

**BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA  
CORAM: MADHABI PURI BUCH, WHOLE TIME MEMBER  
INTERIM EX PARTE ORDER**

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

**In Re: Securities and Exchange Board of India (Investment Advisers) Regulations, 2013  
and  
Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade  
Practices Relating to Securities Market) Regulations, 2003**

**In respect of:**

<b>S. No.</b>	<b>Name of the Entity</b>	<b>PAN</b>
<b>1</b>	<b>Mr. Nilesh Vipinchandra Vajifdar</b>	<b>ADPPV1303D</b>

**In the matter of Unregistered Investment Advisory Activity**

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1. Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) was in receipt of a complaint / email dated December 07, 2020 from Inventure Growth and Securities (hereinafter to as “**Inventure**”), a SEBI registered Stock Broker and DP, wherein, Inventure *inter alia* alleged that “...one Mr. Nilesh Vajifdar from Surat has been using our name of Inventure Growth and Securities to attract customers and carrying out illegal investment advisory business.....Mr. Nilesh Vajifdar having address as shown in the digital or print media with office address as Office No. 873, 1<sup>st</sup> Floor, Above Shantinath Farsan, Nr. Gajjar Wadi, Athwagate Circle, Surat -395001. Vide Contact no. 9825131967....”. Thereafter, the matter was taken up for preliminary examination by SEBI.

## **SEBI's Examination:**

2. SEBI conducted an examination in relation to the activity of Mr. Nilesh Vipinchandra Vajifdar (hereinafter referred to as “**Noticee**”) to ascertain possible violation, if any, of the provisions of SEBI Act, 1992 (hereinafter referred to as “**SEBI Act**”) and rules and regulations made thereunder.
3. As per the intermediary database on SEBI website, it is observed that Mr. Nilesh V Vajifdar is not registered with SEBI in any capacity. A google search was carried out for the name of Mr. Nilesh V Vajifdar, however, *prima facie*, no website could be found belonging to Noticee for offering products/services to the clients. Thus, there is no material to indicate that Noticee is using any website. The complainant, Inventure provided screenshots of digital media / platforms i.e. Facebook / whatsapp used by Nilesh Vajifdar.
4. Further, on the mobile number (9825131967) given in the complaint, SEBI contacted the Noticee through WhatsApp. Noticee provided the bank details for receiving the payment. It is observed that Noticee is using bank account number 624601054561 held in the name of Mr. Nilesh Vipinchandra Vajifdar with ICICI Bank and Paytm / PhonePe / GooglePay through Mobile No. 9825131967 for accepting payments. Accordingly, Know Your Client (KYC) details and bank statements / statement of transactions for said bank account was sought from ICICI Bank. SEBI's examination found that Mr. Nilesh Vipinchandra Vajifdar held himself out and acted as an Investment Advisor for providing tips and trading calls in securities market without obtaining a registration under SEBI (Investment Advisers) Regulations, 2013 (hereinafter referred to as “**IA Regulations**”).

## **CONSIDERATION & PRIMA FACIE FINDINGS**

5. I have perused the material available on record such as information available on the Facebook post of Noticee and the information obtained from ICICI Bank. In this context, *prima facie*, the following issues arise for determination:

- 5.1. **Issue No. 1:** *Whether Noticee is holding himself out and/or acting as investment adviser?*
- 5.2. **Issue No. 2:** *If answer to the aforesaid issue is in affirmative, whether Noticee has, prima facie, violated any provisions of SEBI Act read with IA Regulations and provisions of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as “PFUTP Regulations”)?*
- 5.3. **Issue No. 3:** *If answers to Issue Nos. 1 or 2 are affirmative, who are responsible for the violations?*
- 5.4. **Issue No. 4:** *If answer to Issue No. 2 is in affirmative, whether urgent directions, if any, should be issued against those responsible for the violations?*

**ISSUE No. 1:** *Whether Noticee is holding himself out and/or acting as investment adviser?*

6. As regards the first issue, I note the following from the material available on record:
- 6.1. The Facebook post / whatsapp post of Noticee has been perused and observed that Noticee is active through Facebook / Whatsapp. Upon perusal of the information obtained from the Facebook post / whatsapp post of Noticee, the following claims made by Noticee are noted:
- 6.1.1. Nilesh Vajifdar ‘Equity Research Analyst’, Inventure growth & Securities Limited, Mobile No. 98251131967, Email: [nileshvajifdar@gmail.com](mailto:nileshvajifdar@gmail.com). Join India’s No. 1 Advisor channel.
- 6.1.2. Some of posts made by Noticee on his Facebook page are as under:
- 6.1.2.1. On August 23, 2020, Noticee posted that “Earn 15% to 20% every year from Share Market by our Paid Service”
- 6.1.2.2. On August 30, 2020, Noticee posted that:

	<i>Advisory Plan</i>	<i>Period</i>
<i>1</i>	<i>Rs. 2,500</i>	<i>1 – Months</i>
<i>2</i>	<i>Rs. 6,500</i>	<i>3 – Months</i>
<i>3</i>	<i>Rs. 13,000</i>	<i>6 – Months</i>
<i>4</i>	<i>Rs. 21,000</i>	<i>12 – Months</i>

- 6.1.2.3. On September 01, & 29, 2020 Noticee posted in Gujarati that earn 20% to 25% return every year from share market and avail his paid advisory service today and stated that this offer is for limited member.
- 6.1.2.4. On November 05, 2020 Noticee posted that “3000Rs monthly charge, which is nothing. You can recover in a day or two with me”
- 6.1.2.5. On November 07, 2020, Noticee posted that “Earn 3,000 daily by investing in Nifty Options Intraday with 90 % sureshot calls given. Join our paid advisory group. WhatsApp on 9825131967.”
- 6.1.2.6. On November 25, 2020, Noticee posted that “Pay just 1000 for 10 days and join in our premium advisory group. Hurry Good opportunity to earn handsome money”.
- 6.1.2.7. On November 29, 2020, Noticee posted that “Sure Shot Calls, Join, start chat in Telegram, daily calls, Free. Equity / F&O/ commodity / only Crude oil”
- 6.1.2.8. On December 09, 2020, Noticee posted that “15% Return on Investment, Share Market Tips, Join us. Nilesh V Vajifdar Mobile: 9825131967”.
- 6.1.2.9. On January 20, 2021, Noticee posted that “Bank Nifty Profit Today, BUY ADANI PORT ON NSE CASH / FUT ABOVE 553, SL 550, TGT OPEN....”
- 6.1.2.10. On March 23, 2021, Noticee posted that:

<i>Advisory Plan – Bank Nifty</i>		
	<b><i>Rs.</i></b>	<b><i>Months</i></b>
<i>1</i>	<i>1,499</i>	<i>1</i>
<i>2</i>	<i>3,799</i>	<i>3</i>
<i>3</i>	<i>7,599</i>	<i>6</i>
<i>4</i>	<i>15,999</i>	<i>12</i>

- 6.2. Thus, Noticee has been making regular posts on Facebook urging people to join his paid advisory service and claiming performance of his advice. The latest post is on March 23, 2021.
- 6.3. It is noted that fee charged by the Noticee for his advisory services are ranging from Rs. 1,000/- to Rs. 21,000/-.

**7. Bank Account / payment details:**

7.1. The following bank account details alongwith the Paytm / PhonePe / GPay / UPI linked to mobile no. 9825131967 is mentioned on Facebook post / Whatsapp messages of Noticee:

<b>Entity</b>	<b>Nilesh Vipinchandra Vajifdar</b>
<b>Bank</b>	ICICI Bank
<b>Account Name</b>	Nilesh Vipinchandra Vajifdar
<b>Account No.</b>	624601054561
<b>IFSC Code</b>	ICIC0000851

- 7.1.1. The ICICI account was opened in the year 2002 and is active as on date.
- 7.1.2. Several narrations for the payment received indicate that the UPI payments were made for 'Nifty' and 'Index Options'.
- 7.1.3. Payments which *prima facie* in the nature of fees through UPI started appearing from May 03, 2019 in the account.
- 7.1.4. Subsequently, many credits have been received in the account through UPI for sums of Rs. 10,000 and Rs. 20,000/-.

