

National Stock Exchange of India

Circular

Department: Investigation	
Download Ref No: NSE/INVG/53972	Date: October 06, 2022
Circular Ref. No: 138/2022	

To All NSE Members

Sub: Final Order in the matter of Nitin Neema, Proprietor- Impact Research.

SEBI vide its order no. WTM/AB/WRO/WRO/20064/2022-23 dated October 06, 2022, has debarred Shri Nitin Neema Proprietor: Impact Research (ARWPN4795L) 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 6 months from the date of this order or till the expiry of 6 months from the date of completion of refunds to complainants/ investors along with depositing of balance amounts, if any, with SEBI as directed in para 23(a) and 23(e) in above mentioned SEBI order, whichever is later.

Sr. No.	Name of Entity	PAN
1	Shri Nitin Neema Proprietor: Impact Research	ARWPN4795L

This 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:

National Stock Exchange of India

Mr. Rishabh Goyal (Extension: 22508), Mr. Atish Agarwal (Extension: 26026)
Direct No: 022-26598417/18 Fax: 022-26598195

For and on behalf of
National Stock Exchange of India Limited

Atish Agarwal
Senior Manager

National Stock Exchange of India

**ANNEXURE: Final Order in the matter of Nitin Neema, Proprietor-
Impact Research.**

WTM/AB/WRO/WRO/20064/2022-23

SECURITIES AND EXCHANGE BOARD OF INDIA

FINAL ORDER

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

In respect of:

Sr. No.	Noticee	PAN
1.	Shri Nitin Neema Proprietor: Impact Research	ARWPN4795L

In the matter of Unregistered Investment Adviser

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1. The present proceedings emanate from a show cause notice dated August 10, 2021 (hereinafter referred to as “**SCN**”) issued by Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) against Shri Nitin Neema, in his capacity as the sole proprietor of ‘Impact Research’ (Nitin Neema and Impact Research hereinafter collectively referred to as “**the Noticees**”) wherein it was *prima facie* found that the Noticees were engaged in investment advisory services without obtaining a certificate of registration from SEBI 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(1) of SEBI (Investment Advisers) Regulations, 2013 (hereinafter referred to as “**IA Regulations, 2013**”). The SCN called upon the Noticees to show cause as to why suitable directions should not be issued against the Noticees under Sections 11(1), 11(4) and 11B(1) of the SEBI Act, 1992.
 2. I note that the SCN alleges the following:

- i. SEBI had received two complaints on SCORES dated February 22, 2016 and March 12, 2016 against Impact Research.
- ii. Vide complaints dated February 22, 2016 and March 12, 2016, the complainants had, *inter alia*, alleged that they received calls from Impact Research with respect to advisory services and the Noticees offered guaranteed returns through stock tips on profit sharing basis. However, the complainants incurred losses because of the tips provided by the Noticees. The copy of the complaints dated February 22, 2016 and March 12, 2016 were provided as an Annexure to the SCN.
- iii. The complaint dated February 22, 2016 which was annexed with the SCN, stated as follows:
 - Complainant received a call from Aalekh Chaturvedi and Anjali Sharma, employees of Impact Research. The employees offered that they will provide trading tips wherein there will be profit sharing between them and the complainant. The complainant paid R. 1,00,000/- as fees for a guaranteed return of Rs. 2, 00,000 /- from the market. However, after an initial net profit of Rs. 50,000/-, the complainant incurred a loss of Rs. 1,87,000/- on August 11, 2015 by trading in the securities market as per the advise of the Noticees' employees.
 - The Noticees assured that they would help recover the amount by trading in the market, without charging any extra amount from the Complainant, for the recovery. However, they did not help in recovery and stopped responding to the Complainant's calls.
 - After August 11, 2015, some more calls were received by the Complainant from the Noticee for trading in the market and the Complainant made a further loss of Rs. 22,000/- The total loss made by the Complainant is Rs. 2,00,000/- approx. and a loss of the fees of Rs. 1,00,000/-.
 - Noticees refused to refund any amount of the fees paid by the Complainant. Further, the Noticees failed to provided a valid receipt of

the amounts paid by the Complainant instead a proforma invoice was provided by the Noticee wherein the particulars and description of the services provided to the Complainant was mentioned as “Power Cash” and “Special Pack” respectively.

- The Complainant provided that following payments were made to the Noticees-

Date	Amount (in Rs)
24/07/2015	10,000/-
28/07/2015	10,000/-
29/07/2015	29,000/-
05/08/2015	29,000/-
05/08/2015	1,000/-
05/08/2015	1,000/-
05/08/2015	20,000/-

- iv. The another complaint dated March 12, 2016 which was annexed with the SCN, stated that the Complainant made a loss of Rs. 1,00,000/- due to advise provided by two executives of the Noticees, namely, Abhijeet and Piyush. The aforesaid complaints also mentioned that the website of the Noticee Impact Research is <http://www.impactresearch.in>.
- v. The website of Impact Research i.e. www.impactresearch.in, was not active. The archive pages of the website were downloaded from web.archive.org which revealed that the website of Impact Research disclosed that it was providing investment advisory services. In view of the above, the SCN alleged that Noticees were carrying out unregistered Investment Advisory services.
- vi. The website www.impactresearch.in *inter alia* disclosed the following:

- (a) *Impact research is an investment advisory company carrying out operations in the Indian Equities and commodity market.*
- (b) *Trading in stock market was never so easy...you have reached the golden place that will not make you rich but the richest.*
- (c) *Our expert will not pick the stock that will give you profit right away but will keep you earning forever.*
- (d) *In this package, we provide fair, reliable, and timely calls to our clients and can make money with us and get a high profit. We assure our client get good percent of accuracy in this plan.*
- (e) *Various packages are being offered for subscription at specified rates and for specific products viz. Intraday Cash, Option Call & Put, Future Positional, Commodity Bullion, etc.*
- (f) *The fees ranged from Rs. 5,000 per month to Rs. 5 lakh per annum.*

3. The SCN was served on the addresses of the Noticees by Registered Post on August 16, 2021. The Noticees did not submit any reply to the SCN. The matter was placed before me for granting personal hearing on December 27, 2021. In order to comply with the principles of natural justice a hearing was granted to the Noticees on March 30, 2022. The hearing notice dated January 25, 2022 was delivered on the address of the Noticees through Speed Post. The Noticees failed to appear for hearing on March 30, 2022 and did not seek any adjournment of the hearing. In view of the same, the hearing was concluded *qua* the Noticees.

Consideration of submissions and findings:

4. I have considered the allegations made in the SCN along with the findings of the examination by SEBI stated therein and material available on record.
5. In this regard, I note that the definition of Investment Adviser as given in Regulation 2(1)(m) of the IA Regulations, 2013 provides 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)(I) of 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;”

6. The complaints received against the Noticees mentioned that the Noticees offered their services through the website www.impactresearch.in. The said website was not active. Accordingly, SEBI downloaded the archive pages of the website from web.archive.org. I note that, the website of the Noticees, www.impactresearch.in *inter alia* claimed as follows:

“Impact Research is an investment advisory company, carrying out operations in the Indian Equities and commodities market. We generate intraday as well as delivery calls in Stock cash and F & O in NSE & BSE, Commodities including bullions, base metals, energy & agri are trading in MCX & NCDEX. We provide recommendations live through SMS, email & Chat room services. Our SMS facility is very effective system which ensures the instant message delivery without any loss of time, so the clients get sufficient time to execute their trades in order to fetch maximum profits.”

7. From the above, I note that the website www.impactresearch.in provided personalized stock & commodity investment advisory tips to its clients through SMS, emails and chat room services. The website claimed that Impact Research is an investment advisory company, carrying out operations in the

Indian equities and commodities market. The website also mentioned various subscription packages for availing investment advisory services.

8. From the print out of the web pages of the website, as available on record, the details of a few subscription packages are reproduced below:

EQUITY PRICE

INTRADAY CASH

Monthly	6000
Quarterly	15000
Half Yearly	25000
Yearly	35000

DELIVERY PACK

Monthly	10000
Quarterly	25000
Half Yearly	45000
Yearly	65000

HNI CASH

Monthly	25000
Quarterly	60000
Half Yearly	90000
Yearly	120000

FUTURE PRICE

INTRADAY FUTURE

Monthly	7000
Quarterly	18000

Half Yearly	30000
Yearly	50000

NIFTY FUTURE

Monthly	5000
Quarterly	12000
Half Yearly	20000
Yearly	30000

HNI FUTURE

Monthly	30000
Quarterly	75000
Half Yearly	120000
Yearly	180000

FUTURE BTST/STBT

Monthly	15000
Quarterly	40000
Half Yearly	70000
Yearly	110000

FUTURE POWER

SP1	50000
SP2	100000
SP3	200000
SP4	500000

FUTURE POSITIONAL

Monthly	12000
Quarterly	30000
Half Yearly	50000
Yearly	70000

9. Further, the following testimonial was also published on the homepage of its website:

Had tried many advisories earlier but the kind of live support that I get from Impact Research is amazing, they just not feed you calls but educate you in order to understand the in and outs of the market, it's never risky with Impact Research"

Mr. Srinivasan Iyer

Banglore

10. In the present matter, investment advisory services were being offered through website www.impactresearch.in in lieu of consideration. Following bank accounts were mentioned on the website, www.impactresearch.in wherein investor could make payment of fees for availing the investment advisory service which were being offered through the said website:

Name: Impact Research Axis Bank A/c No. 914020052142868	Name: Impact Research ICICI Bank A/c No. 144105500485	Name: Impact Research Bank of India A/c No. 880720110000622	Name: Impact Research HDFC Bank A/c No. 50200016991657
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11. Accordingly, Account Opening Form and KYC for the aforesaid bank accounts were called from Axis Bank, ICICI Bank, Bank of India and HDFC Bank. From the Account opening form as provided by ICICI Bank, it is noted as under:

- All the four bank accounts were in the name of Impact Research.
- Impact Research is a proprietorship firm.

- c. Shri Nitn Neema was sole proprietor of Impact Research and the nature of business as disclosed in the Account Opening Form is 'Advisory for share market, trading service provider'.
 - d. The address of Impact Research is "B 202, Ashish Avenue, Sector R 8, Mahalaxami Nagar, Indore- 452010"
12. Further, from the analysis of account statements of the aforesaid bank accounts as annexed with the SCN, it is noted as under:
- a. During December 2014 to May 2016, the Axis Bank account of Impact Research received credit of Rs.8,32,722/-.
 - b. During February 2016 to March 2016, the HDFC Bank account of Impact Research received credit of Rs.1,87,500/-.
 - c. During January 2015 to June 2016, the ICICI Bank account of Impact Research received credit of Rs. 32,40,572/-.
 - d. During September 2014 to December 2016, the Bank of India account of Impact Research received credit of Rs. 41,15,081/-. (inadvertently mentioned as Rs. 41,15,08 in the SCN)
13. Moreover, from the account statement of Axis Bank Account, it has been observed that credit transactions from various entities has narrations like "trading tip", "impact subscription", "mcx payment" etc. The account statement of the Axis Bank Account was provided as an annexure to the SCN.
14. The total amount credited in aforesaid bank accounts, disclosed on the website of Impact Research, is Rs. 83,75,875/-. These bank accounts wherein consideration / advisory fees were paid, have multiple credit transactions from various entities. As discussed above, several credit transactions in Noticee's bank account have narrations like "trading tip", "impact subscription", "mcx payment" etc. Hence, it is inferred that the said bank accounts were used for receipt of fees from various entities for the purpose providing advisory services through website www.impactresearch.in.

15. From the aforesaid facts, I note that the Noticees through their website were providing advice relating to investing in, purchasing, selling or otherwise dealing in securities or investment products, and the said advice was specific to the clients. Therefore, I find that Shri Nitin Neema, who is the proprietor of Impact Research, engaged in giving advice relating to investing in, purchasing, selling or otherwise dealing in securities or investment products, through its website www.impactresearch.in *in lieu* of consideration. From the discussion above, I find that the Noticees were giving investment advice, as defined in Regulation 2(1)(l) of IA Regulations, 2013.
16. 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, will be covered by the definition of “Investment Adviser” as given in Regulation 2(1)(m) of the IA Regulations, 2013. As noted above, the Noticees have also received total Rs. 83,75,875/- in their bank accounts mentioned on their website for the investment advisory services provided by them through their website www.impactresearch.in. Hence, I find that the Noticees were engaged in the business of providing investment advice to their clients, for consideration, and thus, acting as investment adviser/s, as defined under Regulation 2(1)(m) of the IA Regulations, 2013.
17. I also note that, it is imperative that any person carrying out investment advisory activities must 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.”

