National Stock Exchange of India

Circular

Department: Investigation	
Download Ref No: NSE/INVG/55487	Date: February 02, 2023
Circular Ref. No: 29/2023	

To All NSE Members

Sub: SEBI Order in the Matter of Finassure Financial Services Pvt. Ltd.

SEBI vide its order no. WTM/ASB/WRO/WRO/23472/2022–23 dated February 02, 2023 has hereby debarred the below mentioned entities from accessing the securities market, directly or indirectly and are prohibited from buying, selling or otherwise dealing in securities, directly or indirectly in any manner whatsoever, for a period of three (3) years from the date of this Order or till the expiry of three (3) years from the date of completion of refunds to clients/ investors as directed in paragraphs 6.1 (i) and 6.1.(v) of the SEBI order, whichever is later.

Sr. No.	Client Name	PAN
1.	Finassure Financial Services Pvt. Ltd.	AACCF3263B
2.	Amit Sharma	APBPS4851H

Further, Saket Sharma (PAN - APGPS5006R) is debarred from accessing the securities market, directly or indirectly and is prohibited from buying, selling, or otherwise dealing in securities, directly or indirectly in any manner whatsoever, for a period of one (1) year from the date of this Order.

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.

National Stock Exchange of India

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

Mr. Chintan Bhatt (Extension: 22177), Mr. Anand Jangir (Extension: 22385)
Direct No: 022-26598417/18 Fax: 022-26598195

For and on behalf of
National Stock Exchange of India Limited

Anand Jangir
Manager

Annexure: - SEBI Order in the Matter of Finassure Financial Services Pvt. Ltd.

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

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.	Noticee	PAN
1.	Finassure Financial Services Pvt. Ltd.	AACCF3263B
2.	Amit Sharma	APBPS4851H
3.	Saket Sharma	APGPS5006R

(The aforesaid entities are hereinafter referred to by their respective names / Noticee numbers and collectively as the "Noticees")

In the matter of the Finassure Financial Services Pvt. Ltd.

1. Background –

1.1. The present matter emanates from a complaint dated December 31, 2015 filed by Shri. Gopal Kumar (the "**Complainant**") against Finassure Financial Services Pvt. Ltd. ("**Finassure**"/ the "**Company**"), wherein it was stated that the Complainant had taken trading advice from the Company. The Complainant, in the said complaint, had also mentioned that he had sought refund of Rs. 3,000 paid by him, but the Company was not responding to his calls.

1.2. Pursuant to the receipt of the said complaint, the matter was examined to verify the veracity of the information brought out in the complaint and ascertain whether there had been any violation of the provisions of the Securities and Exchange Board of India Act, 1992 (the "**SEBI Act**"), the Securities and Exchange Board of India (Investment Advisers) Regulations, 2013 (the "**IA Regulations**") and any other Regulations or provisions of securities laws. Consequent to the completion of examination in the matter, a common Show-cause Notice bearing No. SEBI/WRO/18368/1 dated August 05, 2021 ("**SCN**") was issued to the entities, listed above, based on the findings of the said examination. It is in this background that the present proceeding, which is to consider the allegations made in the SCN, is before me.

2. The Show-cause Notice

2.1. As stated above, the SCN has been issued to the Noticees based on the findings of the examination. In this regard, the following facts have been *inter alia* brought out in the SCN with respect to the conduct of the Noticees:

a. The complaint filed by Gopal Kumar against Finassure had *inter alia*, alleged that Finassure was involved in unauthorised investment advisory activities.

b. From the information received from the Complainant, it was seen that Finassure had a website with the web address: www.ffsplbuysellsoftware.in. The said website was not active. So, the archived pages of the website were downloaded from web.archive.org

c. The web-pages of the said website disclosed various services/ packages offered by Finassure. The details of a bank account maintained with ICICI Bank (A/c No. 091605500364) at its Ratlam Kothi Branch, Indore had been made available on the said website for the investors/clients to make payments.

d. The account opening form ("**AOF**") received from ICICI Bank, in respect of Finassure's bank account, and the accompanying documents showed Amit Sharma/Saket Sharma as directors of Finassure.

e. Also, the bank statement with respect to the said bank account was sought from ICICI Bank. It was seen from the bank statement for the period, February 03, 2014 to February 15, 2017 that a total of Rs. 61,39,076 had been credited to Finassure's account. The said bank account was opened on January 31, 2014.

2.2. Based on the above, it has been alleged in the SCN that the Noticees namely, Finassure Financial Services Pvt. Ltd., Amit Sharma and Saket Sharma were providing investment advisory services without being registered as investment advisers.

2.3. In this respect, it has also been alleged that the Noticees had violated Section 12 (1) of the SEBI Act and Regulation 3(1) of the IA Regulations.

2.4. Accordingly, the Noticees have been called upon to show cause as to why suitable directions under Sections 11(1), 11(4) and 11B (1) should not be issued against them.

3. Service of SCN, Personal Hearing, and Replies and Written Submissions from the Noticees –

3.1. Consequent to the issuance of the SCN, the same was sent to the Noticees on the addresses available on record. The Noticees have neither filed any reply in response to the SCN nor availed the opportunity of personal hearing. The details with respect to the service of the SCN and Hearing Notices to the Noticees are provided hereunder:

Table- 1

Noticee No.	Name of the Noticee	Details
1.	Finassure Financial Services Pvt. Ltd.	▪ The SCN dated August 05, 2021 was sent by Speed Post to the Noticee at the address: 303-304, Gold Arcade, 3/1 New Palasia, Opp. Curewell Hospital, Indore, Madhya Pradesh – 452001. The same could not be delivered and was returned to SEBI. ▪ A copy of the SCN dated August 05, 2021 was sent by email on October 28, 2021 to the Noticee at the email addresses: connect@finassure360.com and FFSPLRELATION@gmail.com. The said email could not be delivered to either of the above two email addresses. ▪ Public Notices were brought out in the February 18, 2022 publications of The Times of India (English daily) – Indore, Nagpur and Bhopal editions, and Nai Dunia (Hindi daily) – Indore, Nagpur and Bhopal editions informing of the issuance of SCN against the said Noticee in the matter. ▪ Hearing Notice dated April 11, 2022 informing of the hearing scheduled for July 26, 2022 was sent by Speed Post

			to the Noticee at the address: 303-304, Gold Arcade, 3/1 New Palasia, Opp. Curewell Hospital, Indore, Madhya Pradesh – 452001. The same could not be delivered and was returned to SEBI. ▪ Hearing Notice dated April 11, 2022 informing of the hearing scheduled for July 26, 2022 was sent by email on April 11, 2022 to the Noticee at the email addresses: connect@finassure360.com and FFSPLRELATION@gmail.com. The said email could not be delivered to either of the above two email addresses. ▪ Public Notices were brought out in the May 19, 2022 publications of The Times of India (English daily) – Indore and Bhopal editions, Nai Dunia (Hindi daily) – Indore and Bhopal editions and Lokmat (Marathi daily) – Nagpur edition informing of the issuance of SCN against the said Noticee in the matter and hearing scheduled for July 26, 2022. ▪ Hearing link of the hearing scheduled for July 26, 2022 was sent by email on July 06, 2022 to the Noticee at the email addresses: connect@finassure360.com and FFSPLRELATION@gmail.com. The

		said email could not be delivered to either of the above two email addresses.
2.	Amit Sharma	▪ The SCN dated August 05, 2021 was sent by Speed Post to the Noticee at the address: Flat No. 201, 2nd Floor, Shriniwas Apartments, Nagpur, Madhya Pradesh – 452001. The same could not be delivered and was returned to SEBI. ▪ Public Notices were brought out in the February 18, 2022 publications of The Times of India (English daily) – Indore, Nagpur and Bhopal editions, and Nai Dunia (Hindi daily) – Indore, Nagpur and Bhopal editions informing of the issuance of SCN against the said Noticee in the matter. ▪ Hearing Notice dated April 11, 2022 informing of the hearing scheduled for July 26, 2022 was sent by Speed Post to the Noticee at the address: Flat No. 201, 2nd Floor, Shriniwas Apartments, Nagpur, Madhya Pradesh – 452001. The same could not be delivered and was returned to SEBI. ▪ Public Notices were brought out in the May 19, 2022 publications of The Times of India (English daily) – Nagpur edition and Lokmat (Marathi daily) –

		Nagpur edition informing of the issuance of SCN against the said Noticee in the matter and the hearing scheduled for July 26, 2022.
3.	Saket Sharma	▪ The SCN dated August 05, 2021 was sent by Speed Post to the Noticee at the address: H-98, Kotra Sultaanabad, Bhopal, Madhya Pradesh – 462003. The same could not be delivered and was returned to SEBI. ▪ The SCN dated August 05, 2021 was sent by Speed Post to the Noticee at the address: 4/57, Green City, Gulmohar, Bhopal, Madhya Pradesh. The same could not be delivered and was returned to SEBI. ▪ Public Notices were brought out in the February 18, 2022 publications of The Times of India (English daily) – Indore, Nagpur and Bhopal editions and Nai Dunia (Hindi daily) – Indore, Nagpur and Bhopal editions informing of the issuance of SCN against the said Noticee in the matter. ▪ Hearing Notice dated April 11, 2022 informing of the hearing scheduled for July 26, 2022 was sent by Speed Post to the Noticee at the address: H-98, Kotra Sultaanabad, Bhopal, Madhya

		Pradesh – 462003. The same could not be delivered and was returned to SEBI. ▪ Hearing Notice dated April 11, 2022 informing of the hearing scheduled for July 26, 2022 was sent by Speed Post to the Noticee at the address: 4/57, Green City, Gulmohar, Bhopal, Madhya Pradesh. The same could not be delivered and was returned to SEBI. ▪ Public Notices were brought out in the May 19, 2022 publications of The Times of India (English daily) – Indore and Bhopal editions, Nai Dunia (Hindi daily) – Indore and Bhopal editions and Lokmat (Marathi daily) – Nagpur edition informing of the issuance of SCN against the said Noticee in the matter and the hearing scheduled for July 26, 2022.

3.2. **Relevant Provisions**

a. **Provisions of the SEBI Act —**

Section 12 (1)

Registration of stock brokers, sub-brokers, share transfer agents, etc.
"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"

b. **Provisions of the IA Regulations, 2013 —**

Regulation 3(1)

"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".

4. Issues –

4.1. In view of the submissions made, the issues for consideration are: –

I. Whether Finassure Financial Services Pvt. Ltd.–

a) was offering services in the nature of investment advice through its website and acting as an investment adviser, and

b) has violated Section 12 (1) of the SEBI Act and Regulation 3(1) of the SEBI (IA) Regulations?

II. If answer to Issue I. is in the affirmative, then what is the total amount mobilised by Finassure Financial Services Pvt. Ltd. through unregistered investment advisory activities?

III. If answer to Issue I. is in the affirmative, then whether Amit Sharma and Saket Sharma, directors in the Company can be held liable for the actions of the Company?

5. Consideration and findings –

5.1. I note from Table-1 that the SCN was issued to Noticee 1 by Speed Post at the address appearing in SEBI's records. The SCN came back to SEBI as *'undelivered'*. It is noted that the address to which the SCN was sent is the same address which was provided by Finassure in the AOF submitted during the opening of the bank account maintained with ICICI Bank (A/c No. 091605500364). Since the SCN could not be delivered to Noticee 1 by way of Speed Post, a copy of the SCN was also sent by way of email at the email IDs: connect@finassure360.com and FFSPLRELATION@gmail.com. It is noted that FFSPLRELATION@gmail.com is the same email ID which was provided by Noticee 1 in the AOF submitted during the opening of the bank account maintained with ICICI Bank (A/c No. 091605500364). Similarly, SCNs were also sent to the addresses of Noticees 2 and 3, as available in SEBI's records. They also came back to SEBI as *'undelivered'*. Subsequently, public notices in multiple newspapers were brought out to inform the issuance of the SCN against the Noticees. Thereafter, a personal hearing in the matter was scheduled for July 26, 2022 and intimation to that effect was made to Noticees by way of Speed Post. Much like the SCN, the Hearing Notices also could not be delivered. Consequently, public notices in multiple newspapers were brought out to inform the issuance of the SCN and the scheduled hearing in the matter. So, attempts were made through multiple modes of service viz., Speed Post, email and publication of public notice in newspapers to serve the SCN/Hearing Notice on the Noticees. It is noted that the Noticees have neither filed any reply in response to the allegations made in the SCN nor availed the opportunity of personal hearing granted to them on July 26, 2022. Considering the above, I find that adequate opportunities have been provided to the Noticees to present their case.

5.2. In this context, I rely upon the observations of the Hon'ble SAT in *Sanjay Kumar Tayal & Ors. vs. SEBI (Order dated February 11, 2014 in Appeal no. 68 of 2013),* wherein it was observed: *"… Appellants have neither filed reply to* *show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted charges levelled against them in the show cause notices."* Accordingly, I find that the Noticees are not interested in participating in the present proceeding before me. Even though they have remained *ex parte*, I nonetheless find it relevant that I should be guided by the documents available on record as laid down by the Hon'ble SAT in *Shri B. Ramalinga Raju vs. SEBI (Order dated May 12, 2017 in Appeal No. 286 of 2014)*. Accordingly, I shall proceed in respect of the Noticees on the basis of the material on record.

Issue I (a) – Whether services in the nature of investment advice were being offered by Finassure Financial Services Pvt. Ltd. through its website?

5.3. It has been alleged in the SCN that Finassure through its website, www.ffsplbuysellsoftware.in was providing investment advisory services. The SCN also records that the webpages of www.ffsplbuysellsoftware.in (which is no longer active) show the various advisory services/packages being offered by it. In this regard, I note from the record that the said website had provided the details of a bank account (ICICI Bank A/c no. 091605500364) to which payments could be made. From the information/documents as received from ICICI Bank, I note that the said bank account was in the name of Finassure Financial Services Pvt. Ltd. Further, in the ' Who we are' section of the website as appearing in the screen-grabs of the webpages of www.ffsplbuysellsoftware.in, I note an introduction. The said introduction sates that "*FFSPLBUYSELLSOFTWARE.IN a division of Finassure Financial Services (P) Ltd. is among very few in developing most unique advance and accurate automatic buy sell signal software for Technical Analysis with Target and Stop Loss for Intraday trades.*" Accordingly, I find that the website – www.ffsplbuysellsoftware.in belonged to Finassure Financial Services Pvt. Ltd.

5.4. Reference is also made to the 'What we do' section of the website. The said section reads as under:

"*AUTOMATIC BUY SELL SOFTWARE aims at providing the best in class commodity market solutions that help businesses and individuals grow revenue, generate profits, and manage businesses to run more efficiently and in a sustainable way. By exploring the proper usage of company's services and tools, every person can effectively can earn money from the biggest financial plot of the country.*

….

Under able leadership of spirited management Team, *AUTOMATIC BUY SELL SOFTWARE employs reliable, proven and sophisticated techniques to deliver Buy Sell Signal which seamlessly integrate with multiple advanced Charting and renowned International technical Platforms like AmiBroker. The company's focus is to deliver authentic and accurate Buy and Sell signal to their clients – at affordable price. AUTOMATIC BUY SELL SOFTWARE distributes low latency, Buy Sell Signal with Stop Loss and Targets.* (emphasis supplied)

5.5. Additionally, I note from the webpages available on record that the website (www.ffsplbuysellsoftware.in) highlighted its 'Mission', 'Vision' and 'Goal'. The stated goal, mission and vision was to "*help Indian traders and investors achieve above-average returns from the markets by providing them with profitable trading signals and at the same time protect their trading capital.*"

5.6. So, from the above it is gathered that Finassure, through its website, was offering tips relating to the share market to investors so that the investors could trade in the capital markets and earn profits or generate revenue. Also, from the screen-grabs of the webpages of www.ffsplbuysellsoftware.in, it is seen that Finassure was offering tips relating to shares, bullion, futures and options. Further, it is also seen that the tips relating to the above-mentioned asset classes were curated into various packages/services viz., Stock Cash Economy, Bullions Economy, Stock Future Economy, Options etc.

5.7. In this regard, reference is made to Regulation 2 (1) (l) of the IA Regulations, which defines investment advice. The said provision defines investment advice as "*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".

5.8. It is gathered from the preceding paragraphs that Finassure was offering tips and recommendations in respect of shares, futures and options, which are securities as per the definition provided in Section 2(h) of the Securities Contract Regulation Act, 1956. It is also noted that Finassure was offering tips and recommendations in respect of shares, futures and options to the investors so that they could make profits. So, I find that a) Finassure was offering tips and recommendations relating to securities; and b) the tips and recommendations were for the clients/investors to invest, purchase, sell or deal in securities. Thus, it is established that the services offered by Finassure were in the nature of investment advice.

5.9. Further, I draw reference to Regulation 2 (1)(m) of the IA Regulations, which defines an investment adviser. The said provision defines investment adviser as,

"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*".

5.10. It has already been brought out that Finassure was offering services which were in the nature of investment advice. It is stated that various packages/services offered by Finassure on its website viz., Stock Cash, Stock Future, Ncdex etc. were for specified fees depending on the tenure of such package/service. The pricing details of some of the packages/services, as gathered from the archived web-pages of Finassure's website, are given below:

Table – 2

S. No	Package/Service	Tenure	Fees (Rs.)
1.	Ncdex	Quarterly	25,000
		Half Yearly	45,000
		Yearly	75,000
2.	Stock Future	Monthly	6,000
		Quarterly	12,000
		Half Yearly	20,000
		Yearly	35,000
3.	Stock Cash	Monthly	5,000
		Quarterly	10,000
		Half Yearly	18,000
		Yearly	32,000

5.11. Additionally, it is noted from the web-pages that Finassure had provided a section 'Making Payments' on its website. The said section provided the modes through which payments could be made, namely, cheque, online transfer, cash etc. Furthermore, for making payment for the said packages/services, the website had provided details of Finassure's bank account maintained with ICICI Bank (A/c No. 091605500364). It is observed from the bank statement that a large number of credits had been made in the said bank account by several individuals. So, it is clear that the services/packages offered by Finassure were available for consideration.

5.12. Accordingly, in line with the definition of an investment adviser brought out above, I find that Finassure was acting as an investment adviser.

Issue I (b) – Whether Finassure Financial Services Pvt. Ltd. was acting as an investment adviser in violation of the provisions of the SEBI Act and the IA Regulations?

5.13. It has already been established that Finassure through its website (www.ffsplbuysellsoftware.in) was carrying out investment advisory activities. I note from SEBI records that neither Finassure nor any of its directors, namely, Amit Sharma and Saket Sharma were at any time registered as investment adviser with SEBI. That being the case, I find that Finassure through its website (www.ffsplbuysellsoftware.in) was carrying out investment advisory activities without being registered as an investment adviser with SEBI.

5.14. In this regard, reference is made to Section 12(1) of the SEBI Act and Regulation 3(1) of the IA Regulations, 2013. The said provisions mandate that any entity desirous of carrying out the activities of an investment adviser has to first get itself registered with SEBI as an investment adviser. In view of the foregoing, I find that Finassure by engaging in the activities of an 'investment adviser' as defined under Regulation 2 (m) of SEBI (Investment Adviser) Regulations, 2013, and holding itself out as an investment adviser, without having a valid certificate of registration has violated Section 12 (1) of the SEBI Act and Regulation 3(1) of the IA Regulations, 2013.

Issue II – What is the total amount mobilised by way of unregistered investment advisory services?

5.15. It has already been brought out that Finassure was carrying out unregistered investment advisory activities. It has also been established in the preceding paragraphs that the bank account of Finassure maintained with ICICI Bank (A/c No. 091605500364) was being used to receive fees/funds in respect of the unregistered investment advisory services carried out by Finassure. As stated earlier, no reply has been received from the Noticees, including Finassure. Accordingly, it is considered that all credits in the said bank account of Finassure are proceeds of unregistered investment advisory services.

5.16. The details of amount mobilised, as quantified in the SCN, are provided hereunder:

Table – 3

Sr. No	***Name of Bank Account Holder***	***Bank Account Number***	***Name of the Bank***	***Date of last Credit***	***Amount Mobilised (Rs.)***
1.	Finassure Financial Services Pvt. Ltd.	091605500364	ICICI Bank	5/11/2016	61,39,076
Total				**Rs. 61,39,076**	

Issue III – Whether Amit Sharma and Saket Sharma, directors in the Company can be held liable for the actions of the Company

5.17. It has been alleged in the SCN that Amit Sharma (Noticee 2) and Saket Sharma (Noticee 3) had violated Section 12 (1) of the SEBI Act and Regulation 3 (1) of the IA Regulations, being directors of Finassure, by carrying out unregistered investment advisory activities.

5.18. In this regard, the following are gathered from the information available on the MCA website in respect of the directors of Finassure (CIN U67120MP2013PTC031692):

Table – 4

S. No.	**Director**	**Date of Appointment**	**Date of Termination**
1	Amit Sharma	October 29, 2013	-
2	Saket Sharma	October 29, 2013	-

So, it is clear that Amit Sharma and Saket Sharma were the two directors of the Company.

5.19. Reference is also made to the documents received from ICICI Bank that were submitted by the Company at the time of opening of the bank account. The set of documents *inter alia* contains an extract of the Board Resolution of the Company dated January 27, 2014. It is instructive to place hereunder the relevant portions of the said Board Resolution dated January 27, 2014:

" *1. A Current Account ("Account") in the name of the Company be opened with ICICI Bank Limited ("ICICI Bank") at Ratlam Kothi (**0916**) Branch Indore and* ***MR AMIT SHARMA (Director)*** *is* ***SINGLY*** *authorised to sign and deliver necessary Application Forms and other Documents therefor and do all acts* *and deeds as may be required by ICICI Bank in connection with opening/activating the Account…*

2. ICICI Bank be instructed to accept and credit to the Account all moneys deposited with or owing by ICICI Bank on any account or accounts at any time or times, kept or to be kept in the name of the Company and the amount of all cheques, notes, bills, other negotiable instruments, orders or receipt, provided they are endorsed/signed/issued by ***MR AMIT SHARMA (Director) is SINGLY*** *on behalf of the Company.*" (emphasis in original)

5.20. Also, the said Board Resolution mentions that "MR **AMIT SHARMA (Director)** " would be the authorised user of internet banking, phone banking and email banking facilities as well as the ATM/Debit Card in respect of the bank account. In line with the stipulation in the above-mentioned Board Resolution, it is noted that the AOF filed by the Company for opening of the bank account bore the signature of Amit Sharma.

5.21. It is clear from the facts brought out in the preceding paragraphs that with respect to the operation of the bank account of Finassure maintained with ICICI Bank (A/c No. 091605500364), Amit Sharma had complete control. It was under his instructions that movement of funds was to take place and he was the only one authorised to sign cheques and to access the debit card issued.

5.22. Additionally, it is noted from the said documents that the total number of shares issued by the Company was 10,000, out of which Amit Sharma held 9,900 shares and Saket Sharma held 100 shares. The authorised capital of the Company was Rs. 1,00,000 and the total of the authorised capital had been paid-up. So, the shareholding of Amit Sharma in the Company was 99 % and that of Saket Sharma was 1 %.

5.23. Thus, from the aforesaid I conclude that that Amit Sharma (Noticee 2) was the dominant shareholder of the Company and controlled the affairs of the Company. Consequently, he was also the main beneficiary of the funds received from clients/investors. Accordingly, I find that he has violated the provisions of Section 12(1) of the SEBI Act and Regulation 3(1) of the IA Regulations.

5.24. As regards the liability of Saket Sharma, it is noted that the signatures of both Amit Sharma and Saket Sharma appear in the following documents submitted by Finassure to ICICI Bank: list of directors (as on January 27, 2014), list of shareholders (as on January 27, 2014) and the extract of the Board Resolution dated January 27, 2014. In this regard, reliance is placed on judgement of the Hon'ble Supreme Court in *The Municipal Corporation of Greater Bombay Vs. P.S. Malvenkar and Ors. [AIR 1978 SC 1380].* The Hon'ble Supreme Court quoting the Black's Law Dictionary (1951 Edition) stated that " *generally when a person attaches his signature to a written document he does so in token of knowledge, approval or acceptance."* The said documents, especially, the Board Resolution dated January 27, 2014 therefore do exhibit awareness and knowledge on the part of Saket Sharma of the Company's bank account, and as an extension its activities.

5.25. The record does not, however, reveal that Saket Sharma held any responsibilities with respect to the operation of the bank account or the affairs of the Company. Also, Saket Sharma held a small 1% stake in the Company compared to Amit Sharma who held 99% of the Company's stake.

5.26. In this regard, reference is made to Section 3 of the Companies Act, 2013 ("**Companies Act**"). The relevant part of the said provision is provided hereunder:

" ***3. Formation of company.*** *— (1) A company may be formed for any lawful purpose by—*

(a) seven or more persons, where the company to be formed is to be a public company;

(b) two or more persons, where the company to be formed is to be a private company; or

(c) one person, where the company to be formed is to be One Person Company that is to say, a private company, by subscribing their names or his name to a memorandum and complying with the requirements of this Act in respect of registration…" (emphasis supplied)

Similarly, reference is also made to the Section 149 of the Companies Act. The relevant part of the said provision is provided hereunder:

" ***149. Company to have Board of Directors****. — (1) Every company shall have a Board of Directors consisting of individuals as directors and shall have—*

(a) a minimum number of three directors in the case of a public company, two directors in the case of a private company, and one director in the case of a One Person Company; and

(b) a maximum of fifteen directors …" (emphasis supplied)

5.27. It is noted that the Company was incorporated on the October 29, 2013 as a private company. So, it appears that the inclusion of Saket Sharma as a director and as a shareholder was to satisfy the conditions stipulated in Sections 3 and 149 of the Companies Act, which require a private company to have a minimum of two shareholders and two directors.

5.28. Thus, on the basis of the pattern that has emerged, I am willing to make a distinction between the roles of Amit Sharma and Saket Sharma in the affairs of the Company. It is clear that Amit Sharma was guiding the operation of the bank account of the Company and as an extension its affairs. I find that Saket Sharma by becoming a director and shareholder of Finassure, and being aware of the activities of the Company had facilitated Finassure and Amit Sharma in carrying out unregistered investment advisory activities. However, I do not find that Saket Sharma was controlling the affairs of the Company or was the beneficiary of any funds received in the Company's account from clients/investors.

5.29. In view of the facts brought out above, I find that Saket Sharma (Noticee 3) has violated the provisions of Section 12(1) of the SEBI Act and Regulation 3(1) of the IA Regulations. Though considering his limited role, the directions shall appropriately reflect the said finding.

6. Directions –

6.1. I, in exercise of powers conferred upon me under sections 11(1), 11 (4) and 11B (1) of the SEBI Act and in the interest of investors do hereby pass the following directions: –

i. Finassure Financial Services Pvt. Ltd. (Noticee 1) and Amit Sharma (Noticee 2) shall within a period of three (3) months from the date of coming into force of this Order, jointly and severally, refund the money received from investors/clients, as fees or consideration or in any other form, in respect of unregistered investment advisory activities.

ii. Finassure Financial Services Pvt. Ltd. (Noticee 1) and Amit Sharma (Noticee 2) shall cause to effect a public notice in all editions of two National Dailies (one English and one Hindi) and in one local daily with wide circulation, inviting claims from investors/clients within a period of fifteen (15) days from the date of this Order. The said public notice shall detail the modalities for refund, and include the details of the contact person viz., name, address and contact number. A period of two (2) months from the date of the publication of the public notice shall be provided to the investors/clients for submitting their claims.

iii. The repayments to the investors/clients shall be effected only through Bank Demand Draft or Pay Order or electronic fund transfer or through any other appropriate banking channel, which ensures audit trails to identify the beneficiaries of repayments.

iv. Within a period of 15 days from the completion of refund as directed in paragraph 6.1 (i) above, Finassure Financial Services Pvt. Ltd. (Noticee 1) and Amit Sharma (Noticee 2) shall file a report of such completion with SEBI addressed to the "*Division Chief, Division of Post-Inspection Enforcement Action, Market Intermediaries Regulation and Supervision Department, SEBI Bhavan II, Plot No. C7, G Block, Bandra Kurla Complex, Bandra (East) Mumbai –400051*". The above-mentioned report should be duly certified by an independent Chartered Accountant and should indicate the amount of refund, mode of payment by bank transactions, names of the investors, their addresses, contact details etc.

v. The remaining balance amount shall be deposited with SEBI by Finassure Financial Services Pvt. Ltd. (Noticee 1) and Amit Sharma (Noticee 2) which shall be kept in an escrow account for a period of one year for distribution to clients/investors who were availing the investment advisory services from Finassure Financial Services Pvt. Ltd. (Noticee 1). Thereafter, the remaining amount, if any, shall be deposited in the Investors Protection and Education Fund, maintained by SEBI.

vi. Finassure Financial Services Pvt. Ltd. (Noticee 1) and Amit Sharma (Noticee 2) are restrained from selling their assets, properties and holdings of mutual funds/shares/securities held by them in demat/physical form except for the sole purpose of making the refunds as directed above. Further, banks are directed to allow debit from the bank accounts of Finassure Financial Services Pvt. Ltd. (Noticee 1) and Amit Sharma (Noticee 2), only for the purpose of making refunds to the clients/ investors who were availing the unregistered investment advisory services from them and for depositing the balance amount with SEBI, as directed in this Order.

vii. Finassure Financial Services Pvt. Ltd. (Noticee 1) and Amit Sharma (Noticee 2) are debarred from accessing the securities market, directly or indirectly and are prohibited from buying, selling or otherwise dealing in securities, directly or indirectly in any manner whatsoever, for a period of three (3) years from the date of this Order or till the expiry of three (3) years from the date of completion of refunds to clients/ investors as directed in paragraphs 6.1 (i) and 6.1.(v) above, whichever is later.

viii. Upon submission of report on completion of refund to clients/investors to SEBI and deposit of the balance amount, if any, with SEBI as directed at 6.1. (v), the direction at paragraph 6.1 (vi) above shall cease to operate within 15 days thereafter.

ix. Saket Sharma (Noticee 3) is debarred from accessing the securities market, directly or indirectly and is prohibited from buying, selling or otherwise dealing in securities, directly or indirectly in any manner whatsoever, for a period of one (1) year from the date of this Order.

x. The Noticees shall not undertake, either during or after the expiry of the periods of debarment/restraint, 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 securities laws.

6.2. This Order is without prejudice to any other action that SEBI may initiate.

6.3. The direction for refund, as given in paragraph 6.1(i) above, shall not act as a bar on the clients /investors to pursue any other legal remedy 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.

6.4. The above directions shall come into force with immediate effect.

6.5. A copy of this Order shall be forwarded to:

i. the entities, all the recognised Stock Exchanges, registered Depositories, Banks and Registrar and Transfer Agents for necessary compliance with the above directions; and

ii. the Government of Madhya Pradesh for information.

Place: Mumbai **ASHWANI BHATIA**

Date: February 02, 2023 **WHOLE TIME MEMBER**

SECURITIES AND EXCHANGE BOARD OF INDIA