National Stock Exchange of India

Circular

Department: Investigation	
Download Ref No: NSE/INVG/56668	Date: May 10, 2023
Circular Ref. No: 120/2023	

To All NSE Members,

Sub: **SEBI Order in the matter of M/s. Globex Money Research (Prop. Palkesh Khandelwal)**

SEBI vide its Order No. WTM/AB/WRO/WRO/26354/2023-24 dated May 10, 2023, has hereby debarred Mr. Palkesh Khandelwal, Proprietor of M/s. Globex Money Research (PAN- APDPK7324R) 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 six (6) months from the date of this order or till the expiry of six (6) months from the date of completion of refunds to complainants/ investors along with depositing of balance amounts, if any, with SEBI as directed in para 18(a) and 18(e) of SEBI 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 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.

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

Mr. Pranav Thakur (Extension: 22481), Mr. Sandesh Sawant (Extension: 23335)
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: SEBI Order in the matter of M/s. Globex Money Research (Prop. Palkesh Khandelwal)

SECURITIES AND EXCHANGE BOARD OF INDIA

FINAL ORDER

UNDER SECTIONS 11(1), 11(4), AND 11B (1) OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

In respect of:

Noticee no.	Noticee Name	PAN
1.	Mr. Palkesh Khandelwal Proprietor of M/s. Globex Money Research	APDPK7324R

In the matter of Unregistered Investment Advisory by M/s. Globex Money Research.

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1. On the basis of a complaint received, Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") conducted an examination in relation to the alleged activities of unregistered investment advisory being carried out by M/s. Globex Money Research. Upon examination, a show cause notice dated August 06, 2021 (hereinafter referred to as "**SCN**"), came to be issued to Mr. Palkesh Khandelwal and its sole proprietory firm i.e. M/s. Globex Money Research, (hereinafter collectively referred to as "**the Noticee**"), whereby the Noticee was called upon to show cause as to why appropriate directions under Sections 11(1), 11(4) and 11B(1) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act, 1992**"), should not be issued against him for the alleged violation of the provisions of Section 12(1) of the SEBI Act, 1992 and Regulation 3(1) of SEBI (Investment Advisors) Regulations, 2013 (hereinafter referred to as "**IA Regulations, 2013**").

2. The SCN alongwith the Annexures was served upon the Noticees through Speed Post. I note that the Noticee has filed his reply dated February 7, 2022. Subsequently, on March 7, 2022, the matter was placed before me for granting a

suitable date for personal hearing. An opportunity of personal hearing was granted to Noticees on May 19, 2022. On the scheduled date of hearing, the Advocate appearing on behalf of the Noticee was heard. Subsequently, vide an email dated December 16, 2022, the Noticee was provided with an opportunity to file additional submissions, if any. I note that the Noticee has not availed this opportunity.

3. In his complaint, the complainant had stated that he had subscribed to the investment advisory services offered by the Noticee and accordingly initially he received tip calls on 2-3 occasions but subsequently he stopped receiving any calls from the Noticee. He stated that on visiting the website of the Noticee 'www.globexsecurities.com', he was unable to find any contact no. of the Noticee.

4. The SCN alleges that the Noticee was carrying out unregistered investment advisory activities through the website 'www.globexsecurities.com'. I note that the website is inactive as on date, but from the copy of the archived webpages as downloaded from 'web.archive.org' and available on record, it is noted that the following was disclosed on the website:

> *"Globex Securities is a firm which is specialized in Financial market research, consulting, financial advisory, asset management, and commodities management firm providing independent research, analysis, and advisory services related to currencies, equities, commodities markets and the financial management of exposure to equities & commodities oriented investments."*

5. As per the website, services were being offered by the Noticee as Bullions Pack, Metals Pack, BME Pack, Stock Cash Pack, Stock Future Pack, Nifty Pack, Agro Pack, Royal Bullions Pack, Agro Positional Pack and Options Pack. Further, under the heading 'Pricing', the monthly, quarterly, half yearly and yearly charges for the aforesaid services were also mentioned on the website.

6. I note that, SEBI's examination has revealed the following bank accounts maintained and run by the Noticee in the name of the proprietorship firm –

Name: Globex Money Research HDFC Bank A/c No. 00367630000285	Name: Globex Money Research Union Bank of India A/c No. 326301010089420

7. From reading of the aforesaid contents of the website and copy of the complaint, it is abundantly clear that the owner and administrator of the website '<u>www.globexsecurities.com'</u> was engaged in the business of providing Investment Advisory services to clients for consideration.

8. During examination by SEBI, the bank statements, KYC and Account Opening Forms of Bank A/c no. 326301010089420 were procured from Union Bank of India. On perusal of the Account Opening Form, I find that M/s. Globex Money Research is a proprietorship firm and Mr. Palkesh Khandelwal is its sole proprietor. In the Account Opening Form, M/s. Globex Money Research is shown to be engaged in providing consultancy Services. The said proprietorship firm is registered under the Madhya Pradesh Shops and Establishment Act, 1958. The Assistant Labour Commissioner, Indore had issued a Registration Certificate dated October 17, 2012 under the Madhya Pradesh Shops and Establishment Act, 1958, to 'Globex Money Research', whose proprietor is mentioned as Mr. Palkesh Khandelwal. Further, from the account statement, I find that almost all credit entries in the said Bank account were by deposit from payment gateway 'Avenue India Pvt. Ltd.'. Total amount credited in the said bank account from October 25, 2012 to June 23, 2020, is Rs. 36,52,919.91. Further, from the Account opening Form of HDFC Bank A/c. no. 00367630000285, it is revealed that the said Bank account is held in the name of 'M/s. Globex Money Research', which is a sole proprietorship firm and the Noticee is its proprietor. On perusal of account statement, I find that a sum of Rs. 23,06,899.51 was credited into the said bank account from various entities during the period from January 01, 2013 to December 31, 2014.

9. I note that the Noticee has contended that he was nowhere connected with the website 'www.globexsecurities.com'. He states that he was merely a faculty at Globex Money Research, which firm is engaged in offering educational courses related to securities market and this firm has no connection with website

‘www.globexsecurities.com’. From the material available on record, I find that HP Software Technology Pvt. Ltd. was the Registrant for the domain name ‘www.globexsecurities.com’. During examination, SEBI had sought details about the owner/ administrator and contact person of the impugned website from HP Software Technology Pvt. Ltd. In its email reply dated June 12, 2015, HP Software Technology Pvt. Ltd. has stated that the Noticee was the owner of the domain ‘www.globexsecurities.com’. Therefore, I find that the contention of the Noticee that he is not connected with the impugned website is untenable. Further, I also find that the Noticee has not provided any evidence in support of his claim that Globex Money Research was providing educational courses on securities market. Neither do I find any evidence to support the claim of the Noticee that he was merely a faculty at Globex Money Research. Rather, there is ample material on record to infer that the Noticee was the sole proprietor of Globex Money Research and the Noticee was the owner of the website www.globexsexurities.com’. From the contents of the website, as produced in para 4 above, it is clear that the Noticee was engaged into offering investment advisory services. Further, from the bank statements of aforementioned Union Bank of India and HDFC Bank A/c’s., it is observed that there are large number of credit entries from Avenue India Payment Gateway, and also through NEFT/IMPS bank transfers from various individuals. I note that, in the present proceedings, the Noticee has failed to explain with supporting evidence the source of the credit entries in the aforesaid Bank A/c’s. If it is the claim of the Noticee that the funds were received from the subscribers of the educational courses being offered by Globex Monet Research, then the same ought to be supported by relevant copies of invoices issued, service tax returns filed, or other supporting documents to establish the source of credit entries in the impugned Bank A/c’s. However, no such evidence has been produced before me, by the Noticee. Thus, I am inclined to hold that the credit entries in the impugned bank accounts aggregating to an amount of Rs. 59,59,819.42, were funds received by the Noticee from clients/ investors while offering the unregistered investment advisory services. In view of the above, I find that the Noticee was engaged in offering investment advisory services to clients/ investors for a consideration, without obtaining registration from SEBI.

10. 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.60,83,703.82 were received in the aforesaid bank accounts whose beneficiary were the Noticees. As noted in the previous paragraph, the payments received in the bank accounts of the Noticees, were in lieu of the investment advisory services provided by M/s. Capital Research and M/s. Capres. Hence, I find that M/s. Capital Research and its proprietor Mr. Gopal Gupta and M/s. Capres and its proprietor Mr. Rahul Patel, were engaged in the business of providing investment advice to their clients, for consideration, and thus, acting as investment advisers, as defined under Regulation 2(1)(m) of the IA Regulations, 2013.

11. I note that the Noticee has contended that the definition of "investment advice" under Regulation 2(1)(l) of IA Regulations, 2013 shows that investment advice shall necessarily include financial planning and the allegation in the SCN is that the Noticees were giving buy/sell recommendations in stock markets and there is no allegation in the SCN that the Noticees were conducting financial planning. The Noticee has also contended that a person who is providing buy/sell recommendations in stock market and is not undertaking any financial planning falls under the category of Research Analyst and not Investment Adviser. I note that the allegation in the SCN is that the Noticee was engaged in the activities of investment adviser without seeking registration from SEBI. I note that the definition of 'investment advice' as provided under Regulation 2(1)(l) of the IA Regulations, 2013, first describes what is meant by investment advice and then uses the phrase "and shall include financial planning'. In "means" and "and shall include" definitions, "means" part gives the meaning of the term which is being defined and "and shall include" part specifies those things which may not otherwise get covered under the

“means” part of the definition. In the present case, the definition of ‘investment advice’ starts with the words, “means advice relating to investing in purchasing, selling or otherwise dealing in securities or investment products.........” and then goes on to state that “and shall also include financial planning”. As discussed before, it only shows that financial planning has been specifically brought under the ambit of investment advice by using “and shall include” which otherwise may not get covered in the “means” part of the definition. The presence of “financial planning” in the “and shall include” part of the definition does not make “financial planning” *sine qua non* for investment advice, rather it merely shows that “financial planning” is also investment advice independent of what has been stated in the “means” part of the definition. Therefore, the contention of the Noticee in this regard is untenable. In view of the above, I find that the services and packages offered on the website ‘www.globexsecurities.com’ and the credit entries in the Bank account’s held by the Noticee, clearly indicate that the Noticee was offering ‘investment advice’ as defined under Regulation 2(1)(l) of the IA Regulations, 2013. Regarding, the contention of the Noticee that the giving of buy/sell recommendations without any financial planning falls under the activities of research analyst and not investment advisory, I note that definition of “research analyst” as given under Regulation 2(1)(u) of SEBI (Research Analysts) Regulations, 2014 (hereinafter referred to as “**RA Regulations, 2014**”), provides as under:

“‘research analyst’ means a person who is primarily responsible for ---

1. *preparation or publication of the content of the research report; or*
2. *providing research report; or*
3. *making 'buy/sell/hold' recommendation; or*
4. *giving price target; or*
5. *an opinion concerning public offer, with respect to securities that are listed or to be listed in a stock exchange, whether or not any such person has the job title of 'research analyst' and includes any other entities engaged in issuance of research report or research analysis.*

Explanation.- The term also includes any associated person who reports directly or indirectly to such a research analyst in connection with activities provided above.”

The aforesaid definition of "research analyst" enlists certain activities, responsibility for which makes a person "research analyst". A perusal of the aforesaid definition shows that an entity performing all or any of the activities mentioned therein would qualify as "research analyst". When the said definition is read with other definitions and provisions of the RA Regulations, 2014, it is clear that research analyst takes into account the companies/securities/sectors for making recommendation which are not client specific unlike investment advisory activity wherein the advice is rendered after taking into account the risk profile investor. Further, for a buy/sell recommendation to fall in the research analyst definition, such recommendation should be made to public/clients at large and may not be personalised investment advice or on one to one basis, as is the case herein. Therefore, the contention of the Noticee is not correct.

12. 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:"*

13. It is relevant to note that in order to protect the interest of investors and to preserve the integrity of the securities market, IA Regulations, 2013 has been framed by SEBI which provide various safeguards to ensure that the interest of the investors who receive investment advice are protected. One such safeguard provided under the said Regulations is that any person carrying out investment advisory activities has to first obtain a certificate of registration from SEBI as mandated under regulation 3(1) of the IA Regulations, 2013, which, *inter alia*, provides that, no person shall act as an investment adviser or hold itself out as an investment adviser unless he has obtained a certificate of registration from SEBI and it has to conduct

its activities in accordance with the provisions of IA Regulations, 2013. Further safeguards provided under IA Regulations, 2013 include continued minimum professional qualification and compliance with net-worth requirement for acting as an investment adviser, prior disclosure of all conflicts of interest, prohibition on entering into transactions which are contrary to advice given to the clients at least for 15 days from the date of giving advice to the clients, mandatory risk profiling of investors, maintaining documented process for selecting investment products for clients based on client's investment objective and risk profile and understanding of the nature and risks of products or assets selected for such client, etc.

14. I note that for seeking a certificate of registration for acting as an investment adviser, an entity is required to satisfy *inter alia* the following requirements, as provided under IA Regulations, 2013:

(i) An application for seeking certificate of registration to be made to Local Office, Regional Office or Head Office, of SEBI, as the case may be, in Form A as specified in the First Schedule to IA Regulations, 2013 alongwith requisite non-refundable application fee;

(ii) The applicant, in case of an individual investment adviser or its principal officer in case of a non-individual investment adviser shall be appropriately qualified and certified as under:

a. A professional qualification or post-graduate degree or post graduate diploma (minimum two years in duration) in finance, accountancy, business management, commerce, economics, capital market, banking, insurance or actuarial science from a university or an institution recognized by the Central Government or any State Government or a recognised foreign university or institution or association or a professional qualification by completing a Post Graduate Program in the Securities Market (Investment Advisory) from NISM of a duration not less than one year or a professional qualification by obtaining a CFA Charter from the CFA Institute;

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

c. Applicant in case of individual investment adviser or its principal officer in case of a non-individual investment adviser, and persons associated with investment advice shall have, at all times a certification on financial planning or fund or asset or portfolio management or investment advisory services, from (a) NISM; or (b) any other organization or institution including Financial Planning Standards Board of India or any recognized stock exchange in India provided such certification is accredited by NISM.

(iii) Individual applicant must have net worth of not less than 5 lakh rupees and non-individual applicant must have net worth of not less than 50 lakh rupees.

15. The activities engaged in by the Noticee, as brought out from the various materials described above, seen in the backdrop of the aforesaid regulatory provisions show that the Noticee was acting as Investment Advisers, although the Noticee was not registered with SEBI in the capacity of Investment Adviser. Hence, I find that these activities/ representations as were being made by the Noticee 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.

16. I note that in the case of Shri C. Paranitharan and Others and Trend Market Advisory Services, SEBI had passed orders dated July 05, 2022 and July 07, 2022, respectively, inter alia directing the Noticees therein to refund the fees or consideration received from investors in respect of their unregistered investment advisory activities. In the respective appeals filed against these orders by the respective Noticees, Hon'ble SAT vide common order dated September 21, 2022

inter alia directed the appellants there into 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.

17. From the material available on record, I note that the examination in the matter was initiated on the basis of a complaint. I also note that an aggregate amount of Rs. 59,59,819.42, has been collected by the Noticee in the bank accounts, by providing unregistered investment advisory services, which needs to be refunded to the investors/ clients. The Noticee has not produced any material to show the sources of this fund. If the Noticee wishes to provide any explanations regarding the same, the same may be considered by the Chartered Accountant on production of reliable proof by the Noticee while certifying the refunds made by the Noticee, as is being directed in para 18.

DIRECTIONS:

18. In view of the foregoing, I, in exercise of the powers conferred upon me in terms Sections11(1), 11(4) and 11B(1) 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 order;

c) The repayments to the clients/ complainants/ investors shall be effected only through banking channels (and no cash transfers), which ensures audit trails to identify the beneficiaries of repayments;

d) After completing the refund as directed in para 18 (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, name of the parties refunded, communication address, mobile numbers and telephone numbers etc.;

e) The remaining balance amount that could not be refunded to the clients/ investors, 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 Noticee. Thereafter, remaining amount, if any, will be deposited in the Investors Protection and Education Fund maintained by SEBI;

f) The Noticees is restrained from selling their 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 not to allow any debits, except 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 is debarred 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 six (6) months from the date of this order or till the expiry of six (6) months from the date of completion of refunds to complainants/ investors along with depositing of balance amounts, if any, with SEBI as directed in para 18(a) and 18(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 18(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 18(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.

19. The direction for refund and depositing the balance amount with SEBI, as given in para 18(a) and 18(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/ authority of competent jurisdiction.

20. This order comes into force with immediate effect.

21. A copy of this order shall be sent to the Noticees, recognized Stock Exchanges, the banks, Depositories and Registrar and Transfer Agents of Mutual Funds to ensure that the directions given above are strictly complied with.

Sd/-

Date: May 10, 2023
Place: Mumbai

ANANTA BARUA
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA