by locking in the clients by charging advance fee from them for sale of products and also by charging arbitrary and unreasonable amounts of fees from the same clients for the same services rendered to them.

4. Based on the information collected during the preliminary inspection and findings of various wrong doings as recorded in the *Interim Order*, pending conclusion of enquiry in the matter, certain directions were issued against Alliance Research and its Proprietor Mr. Mudassir Hasan, vide the aforesaid *Interim Order* which were *inter alia,* as follows:

4.1. 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 or on behalf of any of its clients through their accounts;

4.2. 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;

4.3. Not to divert any funds raised from investors, kept in bank account(s) and/or in their custody;

4.4. 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;

4.5. 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;

4.6. 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;

4.7. To remove all contents from website immediately and display only the content in its website that SEBI has passed *Interim Order* dated January 6, 2021 reproducing the directions mentioned in paragraph 22 of the *Interim Order* and submit copy of the relevant web page to SEBI within five working days from the date of the receipt of this order.

5. Further, vide the aforesaid *Interim Order*, the *Entity* was also advised to submit its reply, if any, within 21 days from the service of the *Interim Order* and to indicate as to whether the *Entity* desired to avail an opportunity of personal hearing in the matter.

<u>Service of Interim Order, reply and hearing</u>

6. It is noted that the *Interim Order* was served on the *Entity* vide email dated January 6, 2021 and through Speed Post Acknowledgment Due. Pursuant to the *Interim Order*, *Entity* vide its letter dated January 11, 2021 submitted the details of personal assets held in the name of the proprietor and the firm. Further, vide its email dated January 12, 2021, the *Entity* informed SEBI that in compliance with the directions of *Interim Order* it has stopped providing investment advisory services to existing clients and is also not enrolling any new clients. Further, it has already declared the closure of its advisory services on its website.

7. *Entity* vide its email dated January 27, 2021 requested time till February 3, 2021 to furnish a detailed reply to the *Interim Order*. Subsequently, the *Entity* vide its letter dated April 7, 2021 filed its written reply in which it denied the *prima facie* observations made against it in the *Interim Order* and *inter alia* submitted as follows stating that:

7.1. *Entity* during the course of its advisory activities, had taken on board 3,794 clients and as on the date of suspension of its operations, there were 79 active clients.

7.2. The total number of complaints lodged by the clients on SCORES against the entity, were 55. Out of these 55 complaints, 49 complaints were adequately addressed to the satisfaction of the complainants and only 6 complaints are pending.

7.3. *Entity* has submitted the procedure followed by it for risk profiling and product suitability assessment for its clients. The same has been supported by few emails sent by the *Entity* to its clients.

7.4. Out of a sample of 46 clients, documents of 32 clients were provided during the course of inspection. Mere non availability of documents in respect of 14 clients out of a sample of 46 clients cannot lead to the conclusion that the risk profiling of these clients was not carried out.

7.5. The Inspection team has only gone by names and internal classification done by the firm. Notwithstanding the product offered to the client, utmost care was taken to ensure that the advice for investments to the respective clients is in line with its suitability which is based on risk appetite and other tangible and intangible factors relating to the client.

7.6. The Inspection team has failed to make a distinction between advance receipts of fees & sale of services. In all such cases where the fees were received prior to the risk profiling, it is just a case of advance receipt of fees.

7.7. The fees charged from clients were based on the nature of services and the time devoted for each respective client.

7.8. Post inspection, *Entity* has taken the following steps:

7.8.1. Risk Profiling procedures have been enhanced and the risk profiling questions have been made more substantive to evaluate the risk appetite of the client.

7.8.2. The website has been completely revamped and the risks associated with investment in capital markets are adequately highlighted.

7.8.3. The fees for investment advisory services are being charged in terms of the notification dated September 23, 2019.

7.8.4. Regular training is being given to the staff to keep them appraised of developments in capital markets.

8. Subsequently, the *Entity* was granted an opportunity of personal hearing on June 8, 2021. However, the *Entity* vide its email dated June 3, 2021, requested to adjourn the said hearing to either 16 or 17 or 18 of June 2021. Acceding to the request of the *Entity,* the personal hearing in the matter was scheduled on June 17, 2021. The *Entity* vide its email dated June 16, 2021 again requested to adjourn the hearing by a month as its Authorised Representative (hereinafter referred to as "**AR**") was still recovering from Covid. Considering the request of the *Entity,* the personal hearing in the matter was once again scheduled on July 8, 2021. However, the said personal hearing could not be conducted due to administrative exigencies. A final opportunity of hearing in the matter was given to the *Entity* on April 20, 2022.
9. On the day of the scheduled personal hearing, the proprietor of the *Entity,* Mr. Mudassir Hasan appeared in person through Webex. He *inter alia* submitted as follows:

9.1. Few lapses had taken place in the beginning when he had started investment advisory services.

9.2. There are only 6 investors complaints pending against him and the rest of the complaints he has resolved.

9.3. He is an MBA Finance graduate and had worked for 1.5 years with Ventura Securities before starting his own investment advisory services.

10. During the course of the personal hearing, *Entity* was advised to resolve the remaining pending investor complaints. Further, *Entity* was given a weeks' time to submit additional reply, if any. It is noted from the available records that *Entity* has not made any post hearing submissions.

<u>Findings & Considerations</u>

11. Before dwelling upon the preliminary observations made and the *prima facie* conclusions drawn as well as the directions issued in the *Interim Order* on the basis of the material available on record and the submissions made by the *Entity* during the present proceedings, it is relevant here to clarify that the present proceedings before

me are in the nature of confirmatory or revocation proceedings during which I have very limited remit to the extent of assessing as to whether the *prima facie* observations made in the *Interim Order* stand refuted conclusively by the *Entity* and/or whether the *Entity* is successful in carving out a case warranting any modification in the directions issued against it in the *Interim Order.* I understand that an enquiry is pending in this matter, the outcome of which will decide further course of action and initiation of further proceedings, if any in the matter as per the law.

12. Having carefully considered the oral and written submissions made by the *Entity*, I find it appropriate to examine the *prima facie* findings of the *Interim Order* in the light of the submissions made by the *Entity*.

Alliance Research does not have Product Suitability Policy

13. Based on the deposition of Mr. Mudassir Hasan dated February 12, 2020 wherein he had submitted that Alliance Research does not have any policy for making suitability assessment for the purpose of providing advices to its clients, it was *prima facie* noted in the *Interim Order* that Alliance Research does not have Product Suitability Policy.

I note that the aforesaid *prima facie* finding has not been refuted by the *Entity.* Thus, there is no reason to interfere with the aforesaid finding.

KYC procedure, Risk Profiling and Suitability Assessment

14. It was noted on a sample basis in the *Interim Order* that out of 46 clients, KYC, Risk Profiling Form and Suitability Assessment was not available for 14 clients. Further, in his deposition dated February 13, 2020, Mr. Mudassir Hasan had admitted that services to the said 14 clients have been provided without carrying out KYC, Risk Profiling and Suitability Assessment.

The *Entity* has now submitted the procedure followed by it before enrolling a new client and has supported its submissions by enclosing few emails wherein it has asked its clients to fill in the KYC form and Risk Profiling Form. It has further been submitted that a sample of 46 clients out of 3,794 clients, is miniscule to come to a *prima facie* finding against the *Entity*.

With respect to the aforesaid submissions of the *Entity,* it is observed that the *Entity* has not denied the observation recorded in the *Interim Order* that it did not have documents related to KYC, Risk Profiling Form and Suitability Assessment with respect to its 14 clients. Be that as it may, it is observed from the 5 emails which has been submitted by the *Entity* to buttress its contention that it followed KYC and risk profiling norms, that out of the said 5 emails, 4 emails pertain to the month of January 2020 while 1 email is for the month of February 2020, however, the *Entity* is carrying out IA activities, since 2015. No records have been submitted by the *Entity* for the earlier period. As per *Entity's* own submission, it has rendered service to 3,794 clients. So it could have very well submitted KYC and risk profiling forms at least for some of its clients who had been enrolled at the beginning of its business operations. Moreover, the emails submitted by the *Entity* show that the *Entity* is asking his new clients to fill in the KYC and risk profiling forms and the said emails do not in any manner shed any light on the fact as to whether the *Entity* had indeed carried out the required procedure related to KYC and risk profiling with respect to its existing clients. Thus, I find that the *Entity* has not been able to refute the *prima facie* finding of the *Interim Order* that it did not carry out KYC, Risk Profiling and Suitability Assessment for its existing clients.

Moreover, the submission of the *Entity* that a sample size of 46 clients taken during preliminary inspection is miniscule to come to a *prima facie* finding against it, is without any merit. During an inspection, it is not feasible to go through the documents of each and every client of the *Entity.* Therefore, the observations are always made on the basis of a representative sample of a reasonable size that would represent /ascertain the characteristics of the larger group. Given that context, I note that out of sample of 46 clients, documents related to 14 clients were not available, which in terms of percentage comes to 30.43%. Thus, the requisite KYC and risk profiling documents pertaining to 1 client for every 3 clients, was unavailable. The same by no stretch of imagination can be said to be a minuscule number. Rather, it leads to an inference that the *Entity* was not diligently carrying out the procedures related to KYC, risk profiling norms and product suitability as expected of it in terms of the relevant regulations. Hence, at this stage, I find no reason to interfere with the findings of the *Interim Order* in this regard.

Non-communication of risk profile to clients

15. It was *prima facie* noted in the *Interim Order* that out of the 46 sample clients taken up for inspection, Alliance Research has not carried out risk assessment of 14 clients and has not communicated risk profile forms for 32 clients. The *Entity* has submitted

that it has communicated risk profiling done by it to the respective client and has submitted emails to support its submission. However, as noted in preceding paragraphs, there is no evidence brought on record by the *Entity* to show that it has, as a matter of professional practice, always followed the process of communicating risk profile to all its existing clients and that such risk profiling was done by the *Entity* for all its clients during the period prior to the year 2020. In the absence of any such explanation or evidence on record, I note that the *Entity* has not been able to refute the *prima facie* findings made in the *Interim Order*.

Products meant for High Risk Bearing Clients Sold to Medium Risk Bearing clients

16. It was *prima facie* observed in the *Interim Order* that out of a sample of 32 clients whose risk profiling was done by the *Entity,* 21 clients were sold services of the risk category to which they did not belong, as per their risk profile. The *Entity* has contended that the aforesaid *prima facie* finding is in contradiction to the finding that risk profiling was not done by the *Entity.* Further, the *Entity* has submitted that the inspection team has gone by the internal classification, however, the *Entity* takes utmost care to ensure that the advice for investments to the respective client is in line with his suitability which is based on his risk appetite.

The contention of the *Entity* that there is a contradiction in the findings of the *Interim Order,* is an incorrect understanding of the findings of the *Interim Order*. The *prima facie* finding that *Entity* has not carried out risk profiling of its clients, conveys the fact that the *Entity* has not diligently carried out risk profiling of each and every of its client, as mandatorily required under regulations 16 and 17 of IA Regulations. Even from the sample of clients covered in inspection, based on which the finding was arrived at that the *Entity* is not carrying out risk profiling of its clients, shows that out of 46 clients, documents pertaining to risk profiling for only 32 clients were made available to the inspection team and for the remaining 14 clients, no documents whatsoever could be produced by the *Entity*. Therefore, to contend that the *prima facie* finding of the *Interim Order* that risk profiling was not done by the *Entity* is contradictory to the *prima facie* finding that 'High Risk Category' product was sold to 'Medium Risk Category' client, is untenable as both the findings are separate observations on separate issues made during the preliminary inspection.

With respect to the contention of the *Entity* that the inspection team has gone by the internal classification without taking into account that the *Entity* has taken care in selling products to its clients based on their risk appetite, is without any merit. Firstly, the *Entity* has neither refuted the *prima facie* finding made against it in the *Interim Order* which means, that it has sold products of products/services falling under its 'High Risk Category' to the clients falling under 'Medium Risk Category' nor has it brought on record any document to show that before selling product of a different category, it has obtained the consent of its clients or it has sold such product of a different category to its clients only after the client had specifically asked for it and the *Entity* had informed the client about all the risk factors associated with that particular product. Secondly, the classification though internally done by the *Entity,* must be based on parameters generally associated with the product belonging to that category and the said parameters would have been applied by taking into account the criteria used for classifying the clients based on their risk profiles belonging to that category. In other words, there has to be a co-relation between the product of a particular risk category with the clients belonging to the same risk category. So, if a product is classified as 'High Risk' product, it can be sold only to clients who have high risk appetite and not to any client belonging to a category lower than 'High Risk', unless the client has specifically consented for it. As noted earlier, no evidence for the latter has been brought on record. Thus, unless the *Entity* states that it has done the classification of its products without any rationale, the classification has to be taken on its face value. Therefore, I find nothing wrong in the reliance of the inspection team upon the internal classification done by the *Entity.*

In view of the above discussion, I note that the *Entity* has not been able to refute the *prima facie* finding made in the *Interim Order* that it has not acted with due skill, care, diligence, honesty and in the best interest of its clients while selling products/services to its clients.

Advisory Services Sold prior to Risk Profiling

17. It has been *prima facie* noted in the *Interim Order* that the *Entity* had sold its advisory products and collected fees from its clients, even before it had carried out the risk profiling for its clients. The *Entity* has submitted that in all such cases where the fees were received prior to the risk profiling, it is just a case of advance receipt of fees. In

this regard, it is noteworthy that the *Entity* is not supposed to receive any consideration from its clients unless it has given any investment advice, which it cannot give before doing their risk profiling. Thus, even if *Entity's* submission is accepted, the *Entity* was prohibited under IA Regulations to receive any advance fees from a client prior to his risk profiling was completed. Further, the submission of the *Entity* that it had received advance fees, raises a question as to for what service and on what basis the *Entity* asked its clients to pay the advance, when the client's risk profiling is pending to be done and the product sold to him is yet to be determined. Moreover, the submission of the *Entity* is not supported by any documentary evidence and on that ground itself, the submission cannot be accepted.

In view of the aforesaid discussion, I find no reason to interfere with the *prima facie* findings of the *Interim Order.*

Unreasonable / Unfair Fees Charged from Clients

18. It has been noted in the *Interim Order* that the *Entity* had charged unreasonable / unfair fees from its clients. To this effect, the *Entity* has submitted that the IA regulations has not given any parameters for determination of fees. Further, the fees charged from the clients were based on the nature of services and the time devoted to each respective client.

As per clause 6 of code of conduct specified in third schedule of IA Regulations, an investment adviser, advising a client may charge fair and reasonable fees, subject to any ceiling as may be specified by the Board, if any. Though, specific criteria or parameters have not been laid down as to what is 'reasonable and fair', that does not mean that an investment adviser can charge any kind of fee from its clients in an arbitrary manner without taking into account his annual income or his proposed investment amount. What is 'reasonable and fair' has to be determined based on the facts and circumstances specifically related to that particular client and there cannot be a universal standard. For instance, as highlighted in the *Interim Order*, charging a fee of INR 6,41,212 from one Mr. Venkta R B Evani, whose annual income was between INR 1-5 lakh, is definitely unreasonable. Similarly, for a service which would start in the month of June, receiving the fees in the month of February and locking the client (Mr. Suresh Kumavat) into that advisory product much in advance, is unfair. In the same vein, charging different amounts of fees from the same client for the same service and different fees from different clients for one particular service as found out during the preliminary inspection, is also unreasonable and unfair. The *Entity* has not submitted any documentary evidence to demonstrate as to how his services to its different clients, varied from each other to enable him to charge different fees to them. Thus, in the absence of any submission on the merit the *prima facie* finding backed by documentary evidence, the aforesaid contention of the *Entity* cannot be accepted. The contention is nothing but a mere bald statement.

In view of the aforesaid discussion, I am of the view that the *Entity* has not been able to refute the *prima facie* finding of the *interim Order* with respect to unreasonable / unfair fees charged from its clients in an arbitrary manner as highlighted above.

19. I, therefore, find that the submissions / explanations submitted by Alliance Research, cannot be accepted because of the reasons as discussed in preceding paragraphs. Thus, the *prima facie* findings in the *Interim Order* dated January 6, 2021, that Alliance Research and its proprietor, Mr. Mudassir Hussain are in violation of applicable provisions of SEBI Act, SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 and IA Regulations, stand confirmed.

Order

20. Considering the material on record, reply of the *Entity* and findings thereupon mentioned in the preceding paragraphs, pending conclusion of enquiry, I in exercise of the power conferred upon me under Sections 11(1), 11(4) and 11B(1) read with Section 19 of the Securities and Exchange Board of India Act, 1992 and in the facts and circumstances of the case, hereby confirm the directions of the *Interim Order* dated January 6, 2021.

21. I note that an enquiry is pending in the matter which may bring out additional roles of omission or commission, of the *Entity,* if any, in detail, depending on the material and after considering the facts and veracity of its submissions. The findings in the extant order are *prima facie* findings.

22. This Order shall come into force with immediate effect.

23. This Order is without prejudice to any other action that SEBI may initiate under the securities laws, as deemed appropriate, against the *Entity*.

24. A copy of this Order shall be forwarded to the *Entity*, Stock Exchanges, Depositories, Registrar and Share Transfer Agents and Banks to ensure necessary compliance.

-Sd-

DATE: July 29, 2022 **S. K. MOHANTY**

PLACE: MUMBAI **WHOLE TIME MEMBER**

SECURITIES AND EXCHANGE BOARD OF INDIA