

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: S. RAMAN, WHOLE TIME MEMBER

Under Sections 11(1), 11(4)(b), 11B and 11D of the Securities and Exchange Board of India Act, 1992 read with SEBI (Portfolio Managers) Regulations, 1993 in respect of VPS Advisory Services and its proprietor viz., Shri Varun Pratap Singh (PAN- BGEPS3887G).

1. Securities and Exchange Board of India ("SEBI") came across an article dated June 25, 2013, published in "Moneylife" regarding the activities of M/s VPS Advisory Services (hereinafter referred to as "VPS") wherein it was alleged that VPS had promised 20 per cent returns on the investments. It was observed from its website viz., www.vpsadvisory.com that VPS offers various investment advisory services to the investors.
2. As a matter of preliminary inquiry into the matter, SEBI vide letter dated December 09, 2013, inter alia, sought the following information from VPS in relation to its business activities:-
 - i. Registered/corporate/branch office addresses of the firm along with telephone number of all the offices.
 - ii. Details of past and present proprietor/partners viz. name, address, PAN and contact details.
 - iii. List of all activities undertaken by VPS including investment advice or portfolio management services if any, along with fees charged for each activity.
 - iv. Basis of offering advice along with copies of few latest research reports.
 - v. Details of all the employees/retainers along with their qualifications and nature of services offered by them.
 - vi. Number of clients since last six months.
 - vii. Certified copy of audited financial statement for last three years.
 - viii. Copy of Income Tax and Service Tax return filed by firm for last three years.
 - ix. Details of registration with SEBI or any other regulators in India; Whether applied as Investment Adviser with SEBI?

- x. Details of any other similar activities.
3. A physical verification of VPS was conducted on December 17, 2013. Proprietor of the VPS viz., Shri Varun Pratap Singh was given a copy of SEBI's letter dated December 09, 2013 which was duly acknowledged by him. During the visit, it was noted that the VPS was operating earlier from Bangalore and recently shifted its office to Gwalior. VPS was once again informed about the statutory requirements to get registered with SEBI to provide advisory services. Shri Varun Pratap Singh informed that he is registered as a sub-broker of Sharekhan Limited.
- 3.1 In response to the SEBI's letter dated December 09, 2013, VPS vide letter dated December 19, 2013 admitted that it was providing advisory services in cash, derivative segments and also in commodity markets. Fee structure for availing advisory services was stated as `10,000/- per month for cash and derivative segment and `5,000/- per month for commodities. It was also informed vide the said letter that five employees were engaged in providing advisory services to 58 clients in last six months.
 - 3.2 Vide the aforesaid reply, VPS also stated that it had not taken registration with SEBI till then as they were not aware of the SEBI (Investment Adviser) Regulations, 2013. VPS also stated that it will apply for the said registration before December 26, 2013.
 - 3.3 Meanwhile, information was sought from Sharekhan Limited ("Sharekhan") about VPS. In reply, Sharekhan vide email dated January 03, 2014 informed SEBI that VPS was not its registered sub-broker. Thereafter, vide email dated January 08, 2014, Sharekhan submitted that Shri Varun Pratap Singh was registered as sub-broker under the trade name of Bangalore Consultancy Services. However, his membership had been terminated in November 2013
 - 3.4 SEBI vide email dated January 02, 2014 granted a final opportunity to comply with regulations and also advised VPS not to act as IA without registration with

SEBI and not to give assured returns to general public. Subsequently, a reminder email dated January 13, 2014 was sent to VPS advising it to stop acting as unauthorized IA. On January 13, 2014, SEBI received an application for registration as IA from VPS.

3.5 VPS vide email dated January 15, 2014, informed SEBI that it had removed advertisements as regards assured returns from their website and applied for registration as IA with SEBI.

3.6 Upon perusal of the website of VPS, it was noted that VPS showed profits earned by their customers who followed its advice, performance reports in stocks, derivatives and commodities for the month of May 2014, total calls, total profits and accuracy. Various packages offered by VPS for the month of February 2014 were also noted from the website. In the pricing for various products, guaranteed returns were still being offered by VPS. However, an information page was added by VPS on the website stating *"As we have stopped all assured returned services for all existing clients from Nov 30, 2013, We request all our existing clients in assured return segment to call Mr. Varun on 09589983623 to know further process. The steps which would be considered : 1)they can shift to any of our intraday advisory services. 2) they can take the refund of their payment."*

3.7 Also as gathered from social media site face book (snapshots) of VPS, the quarterly fees for services offered was stated to be `80,000 per year, `20,000 per quarter and `10,000/per month. Some of the contents on the face book are reproduced below:

"You can open up the account (trading account) with us (if you don't have) or can give us your existing trading account to one of our analysts.

We will do trade behalf of you in your account, exactly how our company trade in its own account....'

'Give us your D-mat account user name and password'. 'Return of 20% per month will be given.'

'20 % return scheme per month is profit earning technique where client can have any D-mat account with minimum Rs. 50,000/- in it. This D-mat account client has to give us for trading and we will ...trade behalf of him and give him return of 20% per month, he/she can increase the fund any time they like from Rs. 50,000/- to 5 lacs rupees there profit will depend upon money they have in D-mat account.'

4. In view of the above, SEBI vide letter dated May 07, 2014 sought the following clarifications from VPS regarding its activities:
 - i. PAN of VPS and Shri Varun Pratap Singh.
 - ii. Since when the entity is providing Portfolio Management Services ("**PMS**").
 - iii. Information about present Asset under Management ("**AUM**").
 - iv. AUM at the end of previous 3 financial years.
 - v. Break-up of AUM under various asset classes.
 - vi. Details of clients who availed PMS from VPS.
 - vii. Details of client-wise funds mobilized.
 - viii. Details of de-mat accounts and bank-accounts of VPS and Shri Varun Pratap Singh for the last three years.
 - ix. Names of brokers through whom orders for buying and selling of shares have been placed.
 - x. Details of buying and selling of securities by VPS and Shri Varun Pratap Singh.
5. A scanned copy of the aforesaid letter was also sent vide email dated May 09, 2014. As no information was received, a reminder email was sent on May 27, 2014.
6. In response thereto, VPS vide email dated June 11, 2014 submitted the following:
 - i. PAN of Shri Varun Pratap Singh as VPS is a proprietor firm, PAN of Shri Varun Pratap Singh and VPS Advisory Services is one and the same.
 - ii. PMS Services were started on the request of the clients. The Service was started from March 2012 and stopped in December 2013.
 - iii. *'AUM refers to the total market value of investments managed by a mutual fund, money management firm, hedge fund, portfolio manager or other financial services company. We are not managing any fund*

here nor we are that big firm to do so. PMS services was active for 20 months. During these months in any d-mat account money was not more than 50,000/- all the small investors who have money somewhere between 50,000/- to 100,000/- and who cannot trade by themselves joined us.'

- iv.* No break-up of AUM available under any asset class.
 - v.* PMS clients were a few and their records were maintained in excel file, however, the personal computer where the records were maintained got damaged. Details of clients which were available with VPS were submitted (Name and /or telephone numbers).
 - vi.* Brokers through which orders were placed were Sharekhan, ICICI Direct and Zerodha etc.
 - vii.* Date-wise buying-selling records of securities by VPS and Shri Varun Pratap Singh are not available however, trading is done in securities viz. HDIL, JP Associates, Tata Motors, SBIN, Dena Bank, Delta Corp, DLF, Voltas, R. Power, Reliance Infra etc.
- 6.1 It is also mentioned in the said email that, *'I have also mentioned very clearly to the respected panel that in case if I have breached any rules and regulations of SEBI and if SEBI has got any complaints from my clients with regards to PMS activity, then I will refund the fees taken from my clients back to them.'*
- 6.2 VPS also furnished partial details of its clients availing PMS from VPS viz., S.G.Naik, Ahmed, Abhishek Jain, Ashish Shukla, Lalitha K.M. Chengannur- NRI, Addul Rafeeqe K, S.A.Srikanth and Jayamani.
- 6.3 SEBI vide separate letters dated May 20 and 21, 2014 *inter alia* sought bank statements from the respective banks for the following accounts mentioned on the web-pages of VPS:

Sl. no.	Name	Bank	Branch	Account No.	Type of Account	Statement Received	From	To
1	Prerna Sharma	SBI	Gurgaon	32701757310	-	Y	01-01-12	31-05-14
2	Prerna Sharma	ICICI	Alwar, Rajasthan	100901507300		Y	30-05-12	22-06-14
3	Prerna Sharma	Citi	Bangalore	5677159806	Savings	Y	01-01-12	02-06-14
4	Prerna Sharma	Citi	Bangalore	5677159806	No Transactions			
5	Prerna Sharma	Axis	Bangalore	009010100804851	Salary	Y	01-01-14	28-05-14
6	Geeta Devi Chouhan	SBI	Alapur, Gwalior	53006104433	-	Y	15-04-05	31-05-14
7	VPS	South Indian Bank	Bangalore	0517073000000122	Current	Y	01-04-11	31-03-14
8	Varun Pratap Singh	South Indian Bank	Bangalore	51705300003216	Savings	Y	10-02-11	31-03-14
9	VPS	Corporation Bank	Gwalior	CBCA/01/000140	-	Y	10-01-14	11-03-14
10	VPS	Corporation Bank	-	69201601000140	Current	N		

6.4 SEBI vide letter dated June 23, 2014 once again sought clarification regarding AUM, break-up of AUM, Client-details, De-mat accounts and Bank account details, client-wise and date-wise details of transactions in securities, details of payments received from Mr. S.G. Naik, Mr. Ahmed, Mr. Abhishek Jain, Ms. Jaya Mani, Mr. Ashis Shukla, Ms. Lalitha K.M., Chengannur-NRI, Mr. Abdul Rafeeqe and Mr. A Srikanth, clarification about connection with Ms. Prerna Sharma and Ms. Geeta Devi Chauhan, etc.

6.5 VPS vide email dated July 09, 2014, stated that Ms. Geeta Devi Chauhan is Shri Varun Pratap Singh's mother and Ms. Prerna Sharma was an employee of VPS till December 2013. It is evident from the bank statements of both Ms. Prerna Sharma and Smt. Geeta

Devi Chouhan that there were various deposits in their accounts from different parts of country by different individuals. The amount deposited in their accounts were similar to the amount charged by VPS for various advisory services.

- 6.6 VPS denied having any demat account. Further, VPS informed that buy and sell orders were placed through Sharekhan Ltd., ICICI Direct and Zerodha, etc. The details submitted by VPS vide the aforesaid email are as under:

Assets managed during the period of March 2012- December 2013:

Client Name	Total Asset Managed (In Rs.)
S.G.Naik	100,000/-
Ahmed	100,000/-
Abhishek Jain	50,000/-
Ashish Shukla	50,000/-
Lalitha K.M.	50,000/-
Chengannur-NRI	50,000/-
Addul Rafeeqe	50,000/-
S.A.Srikanth	50,000/-
Jayamani	50,000/-
Total	550,000/-

Break-up of AUM:

Client Name	Asset Managed as per asset class
S.G.Naik	100,000/- Derivatives
Ahmed	100,000/- Derivatives
Abhishek Jain	50,000/- Derivatives
Ashish Shukla	50,000/- Derivatives
Lalitha K.M	50,000/- Derivatives
Chengannur-NRI	50,000/- Derivatives
Addul Rafeeqe	50,000/- Derivatives
S.A.Srikanth	50,000/- Derivatives
Jayamani	50,000/- Derivatives

Payment Details Received:

Client	Payment Amount	Date and Bank
S.G. Naik	9000/-	South Indian Bank dated March 12, 2012
Ahmed	9995/-	South Indian Bank dated July 01, 2013
Abhishek Jain	10,000/-	South Indian Bank dated April 03, 2012
Ashish Shukla	10,000/-	South Indian Bank dated March 31, 2012
Lalitha K.M.	10,000/-	South Indian Bank dated August 13, 2012
Chengannur-NRI	10,000/-	South Indian Bank dated September 25, 2012
Abdul Rafeeqe	10,000/-	South Indian Bank dated March 19, 2013
S.A. Srikanth	10,000/-	South Indian Bank dated November 27, 2013
Jayamani	6000/-	South Indian Bank dated December 03, 2013
Total	84995/-	

6.7 Vide the aforesaid e-mail, VPS also stated' *if I have breached any rules and regulation of SEBI and if SEBI has got any complaints from my clients with regard to PMS activity, then I will refund the fees taken from my clients back to them.'*

6.8 In the hearing scheduled before Regional Manager, Western Regional Office, SEBI at Ahmedabad regarding rejection of VPS's application for registration as IA on May 30, 2014, Shri Varun Pratap Singh, proprietor of VPS admitted once again that VPS was providing PMS services to its clients.

6.9 Further, it is noted that VPS was providing services through Bangalore Consultancy Services. It was observed that on clicking payment option on the website of VPS, it will lead to the website of Bangalore Consultancy Services. However, the website of Bangalore Consultancy Services is not operational anymore.

6.10 The Fee structure of PMS is stated to be `10,000/- per month, `20,000/- quarterly and `80,000/- yearly. It is observed from the bank statements of VPS and other related entities that there are various transactions in bank accounts mentioned above which are either equal to or more than `10,000/- per month.

**South Indian Bank statement of VPS from April 01, 2011 to March 26, 2014 for the
account number 051707300000122**

Amount Deposited by investors availing PMS from VPS - Bank A/c of VPS:

1	03-04-12	10,000	NEFT	Abhishek Kumar Jain
2	13-08-12	10,000	NEFT	Lalitha K M
3	19-03-13	10,000	NEFT	Abdul Rafeeqe
4	27-11-13	10,000	NEFT	E S A Srikanth
5	31-03-12	10,000	NEFT	Ashish Shukla

**Amount Deposited by investors availing PMS from VPS after December 31, 2013- Bank
Account of Mr. Varun Pratap Singh (A/c No. 0517053000003216)**

1	08-01-14	16,600	NEFT	M Jayamani
2	24-01-14	7,500	NEFT	M Jayamani
3	07-02-14	2,000	NEFT	M Jayamani

Transactions in the Axis Bank Account of Ms. Purna Sharma

Date	Transferred from	Amount
29-04-14	S Prashanth	49000
22-05-14	S Prashanth	15000

Transactions in the ICICI Bank Account of Ms. Purna Sharma

Date	Transferred from	Amount
01-01-14	NEFT	30,000
06-02-14	Maria M Faroz	25,000
07-03-14	474029002 308981	2,00,000
24-03-14	529609	45,000

Transactions in the South Indian Bank Ltd. Account of M/s VPS Advisory Services

Date	Transferred from	Amount
01-10-12	Rajendra Dutta	50,000

7. I have pursued the information received by SEBI, correspondence exchanged between SEBI and VPS, along with the documents contained therein and information available on record. In this context, it is observed that the issue for determination in the instant matter is whether

VPS was providing portfolio management services to its clients without obtaining registration from SEBI as a portfolio manager.

7.1. On an examination of the aforementioned material/ information available on record, it is *prima facie*, observed that:

- i. VPS is a proprietorship firm, established on December 06, 2013 by Shri Varun Pratap Singh as the proprietor and having its office at A-65, Govindpuri, Gwalior, Madhya Pradesh. However, VPS was running its business from Bangalore from A1, Ist Floor, Savithri Residency, No. 51 & 52, Yellapa Garden, Bangalore - 560085. Shri Varun Pratap Singh was a registered sub-broker of Sharekhan in the trade name Bangalore Consultancy Services till November 2013.
- ii. VPS vide letter dated December 19, 2013 and email dated June 11, 2014 stated that VPS provided Portfolio Management Services a few clients. It was also stated '*PMS Services were started on the requests on the request of the clients. The Service was started from March 2012 and stopped in December 2013*'. "*During this tenure we have published various clients d-mat account on our website which shows the performance of the PMS services.*'
- iii. VPS is collecting funds from investors and manages their funds by investing in derivatives segment;
- iv. VPS was providing advisory services in cash, derivative segments and also in commodity markets. Fee structure for availing advisory services was stated as `10,000/- per month for cash and derivative segment and `5,000/- per month for commodities.
- v. Five employees were engaged in providing advisory services to 58 clients in last six months.
- vi. Guaranteed returns were offered to its clients.
- vii. Trading was done through the trading accounts of the clients availing PMS from VPS.

- viii. PMS were offered by VPS since March 2012 and most of the clients were individuals. On the basis of the information furnished by VPS, it is apparent that PMS were offered to at least 9 clients. From the analysis of Bank statements provided by various banks, it is observed that there are several deposits into the bank accounts from many clients which are equivalent to the fees charged by VPS for various advisory services offered by VPS.
8. In light of the above analysis and examination, it is evident that the services offered by VPS and its Proprietor Shri Varun Pratap Singh amount to offering services of "portfolio manager", as defined in Regulation 2(cb) of SEBI (Portfolio Manager) Regulations, 1993 (hereinafter referred to as "PMS Regulations").

Regulation 2(cb) of PMS Regulations defines a Portfolio Manager as,

"'portfolio manager' means any person who pursuant to a contract or arrangement with a client, advises or directs or undertakes on behalf of the client (whether as a discretionary portfolio manager or otherwise) the management or administration of a portfolio of securities or the funds of the clients, as the case may be."

9. As per the extant legal provisions any entity carrying out the activities of a market intermediary should be registered with SEBI and conducts its activities as per relevant provisions of the SEBI Act. Section 12(1) of SEBI Act, 1992, reads,

*'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.'*

Similarly, Regulation 3 of PMS Regulations, also provides that, *'No person shall act as portfolio manager unless he holds a certificate granted by the Board under these regulations.'*

10. As per VPS's own admissions vide emails dated June 11 and July 14, 2014, he used to provide portfolio management services to its clients. In this regard, it is also noted from the bank statements that various clients had paid fees to VPS for the services availed. In the light of the above discussions and analysis, I conclude that the activities carried out by VPS clearly fall under the definition of "portfolio manager" specified under Regulation 2(cb) of PMS Regulations. Further, VPS was also offering guaranteed returns to general public. VPS is engaged in providing portfolio management services to investors without necessary registration for the same as mandated by Section 12(1) of Securities and Exchange Board of India Act, 1992 read with Regulation 3 of PMS Regulations.
11. Considering the facts and circumstances of the case, there is every likelihood that VPS may continue to carry out this business in contravention of PMS regulations, which may lead to its engaging with more investors in such a manner. Furthermore, in case of default by VPS in meeting its obligations to investors, the normal remedies available to investors while dealing with a SEBI registered intermediary such as invoking the grievance redressal mechanisms, referring the matters to appropriate fora such as arbitration, etc. would not be available.
12. 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 deems fit for fulfilling its legislative mandate enshrined in SEBI Act read with PMS Regulations for the purpose of investor protection. Therefore, steps have to be taken in the instant matter to prevent VPS from soliciting and collecting funds from investors and carrying on portfolio management services without due registration from SEBI. It becomes necessary for SEBI to take urgent preventive action. In light of the same, I find there is no other alternative but to take recourse through an *ad interim ex-parte order* against VPS for preventing it from collecting funds and offering portfolio management activities without obtaining registration from SEBI in accordance with the law.
13. In view of the foregoing, I, in exercise of the powers conferred upon me under sections 11(1), 11(4), 11B and 11D read with Section 19 of the SEBI Act, 1992, hereby direct M/s VPS Advisory Services and Shri Varun Pratap Singh (PAN- BGEPS3887G), proprietor of VPS:-

- a. to cease and desist from acting as portfolio manager and not to solicit or undertake such activity or any other activities in the securities market, directly or indirectly, in any manner whatsoever;*
- b. Immediately withdraw and remove all advertisements, representations, literatures, brochures, materials, publications, documents, website etc. in relation to their portfolio management activities in the securities market;*
- c. Not to raise any funds from investors and not to divert any funds already raised from investors.*

14. The above-mentioned directions shall take effect immediately and shall be in force until further orders.

15. This Order shall be treated as a show cause notice and Shri Varun Pratap Singh proprietor of VPS, may show cause as to why appropriate directions, under the SEBI Act, 1992 and relevant SEBI Rules/Regulations including direction, prohibiting them from buying, selling or otherwise dealing in securities market, either directly or indirectly and also refund the monies to its investors, should not be issued against them.

16. Shri Varun Pratap Singh, proprietor of VPS shall within 21 days from the date of receipt of this Order, file his reply, if any, to this Order and may also indicate whether he would desire to avail an opportunity of personal hearing on a date and time to be fixed on a specific request made in that regard.

Place: Mumbai

S. RAMAN

Date: June 17, 2015

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA