

CGM/GG/QJC2/WRO/WRO/21366/2022-23

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

Under Sections 11(1), 11(4), 11B(1), 11(4A) and 11B(2) of the Securities and Exchange Board of India Act, 1992 along with Regulation 35 of SEBI (Intermediaries) Regulations, 2008 read with Regulation 28 of SEBI (Investment Advisers) Regulations, 2013

In respect of:

Noticee No.	Name of the Noticee(s)	PAN
1.	Chetan Kalubhai Dhokiya	BKPPD6469L
2.	D-Street Investment Advisor Pvt. Ltd.	AAHCD4100G
3.	Hiren Kalabhai Dhokiya	BOAPD7204L

In the matter of Mr. Chetan Kalubhai Dhokiya

(The aforesaid entities are hereinafter individually referred to by their respective names or Noticee number and collectively as “the Noticees”.)

Background:

1. Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) had received an application from Noticee No. 2 for registration as an Investment Advisor (hereinafter referred to as “**IA**”) in September 2019. Pursuant to the examination of the said application, SEBI observed certain non-compliances and issued a show cause notice dated July 21, 2022 (hereinafter referred to as “**SCN**”) to the Noticees. The present proceedings emanate from the said SCN wherein certain provisions of the SEBI (Investment Adviser) Regulations, 2013 (hereinafter referred to as “**IA Regulations**”) along with the provisions

of the relevant circulars have been alleged to be violated by the Noticees. Besides this, the Noticees have also been alleged to have violated Regulations 3(a), (b), (c), (d), 4(1), 4(2)(k) and 4(2)(s) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as “**PFUTP Regulations**”) read with Section 12A (a), (b), (c) of SEBI Act, 1992. As the Noticees were allegedly involved in the Investment Advisory activities without obtaining registration mandated under the provisions of the SEBI Act, 1992 read with the provisions of IA Regulations, it was alleged that the Noticees have violated the provisions of Section 12(1) of SEBI Act, 1992 read with Regulation 3(1) of IA Regulations and Section 27 of SEBI Act, 1992. The facts of the matter along with the replies and submissions of the Noticees are being elaborated in the later part of this order.

Service of SCN, Personal Hearing, Replies and Written Submissions from the Noticees:

2. The SCN was served on the Noticees by Speed Post. In response to the SCN, the reply was submitted vide letter dated August 10, 2022. Subsequently, the Noticees were granted an opportunity of personal hearing on October 13, 2022. The hearing notices were delivered to the Noticees through Speed Post.
3. Mr. Abhishek Mishra, Company Secretary, the authorized representative of the Noticees along with Noticee No. 1 attended the personal hearing on October 13, 2022 through video conferencing. Subsequent to the personal hearing, additional submissions were filed vide letter dated October 20, 2022.

Consideration of submissions and findings:

4. I note that the SCN contains multiple allegations against the Noticees and for the sake of convenience and clarity, I shall first narrate the background facts of the matter and then proceed to deal with the allegations in the SCN.
5. The following basic facts pertaining to the matter are to be noted:

- a. Noticee No. 1 is registered as an IA in individual capacity with SEBI having registration No. INA000007979. The registration was granted with effect from July 04, 2017. The registered and the official correspondence address of Noticee No. 1 is 101, Vikramanagar-1, Puna to Bombay Market Road, Punagam, Surat, Gujarat, 395010 (hereinafter referred to as “**Registered Address**”).
- b. On May 14, 2019, Noticee No. 1 had made an application to SEBI for change of registered office address: 212, Rupa Solitaire, Mahape Business Park, Thane, Navi Mumbai, Maharashtra- 400701 (hereinafter referred to as “**Second Address**”). Vide e-mail dated February 06, 2020, the said application was withdrawn stating that Noticee No. 1 was in the process of applying as a body corporate.
- c. SEBI had also received an application dated September 26, 2019 from Noticee No. 2 namely, D-Street Investment Advisor Pvt. Ltd., seeking registration as an IA, wherein it was mentioned that Noticee No. 1 and Noticee No. 3 are the directors and shareholders of Noticee No. 2.
- d. While examining the application, SEBI had sought the bank account details of the Noticees. In addition to the bank account details of the Noticees, the following bank account details were also submitted:-

Bank No.	Account	Type of account	Bank name	Branch	Name in which the account is held
	2013809670	Current	Kotak Bank Ltd.	Sarthana	Dalal Stock
	918020040845652	Current	Axis Bank Ltd.	Navi Mumbai	Share Advisor
	50200035463685	Current	HDFC Bank Ltd.	Navi Mumbai	Share Advisor
	056405002750	Current	ICICI Bank Ltd.	Navi Mumbai	Share Advisor

- e. SEBI sought the Account Opening Form (AOF) and Know Your Client (KYC) documents of aforesaid bank accounts of Dalal Stock and Share Advisor. From the AOFs and KYC documents received from Banks, it was observed that the proprietor of Dalal Stock and Share Advisor is Noticee No. 1 – Chetan Babulal Dhokiya.

6. I now proceed to deal with each of the allegations hereunder.
7. **Allegation I – Non-updation of material change in information available with SEBI**
8. The SCN alleges that Noticee No. 1 is operating as an IA from two different places and has used two proprietary names i.e. Dalal Stock and Share Advisor and respective websites i.e. <http://www.dalalstock.in> and <https://www.shareadvisor.in/>, without taking approval and without informing SEBI and thus, is alleged to have failed to inform material change in the information already submitted to SEBI and violated Regulation 13(b) of the IA Regulations.
9. Regulation 13(b) of the IA Regulations reads as follows:

Conditions of certificate.

13. The certificate granted under regulation 9 shall, inter alia, be subject to the following conditions:-

(a);

(b) the investment adviser shall forthwith inform the Board in writing, if any information or particulars previously submitted to the Board are found to be false or misleading in any material particular or if there is any material change in the information already submitted;
10. Noticee No. 1 has admitted that he was using two different proprietary names viz. Dalal Stock and Share Advisor from different locations and different websites to expand his reach and business. It has been submitted that the IA Regulations do not require him to disclose such facts to SEBI or take approval of SEBI. Noticee No. 1 has submitted that, as a sole proprietor, he is allowed to operate under own name or under different trade names which do not constitute to be material change in the activity of Noticee No. 1.

11. Noticee No. 1 has submitted that nowhere during the registration process or thereafter, an IA is asked to submit the details of trade name or website used or to be used by the IA for delivering services to its clients.
12. Noticee No. 1 has also submitted that the change of address was informed to SEBI vide email dated May 10, 2019 and an application was submitted to SEBI regarding the same on May 14, 2019.
13. With respect to operating two websites, Noticee No. 1 has submitted that SEBI, vide email dated April 11, 2019 had called upon Noticee No. 1 to visit SEBI office with, *inter alia*, the documents and details regarding websites and platforms from which Noticee No. 1 was offering services. Noticee No. 1 has submitted that he had informed SEBI of the said websites during his visit to SEBI office on April 12, 2019.
14. Noticee No. 1 has also submitted that a show cause notice dated May 06, 2019 was issued by SEBI to Noticee No. 1 wherein no such non-compliance was recorded by SEBI post completion of enquiry. It is also submitted that at that time, SEBI was aware of the fact that Noticee No. 1 was using different brand names and no objections were raised by SEBI.
15. The issue to be examined is whether the said information (i.e. operating from the Second Address and using two different proprietary names and websites) can be considered as a material change to the information already submitted to SEBI.
16. In this regard, it is noted that the format specified under Form A of First Schedule of IA Regulations, *inter alia*, seeks the following information from the registration applicants: • “Address of the Registered Office”, • “Address for Correspondence” and • “Principal Place of Business”. As per the records available with SEBI, the registered office address of Noticee No. 1 was shown as 101, Vikramanagar-1, Puna to Bombay Market Road, Punagam, Surat, Gujarat – 395010, and this was also the correspondence address.

17. It is an admitted fact that Noticee No. 1 was also operating its business from the Second Address at 212, Rupa Solitaire, Mahape Business Park, Thane, Navi Mumbai, Maharashtra- 400701. Noticee No. 1, vide email dated May 10, 2019, had informed SEBI that in addition to the Registered Address, it was intermittently providing assistance from the Second Address. Noticee No. 1 also informed that the change of address as an IA to the Second Address shall be effective from May 11, 2019. Noticee No. 1 submitted an application to SEBI in this regard on May 14, 2019.
18. From the submissions of Noticee No. 1, I note that SEBI, vide email dated April 11, 2019 sent to Noticee No. 1, had observed that Noticee No. 1 was having a branch office in Mumbai and had advised him to visit SEBI office on April 12, 2019 with details and documents, inter-alia, concerning websites, platforms and address from which Noticee No. 1 was operating and offering services.
19. I note that Noticee No. 1 has claimed to have submitted the details of websites and addresses to SEBI during his visit to SEBI office on April 12, 2019. From the sequence of events, I find that Noticee No. 1 had submitted his application or intimation about the Second Address on May 14, 2019, only after SEBI advised him to visit SEBI office, pursuant to several complaints received against Noticee No. 1.
20. The application for change of address was later withdrawn by Noticee No. 1 stating that he is in the process of applying as a body corporate, viz. D-Street Investment Advisor Pvt. Ltd. – Noticee No. 2. I also note that the Second Address was not mentioned in the application dated September 26, 2019, made in connection with registration of Noticee No. 2.
21. I find that the requirement of furnishing the address is part of the application for registration and an important factor for identification of the applicant. As such, Noticee No. 1 continues to operate from the Second Address. In my

view, the Second Address also is required to be informed to SEBI, in terms of Regulation 13(b) of IA Regulations. Thus, I find that Noticee No. 1, by operating his business from an address without informing SEBI, has violated Regulation 13(b) of IA Regulations.

22. With respect to usage of two proprietary names and two websites, Noticee No. 1 has admitted that he has used different names and websites to provide investment advisory services to clients. Noticee No. 1 has contended that IA Regulations do not specifically require an IA to provide such details to SEBI and thus, he was not under any regulatory obligation to inform about the same to SEBI.
23. In this respect, I note that while the application form for registration of IA (Format specified under Form A of First Schedule of IA Regulations) does not specifically mandate disclosure of usage of website or proprietary name by an IA, the form requires an IA to provide its 'Business Plan' (Point 3 of Form A) along with the 'means' of achieving the same.
24. I note that in his application form for registration as an IA, Noticee No. 1 had submitted the following details under 'proposed business plan and means of achieving the same':

"Provide investment ideas and stock recommendations as per clients risk profile and need. Advice given in equity holdings of clients, and mutual funds. Charges is levied upon this advises.

- *Business will be full time*
- *Only metro or tier II audience will be target market*
- *Business would be planned to acquire a customer base of about 50 in first 6 months and then expand further*
- *Use of social media will also be used*
- *Direct customer interaction (face to face) suggestions will also happen for geographically accessed areas."*

25. From the above, I note that apart from use of social media, Noticee No. 1 has not given any indication of usage of online medium or websites as a 'means' to achieve his business plan of providing investment advice to clients. I also note that Noticee No. 1, in his submissions, has stated that the business is modeled primarily on digital/online presence and hence, he has used two different websites for servicing clients.
26. I, thus, find that the operations of Noticee No. 1 and usage of online platforms such as websites for executing his business plan are in contradiction to the means of business (social media and face to face customer interaction) stated in the registration application. I find that Noticee No. 1 should have disclosed his intention of the usage of online/website medium as one of the means to achieve his business plan during his registration as an IA. Even considering that the usage of websites was an idea that cropped up subsequent to the registration, the same should have been disclosed once Noticee No. 1 had intended or started using the websites for providing advisory services to his clients as the same was a material information under the heading of 'means' of achieving business plan.
27. I also reject the contention of Noticee No.1 regarding issuance of a letter dated May 06, 2019 by SEBI which according to him showed that SEBI was aware that he was using different websites and different proprietary names. The records before me show that no such letter was issued by SEBI. Noticee No. 1 also could not provide any proof in this regard.
28. From the above, I find that, by not informing SEBI regarding usage of different websites and proprietary names for providing investment advisory services to its clients, Noticee No. 1 has violated Regulation 13(b) of IA Regulations.
29. **Allegation II – Failure to disclose material information to clients**
30. The SCN alleges that Noticee No. 1 did not disclose SEBI registration details like name, registration number, etc. on the websites of Dalal Stock and Share

Advisor through which he was offering investment advisory services and thus, Noticee No. 1 is alleged to have violated Regulation 18(1) of the IA Regulations.

31. Regulation 18(1) of the IA Regulations, 2013 reads as follows:

Disclosures to clients.

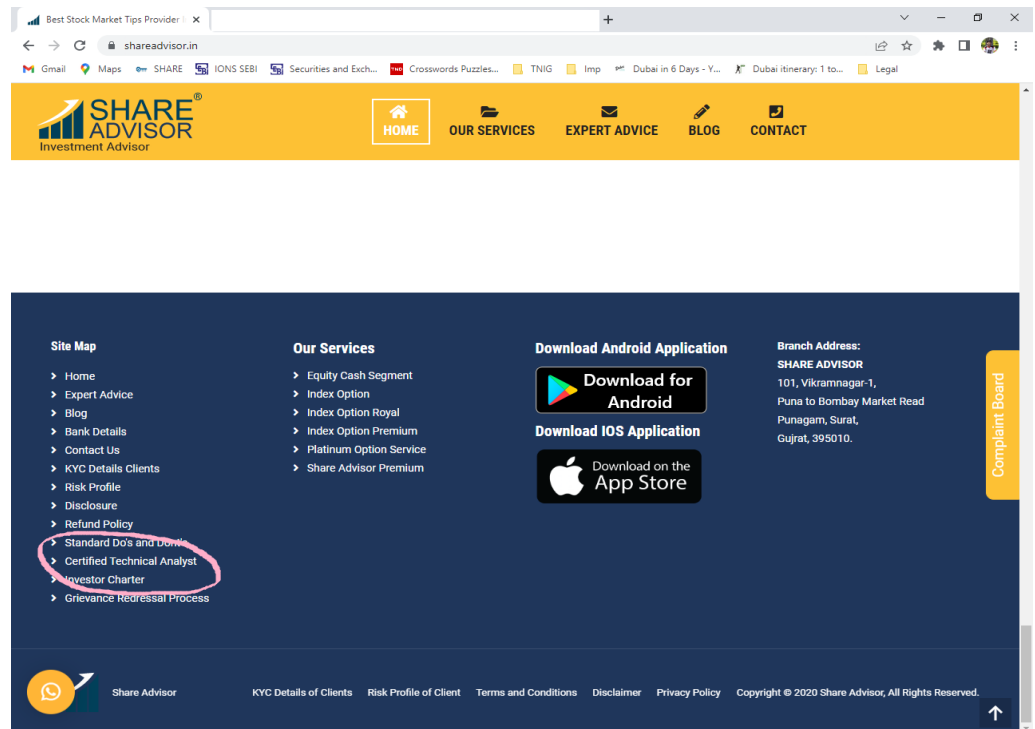
18. (1) An investment adviser shall disclose to a prospective client, all material information about itself including its business, disciplinary history, the terms and conditions on which it offers advisory services, affiliations with other intermediaries and such other information as is necessary to take an informed decision on whether or not to avail its services.

32. With respect to the said allegation, Noticee No. 1 has submitted that it was operating its IA activity through two proprietary names viz. Share Advisor and Dalal Stock and operated two respective websites for the same. Noticee No. 1 has submitted that details such as name, registration number, address etc. were disclosed on the website of Share Advisor. The details were available on the home page under the link named "Certified Technical Analyst". It is also submitted that while the website of Dalal Stock is not active as of now, it can be verified from the archive pages of the website that Noticee No. 1 had made all the disclosures as per Regulation 18(1) of IA Regulations.

33. I note that it is important for an IA to disclose its registration details, address, bank account details etc. in an adequate, prominent and clear manner to the clients.

34. On a perusal of the website of Share Advisor, I note that:

- a. The home page states that "*Share Advisor is a SEBI registered investment advisory firm based in Navi Mumbai*".
- b. The details of registered IA i.e. Noticee No. 1 are displayed under a link named "Certified Technical Analyst" which is placed at the bottom side of the home page along with several other links.



- c. The name of Noticee No. 1 has been mentioned as Certified Technical Analyst, Principal Officer and Compliance Officer at different web-pages in the website.
- d. The “Bank Details” link on the home page shows three bank accounts with the payee name as Share Advisor.

35. I note that disclosing Share Advisor as a “SEBI registered investment advisory firm based in Navi Mumbai” provides a misleading information to the public as such disclosure gives an indication to the public that Share Advisor is registered by SEBI as an IA and is a firm based in Navi Mumbai. It is evident from the records that SEBI has registered Noticee No. 1 – Chetan Kalubhai Dhokiya as an IA and was not informed by him about the usage of the name ‘Share Advisor’ and the website as well as its operations from Navi Mumbai. Displaying such information on the website prominently without disclosing that Noticee No. 1 is the actual SEBI registered IA as an individual tends to mislead the public.

36. When SEBI grants registration to an individual for carrying out IA activity, the idea is to permit him to operate his business by disclosing his registration details. The investor ought to be in a position to directly relate to the IA through

the registration identity of the IA which is displayed. If this aspect is not taken seriously, then it would mean that using the same registration number, there could be several branches/websites for rendering investment advice without the knowledge of SEBI.

37. I note that the details of IA registration of Noticee No. 1 while being displayed on the website, are not prominently displayed on either the home page or a major link on the home page. The content of the website nowhere indicates that Share Advisor is a proprietary firm of Noticee No. 1 who is a SEBI registered IA. It rather gives the misleading impression that Share Advisor is a SEBI registered IA firm and Noticee No. 1 is a key employee of the firm rather than its proprietor. I also note that neither of the proprietary names i.e. Share Advisor or Dalal Stock indicate that Noticee No. 1 is the proprietor.
38. I note that Noticee No. 1 has submitted that the website of Dalal Stock is inactive now. However, it has been alleged in the SCN that the website <https://dalalstreets.com> which is a mirror copy of Dalal Stock website, is currently active.
39. On a perusal of website of DalalStreet, I note that:
- a. Details of SEBI registration as IA are not displayed in the website.
 - b. The contact addresses are shown in Navi Mumbai and Surat.
 - c. Dipika Solanki and Mayur Patel are mentioned as compliance officers.
 - d. No bank account details are disclosed in the website.
40. I note that the allegations in the SCN are in respect of the website of Dalal Stock. The said website is currently inactive as confirmed by Noticee No. 1. However, the allegation that the website of DalalStreet is a mirror copy of Dalal Stock has not been denied by the Noticee. From the aforesaid observations with respect to the website of DalalStreet, I note that the website nowhere gives the indication that it is a SEBI registered IA or is being operated by a SEBI registered IA.

41. I also note that while Noticee No. 1 has submitted that bank statements were in his name, it is evident from the records that bank accounts were also in the name of Share Advisor and Dalal Stock (details mentioned below). I note that credits were also received in these bank accounts from clients as part of investment advisory activity.

Bank No.	Account	Type of account	Bank name	Branch	Name in which the account is held
2013809670		Current	Kotak Bank Ltd.	Sarthana	Dalal Stock
918020040845652		Current	Axis Bank Ltd.	Navi Mumbai	Share Advisor
50200035463685		Current	HDFC Bank Ltd.	Navi Mumbai	Share Advisor
056405002750		Current	ICICI Bank Ltd.	Navi Mumbai	Share Advisor

42. From the above, I find that Noticee No. 1 failed to adequately and prominently disclose material information of its registration as an IA to the clients while operating its websites (<https://www.shareadvisor.in/> and <https://dalalstreets.com>) and, thus, violated Regulation 18(1) of IA Regulations.

43. **Allegation III – Providing free trial to prospective clients**

44. The SCN alleges that the Noticee No. 1 was offering free trial through its website of Dalal Stock which is in violation of Clause 1(i) of SEBI Circular No. SEBI/HO/IMD/DF1/CIR/P/2019/169 dated December 27, 2019.

45. Clause 1(i) of SEBI Circular No. SEBI/HO/IMD/DF1/CIR/P/2019/169 dated December 27, 2019 reads as follows:

“(i) Restriction on free trial

As per SEBI (Investment Advisers) Regulations, 2013, investment advice can be given after completing risk profiling of the client and ensuring suitability of the product. It has come to the notice that IAs are

providing advice on free trial basis without considering risk profile of the client. Hence the IAs shall not provide free trial for any products/services to prospective clients. Further, IAs shall not accept part payments (where some part of the fee is paid in advance) for any product/service.”

46. Noticee No. 1 has submitted that in terms of the aforesaid clause, free trial is restricted and not prohibited. An IA can offer free trial after completing risk profiling of the client and ensuring suitability of the product. Noticee No. 1 has submitted that he was offering free trial only after considering the risk profiling of the client and ensuring suitability of the product. Further, it is submitted that Noticee No. 1 has currently stopped offering any free trial services.
47. I note that Clause 1(i) of the said SEBI circular prohibits IAs from providing free trial of any products/services to prospective clients. Thus, the submission that the said circular only restricts and does not prohibit free trial is not acceptable. The objective of the said clause is to enable IAs to offer free trial of any product or service to its existing clients and to prevent misuse of free trials by IAs to solicit clients.
48. I note that though the website of Dalal Stock is inactive, the website of DalalStreet as detailed above, is currently active and is offering free trial by seeking only basic details such as name, mobile number, email id etc. The process followed subsequently is not detailed on the website.
49. I also note that although Noticee No. 1 has submitted that he has stopped offering any free trial services, the link for free trial on the website of DalalStreet (<https://dalalstreets.com/free-trial/>) is still currently active as seen from screenshot reproduced below:

The screenshot shows the 'Free Trial' registration page on the Dalal Street website. The page has a dark header with the Dalal Street logo and navigation links: Home, Free Trial, Equity and Future Tips, Nifty and Bank Nifty Tips, Ultra Short Term Tips, Wealth Creation Tips, and More. The main content area is titled 'Free Trial' and contains a 'Call me' form. The form has six input fields: First Name, Last Name, Mobile Number, Your e-mail, Select State, and Select City. Below the form is a checkbox labeled 'Agree to Terms and Conditions' and a blue 'Send OTP' button. The footer is orange and contains a grid of links: Home, Equity and Future Tips, Nifty and Bank Nifty Tips, Ultra Short Term Tips, Wealth Creation Tips, Past-Performance, Money-Management, Refund Policy, Terms & Conditions, Disclosure, Risk Profile & Suitability, KYC, Environmental Policy, Social Responsibility, Disclaimer, Investor Charter, Standard Do's & Don'ts, Certified Technical Analyst, Grievance Redressal Process, Complaint Board, Contact (8454815099), and Email (dalal@dalalstreet.com).

50. From the above, I find that Noticee No. 1 is in violation of Clause 1(i) of SEBI Circular No. SEBI/HO/IMD/DF1/CIR/P/2019/169 dated December 27, 2019.

51. **Allegation IV** – Failure to display status of SCORES complaints on website

52. The SCN alleges that status of 6 complaints that were received against Noticee No. 1 on SCORES during the period January 01, 2020 to November 25, 2020 were not disseminated on the website of Dalal Stock or Share Advisor and thus, Noticee No. 1 is alleged to have violated SEBI Circular No. SEBI/HO/IMD/DF1/CIR/P/2019/169 dated December 27, 2019.

53. Clause 1(iv) of SEBI Circular No. SEBI/HO/IMD/DF1/CIR/P/2019/169 dated December 27, 2019 reads as follows:

(iv) Display of complaints status on website

In order to bring more transparency and enable the investors to take informed decision regarding availing of advisory services, IAs shall display the following information on the homepage (without scrolling) of their

website/mobile app. The information should be displayed properly using font size of 12 or above and made available on monthly basis (within 7 days of end of the previous month):

Number of complaints				
At the beginning of the month	Received during the month	Resolved during the month	Pending during the month	Reasons for pendency

54. In this respect, Noticee No. 1 has submitted that apart from the year 2020 when lockdown was imposed due to Covid pandemic, he has always updated the complaints status on the website. Noticee No. 1 submitted that the archive pages of the website of Share Advisor show that it was displaying the complaints table on its website.
55. I note that Noticee No. 1 has admitted that he did not disclose the status of 6 complaints during the year 2020. The reason cited by Noticee No. 1 is that due to lockdown imposed on account of Covid pandemic, he was unable to update the same. I also note that Noticee No. 1 is currently displaying the monthly status of complaints since March 2018 on both the websites of Share Advisor and Dalal Street.
56. Non-disclosure of 6 complaints has happened during a period spanning across 11 months from January 2020 to November 2020. Hence, there is a violation of Clause 1(iv) of SEBI Circular No. SEBI/HO/IMD/DF1/CIR/P/2019/169 dated December 27, 2019. However, I would like to view the violation with lenience, as it pertains to negligible disclosure and the SCN does not allege non-redressal of grievances.
57. **Allegation V – Offering guaranteed returns in violation of certain provisions of PFUTP Regulations and the Code of Conduct applicable for Investment Advisers**
58. It has been alleged in the SCN that the Noticees lured investors by knowingly concealing risks associated with securities market and promising ‘Assured Profit’ or ‘3X Return’ on websites of Share Advisor and Dalal Stock,

respectively. It is alleged that promising 'Assured Profit' or '3X Return' is a misleading, non-genuine and deceptive act which was executed with an intent to influence the client to avail its advisory services. It is, thus, alleged that the Noticees mis-sold services relating to securities market and such activities of Noticees are fraudulent in nature and thus, in violation of Regulation 3(a), (b), (c), (d), 4(1), 4(2)(k) and 4(2)(s) of PFUTP Regulations read with Section 12A (a), (b), (c) of SEBI Act, 1992. Noticee Nos. 1 and 3, being directors of Noticee No. 2, are also alleged to have violated the said provisions in terms of Section 27 of SEBI Act, 1992. It is also alleged that such promises have been made by Noticee No. 1 in violation of Clause 1 & 5 of the Code of Conduct for Investment Adviser as specified in Schedule III read with regulation 15(9) of IA Regulations.

59. Regulation 3(a), (b), (c), (d), 4(1), 4(2)(k) and 4(2)(s) of PFUTP Regulations read as follows:

“3. Prohibition of certain dealings in securities

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.*

4. Prohibition of manipulative, fraudulent and unfair trade practices

- (1) Without prejudice to the provisions of regulation 3, no person shall indulge in a manipulative, fraudulent or an unfair trade practice in securities markets.*

(2) *Dealing in securities shall be deemed to be a manipulative fraudulent or an unfair trade practice if it involves any of the following:—*

....

(k) *disseminating information or advice through any media, whether physical or digital, which the disseminator knows to be false or misleading in a reckless or careless manner and which is designed to, or likely to influence the decision of investors dealing in securities;*

(s) *mis-selling of securities or services relating to securities market;*

Explanation- For the purpose of this clause, "mis-selling" means sale of securities or services relating to securities market by any person, directly or indirectly, by—

(i) *knowingly making a false or misleading statement, or*

(ii) *knowingly concealing or omitting material facts, or*

(iii) *knowingly concealing the associated risk, or*

(iv) *not taking reasonable care to ensure suitability of the securities or service to the buyer;"*

60. Section 12A (a), (b), (c) of SEBI Act, 1992 reads as follows:

"Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.

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 recognised 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 recognised stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;"*

61. Section 27 of SEBI Act, 1992 reads as follows:

“Contravention by companies.

27. (1) Where a contravention of any of the provisions of this Act or any rule, regulation, direction or order made thereunder has been committed by a company, every person who at the time the contravention was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the contravention was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such contravention.

(2) Notwithstanding anything contained in sub-section (1), where an contravention under this Act has been committed by a company and it is proved that the contravention has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

Explanation: For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.”

62. Clause 1 & 5 of the Code of Conduct for Investment Adviser as specified in Schedule III read with Regulation 15(9) of IA Regulations read as follows:

“15. (9) An investment adviser shall abide by Code of Conduct as specified in Third Schedule.

Clause 1. Honesty and fairness

An investment adviser shall act honestly, fairly and in the best interests of its clients and in the integrity of the market.

Clause 5. Information to its clients

An investment adviser shall make adequate disclosures of relevant material information while dealing with its clients.”

63. In this respect, Noticee No. 1 has submitted that adequate disclosures about risks related to investing in securities market have been disclosed under various sections of the website of Share Advisor. The description under the heading of 'Assured Profit' on the website states that *"Pay only when you make profits"*, wherein the clients are required to pay only for the recommendations which result in profit. It is submitted that if Noticee No. 1 had any fraudulent intentions, then he would not have:
- i. followed the SEBI Regulations and maintained all the necessary client records;
 - ii. made request for address change;
 - iii. voluntarily closed the bank account of Noticee No. 2;
 - iv. applied for C-KYC and BASL Registration;
 - v. conducted the Compliance Audit as per Regulation 19(3) of IA Regulations;
 - vi. redress the client grievances in a timely manner;
 - vii. coordinated with SEBI;
 - viii. applied to SEBI in corporate form for registration as IA and RA
64. I have perused the reply of the Noticees including the material available on record. I note that the website of Share Advisor under various sections discloses the 'Risks', 'Do's and Don't's', 'Disclaimer' and 'Product Description'. I also note that under the caption 'Profit Assured' on the website of Share Advisor, it states that *"In this service we guarantee you for 50 profitable tips. Pay only when you make profits"*.
65. I also note that the website of DalalStreet displays multiple plan options for subscription by the investors. One of these plans is named '3X Return' under which it is stated that the service will expire once the investor earns 3 times return on the amount paid.
66. I find that Noticee No. 1 has submitted that under the 'Profit Assured' plan, the clients are required to pay only for the recommendations which result in profit.

In this respect, I note that the usage of terms 'Profit Assured', 'Guarantee you 50 profitable tips' and '3X return' amounts to offering/luring investors by claiming 'assured/guaranteed' returns. By highlighting such terms, it is committing/offering to the client that certain profit or particular return can be obtained by acting on the investment advice provided. I find that the act of making a commitment to the client that the service of '3X Return' will continue till such time "3 times return" is achieved and guaranteeing 50 profitable tips, essentially amounts to offering an assured/ guaranteed return.

67. Noticee No. 1, being a SEBI registered IA, is well aware of the fact that investments in securities market are subject to market risk and a projected return cannot be guaranteed. The disclosures about risk factors under different sections of the websites do not negate the fact that Noticee No. 1 has tried to solicit clients on the basis of assured profit/ returns as is evident from the nomenclature and content of the plans offered by the Noticee as detailed above. The question is whether such a display on the website is enough to hold that the Noticees have violated the provisions of Regulation 3(a), (b), (c), (d), 4(1), 4(2)(k) and 4(2)(s) of PFUTP Regulations or not. In this regard, I find that, apart from the display of plans promising assured profit or 3X return on the websites, no other evidence is available in support of the allegation that clients were indeed induced by the same or that clients subscribed to such plans shown on websites, that were owned and operated by Noticee No. 1.
68. Though I find that promising assured profit or 3X return in securities market is misleading the public and is to be avoided by an IA, I am not in a position to give any adverse finding on this account in the absence of any evidence on this aspect. Accordingly, the Code of Conduct violation related to the allegation of fraud may also not lie against Noticee No. 1.
69. Even otherwise, profit assured plan is one amongst several plans offered by the Noticees and the details of clients who have subscribed to such plans is not available on record. In view of the same, I do not find the allegation that

the Noticees have violated the provisions of PFUTP Regulations to be substantiated.

70. **Allegation VI – Acting as Investment Adviser without obtaining certificate of registration**

71. It is alleged in the SCN that Noticee No. 2, by acting as an IA and collecting fees from investors without obtaining registration from SEBI, violated Section 12(1) of SEBI Act, 1992 read with Regulation 3(1) of IA Regulations. It is also alleged that Noticee No. 1 and 3, being directors of Noticee No. 2 are also liable for action in terms of Section 27 of SEBI Act, 1992.

72. Section 12(1) of SEBI Act, 1992 reads as follows:

“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.”

73. Regulation 3(1) of IA Regulations reads as follows:

“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.”

74. I note that it is an admitted fact that service fees were taken from the clients in the account of Noticee No. 2. The Noticee No. 1 has submitted that he had done so under the assumption that once his own corporate entity i.e. Noticee No. 2 is granted registration as an IA by SEBI, he will have to transfer his old clients into corporate firm. Thus, Noticee No. 1 has admitted that in his “naivety and silliness”, he had started taking receipt of fees in the bank account of Noticee No. 2.

75. It is noted that Noticee No. 2 was incorporated on September 02, 2019. As per the records available, a bank account in the name of Noticee No. 2 with Kotak Bank (A/c no. 7413058802) received credits amounting to Rs. 86,47,307.69/- during the period October 01, 2019 to July 21, 2020. This account was closed on July 21, 2020. It is also noted that Noticee No. 2 had opened another bank account in its name with ICICI Bank (A/c no. 777705999898) in which amounts of Rs. 60,44,519.77/- have been credited during the period July 14, 2020 to September 24, 2020. No further credits were received in this account till the end of financial year 2020-21. This ICICI Bank account is currently active.
76. It is an admitted fact that the websites of Dalal Stock and DalalStreet were operated without taking registration for Noticee No. 2 as an IA and that amounts were credited by clients in the bank accounts of Noticee No. 2. Noticee No. 1 has also submitted that as soon as this non-compliance came to his knowledge, he immediately stopped taking fees in the Kotak Bank account of Noticee No. 2 and closed the said account on July 21, 2020. However, I note that the Noticee No. 2 continues to operate another bank account in its name (ICICI Bank Account No. 777705999898). Noticee No. 1 has submitted that the said account is active as it is the main current account of the company through which paid up capital of the company is maintained. I also note that the website of DalalStreet continues to be active till date.
77. In view of the above, I find that the admission of the Noticees along with the material on record prove that Noticee No. 2 – D-Street Investment Advisor Pvt. Ltd. operated as an IA and collected fees without taking registration from SEBI. I note that when violations of this nature stand established against Noticee No. 2 which is a company, then it becomes necessary to ensure that persons in charge of the company during the relevant period are held accountable for the acts of the company. Thus, Noticee Nos. 1 and 3, being directors and co-owners of Noticee No. 2 are liable for action in this regard, in terms of Section 27 of SEBI Act, 1992. I, therefore, find that the Noticees have

violated Section 12(1) of SEBI Act, 1992 read with Regulation 3(1) of IA Regulations and Section 27 of SEBI Act, 1992.

Conclusion:

78. It is seen from the SCN that several allegations have been levelled against the Noticees. I find that certain violations established against the Noticees are relatively more serious than the others. For instances, failure of Noticee No. 1 to inform SEBI about the change in the address or operating from an additional address without informing SEBI, in my view, is a serious violation. Noticee No. 1 operated as an IA through two/three different websites without displaying his registration details prominently to its clients which is also serious. Clients interacting with a registered IA are entitled to know the particulars of the person who has been granted SEBI registration. Admittedly, Noticee No. 1 has been offering free trial to prospective clients which again shows an element of disregard to the regulatory prescriptions. It is also found that Noticee No. 2 being a private company, which is a separate legal entity, had applied for registration to SEBI and before obtaining the approval, started the business of IA and received credits into its bank accounts during the period October 2019 to September 2020. This again is quite a serious violation. But at the same time, I note that Noticee No. 1 discontinued this very soon. The non-disclosure of six complaints for a period of eleven months does not seem to be motivated or deliberate and in any case, the number appears to be negligible. The allegation of violation of provisions of PFUTP Regulations does not stand substantiated, in the absence of any evidence, as discussed at Para 64-69 above. In this connection, I would like to place reliance on the order of Hon'ble Securities Appellate Tribunal dated January 04, 2022 in the matter of Ms. Suhanika Chourey, wherein the findings of PFUTP violations against an unregistered IA were set aside as there was no evidence brought out on record.
79. I shall now proceed to consider the directions that would be commensurate with the aforesaid violations committed. The instant proceedings also provide

for imposition of monetary penalty, apart from the issuance of directions, in terms of relevant provisions of laws as 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.*

Penalty for default in case of investment adviser and research analyst.

15EB. *Where an investment adviser or a research analyst fails to comply with the regulations made by the Board or directions issued by the Board, such investment adviser or research analyst shall be liable to penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees.”*

80. I find that since the Noticees have not been found to have indulged in fraudulent and unfair trade practices, they are not liable for penalty under Section 15HA of SEBI Act, 1992. However, with respect to other violations found against the Noticees, they would become liable for appropriate penalty. In view of the amendment of Chapter VI A of the SEBI Act, 1992, with effect from March 08, 2019, the violations committed by an IA would attract penalty both under Section 15HB and 15EB, as the case may be, depending on the period of violation.
81. During the instant proceedings, it is noticed that the Noticee has been cooperative and also admitted fairly to certain non-compliances. With respect to providing unregistered investment advice through Noticee No. 2, I note that Noticee No. 1 who is a registered IA, is the co-owner of Noticee No. 2. I also

note that the application for registration of Noticee No.2 as an IA was filed with SEBI on September 26, 2019, which was just a few days subsequent to the date of its incorporation i.e. September 02, 2019. Thus, I find that the intention of Noticee No. 1 was to register Noticee No. 2 as an IA. The breach that can be attributed to Noticee No. 1 is that of soliciting and receiving fees in the name of Noticee No. 2 while the application of registration was pending with SEBI. The aforesaid facts and circumstances give an indication that Noticee No. 1 was ready and willing to comply with the regulatory requirements in respect of Noticee No. 2.

82. In consideration of the above, I shall now proceed with the issuance of suitable directions and imposition of monetary penalty.

Directions:

83. In exercise of the powers conferred upon me, in terms of Sections 11(1), 11(4), 11B(1), 11(4A) and 11B(2) read with Section 19 of SEBI Act, 1992 and Regulation 35 of SEBI (Intermediaries) Regulations, 2008 read with Regulation 28 of SEBI (Investment Advisers) Regulations, 2013, I do hereby pass the following directions, in the interest of investors and market integrity:
- a. Noticee No. 1 shall prominently display this order on all websites, through which he conducts investment advisory business, for a period of 3 months from the date of receipt of this order.
 - b. Noticee No. 1 is directed to disclose all other relevant material information pertaining to his business activities as an IA, including his name, registration details, business addresses and details of all affiliate websites operated by him, in an adequate and prominent manner, in all websites / other communication channels, within a period of 7 days from the date of receipt of this order.
 - c. Noticee No. 1 is directed to discontinue the practice of offering free trials to prospective clients by prominently notifying the same on his websites/ other communication channels;

- d. Noticee No. 1 shall comply with the directions stated at (a) to (c) above and file a report on the same with SEBI addressed to Division Chief, Division of Post-Inspection Enforcement Action, Market Intermediaries Regulations and Supervision Department, SEBI, SEBI Bhavan-II, Plot No. C7, G Block, Bandra Kurla Complex, Bandra (East) Mumbai-400051, within a period of 30 days from the date of receipt of this order.
- e. Noticee No. 2 is restrained from providing Investment Advisory services until it obtains registration from SEBI as an Investment Advisor, as provided in the IA Regulations.
- f. The Noticees are, jointly and severally, imposed with monetary penalties as provided hereunder:

Violation	Amount of Penalty (INR)
Regulation 13(b) of IA Regulations	1,00,000
Regulation 18(1) of IA Regulations	1,00,000
Clause 1(i) and 1(iv) of SEBI Circular dated December 27, 2019	1,00,000
Section 12(1) of SEBI Act, 1992 read with Regulation 3(1) of IA Regulations and Section 27 of SEBI Act, 1992	2,00,000
Total	5,00,000

- g. The Noticees shall remit / pay the said amount of penalties within forty five (45) days from the date of receipt of this order. The Noticees shall remit / pay the said amount of penalties through either by way of Demand Draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, or through online payment facility available on the website of SEBI, i.e. www.sebi.gov.in on the following path, by clicking on the payment link: ENFORCEMENT > Orders > Orders of Chairman/ Members > PAY NOW. In case of any difficulties in online payment of penalties,

the Noticees may contact support at portalhelp@sebi.gov.in. The demand draft or the details/ confirmation of e-payment should be sent to “The Division Chief, Division of Post-Inspection Enforcement Action, Market Intermediaries Regulation and Supervision Department, Securities and Exchange Board of India, SEBI Bhavan II, Plot no. C-7, “G” Block, Bandra Kurla Complex, Bandra (E), Mumbai -400 051” and also to e-mail id:-tad@sebi.gov.in in the format as given in table below:

Case Name	
Name of Payee	
Date of Payment	
Amount Paid	
Transaction No.	
Payment is made for : (like penalties /disgorgement/recovery/settlement amount/legal charges along with order details)	

84. This order shall come into force with immediate effect.

Date: November 22, 2022

Place: Mumbai

Sd/-

GEETHA G.

CHIEF GENERAL MANAGER

SECURITIES AND EXCHANGE BOARD OF INDIA