7.2. The following information is gathered from ICICI bank in regard of aforementioned bank account:

<b>Account Name</b>	<b>Bank Name</b>	<b>Date of Account Opening</b>	<b>Bank A/c no.</b>	<b>Bank Statement Period</b>	<b>No. of Credit Transaction</b>	<b>Date of last Credit</b>	<b>Total Credit through Unregistered investment advisory activity</b>
Nilesh V Vajifdar	ICICI Bank	11/09/2002	624601054561	May 03, 2019 – March 24, 2021	405 approx.	23/03/2021	Rs. 16 lakh approx.

7.3. From an analysis of Bank statements, the following is observed:

- 7.3.1. Multiple UPI payments through mobile number 9825131967 linked with GooglePay / Phonepe / Paytm are credited into the aforesaid ICICI Bank of Noticee

7.3.2. The aforesaid bank account and UPI interface GooglePay / Phonepe / Paytm are active.

7.3.3. The total credit received in the aforesaid bank accounts is approximately Rs. 16 lakh during the period May 2019 to March 24, 2021.

8. In light of the aforesaid discussions, I *prima facie* observe that Noticee has been putting information in public domain / advertising by using Facebook posts and Whatsapp messages about the various services offered by him in securities market. It is also *prima facie* observed that various plans / packages are being offered by Noticee to avail their Services. Thus, I observe, that Noticee is *prima facie*, holding himself out as an Investment Adviser. In view of the above facts and circumstances, especially the content of the Facebook post and whatsapp message coupled with the credit transactions in the bank accounts, *prima facie*, it is inferred that the fees / funds credited to the bank accounts and through UPI interface Paytm, PhonePe and GooglePay, were for the purpose of availing the Services indicated on the Facebook page of Noticee and he is carrying out services related to investments in securities market as mentioned on Facebook page / Whatsapp and that he is acting as an advisor in securities market. It is observed that payments which *prima facie* are in the nature of fees started appearing from May 03, 2019 in aforesaid ICICI bank account. Thus, preponderance of probability indicates that Noticee is acting as advisor in securities market from May 03, 2019 till March 24, 2021 (recent Facebook post made on March 23, 2021 and latest credit entry in bank account was observed on March 24, 2021).
9. In this regard, I have perused the definition of investment Adviser as given in regulation 2(m) of IA Regulations, which states that investment Adviser means “*any person, who for consideration, is engaged in the business of providing investment advice to clients or other persons or group of persons and includes any person who holds out himself as an investment Adviser, by whatever name called*”. Further, I have also perused the Regulation 2(l) of the IA Regulations which 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.”*

10. In light of the aforesaid definitions, it is, *prima facie* noted, from the contents of the Facebook page / Whatsapp messages of Noticee, that Noticee is *prima facie*, holding himself out as Investment Adviser by offering to provide services related to investing in, purchasing and selling in securities and is also offering various investment packages for subscription and these services fall within the definition of “Investment Advice” under Regulation 2(l) of the IA Regulations. Further, multiple credit entries have been received in the bank accounts, which when seen together with the contents of the Facebook page / Whatsapp messages of Noticee, leads to, on preponderance of probability basis, a *prima facie*, conclusion that the credit entries in the bank account are consideration for the investment advice given by Noticee to its clients. Thus, *prima facie*, Noticee is an investment Adviser as defined under Regulation 2(m) of the IA Regulations.
11. The fact that Noticee is offering various subscription packages in various segments of the market viz, equity, derivatives and commodity, when seen in light of the receipt of money in its bank accounts, *prima facie* shows, on preponderance of probability basis, that the credit of money, is in fact, the fee for the Investment Advisory Services rendered by Noticee. Therefore, Noticee has not only held himself out as investment Adviser but has also acted as an Investment Adviser for consideration.

***ISSUE No. 2: If answer to the aforesaid issue is in affirmative, whether Noticee has, prima facie, violated any provisions of SEBI Act read with IA Regulations and provisions of PFUTP Regulations?***

12. In order to ensure that investors who receive investment advice are protected, it is imperative that any person carrying out investment advisory activities has to necessarily obtain registration from SEBI and conduct its activities in accordance with the provisions of SEBI Regulations. Section 12(1) of SEBI Act states that “*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. Further, Regulation 3(1) of the IA regulations, states that “*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”*.”
14. Thus, as per Section 12(1) of SEBI Act and Regulation 3(1) of IA Regulations, any person carrying out investment advisory activities has to necessarily obtain registration from SEBI and conduct its activities in accordance with the provisions of SEBI regulations i.e. the registration of the investment Advisers is mandatory.
15. The activities of Noticee, as brought out from the various materials described above, seen in the backdrop of the aforesaid provisions shows that Noticee is holding himself out as Investment Adviser and is acting as Investment Adviser. However, no material was available on record to indicate that Noticee in his individual capacity had a certificate of registration as an Investment Adviser. In this context, it is noted that Noticee (Mr. Nilesh Vipinchandra Vajifdar) in his individual capacity is not registered with SEBI as an intermediary. The characteristics and features of the business activity carried out by Noticee, as discussed in the preceding issue, *prima facie*, leads to the conclusion that Noticee is holding himself out and acting as Investment Adviser without a certificate of registration from SEBI. In my view, these activities/ representations of Noticee are, *prima facie*, in violation of Section 12(1) of SEBI Act read with regulation 3(1) of the IA Regulations.
16. Before proceeding further, I would like to refer to the provisions of Regulation 2(1)(c) of the PFUTP Regulations defines ‘*fraud*’ and ‘*fraudulent*’ which state as under:

*“(c) “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 ...”*

17. It is noted that fraudulent activities / dealings are prohibited under the provisions of section 12A(c) of the SEBI Act, 1992 and Regulations 3 (a), (b), (c), (d) and Regulations 4(1) and 4(2)(k) of the PFUTP Regulations. The provisions of Section 12A(a), (b) and (c) of the SEBI Act, 1992 and Regulations 3 (a), (b), (c) and (d) of the PFUTP Regulations, which are reproduced below:

***SEBI Act, 1992***

*“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 recognized stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;”*

### **PFUTP Regulations**

*“Prohibition of certain dealings in securities*

*3. 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 market.*

*(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 and which is designed or likely to influence the decision of investors dealing in securities.”*

18. In my view, an unregistered investment adviser like Noticee can put investors at great risk by misleading them. Without having a registered Investment Adviser certificate, Noticee is engaged in the business of providing investment advice to clients with the objective of making money/ collecting fees through advisory services. Further, Noticee has put information in public domain / advertising by using Facebook page and Whatsapp messages about the earning 15% to 25% return every year though paid advisory services offered by him in securities market.
19. Thus, by making the claims of assured “yearly return” between 15% to 25% and claim of “*earn 3,000 daily by investing by investing in Nifty Option Intraday with 90% sureshot calls given*”, Noticee is, *prima facie*, inducing investors to deal in securities by availing his services. Such modus operandi is being continuously used by Noticee, which is evident from the fact that there are continuous credits in his bank accounts.
20. It is observed that Noticee’s claim to provide a specific return on client’s investment or to claim guaranteed profit, is, *prima facie*, an active concealment of the material fact that every investment in the market is subject to market risk. Considering the dynamics of the market, the returns from the investment in the market are unpredictable, no matter how much and for how long the investment is made. This act of conveying specific returns or certainty of profit, is, *prima facie*, indulged for the purpose of luring customers in its net and thereby increasing its income. In light of the same, the act of the Noticee to actively conceal material information, is a non-genuine and a deceptive act and has been, *prima facie*, made with an intent to influence the client to avail its advisory services and deal in securities.
21. The above discussed act and omission of Noticee is *prima facie*, fraudulent and is covered under the definition of ‘*fraud*’ defined under regulation 2(1)(c) of PFUTP Regulations. Thus, *prima facie* fraudulent activity / conduct / act / omission / practice of Noticee as discussed above is *prima facie* in violation of provisions of Sections 12A (a), (b), (c) of SEBI Act and regulations 3 (a), (b), (c), (d) and regulations 4(1) and 4(2)(k) of PFUTP Regulations.

**ISSUE NO. 3: *If answers to Issue Nos. 1 or 2 are affirmative, who are responsible for the violations?***

22. I note that Mr. Nilesh Vipinchandra Vajifdar, is himself responsible for posting information / advertisement relating to investment advisory services on his Facebook Page and through whatsapp messages and fees has been credited to his own bank account. Therefore, I find that Mr. Nilesh Vipinchandra Vajifdar is liable for the aforesaid *prima facie* violation of SEBI Act, IA Regulations and PFUTP Regulations.

**ISSUE NO. 4: *If answer to Issue No. 2 is in affirmative, whether urgent directions, if any should be issued against those responsible for the violations?***

23. SEBI has a statutory duty to protect the interests of investors in securities and promote the development of, and to regulate, the securities market. Section 11 of the SEBI Act has empowered it to take such measures as it thinks fit for fulfilling its legislative mandate. The IA Regulations have been formulated with the main objective of regulating investment advisory activities to safeguard the interests of investors and hence registration of investment advisory activities with SEBI has been made mandatory. The IA Regulations *inter alia* seek to create a structure within which investment Advisers will operate and also make them duly accountable for their investment advice by requiring investment Advisers to comply with the relevant provisions of the IA Regulations. The same is imperative for the protection of interests of investors and to safeguard the integrity of the securities market.

24. In the instant case, it is noted that Noticee is soliciting and inducing the investors to deal in securities market on the basis of investment advice, intra-day calls etc., *prima facie*, without having the requisite registration as mandated under the IA Regulations. Considering the facts and circumstances of the present matter and on the basis of the *prima facie* findings, it is necessary to take urgent preventive action in this matter and to take immediate steps to prevent Noticee, from collecting any more fees from the public and indulging in unauthorized investment advisory activities. It is noted from material available on record that transaction

took place in the bank account of Noticee as recently as on March 23, 2021 in ICICI Bank. Moreover, the latest post by Noticee on his Facebook page is on March 23, 2021. Furthermore, the details of Noticee including its address, email and mobile number are mentioned on his Facebook page (enquiry can be sent to Noticee by an email, whatsapp or even on Facebook page). Therefore, the threat of investors getting lured towards the unregistered activity of Noticee in the securities market is still in existence and imminent. The total amount of money, *prima facie*, observed to have been collected by Noticee is Rs. 16 lakh approximately and indicates the magnitude of the prospective threat to the investors.

25. It is noted that permitting the investors to receive an investment advisory service from an unregistered entity, in effect means, the same is received from the unqualified person without following the safeguards mentioned in the IA Regulations. An investor receiving a service from unregistered investment advisor not in consonance with the IA Regulations vis-a-vis an investor who receives such service from registered investment Adviser following the IA Regulations stands in a disadvantageous position in respect of his protection as investor as envisaged under the IA regulations. An unregistered investment adviser has not even satisfied the Regulator that he is a fit and proper person to hold the certificate of registration as investment Adviser. Availing of service from such person is detrimental to investors and such unqualified service can result in irreparable detriment as the investors' money is invested based on unqualified and un-regulated service. Exposing investors to such service also has the effect of interfering with the development of securities market, as victim of such services tend to lose faith in the securities market. Such an injury to the development of the securities market also qualifies as "irreparable injury" or "irreparable detriment" as the objective of SEBI as enshrined in the SEBI Act is not only the protection of investors but also orderly development of securities market.

26. Further, if an ex-parte order is not passed, many prospective investors may subscribe by parting with significant fees and may cause irreparable injury to themselves as discussed earlier. However, if an ex-parte order is passed, what is at stake is right of the current entity herein vis-

a-vis multitude of prospective and current clients of the entity. It may be noted that one of the underlying differences between the “ex-parte orders in the case of private suits” and “ex-parte public enforcement actions”, is the identification of the injured party. In private damage suits, the injured individual, as “whole”, is identifiable whereas ex-parte public enforcement actions, seeks to protect the floating multitude of investing public by preventing, continuous and imminent violations of the securities laws. Though, it can be argued that a final remedy by way of refund is available, as against the step of passing an ex-parte interim order, the potential loss of investment by the investors by following the advice from an unqualified person and resultant loss of investor’s confidence and reliability of securities market, cannot be retrieved, if prima facie unregistered investment advice is permitted to be extended to the investors by not passing an *exparte-interim order* at this stage. Therefore, I consider the balance of convenience is also not in favour of Noticee.

27. Considering the facts and circumstances of the present matter and on the basis of the *prima facie*, findings, it is necessary to take urgent preventive action in this matter and to take immediate steps to prevent Noticee from collecting any more funds from the public and indulging in unauthorized investment advisory activities. As noted in the preceding paragraphs, monies were being credited in the bank account of Noticee as on March 23, 2021 and bank account is still active. Furthermore, other modes for collection of money through PayTM / Phonepe / GooglePay are still active and available. Moreover, the Noticee is active on Facebook and Whatsapp. The same *prima facie* demonstrates that Noticee can still lure investors to deal through it in the securities market and probability of investors reaching Noticee is still high. Therefore, the threat of investors getting lured towards the unregistered activity of Noticee in the securities market is still in existence and imminent.

28. The amount of money, *prima facie*, observed to have been collected by Noticee is approximately Rs. 16 lakhs. Further, there are other modes available through PayTM / Phonepe / GooglePay for collection of money which is observed to be continuing, indicates ongoing threat to the investors. In light of the same, I find that there is no other alternative but to take

recourse through an *interim ex-parte* order against Noticee for preventing him from collecting funds by defrauding investors and by indulging in unauthorized investment advisory services without obtaining the mandatory registrations from SEBI in accordance with the law. As the Noticee is active on Facebook and Whatsapp which *prima facie*, shows that the investors can reach it and also his bank account is active, the balance of convenience demands the preventive measure of stopping the collection of money in the above-mentioned bank account from investors. The same can be effectively achieved by an appropriate direction of stopping credit into the above-mentioned bank account and other payment modes. As Noticee have already evaded the jurisdiction of SEBI by *prima facie*, acting as unregistered investment adviser, the balance of convenience also demands that Noticee have to be prevented from diverting the funds collected from the investors through the fraudulent and unauthorized investment advisory activity. Accordingly, an appropriate direction stopping the debit from the above-mentioned bank account has been incorporated.

29. With the initiation of quasi-judicial proceedings, given the fact that Noticee have already evaded the jurisdiction of SEBI by *prima facie*, acting as unregistered investment adviser, it is possible that Noticee may divert the money collected from the subscribers / clients. The same may result in defeating the effective implementation of the direction of refund, if any, to be passed after deciding the matter on merits. It therefore becomes necessary for SEBI to take urgent steps to prevent Noticee from diverting the money collected from the subscribers / clients. It is also essential to take urgent steps to prevent them from alienating any assets, whether movable or immovable, or any interest or investment or charge in any of such assets, so that the final remedies, if any, do not become infructuous. In view of the facts and circumstances discussed hereinabove, and considering the interests of already existing clients of Noticee and also the interests of those who may fall prey to the unregistered investment advisory by reaching Noticee through Facebook / whatsapp or any other mode, the balance of convenience lies against the Noticee, which requires immediate action against them including not to divert the money collected from the subscribers / clients / investors.

**ORDER:**

30. In view of the above, pending conclusion of enquiry on granting of hearing opportunity as per this Order, to Mr. Nilesh Vipinchandra Vajifdar, I, in order to protect the interests of investors and integrity of the securities market, in exercise of the powers conferred upon me under Sections 11, 11(4), 11B (1) and 11D read with Section 19 of the SEBI Act hereby issue by way of this *interim ex-parte order*, the following directions, *which shall be in force until further orders:-*

30.1. *Mr. Nilesh Vipinchandra Vajifdar is directed:-*

30.1.1. *to cease and desist from acting as an investment advisor including the activity of acting and representing through any media (physical or digital) as an investment advisor, directly or indirectly, and cease to solicit or undertake such activity or any other activities in the securities market, directly or indirectly, in any matter whatsoever;*

30.1.2. *not to divert any funds collected from investors, kept in bank account(s) and/or in their custody;*

30.1.3. *not to dispose of or alienate any assets, whether movable or immovable, or any interest or investment or charge on any of such assets held in their name, including money lying in bank accounts except with the prior permission of SEBI.*

30.1.4. *to immediately withdraw and remove all advertisements, representations, literatures, brochures, materials, publications, documents, Facebook, Whatsapp, websites, communications etc., in relation to their investment advisory activity or any other unregistered activity in the securities market;*

30.1.5. *not to access the securities market and buy, sell or otherwise deal in securities, either directly or indirectly, in any manner whatsoever;*

30.1.6. *to provide a full inventory of all assets held in his name, whether movable or immovable, or any interest or investment or charge on any of such assets, including details of all bank accounts, demat accounts and mutual fund investments, immediately but not later than 5 working days from the date of receipt of this order;*

- 30.1.7. to submit the number and details of clients who have availed their investment advisory Services and to submit details of fees collected from each such client, immediately but not later than 5 working days from the date of receipt of this order.
- 30.2. If Mr. Nilesh Vipinchandra Vajifdar have any open position in any exchange traded derivative contracts, as on the date of the order, they can close out/ square off such open positions within 3 months from the date of order or at the expiry of such contracts, whichever is earlier. Mr. Nilesh Vipinchandra Vajifdar is permitted to settle the pay-in and pay-out obligations in respect of transactions, if any, which have taken place before the close of trading on the date of this order.
- 30.3. ICICI Bank is directed not to permit any debits / withdrawals and not to allow credits, from / to the following bank accounts, without the permission of SEBI. PayTM, PhonePe and GooglePay where Mr. Nilesh Vipinchandra Vajifdar is holding an account through mobile no. 9825131967, are directed to deactivate the said account. The said Banks, PayTM, PhonePe and GooglePay money are directed to ensure that all the above directions are strictly enforced.

<b>Sr. No</b>	<b>Name of Bank Account Holder</b>	<b>Bank Account Number</b>	<b>Name of the Bank</b>
1	Nilesh Vipinchandra Vajifdar	624601054561	ICICI Bank

- 30.4. The Depositories are directed to ensure, that they neither permit any debits nor any credits in the demat accounts held by Mr. Nilesh Vipinchandra Vajifdar either individually or jointly.
- 30.5. The Registrar and Transfer Agents are directed to ensure, that they neither permit any transfer nor redemption of the securities, including Mutual Funds units, held by Mr. Nilesh Vipinchandra Vajifdar either individually or jointly.
31. This Order shall also be treated as a Show Cause Notice and Mr. Nilesh Vipinchandra Vajifdar are show caused as to:

- 31.1. why his securities related activities discussed in this order should not be held as “Investment Advisory Services” in terms of the IA Regulations and thereby the activity

- of Noticee be treated as unregistered activity under the SEBI Act and relevant Regulations;
- 31.2. why the various representations made / services offered by Noticee in securities market, thereby luring and inducing investors to deal in securities by availing his services, may not be treated as a fraudulent practice / act / conduct, in terms of PFUTP Regulations;
- 31.3. why suitable directions / prohibitions under Sections 11(1), 11(4), 11B(1) and 11D of the SEBI Act and relevant SEBI Rules/Regulations, including the following, should not be issued / imposed against him, for the alleged violation of provision of SEBI Act and IA Regulations as discussed above in this order:
- 31.3.1. Directions for prohibition from buying, selling or otherwise dealing in securities market, either directly or indirectly, in any manner whatsoever, for an appropriate period;
- 31.3.2. Directions to not be associated with any registered intermediary/ listed company and any public company which intends to raise money from public in the securities market, in any manner whatsoever;
- 31.3.3. Directions as to why he should not be directed to refund, the fees collected from the investors/clients for unregistered investment advisory activities under Sections 11 and 11B(1) of SEBI Act;
- 31.3.4. Any other directions as it deemed necessary.
32. The *prima facie* observations contained in this Order, are made on the basis of the material available on record. In this context, Noticee may, within 21 days from the date of receipt of this Order, file their reply/objections, if any, to this Order and may also indicate whether they desire to avail an opportunity of personal hearing on a date and time to be fixed on a specific request to be made in that regard.
33. This Order is without prejudice to the right of SEBI to take any other action that may be initiated against Noticee in accordance with law
34. The above directions shall take effect immediately and shall be in force until further orders.

35. A copy of this order shall be served upon Noticee, Stock Exchanges, ICICI Bank, PayTM, Phonepe and GooglePay, Registrar and Transfer Agents and Depositories for necessary action and compliance with the above directions.

Sd/-

**DATE: APRIL 07, 2021**

**MADHABI PURI BUCH**

**PLACE: MUMBAI**

**WHOLE TIME MEMBER**

**SECURITIES AND EXCHANGE BOARD OF INDIA**