18. It is relevant to note that in order to protect the interest of investors and to preserve the integrity of the securities market, IA Regulations, 2013 has 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, 2013, which, *inter alia*, provides that, no person shall act as an investment adviser or hold itself out as an investment adviser unless he has obtained a certificate of registration from SEBI and it has to conduct its activities in accordance with the provisions of IA Regulations, 2013. Further safeguards provided under IA Regulations, 2013 include continued minimum professional qualification and compliance with net-worth requirement for acting as an investment adviser, prior disclosure of all conflicts of interest, prohibition on entering into transactions which are contrary to advice given to the clients at least for 15 days from the date of giving advice to the clients, mandatory risk profiling of investors, maintaining documented process for selecting investment products for clients based on client's investment objective and risk profile and understanding of the nature and risks of products or assets selected for such client, etc.
19. 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, 2013:
 - (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.
20. The activities engaged in by the Noticees, as brought out from the various materials described above, seen in the backdrop of the aforesaid regulatory provisions show that although the Noticees were acting as an Investment Adviser, however, the Noticees were not registered with SEBI in the capacity of Investment Adviser. Hence, I find that these activities/ representations, were being carried out by the Noticees without holding the mandatory certificate of registration as investment adviser, thus, Noticees are in violation of Section 12(1) of SEBI Act, 1992 read with Regulation 3(1) of the IA Regulations, 2013.

21. The Noticees in their bank accounts, as mentioned in paragraph 12 above, had received a total amount of Rs. 83,75,875/- during the period from September, 2014 to December, 2016 through unregistered investment advisory activities, as observed above.
22. I note that in the case of Shri C. Paranitharan and Others and Trend Market Advisory Services, SEBI had passed orders dated July 05, 2022 and July 07, 2022, respectively, *inter alia* directing the Noticees therein to refund the fees or consideration received from investors in respect of their unregistered investment advisory activities. In the respective appeals filed against these orders by the respective Noticees, Hon'ble SAT vide common order dated September 21, 2022 *inter alia* directed the appellants therein to deposit the balance amount after making refunds to investors, with SEBI. It was also directed that the balance amount deposited with SEBI shall be kept in escrow account for a period of one year and be distributed to any claimants and thereafter, the remaining amount, if any, will be deposited in the Investors Protection and Education Fund.

DIRECTIONS:

23. In view of the foregoing, I, in exercise of the powers conferred upon me in terms Sections 11(1), 11(4) and 11(B) read with of Section 19 of the SEBI Act, 1992, hereby direct that:
 - a. The Noticees shall jointly and severally, within a period of three months from the date of this order, 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 Noticees 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 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. After completing the refund as directed in para 23(a) above, within a period of 15 days, the Noticees shall file a report detailing the amount refunded to SEBI addressed to the Division Chief, Market Intermediaries Regulation and Supervision Department (MIRSD), Division of Registration-2, Investment Management Department, SEBI Bhavan II, Plot No. C7 G Block, Bandra Kurla Complex, Bandra (East) Mumbai – 400051. The report should be duly certified by an independent Chartered Accountant and indicate the amount, mode of payment by banking transactions, name of the parties, communication address, mobile numbers and telephone numbers etc.
- e. The remaining balance amount shall be deposited with SEBI which will be kept in an escrow account for a period of one year for distribution to clients/ complainants/ investors who were availing the investment advisory services from the Noticees. Thereafter, remaining amount if any will be deposited in the Investors Protection and Education Fund maintained by SEBI;
- f. The Noticees are restrained 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/ depositing balance amount with SEBI, 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 Noticees and depositing balance amount with SEBI, as directed in this order, from the bank accounts of the Noticees;

- g. The Noticees are debarred from accessing the securities market, directly or indirectly and are prohibited from buying, selling or otherwise dealing in the securities market, directly or indirectly in any manner whatsoever, for a period of 6 months from the date of this order or till the expiry of 6 months from the date of completion of refunds to complainants/ investors along with depositing of balance amounts, if any, with SEBI as directed in para 23(a) and 23(e) above, whichever is later.
 - h. Upon submission of report on completion of refunds to complainants/ investors to SEBI and deposit of the balance money with SEBI, if any, the direction at para 23(f) above shall cease to operate within 15 days thereafter.
 - i. The Noticees shall not undertake, either during or after the expiry of the period of debarment/restraint as mentioned in para 23(g) 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.
24. The direction for refund and depositing the balance amount with SEBI, as given in para 23(a) and 23(e) 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.
25. This order comes into force with immediate effect.

26. 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.

Sd/-

Date: October 06, 2022

ANANTA BARUA

Place: Mumbai

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA