National Stock Exchange of India
Circular

Department: Investigation	
Download Ref No: NSE/INVG/56200	Date: March 29, 2023
Circular Ref. No: 88/2023	

To All NSE Members

Sub: **SEBI Order in the matter of M/s Investment India Financial Services**

SEBI vide its order no. WTM/ASB/WRO/WRO/25157/2022-23 dated March 29, 2023, has debarred the following entities 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 3 (three) years from the date of this Order or till the expiry of 3 (three) years from the date of completion of refunds to Complainants /investors /clients along with depositing of balance amounts, if any, with SEBI, as directed in paragraphs 29(a) and (e) of the SEBI Order, whichever is later.

SR. NO.	Entities	PAN
1.	M/S Investment India Financial Services	AAGFI4791L
2.	Anant Rathore	AZQPR2305G
3.	Vijesh P. Joshi	ABTPJ0673J

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 at the below mentioned link:

https://www.nseindia.com/regulations/member-sebi-debarred-entities

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. Ojas Murudkar (Extension: 22378), Mr. Sandesh Sawant (Extension: 22383)
Direct No: 022-26598417/18 Fax: 022-26598195

For and on behalf of
National Stock Exchange of India Limited

Sandesh Sawant
Senior Manager

ANNEXURE: SEBI Order in the matter of M/s Investment India Financial Services

WTM/ASB/WRO/WRO/25157/2022-23

SECURITIES AND EXCHANGE BOARD OF INDIA, MUMBAI

ORDER

Under Sections 11, 11B(1) and 11(4) along with Sections 11(4A) and 11B(2) of the Securities and Exchange Board of India Act, 1992.

IN RESPECT OF –

SR. NO.	NOTICEES	PAN
1.	M/S INVESTMENT INDIA FINANCIAL SERVICES	AAGFI4791L
2.	NYN INVESTMENT INDIA FINANCIAL SERVICES PVT. LTD.	NOT AVAILABLE
3.	ANANT RATHORE	AZQPR2305G
4.	VIJESH P. JOSHI	ABTPJ0673J

IN THE MATTER OF M/S INVESTMENT INDIA FINANCIAL SERVICES.

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1. Securities and Exchange Board of India ("**SEBI**") received four complaints vide (i) letter dated July 30, 2018, from Pramod Kumar, (ii) letter dated August 13, 2018, from Jackie Bhatia, (iii) letter dated November 27, 2018, from Sreekanth Panchangam and (iv) letter dated July 8, 2018, from Ayan Raichaudhuri (forwarded to SEBI by Kolkata Police vide its letter dated July 20, 2018), against M/s Investment India Financial Services ("**IIFS /Noticee no. 1**"), a partnership firm run by Anant Rathore ("**Noticee no. 3**") and Vijesh Joshi ("**Noticee no. 4**"). The complaints *inter alia* alleged that in the guise of offering investment advisory services with guaranteed assured returns on their investments, IIFS accepted funds from the aforementioned Complainants resulting in their suffering monetary losses.

2. SEBI forwarded a copy of the aforementioned complaint of Pramod Kumar to the Special Task Force, Madhya Pradesh Police, vide letter dated October 15, 2018. Simultaneously, SEBI conducted an examination in the matter and thereafter, issued a *Show Cause Notice dated February 1, 2021* ("**SCN**") against the Noticees, based on findings contained in the examination report, *inter alia* alleging that:

i. IIFS, Anant Rathore, Vijesh Joshi and Nyn Investment Financial Services Pvt. Ltd. (a company having as its Directors, Anant Rathore and Vijesh Joshi) ("**NYN/Noticee no. 2**") (hereinafter collectively referred to as "**Noticees**") carried out investment advisory activities and held themselves out as *'Investment Advisers'* without obtaining a Certificate of Registration from SEBI in violation of the provisions of Section 12(1) of the SEBI Act, 1992 ("**SEBI Act**") read with Regulation 3(1) of SEBI (Investment Advisers) Regulations, 2013 ("**Investment Advisers Regulations**").

ii. The Noticees, by providing advisory for investment in securities without obtaining a Certificate of Registration from SEBI, were in violation of Sections 12A(a)–(c) of the SEBI Act read with Regulations 3(a)–(d) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 ("**PFUTP Regulations**").

3. The SCN called upon the Noticees to show cause as to why appropriate directions under Sections 11(1), 11(4) and 11B(1) of the SEBI Act and penalty under Sections 11(4A) and 11B(2) read with Section 15HA and 15HB of the SEBI Act should not be issued /imposed against the Noticees for the violations alleged in the SCN. The details concerning the service of SCN are provided as under:

TABLE 1

SR. NO.	NOTICEE	ADDRESS	SCN NO. AND DATE	DELIVERY STATUS	NEWSPAPER WHERE PUBLIC NOTICE WAS PUBLISHED
1.	M/S INVESTMENT INDIA FINANCIAL SERVICES	1. 301, CLASSIC MOON PLAZA, 5–A/2, OLD PALASIA, INDORE, MADHYA PRADESH – 452010. 2. 604 – A, 604 – B, 6TH FLOOR, AIREN HEIGHTS, PU_3, AB ROAD, INDORE, MADHYA PRADESH. 3. 101, TN TOWER 1ST FLOOR, VIJAY NAGAR, AB ROAD, INDORE, MADHYA PRADESH.	1. SEBI/WRO/P/187/1/2021 DATED 1.02.2021 2. SEBI/WRO/P/187/2/2021 DATED 1.02.2021 3. SEBI/WRO/P/187/3/2021 DATED 1.02.2021	NOT DELIVERED THROUGH POSTAL DEPT.	ENGLISH – TIMES OF INDIA (INDORE EDITION)
2.	NYN INVESTMENT INDIA FINANCIAL	156 – B, VAISHALI NAGAR, INDORE, MADHYA PRADESH – 452012.	SEBI/WRO/P/187/4/2021 DATED 1.02.2021	NOT DELIVERED THROUGH POSTAL DEPT.	

	Services Pvt. Ltd.				Hindi – Nai Dunia (Indore Edition) dated January 5, 2022
3.	Anant Rathore	110, Sanchar Nagar, Main Kanadia Road, Indore, Madhya Pradesh–452010.	SEBI/WRO/P/187/5/2021 dated 1.02.2021	Not Delivered Through Postal Dept.	
4.	Vijesh P. Joshi	1. Padmini 16/1, Shakker Bazar, Indore, Madhya Pradesh–452002. 2. 156 – B, Vaishali Nagar, Indore, Madhya Pradesh–452012.	1. SEBI/WRO/P/187/6/2021 dated 1.02.202 2. SEBI/WRO/P/187/7/2021 dated 1.02.2021	1. Delivered on 9.02.2021 2. Not Delivered Through Postal Dept.	

4. Noticee No. 4, Vijesh Joshi, replied to the SCN vide a letter dated March 6, 2021. Noticees No. 1, 2 and 3 failed to respond to the SCN.

5. An opportunity of hearing was granted to all the Noticees on June 14, 2022. Noticees 1, 2 and 3 failed to appear for the hearing. Noticee 4 entered appearance through Advocate Vinay Puranik and sought an adjournment on the ground that he had not received the SCN. The adjournment request made by Noticee 4 was accepted and the matter was adjourned to June 28, 2022. On the said date, Advocate Vinay Puranik made oral submissions on behalf of Noticee 4. Subsequently, Noticee No. 4 filed additional written submissions vide letter dated July 4, 2022.

6. Subsequently, vide e–mail dated December 21, 2022, Noticee 3 informed SEBI that he had not received the SCN and the Hearing Notice sent by SEBI and requested that an opportunity of personal hearing be provided to him. Accordingly, an opportunity of personal hearing was provided to Noticee 3 on January 23, 2023. Prior to the hearing, Noticee 3 made written submissions dated January 20, 2023. Noticee 3 was represented by Abhishek Mishra, Company Secretary, for the hearing, and the authorized representative made submissions along the lines of his reply dated January 20, 2023. The authorized representative also submitted that the Noticee did not have access to the statements of the bank accounts mentioned in the SCN, and if the same were provided, he would be in a position to explain the nature of the transactions reflected therein. The copies of the bank statements were furnished to the

Noticee vide an e–mail dated January 24, 2023. However, no reply in this regard was received from Noticee 3.

7. The summary of the oral and written submission made on behalf of Noticee 3 and 4 are captured below: -

Submissions made by Noticee 3

a. *The Noticee had formed a partnership firm with Noticee 4 in July 2017, with a view to carry out consultancy business in the financial sector. The firm subsequently obtained sub-brokership of Profitmart. Around this period, Noticee 4 had informed the Noticee that he had obtained NISM certification and they should, therefore, start the business of providing stock recommendations.*

b. *He accepted the suggestion made by Noticee 4 as he was not aware of the regulatory provisions and was under the impression that a person with NISM certification was qualified to provide investment advisory services.*

c. *Noticee 4 had represented to the Noticee that he was associated with a SEBI registered investment advisor and on the basis of the same they started representing on their website that they were registered with SEBI.*

d. *Thereafter, Noticee 4 convinced the Noticee to also obtain NISM certification and to start another firm where he would be the Director for the purpose of providing investment advisory services. The Noticee subsequently obtained NISM certification in December 2017 and a new company called Nyn Investment India Financial Services Pvt. Ltd. was incorporated in March 2018.*

e. *Subsequently, certain issues cropped up between the Noticee and Noticee 4 and thereafter, the Notice got separated from both Noticee 1 firm and Noticee 2 company.*

f. *From October 2018, the Noticee has not been associated or involved in the securities market activity*

g. *Noticee 4 had misused the documents of the Noticee and created a back-dated document which stated that Noticee 4 was no longer a partner in the firm and all the operations were being handled by the Noticee. The Noticee also submitted that his signature appearing on the said document* *was forged. The Noticee also submitted a report from a document examiner to support his contention that the signature appearing on the document was forged.*

h. *Upon realizing his mistakes, he had undertaken to resolve all customer grievances and refund the amounts due to them. He had refunded a sum of around Rs. 50 Lakh to the clients.*

i. *The Noticee accepted that he was involved in offering services without obtaining SEBI registration. He had also taken steps to refund all the money collected from clients.*

j. *In respect of the bank accounts which were mentioned in the SCN, the Noticee submitted as under: -*

  - *Payments were received from clients in the account (37464722651) maintained with SBI and account (917020054767417) maintained with Axis Bank. The PayUMoney account was only linked with these two bank accounts.*
  - *The bank accounts in the name of Padmini Concept Trading Pvt. Ltd., mentioned in the SCN, was used by Noticee 4 for his personal family business, and the Noticee was not aware of the transactions happening in this account.*
  - *The Kotak Mahindra Bank account mentioned in the SCN belonged to his mother, and payments related to advisory services were never received in the said bank account. Similarly, the Bank of Maharashtra account mentioned in the SCN was the personal account of the Noticee and client funds were never received in this account.*

k. *He no longer has access to the said back accounts and requested that the statements of the above-mentioned bank accounts be provided to him to enable him to identify the transactions which pertained to advisory services.*

l. *The actual receipt of fees from the clients was around Rs. 1.5 Crore, and the rest of the amounts were from other sources. Further, as the profits were to be shared by the partners equally, his share of the liabilities should not exceed 75 Lakhs.*

m. *The Cyber Crime authorities had frozen the bank accounts of the firm having balance to the tune of Rs. 38 Lakh. SEBI may consider transferring the said amount to the Investor Protection and Education Fund.*
n. *The Noticee has already made refund to the tune of Rs. 50 Lakh to the clients. The Noticee's remaining liabilities of Rs. 25 Lakh (75 -50) may be adjusted from the funds which are lying in the frozen bank accounts.*
o. *The Noticee was in regular touch with Indore Police authorities, and refunds have been made to clients based on their directions.*

Submissions made by Noticee 4

a. *Noticee 3 was solely responsible and liable for all the business dealings and financial transactions of the firm. The Noticee was merely acting as an investment /sleeping partner in IIFS.*
b. *The Noticee filed a complaint before appropriate authorities regarding the dishonour by Anant Rathore, of a cheque issued in his favour. During the course of its investigation, the police submitted a report mentioning that Anant Rathore is solely responsible and liable towards the fraud committed in the name of IIFS. A copy of the report was enclosed with the reply.*
c. *Noticee never dealt with clients /customers of IIFS and never made any false promises /assurances of huge returns to the clients /customers of IIFS.*
d. *Noticee 3 is a habitual offender, and various cases of fraud have been registered against him throughout the country.*
e. *Nyn Investment India Financial Services is a dormant company and no transactions have ever been carried out in its name.*
f. *Noticee 3 has incorporated various fake companies and firms and involved several innocent and honest persons. The Noticee himself is a victim of the fraud committed by Anant Rathore.*
g. *Noticee 3 purchased a property in the public auction of a nationalized bank. A copy of a document showing the purchase of property by Noticee 3 was submitted.*
h. *Noticee also submitted a declaration dated 1.09.2018, that was executed in favour of IIFS by Pradeep Gurjar, a relative of Pramod Kumar, declaring*

that, as both the parties have entered into a settlement, no grievance remains against IIFS.

i. *It was submitted that the complainant Sreekanth Panchangam, received his complete payment of ₹17,22,369 via RTGS on June 22, 2021, from the account of IIFS. A copy of the document evidencing payment was submitted.*

j. *A declaration dated 16.01.2019 was executed in favour of IIFS by Ayan Raichaudhuri, declaring that he received the entire amount of ₹2,30,000 and, further, that he did not have any grievance left against IIFS, was submitted by the Noticee.*

k. *It was therefore submitted that out of the four complainants referred in the SCN, the claims of 3 complainants were settled.*

l. *The Noticee also submitted that he has no objection if the claim of the remaining one complainant, Jackie Bhatia, for an amount of ₹1,31,300 is settled or repaid through the funds from the account of IIFS (Axis Bank A/c No. 917020054767417, Bombay Hospital Square Branch, Indore.) which was frozen by Cyber Crime Police.*

FINDINGS:

8. I have considered the SCN along with all the material available on record. I note that Noticees 1 and 2 have not filed any reply to the SCN. I note from the records that Noticee 1 is a partnership firm, where Noticee 3 and 4 are the only partners, and Noticee 2 is a private company, where Noticee 1 and 2 are its directors.

9. As per the SCN, it is alleged that the Noticees held themselves out as *'Investment Advisers'* without obtaining registration from SEBI in violation of the provisions of Section 12(1) of the SEBI Act read with Regulation 3(1) of the Investment Advisers Regulations. The aforementioned provisions of law read as under:

Provisions of the SEBI Act:

*"**Section 12 of the SEBI Act – Registration of stock brokers, sub-brokers, share transfer agents, etc.***

12. (1) 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:

Provided that a person buying or selling securities or otherwise dealing with the securities market as a 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 immediately before the establishment of the Board for which no registration certificate was necessary prior to such establishment, may continue to do so for a period of three months from such establishment or, if he has made an application for such registration within the said period of three months, till the disposal of such application:

Provided further that any certificate of registration, obtained immediately before the commencement of the Securities Laws (Amendment) Act, 1995, shall be deemed to have been obtained from the Board in accordance with the regulations providing for such registration."

Provisions of the Investment Advisers Regulations:

*"**Regulation 3 of the Investment Advisers Regulations – Application for grant of certificate.***

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:"*

10. From the material available on record, it is noted that two websites of Noticee 1 i.e. www.investmentindia.co and www.investmentindia.net.in (this website is no longer active; however, archived pages of the website were downloaded from web.archive.org), had displayed IIFS as a SEBI registered investment adviser. I also note that the said websites offered advisory services in sixteen products, viz. Stock Future Power, Stock Option Power, Stock Cash Power, Blue Chip Tips, MCX Gold Option Tips, Nifty Option Tips, Stock Cash BTST Tips, Inventory Calls, Stock Cash, Stock Future, Stock Option, Energy Tips, Base Metals, NCDEX, Smart MCX and Bullion, against consideration.

11. As per the information available on the website, www.investmentindia.net.in, it is observed that seven bank accounts were mentioned for transferring funds for availing the services that were being offered. The details of said accounts and amounts received are given in the table below: -

Table 2				
	Bank	**A/c held in the name of**	**Period**	**Amount in ₹**
1.	State Bank of India A/c No. 37464722651 Khajrana Branch, Indore	IIFS	January 9, 2018 to August 29, 2020	70,32,853
2.	Axis Bank A/c no. 917020054767417 (linked to PayU Money Account) Bombay Hospital Square Branch, Indore	IIFS	August 3, 2017 to September 07, 2020	1,93,31,575
3.	ICICI Bank A/c No. 657305600700 Saket Nagar Branch, Indore	IIFS	August 20, 2017 to September 14, 2018	33,19,715
Total				**2,96,84,143**
4.	Bank of Baroda Bank A/c no. 42710200000296	Padmini Concept Trading Indore Pvt. Ltd.	March 2, 2016 to June 25, 2020	58,18,494

	M.G. Road Branch, Indore	Directors/authorized Signatories – Vijesh Joshi and Padmesh Joshi		
5.	Punjab National Bank A/c No. 0213008700005204 M.G. Road Branch, Indore	Padmini Concept Trading Indore Pvt. Ltd. Directors/authorized Signatories – Vijesh Joshi and Padmesh Joshi	August 31, 2016 to October 31, 2019	4,41,66,854*
6.	Kotak Mahindra Bank A/c No. 1611713013 Dhar Branch, Dhar(M.P)	Shakuntala Rathod	February 20, 2016 to April 05, 2019	1,92,662
7.	Bank of Maharashtra A/c No. 60244976714 South Tukoganj Branch, Indore	Anant Rathod	March 21, 2016 to July 04, 2020	23,897
*Total Debit /Credit Transactions				

12. I note from the replies of Noticee 3 and 4 that they have not denied the allegation in the SCN that Noticee 1 was engaged in providing investment advisory services. Instead, Noticee 3 has submitted that the entire operations were run by Noticee 4. On the other hand, Noticee 4 has, tried to pin the blame on Noticee 3. It is therefore noted that while accepting the allegation that Noticee 1 was engaged in investment advisory services, Noticee 3 and 4 are blaming each other for running its operations. It is further noted that the amounts mentioned in the complaint of Jackie Bhatia are reflected in the SBI account (37464722651) of Noticee 1. Similarly, payments made by two complainants, Ayan Raichaudhuri and Sreekanth Panchangam, through the payment gateway PayUMoney, were reflected in the Axis Bank account (917020051767417) held in the name of Noticee 1. In this regard, it is noted that PayUMoney had submitted that during the period September 20, 2017, to September 11, 2018, a sum of Rs. 1,47,78,364 was credited to the said Axis Bank account by various clients through the gateway. In view of the above, I have no hesitation in holding that Noticee 1 was engaged in the act of providing investment advisory services against consideration.

13. I note that Noticee 4 submitted a document signed by Noticee 3, the authenticity of which is disputed by Noticee 3, purporting to absolve him from all the liabilities in relation to the activities undertaken by Noticee 1. Noticee 3, on the other hand, has repeatedly stated in his reply that the entire operations of Noticee 1 was being run by Noticee 4. Having considered the replies, I note that what is not in dispute is that Noticee 3 and 4 were the only partners of Noticee 1 during the period under examination. I, however, note that other than these claims, Noticees 3 and 4 have failed to submit any valid proof regarding dissolution of the partnership firm during this period and in the absence of the same, I note that they would be jointly and severally liable for the actions of Noticee 1.

14. In respect of Noticee 2, which, I note, is a company where Noticees 3 and 4 are directors, there are no specific allegations in the SCN that it was engaged in providing advisory services or had received any funds from clients. It is noted that Noticee 2 was made a Noticee in these proceedings only because Noticee 3 and 4 were its directors. In view of the same, I do not propose to issue any directions in respect of Noticee 2 in this Order.

15. Now I am moving on to consider the question of funds mobilised by Noticee 1 by offering unregistered investment advisory services. In this regard, as already stated above, the bank accounts shown in Table 2 were mentioned on the websites of Noticee 1. However, it can be noted from the said table that accounts mentioned at Serial Nos. 4 and 5 were not held in the name of IIFS. Further, it is noted from Annexure F to the SCN that there was no specific narration mentioned in the statements of the said accounts relating to investment advisory services. In respect of the account at Serial No. 5, it is also mentioned in Annexure F to the SCN that the said account "*appears to be a working capital loan taken by Padmini Concept Trading as it is engaged in … Saree and Dress material business*."

16. I further note that account mentioned at Serial No. 6 was in the name of Noticee 3's mother and the account mentioned at Serial No. 7 was in the held in Noticee

3’s own name. Even in respect of these two accounts, I note that in the credit entries no specific narrations relating to investment advisory services could be noted. In view of the same, I am inclined to exclude the accounts mentioned at Serial Nos. 4, 5, 6 and 7 of Table 2 while considering the amount mobilised by Noticee 1 for offering unregistered investment advisory services.

17. In respect of the Axis Bank account noted at Serial No. 2, I note that PayUMoney has confirmed that an amount of Rs. 1,47,78,364 was transferred to the said account by clients using their payment gateway. Further, in respect of the account mentioned at Serial No. 1, I note that transactions mentioned by a complainant was reflected in the said account. In respect of the account mentioned at Serial No. 3, I note that the terms like “investment”, “profit”, etc. appear in the narrations of the credit entries. It is also noted that Noticee 3 and 4 in their respective replies have not produced any specific material to show the sources of these funds. Considering the aforesaid, I find that all such sums were nothing but consideration received by Noticee 1 from investors /clients in lieu of 'Investment Advice' offered through subscription to its investment advisory services.

18. Regulation 2(m) of the Investment Advisers Regulations defines the term '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". Further, Regulation 2(l) of the Investment Advisers Regulations 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." The aforementioned definitions, when viewed in light of the observations contained in the preceding paragraphs, lead me to conclude that the Noticees (excluding Noticee 2 – see paragraph 14) indeed held themselves out as 'Investment Adviser' by offering to give 'Investment Advice' related to investing in,

purchasing and selling of securities in lieu of consideration received from investors /clients.

19. Section 12(1) of the SEBI Act inter alia provides that no investment adviser shall buy, sell or deal in securities except under and in accordance with the conditions of a Certificate of Registration obtained from the Board. Further, Regulation 3(1) of the Investment Advisers Regulations provides that no person shall act as an investment adviser or hold himself out as an investment adviser unless he has obtained a Certificate of Registration from the Board. Noticees 1, 3 and 4 were never registered with SEBI, in any capacity, as an intermediary. By operating as an 'Investment Adviser' as defined under Regulation 2(m) of the Investment Advisers Regulations without obtaining registration from SEBI, I find that the Noticee 1, 3 and 4 have violated Section 12(1) of the SEBI Act read with Regulation 3(1) of the Investment Advisers Regulations.

20. The SCN has also alleged that Noticee 1, on its website, misrepresented itself as a SEBI registered entity in violation of Sections 12A(a), (b) and (c) of the SEBI Act read with Regulations 3(a), (b), (c) and (d) of the PFUTP Regulations. The aforementioned provisions of law read as under:

"Provisions of the SEBI Act:

12A. No person shall directly or indirectly—

(a) use or employ, in connection with the issue, purchase or sale of any securities listed or proposed to be listed on a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of this Act or the rules or the regulations made thereunder;

(b) employ any device, scheme or artifice to defraud in connection with issue or dealing in securities which are listed or proposed to be listed on a recognized stock exchange;

(c) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, dealing in securities which are listed or proposed to be listed on a recognized stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;

Provisions of the PFUTP Regulations:

Regulation 2(1)(c) of the PFUTP Regulations:

"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 fact 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 behaviour 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; …"

Regulation 3 of the PFUTP Regulations:

No person shall directly or indirectly—

(a) buy, sell or otherwise deal in securities in a fraudulent manner;

(b) use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any

manipulative or deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made there under;

(c) employ any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange;

(d) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made there under."

21. As stated in the preceding paragraphs, the websites of Noticee 1 had falsely disclosed that it was registered with SEBI as an Investment adviser. Having regard to the aforementioned, I find that IIFS, by actively holding itself out as a registered 'Investment Adviser' despite not having been granted a valid Certificate of registration by SEBI, knowingly misrepresented itself as a SEBI registered entity to investors /clients. Such misleading representations are deceptive and fraudulent in nature and covered with the definition of 'fraud' (as defined under Regulation 2(1)(c) of the PFUTP Regulations). Accordingly, I hold that such action by Noticees 1, 3 and 4 were fraudulent in nature and in violation of the provisions of Section 12A(c) of the SEBI Act and Regulations 3(d) read with Regulation 2(1)(c) of the PFUTP Regulations.

22. The SCN had inter alia called upon the Noticees to show cause as to why suitable directions under Sections 11(1), 11(4) and 11B(1) of the SEBI Act should not be issued against them. In the instant proceedings, the amount of fees /consideration collected by Noticee 1 as a result of providing unregistered 'Investment Advice' to investors amounted to ₹2,96,84,143 (see Table 2 at page 9 and paragraph 17). I note that Noticee 3 has sought to contend that his liability for making refunds should be limited to 50% of the total funds mobilised because the profits of the firm were divided equally between both the partners. I am, however, unable to accept this contention. IIFS is a partnership firm and the partners would be jointly and severally liable for the actions of Noticee 1. This would extend to the refund obligations of Noticee 1 also.

23. Given the above, I am of the considered view that the Noticees 1, 3 and 4 are jointly and severally liable to refund the aforementioned amount collected in lieu of offering unregistered investment advisory services to its clients /investors. Directing Noticees 1, 3 and 4 to refund such amount will be in the interest of investors in the securities market.

24. In their replies, Noticees 3 and 4 have stated that they have made refunds to some of their clients. They have also submitted that certain credits in the bank accounts mentioned at Serial No. 1, 2 and 3 of Table 2 did not pertain to unregistered investment advisory activity carried out by Noticee 1. These facts may be considered by the Chartered Accountant who will be certifying the refunds, as is being directed in paragraph 29(d) of this Order, on production of reliable proof by the said Noticees. The refund liability to clients /investors shall be suitably adjusted.

25. I further note that certain bank accounts of Noticee 1, mentioned in Table 2 above, have been attached by other law enforcement agencies. Noticee 3 and 4 may take steps to activate such accounts and make refunds to investors after taking due approval from the respective authorities. Such amounts and corresponding claims of clients/investors (only to the extent of the credit balance available in the accounts which are frozen) may be excluded from the refund obligations till such time the accounts remain frozen.

26. The SCN had also called upon the Noticees to show cause as to why penalty under Section 15HA and 15HB of the SEBI Act should not be imposed. The aforesaid provisions are reproduced below:

"Penalty for fraudulent and unfair trade practices.

15HA.If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher

Penalty for contravention where no separate penalty has been provided.
15HB. Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees."

27. For the imposition of penalty under the provisions of the SEBI Act, Section 15J of the SEBI Act,1992 provides as follows:

*"**Factors to be taken into account while adjudging quantum of penalty.***
15J. *While adjudging quantum of penalty under 15-I or section 11 or section 11B, the Board or the adjudicating officer shall have due regard to the following factors, namely: —*
(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
(b) the amount of loss caused to an investor or group of investors as a result of the default;
(c) the repetitive nature of the default.
Explanation. —For the removal of doubts, it is clarified that the power to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section."

28. In this regard, I find that the SCN does not mention the amount of disproportionate gain or unfair advantage made as a result of the default or the amount of loss caused to an investor or group of investors. However, as stated in Table 2, I find that an amount of ₹2,96,84,143 was credited to the accounts held in the name of Noticee 1 in relation to offering investment advisory services. In view of the same, I am of the considered view that imposition of minimum penalty is warranted in the instant proceedings, which would be commensurate with the violation committed by Noticees 3 and 4, who were the partners of Noticee 1.

ORDER:

29. In view of the foregoing, I, in exercise of the powers conferred upon me in terms of Sections 11, 11B(1) and 11(4) along with Sections 11(4A) and 11B(2) read with of Sections 15HA, 15HB and 19 of the SEBI Act and Rule 5 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995, hereby issue the following directions:

    (a) Noticees 1, 3 and 4 i.e. **M/s India investment Financial Services, Anant Rathore and Vijesh Joshi,** shall jointly and severally, within a period of three months from the date of coming into force of this Order, refund the money received from any Complainants /investors /clients, as fees /consideration or in any other form, in respect of their unregistered investment advisory activities.

    (b) Noticees 1, 3 and 4 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 Complainants /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, including the details of the contact persons such as names, addresses and contact details. A period of two (2) months from the date of the publication of the public notice shall be provided to the Complainants /investors /clients for submitting their claims.

    (c) The repayments to the Complainants /investors /clients 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 paragraph 29(a) above, Noticees 1, 3 and 4 shall file a report detailing the amount refunded to Complainants /investors /clients, which should be 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, name of the parties, communication address, mobile / telephone numbers, etc.

(e) The remaining balance amount shall be deposited with SEBI, 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 the Noticees. Thereafter, the remaining amount, if any, shall be deposited in the Investors Protection and Education Fund, maintained by SEBI.

(f) Noticees 1, 3 and 4 are restrained from selling their assets, properties and holding of mutual funds /shares /securities held by them in demat and physical form except for the sole purpose of making the refunds /depositing balance amount with SEBI, as directed above. Further, the banks are directed to allow debits only for the purpose of making refunds to the Complainants /investors /clients who were availing the unregistered investment advisory services from the Noticees, as directed in this Order, from the bank accounts of the Noticees.

(g) Noticees 1, 3 and 4 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 **3 (three) years** from the date of this Order or till the expiry of **3 (three) years** from the date of completion of refunds to Complainants /investors /clients along with depositing of balance amounts, if any, with SEBI, as directed in paragraphs 29(a) and (e), whichever is later.

(h) Upon submission of the report on the completion of refund to clients/investors to SEBI and deposit of the balance amount, if any, with

SEBI, the direction at paragraph 29(f) 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 paragraph 29(g), 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.

(j) Noticees 3 and 4 are also imposed with the penalty, as specified hereunder.

Name of Noticee	**Provisions under which penalty imposed**	**Penalty Amount (In Rupees)**
Noticee 3	Section 15HA of the SEBI Act	₹5, 00, 000/- (Rupees Five Lakh)
	Section 15HB of the SEBI Act	₹1,00,000/- (Rupees One Lakh)
Noticee 4	Section 15HA of the SEBI Act	₹5, 00, 000/- (Rupees Five Lakh)
	Section 15HB of the SEBI Act	₹1,00,000/- (Rupees One Lakh)

(k) Noticees 3 and 4 shall forward the said confirmation of e-payment made in the format as given in the table below, which should be sent to *"The Securities and Exchange Board of India, SEBI Bhavan II, Plot no. C-7, "G" Block, Bandra-Kurla Complex, Bandra (E), and Mumbai 400 051"* and also to email id: tad@sebi.gov.in.

a. Case Name	
b. Name of payee:	
c. Date of payment:	
d. Amount paid:	
e. Transaction no.:	

f. Bank details in which payment is made:	
g. Payment is made for: (like penalties/ disgorgement/ recovery/settlement amount and legal charges along with order details)	

30. The above direction for refunds /repayment to clients /investors and depositing the balance amount with SEBI, as given in paragraphs 29(a) and (e) above, does not preclude such Complainants /investors /clients from pursuing other legal remedies available to them under any other law against the Noticees for refund of money or deficiency in service.

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

32. A copy of this Order shall be served upon the Noticees. A copy of this Order shall also be forwarded to the recognized Stock Exchanges, Depositories, Banks and Registrar and Transfer Agents for necessary compliance with the above directions and also to the Government of Madhya Pradesh for its information.

Place: Mumbai
Date: March 29, 2023

ASHWANI BHATIA
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA