National Stock Exchange of India

Circular

Department: Investigation	
Download Ref No: NSE/INVG/55790	Date: February 27, 2023
Circular Ref. No: 53/2023	

To All NSE Members,

Sub: **Final Order in the matter of M/s Perpetual Research, Prop. Priyank Sharma**

SEBI vide its Order No. WTM/AB/WRO/WRO/24111/2022-23 dated February 27, 2023, has hereby debarred the entity Mr. Priyank Sharma, proprietor of M/s. Perpetual Research (PAN: CPWPP2985J) from accessing the securities market, directly or indirectly and is prohibited from buying, selling or otherwise dealing in the securities market, directly or indirectly in any manner whatsoever, for a period of 2 years from the date of the SEBI order or till the expiry of 2 years 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) of the Order, whichever is later.

The order comes into force with immediate effect.

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

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

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

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

Mr. Souradeep Ghosh (Extension: 23345), Mr. Sandesh Sawant (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

Sandesh Sawant
Senior Manager

ANNEXURE: Final Order in the matter of M/s Perpetual Research, Prop. Priyank Sharma

WTM/AB/WRO/WRO/24111/2022-23

SECURITIES AND EXCHANGE BOARD OF INDIA

FINAL ORDER

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

In respect of:

Noticees	PAN
Mr. Priyank Sharma, proprietor of M/s. Perpetual Research	**CPWPP2985J**

In the matter of Unregistered Investment Adviser

1. The present proceedings emanate from show cause notices dated March 21, 2022 (hereinafter referred to as "**SCN**") issued by Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") against Mr. Priyank Sharma, and his sole proprietorship firm i.e. M/s Perpetual Research (hereinafter referred to as "**Perpetual**" and collectively along with Mr. Priyank Sharma as "**Noticees**") wherein it was *prima facie* alleged 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. The SCN also alleged **that** activities of the Noticees were found to be fraudulent and manipulative and in violation of provisions of Section 12A (a), (b) & (c) of SEBI Act, 1992 and Regulations 3 (a), (b), (c) & (d) and Regulations 4(1), 4(2)(k) and 4(2)(s) of the SEBI (Prohibition of Fraudulent and

Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as “**PFUTP Regulations, 2003**).

2. I note that the SCN alleges the following:

a) SEBI had received a complaint vide email dated August 03, 2020 against ‘M/s. Perpetual Research, Proprietor - Shri Priyank Sharma (‘Noticee’) (PAN: CPWPP2985J). It was mentioned in the complaint that a fraud has happened with him. As the complaint was unclear and incomplete, vide email dated August 08, 2020, complainant was requested to provide complete details about his complaint. On August 10, 2020, Pankaj Sen replied to SEBI that, “Sir An online fraud occurred with me via payumoney… As I want to tell you that I have deposited my 15000 rupees to someone due to a greed call. He asked for the payment medium with the ID of the payumoney….” Complainant also provided copy of the payment made by him via PayU Money.

2.2. On September 06, 2020, Mr. Pankaj Sen, sent another email stating that “*…. company called perpetual research has been fraudulent with me. The owner of which is said to be Avnish Jain, and he has declared himself to be from Indore (Madhya Pradesh). It fraudted 15000 rupees with me….*”.

2.3. **Information from PayU Money and Banks**

Information from PayU Money

i. On perusal of the payment proof submitted by complainant, it was noticed that the complainant had made a payment of Rs. 15,000/- to Perpetual Research through PayU Money, payment gateway.

ii. Vide email dated September 23, 2020, PayU Money was requested to provide the account opening forms (AOF), KYC details and bank account statement of Perpetual Research, along with the email id and phone no. of the payers to merchants. PayU Money, vide email dated September 23, 2020, provided the requisite information.

iii. On perusal of the documents provided by PayU Money, following was observed:

Name of the person	Mr. Priyank Sharma
PAN card no	CPWPP2985J
Account holder name	Perpetual Research
Bank name; Bank account no. and IFSC	Kotak Mahindra Bank Limited; 0511607729 and KKBK0000751
Branch name and branch city	Indore
Website	www.perpetualresearch.in
Mobile no.	9407298721
Registered Address	121, President Tower, Madhumilan Square, Indore

iv. While analyzing the bank statement of Perpetual Research & Mr. Priyank Sharma, it was noticed multiple bank accounts were found in the name of Perpetual Research and Priyank Sharma. The details of the same are given below:

S. No.	**Bank name and account number**	**Account in the name of**	**Account opening date**	**Statement period**	**Amount credited**
1	Kotak Mahindra Bank (0511607729)	Perpetual Research	24.06.2015	24.06.2015 to 24.09.2020	6,37,83,178/-
2	HDFC Bank (50200021023207)		23.08.2016	23.08.2016 to 05.12.2018	57,99,666/-
3	ICICI Bank (144101508883)	Priyank	30.12.2014	24.06.2015 to 10.09.2020	62,21,264/-

4	Axis Bank (915010063204461)		21.12.2015	01.03.2016 to 07.11.2020	4,04,24,123/-
5	Axis Bank (918010028120176)		06.04.2018	29.11.2018 to 30.06.2018	24,41,544/-
6	SBI Bank (63050218476)		26.12.2009	26.12.2009 to 25.07.2019	1,06,67,075/-
7	HDFC Bank (50100200545560)		01.04.2017	01.04.2017 to 11.11.2020	7,52,220/-
8	ICICI Bank (185905000765)		Jewelry Loan account		
9	ICICI Bank (144105001736)				
10	Axis Bank (920060052198152		Loan account		
11	Axis Bank (920060052196321)				

Information from Kotak Mahindra Bank

i. Vide email dated September 24, 2020, Kotak Mahindra Bank (hereinafter referred to as '**Kotak Bank'**) was requested to provide the bank account statement from the date of opening till September 24, 2020, KYC and account opening form (AOF) of Mr. Priyank Sharma (PAN: CPWPP2985J). Vide email dated September 25, 2020 and November 10, 2020, Kotak Bank provided the bank statement from the date of account opening till September 24, 2020, KYC and AOF.

ii. On perusal of the KYC and Account opening form as provided by Kotak Bank, following was noted:

a. Name of entity: Perpetual Research
b. PAN: CPWPP2985J
c. Turnover: Rs.30 lakh
d. Date of incorporation: May 18, 2015
e. Registration no.as per Nagar Nigam license: 515050610
f. Constitution and nature of business: Sole proprietorship and Financial Advisory or consultant for MCX trading.
g. Registered office address: President Tower 121, Madhumilan Square,1st Floor, Indore- 452 001(same as per Nagar Nigam Licence)
h. Email ID: priyank.sharma8269@gmail.com
i. Phone no.: 0731-3917616
j. Residential address: Flat no. 301, Ganga Apartment, 76, Greater Tirupati Colony, Indore (as per License issued under Shop and Establishment act) and 5 Bhartiya Vighalay Chaurahe Ka Kshetr Env; Saunachiraya Ke Peechhe Vala Hissa, Shivpuri – 473551.

iii. On perusal of the bank statement provided by Kotak Bank, following observations were made:
  a. From the date of account opening i.e. June 24, 2015 till September 24, 2020, Mr. Priyank had received Rs. 6,37,83,178/- through various sources.
  b. The breakup of amount received i.e. Rs. 6,37,83,178/- is as under:
    a) Rs. 4,68,16,015/- were received through PayU Money (a payment gateway);
    b) Rs. 20,08,632/- were cash deposit entries;
    c) Rs. 22,50,000/- through RTGS payments from various persons;
    d) Rs.15,74, 302/- through NEFT payments from various payments;
    e) Rs. 88,63,220/- through IMPS payments from various persons;
    f) Rs. 16,18,691/- through UPI payments, mobile payments etc.
    g) Rs.6,49,700/- through CDM deposit

iv. Out of Rs. 6,37,83,178/- entity received Rs. 45,000/- in which narration mentioned was ‘Trading/Trading ser’.

Information from ICICI Bank

i. Vide email dated September 25, 2020, ICICI Bank was requested to provide the bank statement, KYC form and account opening form of Mr. Priyank Sharma.

ii. ICICI bank vide email dated September 29, 2020, ICICI Bank informed that Mr. Priyank Sharma was having three accounts as per details given below and also provided KYC and account opening form for the account no. 144101508883.

a. 144105001736
b. 144101508883
c. 185905000765

iii. Vide email dated October 23, 2020, ICICI Bank was requested to provide the KYC forms and account opening form (AOF) for the remaining two accounts i.e. 144105001736 and 185905000765. Vide email dated October 23, 2020, ICICI Bank provided the requisite information.

iv. The details of bank accounts as provided by ICICI Bank is summarized as under:

Particulars	**144105001736**	**144101508883**	**185905000765**
Type of account	Loan account (against gold)	Salary account opened by MMP Infotech Technologies Pvt. Ltd.	Loan account (against gold)
Address of entity	5, Block C, Narmada Complex, Shivpuri- 473551.	5 Bhartiya Vighalay Chaurahe Ka Kshetr Env; Saunachiraya Ke Peechhe Vala Hissa, Shivpuri- 473551.	Flat no. 301, Ganga Apartment, Geeta Bhawan, Greater Tirupati Colony, Indore.
Email ID	-	priyank.sharma8269@gmail.com	-

Mobile no.	6232688255; (as per account details) 9886050070 (as per AADHAR)	8269118569	6232688255
Occupation	Dairying	Service	Allied Agriculture
Name of employer and address;	NA	MMP Infotech Technologies Pvt .Ltd.; Vidhyapati Complex, 3rd floor, Race Course Road, Indore;	NA
Aadhaar No.	987769936284		

v. On perusal of the bank statement provided by ICICI Bank for the account number 144101508883, following was observed:

a. From the date of account opening i.e. June 24, 2015 till September 10, 2020, Mr. Priyank Sharma had received Rs. 62,21,264/- through various sources.

b. The breakup of amount received i.e. Rs. 62,21,264/- is as under:

a) Rs. 42,591/- were received as a salary during the period January 2015 to March 2015;

b) Rs. 7,29,010/- were received a cash deposit from various persons;

c) Rs. 6,12,446/- through UPI payments from various persons, mobile payments etc.

d) Rs. 20,84,639/- from self-transfer through various accounts;

e) Rs. 3,65,092/- as Jewelry loan;

f) Rs. 23,87,486/- from various persons from the date of account opening till September 10, 2020.

c. Out of Rs. 62,21,264/- entity received Rs. 1,11,200/- in which narration mentioned as ‘Trying fees/ shares/share/Om share mkt Service/NSP/Priyank Tipper/fees/Share market/advisory se/Trade fee/ Share market’ etc.

vi. On perusal of the bank statements for the account numbers 144105001736 and 185905000765, it has been observed that all the transactions were pertaining to jewelry loan account.

Information from Axis Bank

i. Vide email dated November 11, 2020, Axis Bank was requested to provide the bank statement from the date of account opening, KYC and account opening form (AOF) of Mr. Priyank Sharma. Axis Bank, vide email dated December 03, 2020, provided requisite information.

Bank account no. 915010063204461

This account is in the name of Mr. Priyank Sharma. On perusal of the bank statement provided by Axis Bank for the account number **915010063204461,** following was observed:

a) From the date of account opening i.e. December 21, 2015 till November 07, 2020, Mr. Priyank Sharma had received Rs. 4,04,24,123/- through various sources.

b) The breakup of amount received i.e. Rs. 4,04,24,123/- is as under:
    a. Rs. 79,87,076/- were received from Perpetual Research Kotak Mahindra Bank Account no. 0511607729 during the period June 06, 2019 to October 31, 2020;
    b. Rs. 50,31,166/- were received as cash deposit from various persons during the period March 01, 2016 to August 03, 2020;

c. Rs. 29,75,828/- as self-transfer during the period April 2017 to November 07, 2020;
d. Rs. 2,44,13,043/- from various persons during the period April 2016 to November 2020;
e. Rs. 17,009/- as interest received during the period March 31, 2016 to September 30, 2020.

c) Out of Rs. 4,04,24,123/- Mr. Priyank Sharma had received Rs. 10,100/- in which narration mentioned as wherein narration mentioned as '*Advisory exp./fee*'.

d) As on November 07, 2020, closing balance was Rs.58/-.

Bank account no. 918010028120176

This account is in the name of Mr. Priyank Sharma. On perusal of the bank statement provided by Axis Bank for the Account number **918010028120176,** following was observed:

a) From the date of account opening i.e. April 06,2018 till June 30,2020, Mr. Priyank had received Rs. 24,41,544/- through various sources.

b) The breakup of amount received i.e. Rs. 24,41,544/- is as under:
   a. Rs. 8,95,000/- were received as self-transfer.
   b. Rs. 11,000/- from Perpetual Research Kotak Mahindra Bank Account no. 0511607729.
   c. Rs. 16,563/- as interest received.
   d. Rs. 15,18,981/- from various other persons from November 29, 2018 to June 30, 2018.

c) On perusal of the bank statements for the account numbers 920060052198152 and 920060052196321, it was observed that there was only one transaction for loan disbursement.

Information from State Bank of India (SBI)

i. Vide email dated November 11, 2020, SBI was requested to provide the bank account statement, KYC and account opening form (AOF) of Mr. Priyank Sharma. SBI vide email dated November 12, 2020 and November 18, 2020, submitted the requisite information.

ii. On perusal of the KYC and account opening form provided by SBI, following was noted:
   a. Account number: 63050218476
   b. Name of entity: Priyank Sharma
   c. PAN: CPWPP2985J
   d. Phone no.: 07492-225510
   e. Mobile No.: 9425763632
   f. Residential address: House No. 5, Narmada Complex AB Road, Block-C, Shivpuri, Madhya Pradesh - 473551.

iii. On perusal of the bank statement provided by SBI for the Account number 63050218476 following was observed:
   a. From the date of account opening i.e. December 26, 2009 till July 25, 2019, Mr. Priyank Sharma had received Rs. 1,06,67,075/- in his account.
   b. The breakup of amount received i.e. Rs. 1,06,67,075/- is as under:
      a) Rs. 3,50,000/- were received from Perpetual Research;
      b) Rs. 14,39,755/- were received as cash deposit from various persons during the period December 26, 2009 to March 29, 2019;
      c) Rs. 57,962/- as interest received February 28,2010 to June 25, 2019;
      d) Rs. 69,000/- as salary. However, the source of which could not be identified;

e) Rs. 86,65,907/-- from various other persons from the date of account opening till July 25, 2019;
f) Rs. 84,451/- through reversal charges/tax refund/ cash back received etc.
g) Out of this Rs. 1,06,67,075/- in total receipt, entity had received Rs. 2,28,650/- wherein in narration '*Investment'* was mentioned.

Information from HDFC Bank

i. Vide email dated November 11, 2020, HDFC Bank was requested to provide the bank account statement, KYC and account opening form (AOF) of Mr. Priyank Sharma. HDFC bank vide email dated November 19, 2020, submitted the bank account statement and KYC details. On perusal of the information provided, it was observed that Mr. Priyank / Perpetual Research was having an account with HDFC Bank**.**

Bank account no. 50100200545560

a. On perusal of the KYC details provided by HDFC Bank, following was noted:
   a) Name of entity: Mr. Priyank Sharma
   b) PAN: CPWPP2985J
   c) Mobile no. 9109107527
   d) Residential address: - 805, Shekhar Central Palasia, Indore, Madhya Pradesh-452001.

b. On perusal of the bank statement provided by HDFC Bank for the account number **50100200545560,** following was observed: -
c. From the date of account opening i.e. April 01, 2017 till November 11, 2020, Mr. Priyank had received Rs. 7,52,220/- from various persons.

d. The breakup of amount received i.e. Rs. 7,52,220/- is as under:
   i) Rs. 1,592/- as interest received.
   ii) Rs. 20,000/- as self-transfer and Rs. 6,102 /-as transfer of matured RD

iii) Rs. 26,000/- as cash deposit

iv) Rs.6,98,526/- were received from various persons from the date of account opening till November 11,2020.

Bank account no. 50200021023207

a. On perusal of the KYC details provided by HDFC Bank following was noted:

a) Name of entity: Perpetual Research

b) PAN: CPWPP2985J

c) Registered office address: 101 Royal Ratan 7 M G Road, Indore, Madhya Pradesh-452001

d) Phone no. 8109090871

b. On perusal of the bank statement provided by HDFC Bank for the Account number **50200021023207,** following was observed: -

a) From the date of account opening i.e. August 23,2016 till December 05, 2018, Perpetual Research had received Rs. 57,99,666/-.

b) The breakup of amount received i.e. Rs. 57,99,666/- is as under:

i) Rs. 1,16,523/- as cash deposit

ii) Rs. 6,07,500/- as cheques deposits

iii) Rs.9,69,400/- as third party transfer from various persons.

iv) Rs.24,03,000/- as NEFT payment/ Fund transfers from various persons.

v) Rs.11,76,600/- through IMPS payment from various persons.

vi) Rs.5,26,643/ either through standing instructions/ Perpetual Research/ cancellation of MC/reversal of fees.

c) Out of this Rs.57,99,666/- entity had received Rs. 39,000/-, wherein narration was mentioned as, '1Month Future/ service payment/Fee charges/Broker/ Consultant charge/Trading commission' etc.

PayU Money statement

i. While analyzing the funds received by Perpetual Research, it was noticed that Perpetual Research has received money from one Mr. Sandhan Sahani till October 26, 2020. From April 28, 2019, till October 26, 2020, Mr. Sandhan Sahani had paid Rs. 2,46,49,345/- to Perpetual Research.

ii. From the statement of PayU Money, it is observed that Perpetual Research was receiving money from the investors.

2.4. **Information from complainants and other persons who had made payment to Perpetual Research**

i. Upon perusal of the credit entries of bank statements of Kotak Bank and ICICI Bank, it was noticed that certain credit narrations are mentioned as "*Trading/ Trading ser*" etc. Accordingly, ICICI Bank and Kotak Bank were requested to provide the counterparties details for the following transactions:

Tran Date	Tran Particulars	Cr Amt
	Kotak Bank	
11-03-2020	UPI/neeraj.dev@/007123131665/Trading	5,000.00
11-03-2020	UPI/neeraj.dev@/007123165586/Trading	40,000.00
15-06-2020	UPI/ruchitjain1/016713952996/Trading ser	4,000.00
	ICICI Bank	
19-06-2020	UPI/017120482586/Share market/tusharthombare1/Stat	5,500.00
24-06-2020	UPI/017612990221/For advisery se/yogesh.kute2007/S	3,000.00

Tran Date	Tran Particulars	Cr Amt
Kotak Bank		
24-06-2020	UPI/017619697849/Trade fee/rahulgampawar67/HDFC BA	1,200.00
29-06-2020	UPI/017916308440/Share market/tusharthombare1/HDFC	25,500.00

ii. Kotak Bank and ICICI Bank vide emails dated November 10, 2020, provided requisite information.

iii. Based on information's provided by aforesaid banks, emails were sent to counterparties requesting them to provide information's about Perpetual Research for the payment made by them. Further, based on statements provided by PayU Money, information was also sought from the some of the persons who had made payments to Perpetual Research through PayU Money. The persons from whom information's were sought and their date of reply is given below:

Name of persons	Date of sending email	Date of receipt of reply	Remarks
Ruchit Jain	11-11-2020	13-11-2020	
Dhanesh Kalukhe	09-11-2020	09-11-2020	
Rahul Gampawar	11-11-2020	11-11-2020	Informed that he does not have any information
Tushar Bhaguji Thombare	11-11-2020 & 19-11-2020	Not received	
Laxmi Naryan Parihar	09-11-2020 and 19-11-2020		
Ramprasath	09-11-2020 and		

	19-11-2020		
Pankaj Kumar	09-11-2020 and 19-11-2020		
Bhanu Prakash Baghel	09-11-2020 and 19-11-2020		

iv. From the above, it has been noted that information was received from Mr. Dhanesh Kalukhe and Mr. Ruchit Jain. The observations from the reply submitted by both the persons is summarized below:

a. Mr. Dhanesh Kalukhe

a) Mr. Dhanesh Kalukhe vide email dated November 09, 2020, submitted SBI credit card statement as payment proof for making payment to Perpetual Research, What'sup chat with one of the employee and PayU transaction email.

b) Mr. Dhanesh Kalukhe also mentioned that he had received a call on September 06, 2020, from Mr. Gaurav for stock market trading tips. Based on telephonic discussion, he had paid Rs. 5,000/- to Perpetual Research and also shared his PAN card, Aadhar card and bank details with Perpetual Research. Mr. Gaurav assured him daily profit of Rs. 500/-. On the first day he had traded in crude. On the next day Mr. Gaurav requested him to pay Rs. 15,000 /- more for trading in bank nifty. However, he refused to make any further payments. Later on, he interacted with one more employee of Perpetual Research and he also asked him to pay 15,000/- rupees for Master account trading.

c) On perusal of the WhatsApp chat, it appears that Mr. Dhanesh Kalukhe was interacting with one of the persons whose mobile number is

"909906607". From the WhatsApp chat, it appears that, Mr. Dhanesh Kalukhe was being pursued for making payments for taking service and completing registration process and profit assurance was provided to him. Further, from the credit card statement, it was noticed that payment was made to PayU Money payment gateway.

b. Mr. Ruchit Jain

a) Mr. Ruchit Jain vide email dated November 13, 2020, submitted the screen shot regarding payments made by him and tips received by him.

b) On perusal of the details provided by Mr. Ruchit Jain it appeared that, he was interacting with one of the person whose mobile number is "8959578086". The WhatsApp chat communicated with said mobile number is as under: -

"App ne jo number diya voh google pay prn hi ara
Wait
Saara singhaniya
0511607729
KKBK0000751
Kotak Mahindra Bank
Google pay se account me pay kr sakteho
Okay"

c) Further, Mr. Ruchit also received tips from the aforesaid mobile number (number used by Ms. Saara) in the scrips of Bank of Baroda, Reliance and Nifty Put. Further, as per screenshot submitted by Mr. Ruchit Jain, the website name is mentioned as Flankingresearch.com.

d) While carrying out Google search on the aforesaid website, it was noticed that, Flanking Research and Investment Advisor is one of the SEBI registered Investment Advisors.

e) On verifying the details with SEBI website, it was noticed that registration number INA000010195 belongs to Flanking Research and Investment Advisor and its office address is 208-9, Apollo Premier, Vijay Nagar, Indore, Madhya Pradesh- 452010.

f) The payment was made by Mr. Ruchit Jain from his bank account maintained with HDFC Bank to Kotak Mahindra Bank Account number 0511607729. As mentioned above in paragraph 5, the account number 0511607729 belongs to Perpetual Research.

g) Further, it was noticed that in the bank statement of Flanking Research and Investment Advisor as provided by SBI vide email dated November 18, 2020, to SEBI (during the course of inspection of Flanking Research and Investment Advisor), email id mentioned is 'priyank.sharma8269@gmail.com'.

2.5. **Relationship between Perpetual Research and Flanking Research and Investment Advisor**

i. In line with the information provided by Mr. Ruchit Jain and on further analyzing the bank statement of Perpetual Research and Mr. Priyank Sharma, it was noticed that there were financial transactions executed between Flanking Research and Investment Advisor and Mr. Priyank Sharma. The summary of the same is given as below: -

S. No.	Name of the bank	Account in the name of	Total Debits	Total Credits
1	Axis Bank A/c No. 915010063204461	Mr. Priyank Sharma	3,900/-	26,011/-
	Axis Bank A/c No. 918010028120176		1500/-	-

2	SBI A/c No. 63050218476		20,000/-	-
3	Kotak Mahindra Bank A/c no. 0511607729	Perpetual Research		2,60,000/-

ii. Further, the email id provided in SBI bank account statement of Flanking Research is priyank.sharma8269@gmail.com, which is the same email id as the proprietor of Perpetual Research.

iii. From the above, it was inferred that Priyank Sharma proprietor of Perpetual Research colluded with Flanking Research and Investment Advisor and solicited money from clients under the name of Perpetual Research / Flanking Research and Investment Advisor.

Information provided by Mr. Sandhan Sahani

iv. As specified on paragraph 21 above, Mr. Sandhan Sahani had paid Rs. 2,46,49,345/- to Perpetual Research. A search was carried out in Share Portal to ascertain, whether Mr. Sandhan Sahani has filed any complaints against Perpetual Research. On perusal of the same, it was noticed that Mr. Sandhan Sahani had lodged 2 complaints against Flanking Research Prop. Tarun Chandani. The summary of the complaints is as under:

SEBI Complaint no.	Complaint status	Date of receipt	Date of closures	Closures remarks
SEBIE/MP19/0000722/1	Disposed	22-03-2019	08-05-2019	As per ATR and attachment submitted by IA, the said complaint has been resolved.

SEBIE/MP20/0001986/1	Pending	27-10-2020	Not Applicable

v. While examining the complaint of Mr. Sandhan Sahani against Flanking Research (during the course of inspection of Flanking Research and Investment Advisor), Mr. Sandhan Sahani was requested to provide the payments methods for making payments to Flanking Research and any documents / WhatsApp message or email regarding Perpetual Research.

vi. Mr. Sandhan Sahani vide email dated November 25, 2020, provided the following information:

a. He had raised an objection to the person who was representing himself to be from Flanking and was providing link to Perpetual Research for making payment. Mr. Sahani shared screenshot regarding payment of Rs. 4,60,000/- made by him through PayU Money payment gateway to Perpetual Research.

b. Further, Mr. Sahani also shared screenshot regarding email id of Mr. Priyank Sharma which was registered with PayU Money payment gateway.

vii. Mr. Sandhan Sahani forwarded email dated November 25, 2020, received by him from Perpetual Research sent by Mr. Priyank Sharma (email id "priyank.sharma8269@gmail.com"). Further, it was mentioned by Mr. Sahani that he was interacting with person whose mobile number is "9926904215". The person also claimed to be related to Flanking Research.

viii. On perusal of the emails forwarded by Mr. Sandhan Sahani following was observed: -

a. Mr. Priyank Sharma claimed himself to be a director and financial advisor at Perpetual Research.

b. Perpetual Research provided investment services in Equity, Commodity and Currency markets to accumulate profits for their valuable clients.

c. They were a team of financial advisors from Central India and engaged in offering wide range of financial services.

d. They were offering monthly plans for assured returns. The details are as under:

   a) 1 lakh profit on Investment of 2.7 lakh: 37% growth

   b) 2.1 lakh profit on investment of 5 lakh: 42% growth

   c) 4.5 lakh profit on investment of 10 lakh: 45 % growth

e. For keeping track on investment, they provided daily reports on registered email with portfolio details and profits earned.

f. If any loss happened to the client, company took the responsibility to provide profits to the client as per the plan.

g. Subsequent to receipt of withdrawal request from the client, company froze the overall amount and did not ingest it into the market.

ix. Vide email dated December 18, 2020, Mr. Sahani was, inter alia, requested to provide following clarifications:

   a. Any written agreement with Flanking Research / Perpetual Research with respect to receiving regular/fixed monthly returns on your payments to them.

   b. Any agreement wherein it was mentioned that the payments made by him at regular intervals would be invested in the securities market and returns would be provided by Flanking / Perpetual.

   c. Sharing of User ID and password of his trading and demat account in order to enable Flanking / Perpetual to trade on his behalf.

x. Mr. Sandhan Sahani vide email dated December 18, 2020, submitted that, there was a written agreement and risk analysis was done by someone from Flanking. Mr. Sahani was calling on 9926904215 (which belonged to Mr. Priyank Sharma) who was in touch with him day one and represented himself as owner of Flanking Research. Mr. Priyank Sharma had forwarded him payment links of Flanking as well as Perpetual Research. The said person was requesting him to invest money in the market for generating returns. He was receiving advices from the mobile number 9926904215. He had never traded in his account after May 2019. However, the documents provided by Mr. Sahani to SEBI are of RPF and invoices issued by Flanking.

xi. It was found that mobile number as mentioned by Mr. Sandhan Sahani above belongs to Mr. Priyank Sharma (as per AOF provided by Axis Bank with respect to account no. 920060052198152 and 920060052196321).

xii. Thus, from the above email, it is alleged that:

a. Perpetual Research provided assured return for the investment made by the clients.

b. They were offering various plans to customers.

2.6. **SEBI Act / SEBI Regulations violated by Mr. Priyank Sharma**

i. The amount received by Mr. Priyank Sharma in various banks, as per the bank statements, is given below:

Bank & Account Number	**Total Credits (Rs.)**	**Statement Period**
Kotak Mahindra Bank (0511607729)	6,37,83,178/-	24.06.2015 to 24.09.2020
HDFC Bank (50200021023207)	57,99,666/-	23.08.2016 to 05.12.2018
ICICI Bank (144101508883)	62,21,264/-	24.06.2015 to 10.09.2020
Axis Bank **(**915010063204461)	4,04,24,123/-	01.03.2016 to 07.11.2020
Axis Bank **(**918010028120176)	24,41,544/-	29.11.2018 to 30.06.2018
SBI (63050218476)	1,06,67,075/-	26.12.2009 to 25.07.2019

HDFC Bank (50100200545560)	7,52,220/-	01.04.2017 to 11.11.2020

ii. The reasons for which the payments were received by Mr. Priyank Sharma from various persons could not be ascertained. However, from the narration mentioned in the bank statement as provided by ICICI Bank, Kotak Bank, HDFC Bank and Axis Bank, it is alleged that Mr. Priyank Sharama was receiving money / fees from various persons towards investment advisory services.

iii. From the documents provided by Mr. Sandhan Sahani, it is alleged that Mr. Priyank Sharma represented himself as director and financial advisor at Perpetual Research. Perpetual Research is offering investment services in Equity, Commodity and Currency markets to accumulate profits for the valuable clients. They represented themselves as financial advisors from Central India. Perpetual Research was also offering monthly plans along with the assured returns.

iv. In line with information sought from some persons on sample basis and documents provided by them, following is observed:

a. From the documents provided by Mr. Ruchit Jain, it is observed that he was receiving tips from investment adviser and payment made by him to Perpetual Research also appears in the PayU Money statement of Perpetual Research. From the website link provided by Mr. Ruchit Jain, i.e. '*Flankingresearch.com'*, it is alleged that Flanking Research and Investment Advisor & Perpetual Research are connected entities. The same can be further established by the fact that in the SBI statement of Flanking Research and Investment Advisor, email id of Mr. Priyank Sharma was mentioned i.e. priyank.sharma8269@gmail.com. In addition to this, there have been some financial transactions between Flanking Research and Investment Advisor and Priyank Sharma.

b. From the documents provided by Mr. Dhanesh Kalukhe, it was observed that profit assurance was given to him.

v. The aforementioned dealing / activities of the entity is alleged to be fraudulent and are covered within the definition of “fraud” as defined in Regulation 2(1)(c) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as “**PFUTP Regulations**”). On combined reading of provisions mentioned at above, it is alleged that activities / dealing of the entities namely Mr. Priyank Sharma proprietor of Perpetual Research is in the nature of fraud, are in violation of Regulation 3(a), (b), (c) and (d) of PFUTP Regulations, 2003 read with section 12A (a), (b) and (c) of SEBI Act, 1992.

vi. Further, by assuring profits to investors, the entity was allegedly mis-selling services related to securities market. Thus, it is alleged that Mr. Priyank Sharma, proprietor of Perpetual Research is in violation of Regulation 4(1), 4(2)(k) and 4(2)(s) of PFUTP Regulations, 2003.

vii. The complainant has alleged that the Noticee took money from them in lieu of advisory services. Further, from the bank account information, it was observed that the bank account statement reflects credits of money with narration investment, tips, share, trading, fees, broker etc. Further, WhatsApp chats, email communication and PayU Money transaction details shows that Noticee was engaged in Investment Advisory services. Hence, it is inferred that the above mentioned payment gateway and bank accounts were used for receipt of fees from various entities for the purpose of providing Investment advisory services.

viii. It is, *prima-facie*, alleged that the amount paid by the complainant and reflected in the bank accounts of the Noticee, is consideration paid for availing investment advisory products. Further, based on examination of the bank account statements, *prima-facie*, it is observed that there are large number of credits from several other individual investors which were paid towards availing various investment advisory products and services.

ix. From the above, it is alleged that the Noticee was engaged in the activities of an 'investment adviser' as defined under Regulation 2(m) of SEBI (Investment Advisers) Regulations, 2013.

x. It is further alleged that the Noticee was involved in providing unregistered investment advisory services without obtaining registration from SEBI as required under section 12(1) of SEBI Act read with Regulation 3(1) of SEBI (Investment Advisers) Regulations, 2013.

3. The SCN was issued to the Noticees on all the available addresses and the same was delivered to Mr. Priyank Sharma through SPAD on one of his addresses. Thereafter, the SCN was also served upon the Noticees through Public Notice in 'Nai Duniya' newspaper (Indore Edition) on April 13, 2022 and in 'Patrika' newspaper (Shivpuri & Gwalior Edition) on May 06, 2022. However, Noticees did not file any reply to the SCN. Thereafter, the matter was placed before me for granting personal hearing, on June 02, 2022. An opportunity of personal hearing was granted to the Noticees on July 26, 2022. The Hearing Notices issued to Noticees could not be delivered through SPAD. Thereafter, the Hearing Notices were served upon the Noticees through Public Notice in 'Nai Duniya' newspaper (Indore Edition) on July 16, 2022, 'Patrika' newspaper (Shivpuri & Gwalior Edition) on July 18, 2022 and "Times of India" newspaper (Indore Edition) on July 16, 2022. Noticees neither sought an adjournment nor appeared for the hearing scheduled for July 26, 2022. Accordingly, hearing qua the Noticees was concluded on July 26, 2022.

<u>Consideration of submissions and findings:</u>

4. I have considered the allegations made in the SCN along with the findings of the examination by SEBI stated therein.

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;”

6. Further, Regulation 2(1)(l) of IA Regulations, 2013 provides as follows:

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

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

7. During the examination, from the bank statements, KYC and Account Opening Forms of the Kotak Mahindra bank a/c number 0511607729, I note that M/s Perpetual Research is a sole proprietorship firm and Mr. Priyank Sharma is the sole proprietor of M/s Perpetual Research. Investigation further found that seven bank accounts were being operated by the Noticees with Kotak Mahindra Bank, HDFC Bank, ICICI Bank, Axis Bank, SBI Bank and HDFC Bank. It was noted that following amounts were received by Noticees:

S. No	**Bank name and account number**	**Account in the name of**	**Amount credited (Rs.)**

1.	Kotak Mahindra Bank (0511607729)	Perpetual Research	6,37,83,178/- (includes credits received from PayU Money payment gateway)
2.	HDFC Bank (50200021023207)		57,99,666/-
3.	ICICI Bank (144101508883)	Priyank Sharma	62,21,264/-
4.	Axis Bank **(**915010063204461)		4,04,24,123/-
5.	Axis Bank **(**918010028120176)		24,41,544/-
6.	SBI Bank (63050218476)		1,06,67,075/-
7.	HDFC Bank (50100200545560)		7,52,220/-
	Total		13,00,89,070/-

8. From the account statements of the abovementioned bank accounts of the Noticees, I also note that there are several credits through direct fund transfer from different entities using IMPS/NEFT/UPI transfer. Further, there were several transactions having the narration '*Advisory exp./fee*'' and 'Priyank Tipper/fees/Share market/advisory se/Trade fee/ Share market''. Therefore, I find that the PayU Money account and bank accounts mentioned above were being used to receive fee from clients to whom investment advice was being provided by the Noticees.

9. As the credit entries of bank statements of Kotak Mahindra Bank and ICICI Bank, mentioned '*Advisory exp./fee*'' and "Trading/ Trading ser" etc. as narration, accordingly, SEBI requested ICICI Bank and Kotak Mahindra Bank to provide the

counterparties details for credit entries received in the account of the Noticees. After receiving the details of the counterparties of the credit entries in the bank statements of Kotak Mahindra Bank and ICICI Bank, SEBI inquired these parties about reasons for such credits made by them in the account of Noticees. Two counterparties, namely Mr. Dhanesh Kalukhe and Ruchit Jain informed that they received calls from representatives of Perpetual Research who assured them daily profits through trading in securities. It was also noted that the counterparties (who were clients of the Noticees) also interacted with the representatives of Perpetual Research through WhatsApp wherein the representatives of Perpetual Research pursued them to make payments for availing investment advisory services for receiving stock market tips. I note that vide email dated November 09, 2020, Mr. Dhanesh Kalukhe submitted that employees of Perpetual Research called the counterparty offering stock trading tips and asking fees in exchange. Perpetual Research also sought funds from the counterparty for trading and depositing profits in the account of the counterparty. I further note that vide email dated November 13, 2020, Mr. Ruchit Jain submitted a screenshot of the WhatsApp chat wherein the name of the website to whom payment was made was mentioned as "Flankingresearch.com". Examination revealed that the said website belongs to an entity "Flanking Research and Investment Advisor" which is a SEBI registered Investment Advisor. However, the payment made by the said counterparty was credited in the Kotak Mahindra Bank Account number 0511607729 of Perpetual Research. In the same WhatsApp chat, I note that one of the messages is "Buy BANKBARODA@45.80 TG 50 SL 42" which pertains to stock market tips. Moreover, examination also revealed that in the SBI bank account no. 38011522560 of "Flanking Research and Investment Advisor" the email id mentioned is 'priyank.sharma8269@gmail.com' which belongs to the Noticee Mr. Priyank Sharma proprietor of Perpetual Research.

10. I also note that one Mr. Sandhan Sahani who filed complaint against "Flanking Research and Investment Advisor" provided information to SEBI that he had raised an objection to the person who was representing himself to be from an entity named "Flanking Research and Investment Advisor" and was providing link to Perpetual Research for making payment. The complainant shared screenshot regarding

payment of Rs. 4,60,000/- made by him through PayU Money payment gateway to Perpetual Research. Further, the complainant also shared screenshot regarding email id of Mr. Priyank Sharma which was registered with PayU Money payment gateway. I note that several credits received from the complainant were noticed in the PayU Money account statement of Perpetual Research.

11. Therefore, in view of the credit transactions having narrations such as '*Advisory exp./fee*'' and "Trading/ Trading ser" in the bank accounts of the Noticees, the fact that two counterparties to such credit transactions corroborated that they received stock tips *in lieu* of payment made to the Noticees and the WhatsApp messages between the representatives of Perpetual Research and its clients regarding stock tips provided *in lieu* of fees, I find that the Noticees offered 'investment advice' as provided under Regulation 2(1)(l) of the IA Regulations, 2013, *in lieu* of consideration.

12. From the aforesaid facts, I find that the Noticees were engaged in giving advice relating to investing in, purchasing, selling or otherwise dealing in securities or investment products, *in lieu* of consideration. 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, are covered by the definition of "Investment Adviser" as given in Regulation 2(1)(m) of the IA Regulations, 2013. As noted above, Rs. 13,00,89,070/- were received in the Bank account of the Noticees during the period December 26, 2009 to November 11, 2020. 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, as defined under Regulation 2(1)(m) of the IA Regulations, 2013.

13. 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:"*

14. 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 have been framed by SEBI which provide various safeguards to ensure that the interest of the investors who receive investment advice are protected. One such safeguard provided under the said Regulations is that any person carrying out investment advisory activities has to first obtain a certificate of registration from SEBI as mandated under regulation 3(1) of the IA Regulations, 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.

15. 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:

a) 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;

b) 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:

   i. 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;

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

   iii. 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

c) 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.

16. 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 the Noticees were acting as Investment Adviser, although they were not registered with SEBI in the capacity of Investment Adviser. Hence, I find that these activities/ representations as were being made by the Noticees without holding the mandatory certificate of registration as investment adviser, are in violation of Section 12(1) of SEBI Act, 1992 read with regulation 3(1) of the IA Regulations, 2013.

Offering assured returns

17. It is alleged in the SCN that during the examination conducted by SEBI, it was noted that Mr. Priyank Sharma through his email id priyank.sharma8269@gmail.com and through whatsApp messages offered investment schemes providing assured returns to its clients. Examination found that "Flanking Research and Investment Advisor" was a SEBI registered investment advisor and Mr. Priyank Sharma, proprietor of Perpetual Research solicited money from clients under the name of both Perpetual Research and "Flanking Research and Investment Advisor".

18. In this regard, I note from the email dated November 25, 2020 of Mr. Sandhan Sahani who filed a complainant against "Flanking Research and Investment Advisor" that he was interacting with Priyank Sharma who claimed to be owner of Flanking Research. Mr. Priyank Sharma forwarded payment links of "Flanking Research and Investment Advisor" as well as Perpetual Research to the complainant and requested him to invest money in the market for generating returns. Investigation revealed that the mobile number as mentioned by the complainant belonged to Mr. Priyank Sharma as per the Account Opening Form provided by Axis Bank. The investment plans offered by Mr. Priyank Sharma to the complainant claimed to provide assured returns of 37% to 45%. The salient features of the scheme, as sent through emails, included the following claims: -
    a) 1 lakh profit on Investment of 2.7 lakh: 37% growth
    b) 2.1 lakh profit on investment of 5 lakh: 42% growth

c) 4.5 lakh profit on investment of 10 lakh: 45 % growth

i. For keeping track on investment, Perpetual Research provided daily reports on registered email with portfolio details and profits earned.
ii. If any loss happened to the client, Perpetual Research took the responsibility to provide profits to the client as per the plan.
iii. Subsequent to receipt of withdrawal request from the client, Perpetual Research froze the overall amount and did not ingest it into the market.

Perpetual Research also described its offerings as follows:
"We have expanded our offerings from stocks and derivatives, commodity derivatives and depository services to research and advisory services and many more. As a top finance company, we have a state-of-the art infrastructure in Indore, Madhya Pradesh to cater to all the financial needs of our global clientele in an economical manner"

19. Regarding the allegation of violation of Regulation 3(a), (b), (c), (d) of PFUTP Regulations, 2003 read with Sections 12A (a),(b) and (c) of SEBI Act, 1992, I note that the definition of 'fraud' as given in Regulation 2(c) of the PFUTP Regulations, 2003 is as follows:

> "fraud" includes any act, expression, omission or concealment committed whether in a deceitful manner or not by a person or by any other person with his connivance or by his agent while dealing in securities in order to induce another person or his agent to deal in securities, whether or not there is any wrongful gain or avoidance of any loss, and shall also include-
>
> (1) a knowing misrepresentation of the truth or concealment of material lfact in order that another person may act to his detriment;
>
> (2) a suggestion as to a fact which is not true by one who does not believe it to be true;
>
> (3) an active concealment of a fact by a person having knowledge or belief of the fact;
>
> (4) a promise made without any intention of performing it;
>
> (5) a representation made in a reckless and careless manner whether it be true or false;

> (6) any such act or omission as any other law specifically declares to be fraudulent,
>
> (7) deceptive behavior by a person depriving another of informed consent or full participation,
>
> (8) a false statement made without reasonable ground for believing it to be true.
>
> (9) the act of an issuer of securities giving out misinformation that affects the market price of the security, resulting in investors being effectively misled even though they did not rely on the statement itself or anything derived from it other than the market price.
>
> And "fraudulent" shall be construed accordingly;
>
> …"

Hon'ble Supreme Court while interpreting the aforesaid definition in SEBI vs. Kanahiyalal Baldevbhai Patel (2017) 15 SCC 1 held that to constitute fraud under aforesaid definition of fraud only "inducement" while dealing in securities is required.

I further note that the term 'dealing in securities' has been defined as follows in the PFUTP Regulations, 2003:

> "2(b) "dealing in securities" includes:
>
> (i) an act of buying, selling or subscribing pursuant to any issue of any security or agreeing to buy, sell or subscribe to any issue of any security or otherwise transacting in any way in any security by any persons including as principal, agent, or intermediary referred to in section 12 of the Act;
> (ii) such acts which may be knowingly designed to influence the decision of investors in securities; and
> (iii) any act of providing assistance to carry out the aforementioned acts."

I note that the in terms of Regulation 2(b)(ii) of PFUTP Regulations, 2003 definition of 'dealing in securities' also includes the acts which are designed to influence the decision of investors in securities and therefore rendering advice which influences investors to invest in securities also constitute 'dealing in securities'. I note that the definition of 'dealing in securities' had been expanded w.e.f February 01, 2019 to its present form, based on the Report of Committee on Fair Market Conduct dated August 08, 2018 which recommended as follows:

> "Fraudulent, manipulative or unfair trade practices may be carried out with the aid and assistance of persons other than the parties who are transacting in the securities market, including intermediaries who may have contributed to such dealings. The prohibition of fraudulent and

unfair trade practices is in the context of dealing in securities. Hence, the definition of 'dealing in securities' should also include those who assist in and indeed often orchestrate or control the dealings in securities, or those who knowingly influence the decisions to invest in securities.

The observation in the Report of Committee on Fair Market Conduct clearly indicates that the definition of 'dealing on securities' in Regulation 2(b) of the PFUTP Regulations, 2003 intends to bring under its ambit those acts of intermediaries, such as the Noticee, which are meant to influence the decisions of investors to invest in securities. Therefore, I find that rendering investments advice amounts to 'dealing in securities'. I find that the Noticee, while dealing in securities has promised assured returns to clients with a view to induce them to invest in securities.

In this regard, I note that any reasonable form of investment plan to estimate returns should take into account the risk factors associated with investing in equities, including the prospect of incurring capital losses. I note that it was improper on the part of Perpetual Research, which was in fact not registered with SEBI as in investment adviser, to offer assured returns in the range of 37% to 45%. Such misleading claims, I note, were made through emails and WhatsApp messages to induce clients to seek investment advisory services offered by the Noticees. I find that promising assured returns is an act of misrepresentation which induces investors to deal in securities. Therefore, it may be said that the Noticees, while dealing in securities has induced its clients to deal in securities by making misrepresentations such as assured returns. In my view, the said act of the Noticee is squarely covered by the definition of 'fraud' in Regulation 2(c) of the PFUTP Regulations, 2003.Thus, I find that the Noticee has also violated provisions of Regulation 3 (a), (b), (c), (d) of the PFUTP Regulations, 2003 read with section 12A(a), (b) and (c) of SEBI Act, 1992.

20. Further, such emails and messages disseminating false and misleading information which is likely to influence the decision of investors dealing in securities is in violation of Regulation 4(2)(k) of the PFUTP Regulations, 2003. Moreover, by concealing the associated risk of investing in equities to its clients, Noticees have engaged in miss-selling of securities and investment advisory services relating to

securities market to its clients, thus violating Regulation 4(2)(s) of the PFUTP Regulations, 2003.

21. As noted above, Rs.13,00,89,070/- were received in the bank account of the Noticees during the period December 26, 2009 to November 11, 2020. The entity has not filed any reply to SCN to how the sources of this fund. However, narrations of the remarks of most of the entries points towards fees for investment advisory services, including some credit entries on account of self-transfer and salary. The same may be considered by the Chartered Accountant on production of reliable proof by the Noticees while certifying the refunds to be made by the Noticee, as is being directed in para 23 below.

22. I also 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 Securities Appellate Tribunal 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 Investor 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 11B read with of Section 19 of the SEBI Act, 1992, hereby direct that:

a) The Noticees shall within a period of three months from the date of this order, refund the money received from any clients/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 clients/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, Division of Registration-2, Market Intermediaries Regulation and Supervision Department (MIRSD), 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 Investor Protection and Education Fund maintained by SEBI;

f) The Noticees are restrained from selling his assets, properties and holding of mutual funds/shares/securities held by him in demat and physical form except for the sole purpose of making the refunds/ 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 2 years from the date of this order or till the expiry of 2 years 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: February 27, 2023 **ANANTA BARUA**

Place: Mumbai **WHOLE TIME MEMBER**

SECURITIES AND EXCHANGE BOARD OF INDIA