QJA/MN/IMD/IMD-SEC-4/32418/2026-27

BEFORE SECURITIES AND EXCHANGE BOARD OF INDIA

FINAL ORDER

Under Sections 11(1), 11(4), 11(4A), 11B(1) and 11B(2) of Securities and Exchange Board of India Act, 1992 read with Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995

In respect of:

Noticee No.	Noticee's Name	PAN
1	First Global Finance Private Limited, Portfolio Manager, Reg. No - INP000006697	AAACF0660J
2	Ms. Devina Mehra	AAHPM4465E
3	Mr. Neeraj Khanna	AAEPK5719J

In the matter of inspection of First Global Finance Private Limited (Portfolio Manager)

Background:

1. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**"), conducted an on-site inspection of First Global Finance Private Limited (hereinafter referred to as "**First Global**" / "**FGF**" / "**Noticee No.1**"), a SEBI registered Portfolio Manager under SEBI (Portfolio Managers) Regulations, 2020 (hereinafter referred to as "**PMS Regulations**"), during December 05 to December 09, 2022. The findings of the inspection indicated, inter alia, possible outsourcing of core portfolio management activities to a third party, Algo One AI Private Limited (hereinafter referred to as "**Algo One**").

2. Considering the seriousness and complexity of the observations, SEBI approved a forensic inspection, and Chokshi and Chokshi LLP (hereinafter referred to as "**Chokshi / Auditor**") was appointed as forensic auditor vide letter dated January 30, 2024. Chokshi submitted the Forensic Audit Report (hereinafter referred to as "**FAR**") on August 21, 2024. The period of the said inspection was April 01, 2021 to December 31, 2023 (hereinafter referred to as "**Inspection Period**"/ "**IP**").

3. I note that the broad findings of the inspection are twofold. First, that FGF outsourced core portfolio management and investment related activities to Algo One AI Private Limited (hereinafter referred to as "**Algo One**") and invested client funds based on the advice and recommendations of Algo One and its personnel, particularly Mr. Achin Agarwal, in violation of Regulation 24(10) of the SEBI (Portfolio Managers) Regulations, 2020, the SEBI Circular dated December 15, 2011 relating to outsourcing of activities by intermediaries, and Clauses 1, 3 and 13(a) of Schedule III (Code of Conduct) read with Regulation 21 of the PMS Regulations. Secondly, that FGF disseminated misleading and exaggerated marketing and performance related claims and used inconsistent methodologies for performance disclosures allegedly in violation of Clause 2.1 read with Clause 1.1, 1.2, 1.3, 1.4, 1.5, 1.6 and 1.8 of Annexure 2A of SEBI Master Circular for Portfolio Managers dated June 07 ,2024; Clause 1, 3, 5, 6, 10(a) and 13(a) of Schedule III (Code of Conduct) read with Regulation 21 of SEBI (Portfolio Managers) Regulations 2020, Regulation 22(10) of PMS Regulations, Clause 4.5.2.1, 4.5.3.4 and 5.6.1 of the SEBI Master Circular for Portfolio Managers and Clause 1, 3 and 13(a) of Schedule III of Code of Conduct read with Regulation 21 of SEBI (Portfolio Managers) Regulations 2020 and Regulation 4(2)(k) and Regulation 4(2)(s) of the PFUTP Regulations.

Show Cause Notice:

4. Accordingly, a Show Cause Notice dated January 28, 2026 (hereinafter referred to as **"SCN"**) was issued to the Noticees, calling upon the Noticees to show cause as to why suitable directions, for the above mentioned alleged violations, including directions under Sections 11(1), 11(4), 11B(1) and 11D of the SEBI Act to cease and desist from outsourcing core investment related activities to any other entity/person; to remove all the exaggerated and misleading advertisements issued in the public domain or in the marketing material; to restrict from accepting new business, additional contribution from the existing clients or on boarding new clients for such period; and/ or any incidental directions thereto, should not be issued against them and why inquiry should not be held against them under rule 4(1) of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995. SCN was served to the Noticees vide SPAD as well as by email.

Hearing:

5. Noticees, vide email dated February 17, 2026, sought extension to file their reply, which was granted to them. Subsequently, the Noticees filed their reply to the SCN on March 13, 2026. Thereafter, in the interest of natural justice, Noticees were granted an opportunity of personal hearing on April 16, 2026, vide hearing notice dated March 18, 2026. The Noticees also made supplementary submissions vide reply dated April 15, 2026. The Noticees along with their AR appeared in the said hearing and reiterated the submissions made vide their earlier replies. The Noticees submitted additional reply, vide email dated May 06, 2026.

Replies:

6. The submissions of the Noticees made vide replies dated March 13, 2026, April 15, 2026 and May 06, 2026 are summarized as below:

Investment of client funds based on advice of another entity and outsourcing of investment related activities

6.1. FGF never outsourced investment management or investment advisory functions to Algo One or Mr. Achin Agarwal and all investment decisions were independently taken by FGF through its own institutional framework consisting of the Investment Committee ("IC"), internal research team and multiple in-house analytical systems.

6.2. Algo One functioned only as a technology consulting and analytics support service provider engaged for development, maintenance and operation of quantitative systems, technological infrastructure and portfolio support tools and did not participate in actual investment decision making.

6.3. Mr. Achin Agarwal's role in the IC meetings was limited to explaining the functioning of the Turbo system, technology architecture and quantitative outputs and he did not exercise investment discretion or advise the IC regarding purchase, sale or inclusion of securities in the Model Portfolio.

6.4. The IC substantially consisted of experienced internal personnel of FGF possessing more than 112 years of combined market experience and the fiduciary responsibility and investment discretion always remained with FGF.

6.5. FGF maintained a substantial and independently functioning in-house research and investment framework comprising continuous sectoral research, company analysis and internally generated investment theses across multiple sectors and companies using independent data sources such as Bloomberg, IQVIA, earnings calls and company filings.

6.6. Multiple companies independently analysed by FGF's internal research framework were not part of the Turbo ranked outputs and such companies nevertheless formed part of the Model Portfolio, thereby demonstrating that the IC did not mechanically adopt Turbo outputs.

6.7. The investment process involved multiple analytical layers including internally generated research, outputs from FGF's own systems such as Weight Watcher, Agreement in Motion, Sky Eye and VOLP, technical and momentum analysis undertaken by internal personnel and independent deliberations of the IC before any investment decision was finalized.

6.8. Turbo output constituted only one analytical input among several inputs considered during the quarterly rebalance process and was independently reviewed, filtered and supplemented by FGF personnel before any decision was placed before the IC.

6.9. The actual composition of the Model Portfolio demonstrated repeated deviations from Turbo rankings, including exclusion of certain Turbo ranked securities and inclusion of several non-Turbo securities, thereby evidencing independent judgment exercised by the IC.

6.10. Overlap between Turbo outputs and the final Model Portfolio merely reflected convergence of multiple analytical approaches and not delegation of investment discretion to Algo One.

6.11. No evidence existed showing that Mr. Achin Agarwal instructed the IC to purchase or sell any security or that the IC mechanically implemented any recommendation originating from Algo One.

6.12. Mr. Achin Agarwal has been formally appointed as Director of FGF w.e.f. April 01, 2025 ensuring full statutory accountability w.r.t. his participation in the Investment Committee.

6.13. The SCN incorrectly conflated analytical support, quantitative screening and technological collaboration with "investment advice" under Regulation 24(10) and

modern portfolio management necessarily involved interaction with technology providers and quantitative analysts.

6.14. *The investment decision stood completed once the Model Portfolio was approved by the IC and all subsequent activities constituted only operational implementation of the already approved investment decision.*

6.15. *Basket files were merely mechanical implementation tools generated to align individual client portfolios with the approved Model Portfolio during operational scenarios such as onboarding of new clients, top-ups, redemptions, quarterly rebalancing and client-specific restrictions.*

6.16. *Basket file generation was entirely non-discretionary and based only upon predefined inputs such as the approved Model Portfolio, existing client holdings, available cash and client-specific restricted lists and no independent investment judgment was exercised by Algo One during such process.*

6.17. *Basket files merely represented arithmetic alignment of portfolios and Algo One had no authority to alter portfolio weightages, modify security selection or independently determine investments.*

6.18. *All basket files underwent an independent approval process within FGF itself through Ms. Devina Mehra or Mr. Neeraj Khanna prior to execution and the approval process constituted an additional supervisory control mechanism demonstrating that final authority remained with FGF.*

6.19. *The execution workflow included internal review and rejection mechanisms and basket files were transmitted for execution only after internal approval by FGF.*

6.20. *Broker empanelment, trade routing, allocation amongst brokers and execution decisions were entirely undertaken through FGF's own dealing desk and internal execution policies and Algo One had no interaction with brokers or control over trade execution.*

6.21. *The email communications relied upon in the SCN regarding tranche-based execution merely reflected implementation of FGF's internal execution policies*

and not discretionary investment decisions by Algo One.

6.22. Client-specific requests routed to Mr. Achin Agarwal merely reflected operational coordination and implementation support and not rendering of investment advice.

6.23. Ownership and control of data and servers always remained with FGF and Algo One neither possessed authority to execute trades nor independently approve investments.

6.24. Regulation 24(10) must be strictly construed and interpreted only in the context of the specific mischief sought to be prevented, namely outsourcing of core discretionary investment functions by portfolio managers.

6.25. Any interpretation preventing regulated intermediaries from using modern technological tools, quantitative systems or technology vendors would lead to absurd consequences inconsistent with modern portfolio management practices.

6.26. Technology-assisted portfolio management structures and vendor engagements had not previously been treated as prohibited outsourcing and the burden squarely lay upon SEBI to establish every conjunctive ingredient of the alleged violation through cogent evidence.

Fee sharing arrangement with Algo One

6.27. Sharing of 20% of net management fees and 45% of net performance fees with Algo One merely reflected a commercial arrangement for provision of technology consulting services and ongoing technological infrastructure support.

6.28. The variable compensation structure was commercially adopted to align Algo One's remuneration with the scale, usage and success of the technology systems developed for FGF and did not indicate participation in investment management or portfolio discretion.

6.29. The arrangement was initially structured on a variable basis because FGF did not wish to incur substantial fixed technological expenditure upfront and intended to test the effectiveness and scalability of the systems before moving to a fixed-

cost structure.

6.30. PMS clients had no contractual relationship with Algo One and the consideration paid to Algo One was not linked to any right to recommend securities, determine allocations or execute trades.

6.31. The revenue sharing arrangement represented a commercially accepted incentive structure for a strategic technology partner contributing towards operational efficiency, scalability and client servicing.

6.32. The SAC classification reflected in certain invoices was subsequently revised to IT consulting services and the earlier classification as "advisory" did not determine the actual nature of services rendered.

Misleading advertisements, exaggerated statements and PFUTP violations

6.33. Comparative performance statements disseminated through performance reports, presentations, factsheets and website communications were based on actual performance data compiled from information reported to SEBI and were neither false nor fabricated.

6.34. Comparisons with other PMS providers were intended only to communicate comparative performance trends and were based on publicly available PMS performance information.

6.35. The technological representations regarding artificial intelligence, machine learning and quantitative systems reflected the analytical and quantitative systems actually deployed within the PMS operations and were not intended to falsely represent ownership of proprietary artificial intelligence products.

6.36. The Turbo system was conceptually designed and specified by FGF itself and Algo One merely implemented the technological infrastructure necessary to operationalize FGF's own analytical methodologies and investment framework.

6.37. The sophistication of a quantitative investment system lay not merely in ownership of software infrastructure but in the analytical methodology, factor

design, systematic application and integration of quantitative tools within the investment process.

6.38. *Use of open-source infrastructure such as Python, MySQL, Eclipse IDE and VS Code did not imply absence of sophistication since such infrastructure is widely used in institutional quantitative finance globally.*

6.39. *FGF operated a "Human plus Machine" investment process integrating experienced investment professionals with multiple quantitative and analytical systems and the impugned representations reflected genuine business belief regarding the strength of their systems and investment process.*

6.40. *No regulatory requirement mandated public disclosure of the technology consulting arrangement with Algo One and subsequent disclosure of such arrangement in revised disclosure documents demonstrated absence of concealment or deliberate suppression.*

6.41. *Absence of proprietary ownership over artificial intelligence software could not automatically establish that the impugned representations were false or misleading.*

6.42. *The communications merely explained the investment philosophy, technological framework and analytical process adopted by FGF and were not intended to deceive investors.*

6.43. *The essential elements of "knowing", "reckless", "careless" conduct or deliberate intent to influence investors were absent in the present matter.*

6.44. *Regulation 4(2)(k) of the PFUTP Regulations contemplated dissemination of information by a person who knows or reasonably ought to know that the information is false or misleading and such requirement was not satisfied in the present case.*

6.45. *FGF had established an elaborate governance structure including an IC with extensive market experience and had genuinely engaged Algo One for technological and analytical support and therefore there was no reckless*

disregard for truth.

6.46. *Corrective measures had subsequently been undertaken by revising disclosures and communications.*

CAGR and TWRR inconsistency

6.47. *FGF consistently used and reported TWRR methodology in its PMS Disclosure Documents, reports filed with SEBI and reports sent to clients in compliance with SEBI's regulatory requirements.*

6.48. *CAGR was disclosed only as an additional metric and never as a substitute or replacement for TWRR, particularly because several investors were more familiar with CAGR as a comparative metric across financial products.*

6.49. *Wherever CAGR was disclosed, the same was accompanied by appropriate context, explanations and disclaimers and the underlying performance data remained consistent with TWRR-compliant reporting.*

6.50. *Marketing communications were subsequently reviewed and updated to provide clearer disclosure regarding the purpose and limitations of CAGR and to reinforce that TWRR remained the SEBI-mandated benchmark for PMS performance evaluation.*

7. Accordingly, I note that the SCN and Hearing Notice were duly served to the Noticees. Further, an opportunity of personal hearing was also given to the Noticees, which was availed by them. Hence, the principles of natural justice were complied with respect to the Noticees and I shall now proceed to deal with the issues involved in the instant matter.

Consideration of Issues and Findings:

8. I have carefully considered the SCN, the material relied upon therein, the replies and supplementary submissions filed by the Noticees and the oral submissions made

during hearing:

A. ***Whether FGF invested client funds based on the advice of another entity and outsourced core PMS and investment related activities to Algo One and whether FGF failed to exercise independent professional judgment in management of PMS portfolios in violation of Regulation 24(10) and Clause 1, 3 and 13(a) of Schedule III (Code of Conduct) read with Regulation 21 of SEBI (Portfolio Managers) Regulations 2020 and SEBI Circular CIR/MIRSD/24/2011 dated 15th December 2011?***

B. ***Whether the marketing and advertisement related statements disseminated by FGF were exaggerated, misleading and in violation of provisions of Clause 2.1 read with Clause 1.1, 1.2, 1.3, 1.4, 1.5, 1.6 and 1.8 of Annexure 2A of SEBI Master Circular for Portfolio Managers dated June 07 ,2024; Clause 1, 3, 5, 6, 10(a) and 13(a) of Schedule III (Code of Conduct) read with Regulation 21 of SEBI (Portfolio Managers) Regulations 2020 and Regulation 4(2)(k) and Regulation 4(2)(s) of the PFUTP Regulations?***

C. ***Whether there are inconsistencies in methods used for disclosing performance of the PMS in violation provisions of Regulation 22(10) of PMS Regulations, Clause 4.5.2.1, 4.5.3.4 and 5.6.1 of the Master Circular for Portfolio Managers and Clause 1, 3 and 13(a) of Schedule III of Code of Conduct read with Regulation 21 of SEBI (Portfolio Managers) Regulations 2020?***

D. ***Whether Noticee Nos. 2 and 3 are liable for the alleged violations?***

9. Before proceeding further, it is relevant to refer important provisions of law alleged in

the SCN which are reproduced hereunder: -

SEBI (Portfolio Managers) Regulations 2020

Regulation 21: "Code of Conduct states that, *"Every portfolio manager shall abide by the Code of Conduct as specified in Schedule III".*

Regulation 22(10): *"The portfolio manager shall report its performance uniformly in the disclosures to the Board, marketing materials and reports to the clients and on its website."*

Regulation 24(10): *"The portfolio manager shall not invest client's fund based on the advice of any other entity."*

Schedule III (Code of Conduct) –

Clause 1: *"A portfolio manager shall, in the conduct of his business, observe high standards of integrity and fairness in all his dealings with his clients and other portfolio managers"*

Clause 3: *"portfolio manager shall render at all times high standards of service, exercise due diligence, ensure proper care and exercise independent professional judgment."*

Clause 5: *"A portfolio manager shall not make any statement or indulge in any act, practice or unfair competition, which is likely to be harmful to the interests of other portfolio managers or is likely to place such other portfolio managers in a disadvantageous position in relation to the portfolio manager himself, while competing for or executing any assignment."*

Clause 6: *"A portfolio manager shall not make any exaggerated statement, whether oral or written, to the client either about the qualification or the capability to render certain services or his achievements in regard to services rendered to other clients."*

Clause 10(a): *"A portfolio manager shall endeavor to (a) ensure that the investors are provided with true and adequate information without making any misguiding or exaggerated claims and are made aware of attendant risks before any investment decision is taken by them."*

Clause 13(a) of Code of Conduct Clause states, *"The portfolio manager shall abide by the Act, Rules, and regulations made thereunder and the Guidelines / Schemes issued by the Board."*

SEBI (PFUTP) Regulations 2003

Regulation 4(2) of PFUTP Regulations -:

"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;"

SEBI Circular CIR/MIRSD/24/2011 dated 15th December 2011

'Guidelines on outsourcing of Activities by Intermediaries', *"Para 5 - 'Activities that shall not be*

outsourced'-

The intermediaries desirous of outsourcing their activities shall not, however, outsource their core business activities and compliance functions and investment related activities in case of Mutual Funds and Portfolio Managers. A few examples of core business activities may be – execution of orders and monitoring of trading activities of clients in case of stock brokers; dematerialisation of securities in case of depository participants; <u>investment related activities in case of Mutual Funds and Portfolio Managers</u>."

SEBI Master Circular on PMS dated June 07, 2024

Clause 1 of Annexure 2A:

- Clause 1.1 – *"An advertisement shall be truthful, fair and clear and shall not contain any statement, promise or forecast which is untrue or misleading"*
- Clause 1.2 - *''An advertisement shall be considered to be misleading if it contains (i) Statements made about the performance or activities of the Portfolio Manager in the absence of necessary explanatory or qualifying statements, which may give an exaggerated picture of the performance or activities of the Portfolio Manager, than what it really is."*
- Clause 1.3 - *"The advertisement shall not be so designed in content and format or in print as to be likely to be misunderstood, or likely to disguise the significance of any statement. Advertisement shall not contain statements which directly or by implication or by omission mislead the investor."*
- Clause 1.4 – "*The publicity literature should contain only information, the details of which are contained in the Portfolio Managers scheme particulars."*
- Clause 1.5 – *"As the investors may not be sophisticated in legal or financial matters, care should be taken that the advertisement is set forth in a clear, concise and understandable manner. Extensive use of technical or legal terminology or complex language and the inclusion of excessive details which may detract the investors should be avoided."*
- Clause 1.6- *"The advertisement shall not contain information, the accuracy of which is to any extent dependent on assumptions."*

- Clause 1.8 - *"The advertisement shall not compare one Portfolio Manager with another, implicitly or explicitly, unless the comparison is fair and all information relevant to the comparison is included in the advertisement."*

Clause 2.1: *"all Portfolio Managers registered with SEBI are required to strictly observe the Code of Advertisement set out in Annexure 2A of this Master Circular."*

Further, it is stated that *"for the purpose, the expression "advertisement" means notices, brochures, pamphlets, circulars, showcards, catalogues, hoardings, placards, posters, insertions in newspapers, pictures, films, radio / television programmes or through any electronic media"*.

Clause 4.5.3.4: *"Ensure that performance reported in all marketing material and website of the Portfolio Manager is the same as that reported to SEBI."*

Clause 4.5.2.1 (Applicable before April 01, 2023): *"All portfolio managers are required to disclose the performance of their portfolios to their clients, including disclosure of the performance indicators calculated on the basis of 'time weighted rate of return' method taking each individual category of investments for the immediately preceding three years in case of discretionary portfolio managers."*

Clause 5.6.1 (applicable from April 01, 2023), with respect to Reporting of Performance to Clients: *"Portfolio Manager shall present the Time-weighted Rate of Return ('TWRR') of the IA along with the trailing return of the selected benchmark when communicating/ advertising/ publishing/ mentioning performance of an Investment Approach."*

10. I now proceed to consider the matter on merits.

Issue A: Whether FGF invested client funds based on the advice of another entity and outsourced core PMS and investment related activities to Algo One and whether FGF failed to exercise independent professional judgment in management of PMS portfolios in violation of Regulation 24(10) and Clause 1, 3 and 13(a) of Schedule III (Code of Conduct) read with Regulation 21 of SEBI (Portfolio Managers) Regulations 2020 and SEBI Circular CIR/MIRSD/24/2011 dated 15th December 2011?

11. I first deal with the allegations relating to investment of client funds based on the advice of another entity and outsourcing of core investment related activities by FGF to Algo One and Mr. Achin Agarwal.

12. I note that the principal allegation in the instant matter is that FGF invested clients' funds based on the advice of another entity, namely Algo One and/or Mr. Achin Agarwal, in violation of Regulation 24(10) of the SEBI (Portfolio Managers) Regulations, 2020. The allegation further proceeds on the basis that several investment related and core PMS activities were effectively performed by Algo One and Mr. Achin Agarwal, thereby resulting in abdication of independent professional judgment by FGF in the management of PMS portfolios.

13. I note that the SCN, in support of the aforesaid allegation, relies inter alia upon the following circumstances:
    - 13.1. Mr. Achin Agarwal was made part of the Investment Committee of FGF;
    - 13.2. Algo One personnel and Mr. Achin Agarwal participated in portfolio related discussions and PMS functioning;
    - 13.3. basket files containing client specific buy/sell allocations were generated by Algo One systems and transmitted for execution;
    - 13.4. there existed a very high degree of matching between the basket files generated through Algo One systems and the trades ultimately executed by FGF;
    - 13.5. Algo One personnel issued execution related communications and instructions;

13.6. the commercial arrangement and fee structure between FGF and Algo One reflected compensation linked to investment related functions; and

13.7. the overall operational arrangement demonstrated that Algo One was not merely a passive technology vendor but was substantially involved in investment related activities.

14. The Noticees, on the other hand, have contended that the SCN fundamentally misunderstands the operational structure of its PMS business. According to the Noticees, all investment decisions were independently taken by FGF through its Investment Committee and Algo One merely provided technological infrastructure and automation tools. The Noticees have argued that:

    14.1. the Investment Committee alone determined and approves the model portfolio;

    14.2. basket files were merely mechanical implementation outputs generated by comparing approved model portfolios with existing client holdings;

    14.3. no discretion or investment advice was exercised at the basket file stage;

    14.4. Mr. Achin Agarwal participated only in relation to technological and quantitative aspects;

    14.5. the ownership and control of data and servers remained with FGF; and

    14.6. the role of Algo One was limited to artificial intelligence and machine learning expertise and automation support.

Mr. Achin Agarwal being part of the Investment Committee:

15. I note that with regards to the current issue, the first important aspect which requires examination is whether inclusion of Mr. Achin Agarwal as part of the Investment Committee of FGF for deliberation and approval of the Model Portfolio amounts to advising on investment within the meaning of Regulation 24(10) of the PMS Regulations.

16. In this regard, the SCN alleges that Mr. Achin Agarwal was included as part of the Investment Committee of FGF which decided and approved the Model Portfolio. The SCN further alleges that he was not an employee of FGF, however an impression was created that Mr. Achin Agarwal is employed with FGF and quantitative investment structure of FGF and was not treated merely as an external software consultant.

17. The detailed submission of the Noticees in this regard are brought out below: -

FGF's Contention regarding Independent Investment Decision Making Framework

17.1. FGF has contended that the SCN and the Forensic Audit have incorrectly proceeded on the assumption that the investment decisions reflected in the Model Portfolio substantially originated from Algo One or the Turbo system, whereas the material on record demonstrates the existence of a substantial and independently functioning in house research and investment framework within FGF itself. According to FGF, the core investment judgment underlying the Model Portfolio remained entirely within FGF and was exercised through its own institutional framework comprising the Investment Committee ("IC"), the Research and Investment Team and multiple internally developed analytical systems.

17.2. In this regard, FGF has contended that throughout the inspection period it maintained a structured and professionally staffed Research and Investment Team which continuously undertook independent fundamental analysis across multiple sectors and companies. According to FGF, the team independently analysed more than 60 companies across approximately 26 sectors and generated detailed earnings analyses, sectoral reviews and company specific analytical notes based on multiple independent data sources including

Bloomberg, AIOCD, IQVIA, company filings, earnings calls and sector specific operational data.

17.3. FGF has further contended that several companies independently analysed by its research team were not part of the Turbo list at all, including Tata Steel, Ultratech Cement, Cipla, Reliance Industries, Adani Ports, Tata Motors and Abbott India. According to FGF, the fact that such companies were nevertheless analysed internally and subsequently considered in the Model Portfolio demonstrates that the IC relied upon FGF's own analytical framework and not merely upon Turbo generated outputs.

17.4. FGF has also contended that the material establishes a direct linkage between the independent research undertaken by the Research and Investment Team and the investment decisions ultimately reflected in the Model Portfolio. According to FGF, the research team generated independent sectoral and company level investment theses in sectors such as cement, pharmaceuticals, automobiles, industrials and cyclical industries, which subsequently informed portfolio positions adopted by the IC. FGF has therefore contended that the investment decisions reflected broader sectoral and thematic analysis generated internally within FGF rather than mechanical adoption of outputs generated through Turbo.

17.5. FGF has further contended that the existence of such an institutionalised research process, continuous generation of independent analytical inputs, internal review mechanisms and independent sectoral analysis are inconsistent with the allegation that the investment decision making process had been outsourced to Algo One. According to FGF, the evidence instead demonstrates that the IC continuously exercised independent investment judgment based on

multiple analytical inputs originating within FGF itself.

17.6. FGF has further contended that the Turbo output constituted only one among several analytical inputs received during the quarterly rebalance process and was not treated as a standalone recommendation for investment decisions. According to FGF, the Turbo output was generated on the basis of financial factors pre identified by FGF itself and was circulated only to FGF's internal personnel including Ms. Kavita Thomas and Mr. Alok Kumar for further independent review and analysis.

17.7. FGF has contended that simultaneously with the Turbo output, the Research and Investment Team also considered outputs generated through FGF's own in house systems including Weight Watcher, Agreement in Motion, Sky Eye and VOLP, together with internally generated fundamental research. According to FGF, upon receipt of the Turbo output, Mr. Alok Kumar independently analysed not only the Turbo ranked stocks but also stocks shortlisted through FGF's own systems and thereafter prepared a consolidated analytical assessment which was circulated internally within FGF.

17.8. According to FGF, the forwarding of the original Turbo emails together with appended internal analysis itself demonstrates that the Turbo output was not directly adopted by the IC but was subjected to an additional internal analytical layer before any investment decision was taken. FGF has therefore contended that Turbo merely operated as one analytical input within a broader layered investment process involving independent filtering, supplementation and evaluation by FGF's own personnel before any portfolio decision reached the IC.

FGF's Contention regarding Independent Exercise of Judgment by the Investment Committee

17.9. FGF has further contended that substantial investment decisions within its PMS operations were undertaken entirely independent of Turbo, including investment decisions relating to the mutual fund component of the IMAAP PMS strategy, where according to FGF, Turbo had no applicability at all. According to FGF, this itself demonstrates that the IC was independently evaluating investment opportunities and exercising investment judgment outside the scope of any Turbo generated output.

17.10. FGF has also contended that the actual composition of the Model Portfolio demonstrates that the IC was not mechanically adopting Turbo rankings while constructing the portfolio. In this regard, FGF has compared, on a quarter by quarter basis, the stocks forming part of the Model Portfolio with the stocks appearing in Turbo's top ranked output during the inspection period from April 2021 to December 2023. According to FGF, the comparison demonstrates that in every quarter a substantial number of stocks included in the Model Portfolio did not appear in Turbo's top ranked list at all and, in several quarters, such non Turbo stocks constituted nearly half or more than half of the overall portfolio composition.

17.11. FGF has therefore contended that the inclusion of such non Turbo stocks evidences that the IC independently selected securities based on multiple analytical inputs including FGF's own in house systems, independent research generated by the Research and Investment Team and technical and momentum analysis undertaken internally by Mr. Alok Kumar. According to FGF, the IC also independently exercised judgment in relation to sectoral allocation, position sizing, exclusion of certain Turbo ranked stocks, inclusion of fundamentally

researched stocks not appearing in Turbo rankings and the sequencing of buy and sell decisions in light of broader macroeconomic and market conditions.

17.12. FGF has further contended that even where overlap existed between the Model Portfolio and Turbo ranked stocks, such overlap cannot by itself establish outsourcing of investment decisions. According to FGF, Turbo itself was built using factors and methodologies identified by FGF and therefore merely represented a systematic application of FGF's own analytical framework. It has been submitted that where multiple analytical approaches independently converged upon the same stock, such convergence only corroborated the investment merit of the stock and did not demonstrate delegation of investment judgment to Algo One.

17.13. FGF has accordingly contended that the said material establishes a structured multi layered investment decision making framework within FGF itself. According to FGF, the material demonstrates a four step process consisting of: first, receipt of Turbo output as one analytical input among several; second, independent analysis and filtering of such output together with stocks shortlisted through FGF's own systems by Mr. Alok Kumar; third, continuous independent fundamental research undertaken by the Research and Investment Team across multiple sectors and companies; and fourth, final consideration and approval by the IC after evaluating all such internally processed analytical inputs.

17.14. FGF has therefore contended that the investment decisions reflected in the Model Portfolio originated from FGF's own layered analytical and deliberative process involving the IC and independently functioning internal research framework, and not from direct or mechanical adoption of outputs generated

through Turbo or Algo One. According to FGF, there is no material evidencing substantive participation by Mr. Achin Agarwal or Algo One in the actual investment decision making process reflected in the approved Model Portfolio and, therefore, mere participation in meetings of the IC or provision of one analytical input cannot by itself amount to advising within the meaning of the regulatory prohibition

FGF's Contention regarding the Limited Role of Algo One and Mr. Achin Agarwal

17.15. FGF has further contended that the role performed by Algo One and Mr. Achin Agarwal was confined to provision of technological and analytical infrastructure and did not extend into substantive participation in the actual investment decision making process undertaken by the IC. According to FGF, the SCN incorrectly equates the utilisation of analytical tools and quantitative outputs with receipt of investment advice, without examining whether the final investment judgment underlying the Model Portfolio in fact originated from Algo One or Mr. Achin Agarwal.

17.16. In this regard, FGF has contended that the Turbo output itself was generated only periodically during the quarterly rebalance process and merely reflected quantitative screening based on factors and parameters identified by FGF itself. According to FGF, the output generated through Turbo did not constitute a final recommendation for investment, but only formed one data point among multiple independent analytical inputs considered internally within FGF.

17.17. FGF has further contended that the material does not evidence any instance where Mr. Achin Agarwal directly instructed the IC to purchase, sell, include or exclude any particular security from the Model Portfolio. According to FGF, the

material also does not demonstrate that the IC mechanically adopted Turbo rankings or acted upon directions originating from Algo One without independent evaluation and deliberation.

17.18. FGF has also contended that the IC independently modified, supplemented and altered the portfolio composition after considering sectoral opportunities, macroeconomic conditions, valuation considerations, internal research inputs and technical assessments generated by FGF's own personnel. According to FGF, the fact that substantial portions of the Model Portfolio consisted of stocks not appearing in Turbo rankings itself demonstrates that the final investment judgment remained with the IC and not with Algo One.

17.19. FGF has therefore contended that the distinction between provision of analytical infrastructure and provision of investment advice must be carefully maintained. According to FGF, use of external technology systems, quantitative tools and analytical infrastructure is a legitimate feature of modern portfolio management and cannot, by itself, amount to advising unless the external entity substantively participates in the formulation of the final investment decision itself.

17.20. FGF has accordingly contended that mere participation by Mr. Achin Agarwal in meetings of the IC, discussions relating to quantitative outputs or technological systems, or provision of analytical support does not establish that the investment decisions reflected in the Model Portfolio were based on the advice of Mr. Achin Agarwal or Algo One. According to FGF, the available material instead demonstrates that the IC independently exercised the final investment judgment through FGF's own institutional and analytical framework.

17.21. FGF has further contended that Mr. Achin Agarwal has been formally appointed

as Director of FGF w.e.f. April 01, 2025 ensuring full statutory accountability w.r.t. his participation in the Investment Committee.

FGF's Contention regarding Distinction between Analytical Inputs and Investment Advice

17.22. FGF has further contended that the SCN incorrectly conflates participation in analytical discussions, provision of quantitative outputs and technological collaboration with the concept of "advice" contemplated under Regulation 24(10). According to FGF, the mere fact that an external entity provides analytical inputs, participates in discussions or explains the functioning of quantitative systems does not by itself establish that investment decisions were taken "based on the advice" of such entity.

17.23. In this regard, FGF has contended that modern portfolio management necessarily involves interaction between investment professionals, research teams, quantitative analysts, technology providers and system developers. According to FGF, the existence of such interaction cannot automatically result in characterization of every analytical contribution or technological discussion as investment advice.

17.24. FGF has further contended that the available material demonstrates that the outputs generated through Turbo were subjected to multiple additional analytical layers within FGF before any investment decision was considered by the IC. According to FGF, the Turbo output was independently reviewed, supplemented and filtered through FGF's own systems, internal research processes and sectoral analyses before any portfolio construction exercise was undertaken.

17.25. FGF has also contended that the contemporaneous evidence demonstrates repeated instances where the IC either excluded Turbo ranked securities, included non Turbo securities or adopted sectoral positions originating from FGF's own internal research framework. According to FGF, such deviations from Turbo outputs are inconsistent with the allegation that the IC was merely implementing advice originating from Algo One or Mr. Achin Agarwal.

17.26. FGF has further contended that overlap between Turbo ranked stocks and the final Model Portfolio cannot by itself establish advising. According to FGF, where multiple independent analytical processes converge upon the same investment opportunity, such convergence merely reflects similarity in analytical outcomes and not delegation of investment judgment. FGF has submitted that several of the factors incorporated within Turbo itself were derived from FGF's own investment philosophy and therefore overlap between Turbo outputs and final portfolio positions is neither unusual nor indicative of outsourcing.

17.27. FGF has also contended that the material on record does not establish that the views expressed by Mr. Achin Agarwal were binding upon the IC or that the IC mechanically adopted any recommendation originating from him. According to FGF, the IC retained independent authority to accept, reject, modify or supplement any analytical input received from any source including Turbo outputs.

17.28. FGF has therefore contended that the distinction between provision of analytical support and rendering of investment advice must be maintained while interpreting Regulation 24(10). According to FGF, unless the material establishes substantive participation in the formulation of the final investment

judgment itself, the mere provision of analytical assistance, quantitative screening outputs, technological explanations or participation in deliberative discussions cannot be treated as “advising” within the meaning of the regulatory prohibition.

Consideration

18. The issue requiring determination in the present proceedings is not whether the Investment Committee mechanically adopted the Turbo outputs generated by Algo One. A substantial portion of the Noticees’ defence has proceeded on the basis of demonstrating that the IC independently evaluated multiple analytical inputs, included non Turbo securities in the Model Portfolio, excluded certain Turbo ranked securities, undertook independent sectoral allocation decisions and continuously exercised independent investment judgment through FGF’s own research and analytical framework. The Noticees have also contended that the Turbo reports themselves cannot be treated as “advice” within the meaning of Regulation 24(10). According to the Noticees, such conduct is inconsistent with the allegation that the IC merely implemented or acted upon the advice originating from Algo One or Mr. Achin Agarwal.

19. However, I note that this is also not the case put forth in the SCN. The allegation is not confined to the proposition that the IC mechanically adopted the Turbo reports or that the investment decisions were solely derived from system generated outputs. Therefore, the extensive attempt made by the Noticees to demonstrate that the IC did not blindly follow the Turbo rankings does not by itself answer the core issue arising in the present proceedings.

20. The case of SEBI, *inter alia*, is that FGF acted on the basis of the advice or opinion of Algo One and Mr. Achin Agarwal not merely because Turbo outputs were generated

and circulated, but because Mr. Achin Agarwal substantively participated in the investment decision making process itself through his participation in the deliberations and finalization of the Model Portfolio within the Investment Committee structure.

21. It is also an admitted position that Mr. Achin was not an employee of the Noticee. In this regard, the Noticees have contended that the role of Mr. Achin Agarwal was confined to explaining technical and quantitative aspects of the systems developed by Algo One. According to the Noticees, his participation in Investment Committee meetings was limited to answering technical queries and explaining the functioning of the Turbo system and related analytical tools and, therefore, such participation cannot amount to "investment advice" within the meaning of Regulation 24(10).

22. I have examined the aforesaid contention of the Noticees. Though the agreement dated December 21, 2019 between FGF and Algo records the role of Algo in providing technology solutions and related analytical infrastructure to FGF, the agreement itself cannot determine the nature and scope of the role actually performed by Mr. Achin Agarwal within the Investment Committee structure. The relevant issue is not merely the description of Algo's services under the agreement, but the nature of authority, participation and role assigned to Mr. Achin Agarwal in the actual investment decision making framework adopted by FGF.

23. In this regard, I note that Mr. Achin Agarwal was inducted into the Investment Committee in the same manner and on the same footing as the other members constituting the committee. The source of authority for participation in the Investment Committee proceedings emanates from the Board Resolution constituting the committee itself. No separate category, qualification or limitation appears to have been created in relation to Mr. Achin Agarwal's participation.

24. In this regard, I note that the Board Resolution dated March 31, 2020 forming the Investment Committee specifically records as follows:

    "RESOLVED THAT Board hereby forming an Investment Committee consisting of Ms. Devina Mehra, Mr. Neeraj Khanna, Mr. Shankar Sharma, Ms. Kavita Thomas, Mr. Achin Agarwal and Mr. Alok Kumar to take all investments related decisions as may be necessary and requisite on behalf of the PMS clients including the timing, amount and other terms and conditions of such investments as may be appropriate in the best interest of the clients."

25. From the above, I note that the resolution does not distinguish between "internal members" and "technical invitees" or between "decision making members" and "technical support participants". Mr. Achin Agarwal has been included as a constituent member of the Investment Committee itself along with the other members responsible for PMS investment decisions. The language employed in the resolution is broad, unqualified and directly connected with investment decision making authority. The committee was constituted "to take all investments related decisions" on behalf of PMS clients including decisions relating to timing, amount and other terms and conditions of investments.

26. I further note that the resolution nowhere records that Mr. Achin Agarwal's participation was confined only to explaining technical aspects relating to Turbo or answering software related queries. Had the intention truly been to include him merely as a technical consultant or technological support resource, such limitation could reasonably have been reflected either in the Board Resolution itself or in the governance structure governing the functioning of the Investment Committee. No such restriction, qualification or limited mandate is discernible from the material available on record.

27. The Noticees have contended that Mr. Achin Agarwal attended meetings only for answering technical or quantitative queries and that his role should therefore be viewed differently from the role performed by the remaining members of the Investment Committee. However, such subsequent explanation is not borne out from the documentary framework constituting the committee itself. Mere subsequent characterization of participation as “technical” cannot override the express language of the Board Resolution under which Mr. Achin Agarwal was inducted as a full constituent member of the Investment Committee authorized to take investment related decisions on behalf of PMS clients.

28. Further, once an individual is inducted as a constituent member of the very committee entrusted with taking all investment related decisions, participation in the deliberative and decision making process of such committee cannot subsequently be compartmentalized as being merely “technical” in the absence of any contemporaneous limitation reflecting such restricted role. The governance framework created by FGF itself treated Mr. Achin Agarwal as part of the core decision making body responsible for investment related decisions concerning PMS clients.

29. Accordingly, I am unable to accept the contention that Mr. Achin Agarwal’s participation in the Investment Committee meetings was confined merely to answering technical queries or explaining software functionality. The contemporaneous governance structure and the express language of the Board Resolution indicate that he participated as a constituent member of the Investment Committee entrusted with taking investment related decisions on behalf of PMS clients. Even if he has participated also as technical adviser, the same does not alter the situation.

30. The Investment Committee constitutes the core deliberative mechanism through which portfolio related decisions, investment strategies, sectoral allocations, stock selections,

weightages and implementation frameworks are discussed and finalized. The final Model Portfolio approved by the IC ultimately forms the basis on which client funds are invested. The Model Portfolio is therefore not merely an abstract analytical document, but represents the first layer of the actual investment decision itself, containing decisions relating to securities selection, sectoral exposure, allocation weightages and portfolio composition.

31. The underlying object of Regulation 24(10) is that the investment decision forming the basis for deployment of client funds must originate from the internal decision making structure of the portfolio manager and should not be based upon the advice or opinion of an external entity. The prohibition is therefore directed not merely against formal outsourcing agreements, but against substantive participation by external entities in the formation of the investment decision itself.

32. In the instant matter, once the deliberative process reaches the stage of finalization of the Model Portfolio within the IC, each participating member necessarily becomes part of the final investment decision making process. During the course of deliberations, individual members may express differing views, suggestions or reservations. However, when the final Model Portfolio is approved, the participating members collectively adopt the final investment decision embodied in the approved portfolio. What becomes relevant therefore is not merely whether a member explained technical aspects during discussions, but whether such member participated in and concurred with the final investment decision relating to stock selection, sectoral allocation and portfolio weightages.

33. When the final Model Portfolio was approved, the opinion and concurrence of Mr. Achin Agarwal formed part of the collective decision making process relating to the first layer of investment decisions, namely selection of securities and determination of portfolio

weightages. In such a situation, the investment decision cannot be viewed as originating exclusively from the internal decision making framework of FGF alone.

34. There is no visibility on whether the internal members of the IC and Mr. Achin Agarwal may ultimately have arrived at the same investment conclusion. Even if so, it does not dilute the regulatory requirement. Regulation 24(10) does not become inapplicable merely because the external participant's opinion aligns with the views independently held by the internal members of the portfolio manager. Once the final investment decision itself is arrived at through a deliberative process involving participation and concurrence of an external entity, the resulting investment decision becomes one taken on the basis of both internal as well as external opinion.

35. Viewed from the perspective of the object underlying the regulation, any other interpretation would substantially dilute the prohibition itself. If an external entity is permitted to participate in the final deliberative and decision making mechanism responsible for approving the Model Portfolio, and thereafter the participation is characterized merely as "technical explanation" because internal members also independently agreed with the decision, the regulatory safeguard intended to preserve independent internal investment judgment within the PMS entity would become ineffective.

36. Further, I note that also note that the Noticees have submitted that Mr. Achin Agarwal was subsequently appointed as a Director of FGF with effect from April 01, 2025. However, such subsequent appointment does not dilute, regularize or extinguish the violations already committed during the inspection period. The issue for consideration in the present proceedings relates to the role and involvement of Mr. Achin Agarwal and Algo One during the relevant period when the impugned operational arrangement existed and client funds were invested based on advice and investment related inputs

received from another entity. A subsequent change in designation or formal association with FGF cannot retrospectively alter the nature of the activities already undertaken during the relevant period nor cure the regulatory violations established on the basis of the material on record pertaining to the relevant period.

37. Therefore, I note that in the facts of the present matter, participation by Mr. Achin Agarwal in the deliberative process culminating in the approval and finalization of the Model Portfolio amounts to participation in the investment decision making process itself. Consequently, the investment decisions reflected in the Model Portfolio were taken on the basis of the opinion and advice of both internal members as well as Mr. Achin Agarwal, who was an external entity for the purposes of Regulation 24(10).

38. Accordingly, I find that presence of Achin Agarwal being part of the Investment Committee as member for taking decisions on Model Portfolio amounts to advising on investment

Advice component in the basket file:

39. I further note that with regards to the current issue, it is also important to examine whether the Basket file received by the Noticees from Algo amounted to advice and if so, did Noticees make investment on the basis of advice on the investment by Algo.

40. I note that the trade basket files received from Algo One contained comprehensive details including the names of scrips to be traded, quantities to be traded, buy/sell recommendations, client codes, timing of trades, mode of order placement and the brokers through whom the trades were to be executed. The basket files received from Algo One were approved by FGF within a short time frame, in several cases within two hours on the same day, and instructions for execution of trades were issued either on the same day or on the following day, without any material modification. SEBI's case,

in essence, is that the basket files generated and transmitted through Algo One systems did not merely constitute passive technological outputs or mechanical implementation tools, but contained client specific trade level instructions forming the operative basis on which client funds were ultimately deployed.

41. According to the SCN, the basket files contained comprehensive details including the names of securities to be traded, quantities, buy and sell instructions, client codes, timing related execution details, mode of order placement and the brokers through whom trades were to be executed. The SCN alleges that such basket files were thereafter approved by FGF within a short time frame, in several instances within hours of receipt, and execution instructions were issued either on the same day or immediately thereafter without material modification to the trade level instructions contained in the basket files.

42. This as per the allegation demonstrates that the basket files were not treated merely as operational or computational aids, but functioned as trade level advice which were ultimately implemented by FGF while deploying client funds. The SCN therefore proceeds on the basis that the final trades executed by FGF substantially mirrored the basket file instructions generated through Algo One systems and that the investment and execution process operated on the basis of instructions and trade level outputs originating from Algo One and its representatives.

43. According to the allegations, the basket file and the approval and execution pattern demonstrates that FGF acted on the basis of the investment advice and instructions originating from Algo One and its representatives, rather than independently formulating and implementing the final investment decisions on its own.

Contention:

44. FGF has essentially contended that once the Model Portfolio was finalized and approved by the Investment Committee, the investment decision itself stood completed and everything thereafter constituted only operational implementation of the already approved investment decision. According to FGF, the subsequent processes relating to basket file generation, approval, execution and settlement were entirely deterministic, non-discretionary and governed through FGF's own internal controls and operational protocols. FGF has contended that basket files merely aligned individual client portfolios with the already approved Model Portfolio on the basis of predefined inputs such as client holdings, available cash and client restrictions and did not involve any independent security selection or investment judgment by Algo One. FGF has further contended that every basket file was subject to an independent approval process by FGF's senior management before execution and that broker empanelment, allocation of trades, execution policies and tranche based execution protocols were all determined and supervised solely by FGF. According to FGF, Algo One had no role in broker selection, execution timing, discretionary deployment of funds or direct interaction with brokers and merely provided technological and operational infrastructure required for implementation of the investment decisions already taken by the IC.

45. The contention in detail are as follows: -

FGF's Contention regarding Completion of Investment Decision at the Model Portfolio Stage

45.1. FGF has contended that once the Model Portfolio is finalized and approved by the Investment Committee ("IC"), the investment decision itself stands completed and everything that follows thereafter constitutes only operational implementation of the already approved investment decision. According to FGF, the subsequent processes relating to basket file generation, execution routing and settlement do

not involve any fresh investment discretion or independent investment judgment by Algo One.

45.2. In this regard, FGF has contended that basket files are generated only for the purpose of aligning individual client portfolios with the already approved Model Portfolio and are triggered by routine operational events such as on boarding of new clients, top up investments, strategy switches, partial or full redemptions and periodic rebalancing exercises. According to FGF, basket files therefore merely operationalize the pre-existing investment decision already taken by the IC and do not themselves constitute investment recommendations or fresh investment advice.

45.3. FGF has further contended that the basket file generation process is non-discretionary in nature. According to FGF, the basket files are generated only on the basis of four predefined inputs namely: (i) the already approved Model Portfolio; (ii) the existing holdings of the concerned client; (iii) the cash available for deployment in the client account; and (iv) client specific restricted lists, if any. FGF has submitted that once these inputs are fed into the system, the resulting output is generated mechanically through arithmetic alignment of the client portfolio with the approved Model Portfolio without any scope for subjective intervention, security selection or independent determination of portfolio weightages by Algo One.

45.4. FGF has therefore contended that the basket files merely represent a mechanical implementation output generated after the completion of the actual investment decision making process undertaken by the IC. According to FGF, Algo One personnel had no authority to alter security selection, modify portfolio weightages or independently inject any discretionary investment choice during the basket file

generation process.

FGF's Contention regarding Approval Controls and Execution Oversight

45.5. FGF has further contended that even after generation of basket files, no basket file proceeds for execution unless it undergoes an independent approval process within FGF itself. According to FGF, this approval stage constitutes an additional internal control mechanism demonstrating that FGF retained complete authority and oversight over the execution process at every stage.

45.6. In this regard, FGF has contended that once a basket file is generated, it is submitted to either Ms. Devina Mehra or Mr. Neeraj Khanna for review and approval prior to execution. According to FGF, the approval mechanism is not a mere procedural formality but functions as a substantive supervisory gate intended to verify whether the basket file correctly reflects the Model Portfolio approved by the IC, incorporates client specific restrictions and is otherwise suitable for execution.

45.7. FGF has further contended that the execution workflow itself contains a rejection and modification loop whereby a basket file may be returned for review and correction if it is not approved by the designated approving authority. According to FGF, this demonstrates that the final authority over execution remained entirely with FGF and not with Algo One.

45.8. FGF has also contended that only after such approval is granted, the basket file is transmitted to FGF's Head Dealer or dealing desk for routing of orders to brokers empanelled by FGF. According to FGF, the broker panel itself was independently created and maintained by FGF after undertaking its own due diligence and the allocation of business amongst brokers was pre-determined

internally by FGF on an annual basis.

45.9. FGF has therefore contended that Algo One had no role in broker empanelment, broker allocation or approval of trades for execution. According to FGF, the entire execution chain remained subject to internal review, approval and supervisory control exercised by FGF through its own directors, dealing desk and operational policies.

FGF's Contention regarding Non-Discretionary Nature of Execution and Absence of Algo One Control

45.10. FGF has further contended that the actual trade execution process undertaken after approval of basket files was governed entirely by FGF's own execution policies and operational protocols and did not involve any discretionary participation by Algo One in investment decision making or trade execution.

45.11. In this regard, FGF has contended that FGF followed a standardized execution policy for large trades involving execution in multiple tranches at predetermined timings during the trading day. According to FGF, such tranching methodology constituted FGF's own standing execution protocol designed to minimise market impact and preserve portfolio confidentiality and was not indicative of any discretionary trading decisions being taken by Algo One.

45.12. FGF has further contended that the email communications relied upon in the SCN in relation to tranche based execution merely reflect implementation of FGF's own internal execution framework and cannot be construed as evidence of discretionary control or investment decision making by Algo One.

45.13. FGF has also contended that Algo One had no direct interaction with brokers

and neither controlled nor had prior knowledge regarding the exact timing of trade execution. According to FGF, all broker interactions, routing of orders and execution decisions were undertaken through FGF's own dealing desk and empanelled broker network under FGF's own supervisory framework.

45.14. FGF has therefore contended that the overall execution and settlement workflow demonstrates a complete separation between the investment decision already finalized by the IC and the subsequent operational implementation process. According to FGF, once the Model Portfolio stood approved, the subsequent basket file generation and execution processes operated only as deterministic and non-discretionary implementation mechanisms subject to multiple layers of review, approval and oversight exercised entirely by FGF itself.

45.15. FGF has accordingly contended that the material demonstrates that Algo One's role in the post approval stage was confined to providing operational and technological support infrastructure and did not involve independent investment judgment, execution discretion or substantive participation in the actual deployment of client funds.

Consideration:

46. I have considered the aforesaid contention of the Noticees that the basket files merely aligned individual client portfolios with the already approved Model Portfolio on the basis of predefined inputs such as client holdings, available cash and client restrictions and, therefore, did not involve any independent security selection or investment judgment by Algo One.

At the outset, I note that the expression "investment decision" cannot be construed in an artificially narrow manner as being confined only to the initial identification of

securities in the Model Portfolio. An investment decision necessarily includes multiple interrelated elements governing the actual deployment of client funds. Such decisions include, inter alia, determination regarding the securities to be bought or sold, quantity of securities to be transacted, timing of execution, allocation percentages, sequencing of trades, balancing of sectoral exposure, treatment of client specific restrictions, portfolio reallocation methodology and the manner in which the approved Model Portfolio is translated into actual client level transactions.

47. I also note that certain aspects of basket file generation may indeed involve purely computational, arithmetic or clerical implementation functions where the system merely applies predetermined parameters without any independent evaluative role. To that extent, the Noticees' contention cannot be rejected in entirety. However, the issue requiring examination is whether the basket file process, in all situations, remained confined only to such mechanical implementation functions or whether the process also involved investment related determinations impacting the final deployment of client funds.

48. In this regard, I note that the Noticees themselves have contended that client specific modifications and restrictions formed part of the basket file generation process. Such client specific events included, inter alia, restrictions on particular securities, sector exclusions, allocation shifts between strategies, partial redemptions, on boarding adjustments and portfolio specific modifications. Once such client level modifications arise, the implementation process may no longer remain confined to simple replication of the approved Model Portfolio because the exclusion or modification of one component of the portfolio inevitably affects the composition, weightage and balance of the remaining portfolio.

49. For instance, where a client seeks exclusion of a particular security or an entire sector

forming part of the approved Model Portfolio, the resulting portfolio cannot remain identical to the original Model Portfolio. Such exclusion necessarily requires determination regarding redistribution of the excluded allocation amongst the remaining securities, recalibration of sectoral exposure, balancing of concentration levels, adjustment of portfolio weights, maintenance of risk characteristics and preservation of the intended investment strategy within the modified portfolio structure. These functions may involve consequential portfolio allocation decisions directly affecting the manner in which client funds are ultimately deployed.

50. Similarly, such client specific modifications may require determination regarding revised allocation percentages for remaining securities, consequential changes in sectoral distribution, maintenance of liquidity balance, treatment of cash components, adjustment of diversification thresholds, sequencing of execution and management of exposure concentration arising from the exclusion request. Each of these factors directly influences the final investment position ultimately implemented in the client account.

51. Therefore, while certain aspects of basket file generation may legitimately operate as purely computational or clerical implementation exercises, the broader proposition advanced by the Noticees that the basket file process was necessarily devoid of any investment related decision making element in all situations cannot be accepted without examination of the actual manner in which such client specific portfolio modifications and execution decisions were undertaken.

52. The Noticees have sought to contend that even in cases involving client specific restrictions or portfolio modifications, the consequential allocation decisions formed part of FGF's own internal investment framework and therefore remained within the decision making domain of the Investment Committee. However, I note that no

material has been placed on record demonstrating that such client specific reallocation decisions, sectoral adjustments, revised allocation methodologies or consequential portfolio balancing exercises were independently deliberated upon and approved by the Investment Committee itself.

53. In this regard, I note that if the Noticees' case is that all consequential investment related determinations arising from client specific exclusions or modifications were independently taken by the Investment Committee, one would reasonably expect the existence of records reflecting such internal decisions, including deliberations regarding revised allocation percentages, sectoral balancing methodology, redistribution of excluded weights, revised portfolio composition or implementation strategy applicable to the concerned client accounts. No such material has been produced before me.

54. Further, even assuming that such decisions had in fact been independently determined internally by the Investment Committee, the implementation of such revised allocation structures would necessarily require communication of the modified investment parameters to Algo One for generation of the corresponding basket files. However, no material has been placed on record evidencing any such structured communication process whereby internally approved revised allocation instructions were separately conveyed by the Investment Committee or FGF personnel to Algo One for purely mechanical implementation.

55. On the contrary, the material placed on record indicates that client specific portfolio modification requests themselves were directly referred to Mr. Achin Agarwal for determination of consequential portfolio allocation adjustments. In this regard, I note the email dated May 19, 2021 issued in response to a client request dated May 13, 2021 seeking modification of allocation from one investment strategy to another. The

material on record indicates that the requested reallocation was not implemented until guidance was received from Mr. Achin Agarwal regarding the number of equity shares required to be shifted from one strategy to another and the securities required to be sold for achieving the revised allocation structure.

56. In this regard, an email sent from alok.kumar@firstglobalsec.com to Mr. Achin Agarwal specifically records as follows:

"…As per client request, please suggest number of shares to be shifted from one scheme to another to achieve desired allocation FG IS 50-60% and FG-IMAAP 40%…"

57. The above communication assumes significance because the request made to Mr. Achin Agarwal was not confined merely to technical implementation of a pre-determined allocation decision already finalized internally by the Investment Committee. Rather, the communication itself sought guidance regarding the number of shares required to be shifted and the consequential portfolio allocation adjustments necessary for achieving the desired revised allocation percentages between strategies.

58. Therefore, the material does not support the proposition that all client specific portfolio allocation consequences were independently determined internally by the Investment Committee and thereafter merely implemented mechanically through Algo One systems. On the contrary, the material indicates involvement of Mr. Achin Agarwal in determining consequential allocation related adjustments arising from client specific portfolio modification requests.

59. The Noticees have further contended that the timing related aspects reflected in the basket files were governed through FGF's own pre-existing execution policy involving tranche based execution at predetermined intervals during the trading day and, therefore, did not involve discretionary investment decisions by Algo One. According to

the Noticees, the basket files merely operationalised the execution methodology already determined by FGF through its internal execution framework.

60. I have considered the aforesaid contention. I note that the basket files admittedly contained execution related timing instructions including the manner and sequencing in which the trades were to be executed across different tranches. The timing of purchase and sale of securities, the sequencing of execution and the manner in which orders are deployed into the market are not wholly divorced from the investment decision itself. Such decisions directly impact execution price, market exposure, liquidity management, portfolio balancing, slippage management and overall deployment of client funds. Consequently, execution timing and sequencing cannot automatically be characterised as entirely non-investment or purely clerical functions in all circumstances.

61. The Noticees have contended that such timing related aspects were governed through a pre-determined policy formulated by FGF itself. However, I note that the policy document relied upon by the Noticees is unsigned. Further, it is also not the case of the Noticees that such policy was independently approved by the Investment Committee itself or formed part of any governance framework specifically adopted by the IC for implementation of client level execution decisions.

62. In the absence of any material demonstrating that the timing methodology, tranche allocation structure and execution sequencing reflected in the basket files had already been independently determined and approved internally by the Investment Committee, the mere existence of an unsigned policy document cannot conclusively establish that the execution related determinations reflected in the basket files were entirely devoid of any investment related element.

63. Further, once basket files themselves contained trade level details relating to securities, quantities, allocation adjustments and timing related execution instructions, the characterization of the entire basket file process as being wholly mechanical or purely clerical becomes difficult to accept without closer examination of the actual decision making process underlying such outputs.

64. Therefore, while certain computational and arithmetic aspects of basket file generation may indeed constitute operational implementation functions, I am unable to accept the broad contention that the basket files, in their entirety, were completely devoid of investment advice or investment decision related elements. The material on record indicates that the basket files incorporated multiple determinations directly connected with the manner, timing and structure of deployment of client funds.

65. Accordingly, when the basket file process is examined holistically, I am unable to accept the contention of the Noticees that the basket files merely constituted entirely mechanical or clerical implementation outputs devoid of any investment related element. While certain computational and arithmetic functions involved in aligning client portfolios with the approved Model Portfolio may legitimately be characterised as operational implementation activities, the material on record indicates that the basket files also incorporated determinations relating to client specific allocation adjustments, redistribution of portfolio weights, sectoral balancing, sequencing of execution and timing related deployment instructions.

66. I further note that the material placed on record does not establish that all such consequential portfolio allocation and execution related determinations were independently formulated and approved internally by the Investment Committee prior to generation of the basket files. No material has been produced demonstrating a separate internally approved framework governing the manner in which client specific

exclusions, reallocations and consequential portfolio adjustments were to be undertaken.

67. On the contrary, the communications placed on record indicate that client specific modification requests were referred to Mr. Achin Agarwal for guidance regarding the number of shares required to be shifted, the securities required to be sold and the allocation adjustments necessary for achieving the revised portfolio structure requested by the client. Such communications indicate participation extending beyond mere software functionality or passive computational implementation.

68. Viewed cumulatively, the material on record does not support the broad proposition advanced by the Noticees that Algo One's role in the basket file process was confined entirely to passive technological implementation devoid of any investment related advisory element. Rather, the material indicates participation in consequential allocation and execution related determinations directly connected with the actual deployment of client funds.

69. Accordingly, the contention of the Noticees that the basket file process was purely implementational in nature and did not contain any investment advice or investment decision related element is not acceptable.

70. As regards the approval process involved after the submission of the basket files containing investment advice component, I have considered the contention of the Noticees that the basket files were independently reviewed and approved by senior management of FGF prior to execution and that such approval mechanism demonstrates that FGF retained complete authority and oversight over the execution process at every stage. According to the Noticees, the approval process constituted a substantive supervisory gate through which FGF independently verified whether the

basket files correctly reflected the approved Model Portfolio, incorporated client specific restrictions and were otherwise suitable for execution.

71. At the outset, I note that the existence of an internal approval mechanism, by itself, does not conclusively answer the issue arising under Regulation 24(10). The prohibition contained in the regulation is framed in absolute terms. The regulation prohibits a portfolio manager from making investments “based on the advice of any other person”. The thrust of the provision is therefore not merely on who possesses ultimate approval authority or operational control before the investment advice by external entity, but whether the investment itself is made on the basis of advice or opinion originating from an external entity.

72. In the instant case, the relevant question is not whether FGF formally approved the basket files prior to execution. The relevant question is whether the basket files themselves contained client specific investment related determinations originating from Algo One or Mr. Achin Agarwal and whether such determinations formed the operative basis for deployment of client funds. If the underlying client specific investment related inputs embedded within the basket files originated from an external entity, the mere existence of a subsequent approval layer within FGF would not automatically go out of the ambit of the prohibition.

73. The interpretation advanced by the Noticees would effectively reduce the prohibition to a mere question of formal approval hierarchy. Such interpretation would imply that an external entity may generate client specific investment related allocations, portfolio adjustments, trade level instructions and execution structures, and the prohibition would nevertheless not apply so long as an internal officer of the PMS entity subsequently approves the same before execution. In my view, such interpretation would substantially nullify the object underlying Regulation 24(10).

74. The object of the provision is to ensure that the investment decision forming the basis of deployment of client funds originates from the internal professional judgment of the PMS entity itself and not from the advice or opinion of an external person. Therefore, where client specific investment related determinations are generated externally and thereafter merely subjected to internal approval before execution, the existence of such approval mechanism does not, by itself, remove the investment from the scope of the prohibition. It would be a different case if they are only inputs as in the case of Turbo developed inputs.

75. Further, I note that the approval process relied upon by the Noticees has been described primarily as a verification mechanism intended to ensure conformity with the approved Model Portfolio, client restrictions and execution suitability. The material placed on record does not establish that the approving authority independently reformulated or re-determined the underlying client specific allocation decisions, consequential portfolio adjustments, timing related instructions or trade level deployment decisions reflected in the basket files prior to execution.

76. Accordingly, I am unable to accept the contention that the mere existence of an internal approval and supervisory mechanism by FGF is sufficient, by itself, to exclude the applicability of Regulation 24(10) where the material otherwise indicates the presence of external participation in client specific investment related determinations forming the basis of deployment of client funds.

77. Therefore, I find that basket file received by the Noticees had element of advice on the investment by Algo and Noticees made investment on the basis of such advice.

Outsourcing of core PMS and investment related activities to Algo One:

78. I now proceed to examine the allegation regarding outsourcing of core PMS and investment related activities to Algo One.

79. In this regard, the SCN alleges that several activities integral to the PMS operations of FGF were effectively performed by Algo One and its personnel. The activities alleged to have been outsourced include resolving queries of PMS clients of FGF, effecting changes in allocation of client portfolios, direct interaction with PMS clients and distributors, creation and structuring of portfolios, access to client information and trade data, involvement in redemption processes, participation in product pitching and onboarding activities and generation of trade files and reconciliation of trade data.

80. The Noticees have denied the aforesaid allegation and contended that Algo One merely functioned as a technology consulting and implementation support entity and did not perform any core investment management PMS functions. According to the Noticees, the activities relied upon in the SCN merely reflected operational coordination and technological support required for implementation of investment decisions already taken independently by FGF.

81. I note that the outsourcing allegation cannot be examined in an isolated or compartmentalized manner by individually viewing each activity as a standalone operational task. The issue requires examination of the overall role performed by Algo One within the PMS ecosystem of FGF and whether the cumulative nature of such functions crossed the permissible boundary of technological support and entered into the domain of investment related and core PMS activities.

82. I note that the material on record reflects that Algo One and Mr. Achin Agarwal were

not merely passive technical support entity providing back-end infrastructure disconnected from PMS functioning. The communications and workflow relied upon in the SCN demonstrate repeated involvement of Algo One personnel in portfolio related operational processes, client related portfolio adjustments, basket file generation, client specific implementation requirements and execution related coordination.

83. With respect to the allegation relating to effecting changes in allocation of client portfolios and generation of trade files, I note that the basket files generated through Algo systems were not generic software outputs disconnected from client portfolios. The basket files contained client specific buy and sell allocations intended for actual deployment of client funds and were subsequently forwarded for execution through the dealing desk.

84. The Noticees have contended that basket files were merely mechanical implementation outputs generated on the basis of predefined inputs such as approved Model Portfolio, client holdings, available cash and restricted lists. However, as already established above, the material on record demonstrates that the basket files had element of advice on the investment by Algo and Noticees made investment on the basis of advice on the investment by Algo.

85. I further note that the material on record demonstrates that client specific portfolio information was accessible to Algo One personnel for carrying out portfolio alignment, generation of executable basket files and implementation related processing connected with deployment of client funds.

86. I also note that the material relied upon in the SCN reflects involvement of Algo One personnel in execution related communications, tranche related decisions and reconciliation processes connected with actual execution of client portfolio trades.

Though the Noticees have contended that the final execution remained under FGF's dealing desk and broker network, the material nevertheless demonstrates that Algo One was integrated into operational stages closely connected with implementation of investment decisions by generating trade files.

87. Further, their role is not confined merely to generation of trade files. The material also reflects involvement of Algo One personnel in PMS client related coordination, onboarding discussions, product related communications and distributor interactions. The Noticees have attempted to characterize these activities as ancillary operational support. However, such functions, when viewed cumulatively along with portfolio structuring, client specific portfolio alignment and trade file generation, indicate a degree of participation extending substantially beyond a limited technology vendor relationship.

88. In this regard, I note that Para 5 of the SEBI Circular CIR/MIRSD/24/2011 dated 15th December 2011, on 'Guidelines on outsourcing of Activities by Intermediaries', reads as below:

"Activities that shall not be outsourced -
The intermediaries desirous of outsourcing their activities shall not, however, outsource their core business activities and compliance functions and investment related activities in case of Mutual Funds and Portfolio Managers. A few examples of core business activities may be – execution of orders and monitoring of trading activities of clients in case of stock brokers; dematerialisation of securities in case of depository participants; investment related activities in case of Mutual Funds and Portfolio Managers."

89. In this regard, I note that the outsourcing restrictions on core activities/investment related activities applicable to portfolio managers are intended to ensure that the

regulated intermediary itself retains effective control, independent professional judgment and substantive responsibility over core PMS and investment related functions. The restrictions cannot be defeated merely by describing substantive portfolio related functions as technological implementation support where the actual operational arrangement demonstrates extensive involvement of an external entity in activities intrinsically connected with management and deployment of client portfolios.

90. In the instant matter, the cumulative material on record demonstrates that Algo One was involved not merely in maintenance of technological infrastructure but also in multiple operational and portfolio related functions directly connected with structuring, alignment and implementation of client portfolios. Such functions were closely intertwined with actual management and decisions on client funds and cannot be viewed as entirely segregated from PMS and investment related activities.

91. Therefore, I note that the overall operational arrangement, viewed holistically, demonstrates outsourcing of multiple core PMS and investment related activities, as alleged in the SCN, to Algo One in a manner inconsistent with the obligations cast upon a regulated portfolio manager under the PMS Regulations and the outsourcing framework prescribed by SEBI.

Sharing of fee with Algo by FGF:

92. In continuation of dealing with the current issue, it is also necessary to examine the significance of the fee sharing arrangement between FGF and Algo One, including sharing of management fees and performance fees, in order to examine whether the commercial structure was consistent with a mere technology consulting arrangement or whether it reflected substantive participation by Algo One in PMS and investment related functions.

93. In this regard, I note that the material on record shows that the commercial arrangement between FGF and Algo was not confined merely to a fixed technology licensing or software support fee disconnected from the investment performance of the PMS operations. The arrangement envisaged sharing of both management fees as well as performance-linked fees generated from PMS clients as detailed below.

    Clause 5 of the agreement between FGF and Algo provides that Algo One shall be entitled to receive consulting fees from FGF calculated as a percentage of the management fees and performance fees earned by FGF, specifically at the rate of 20% of net management fees and 45% of net performance fees. Further, Clause 6 of the agreement stipulates that consulting fees linked to management fees shall be paid on a monthly basis, while consulting fees linked to performance fees shall be paid annually in April after the close of the financial year.

94. The sharing of management fee by itself may not conclusively establish participation in investment advisory functions. However, the sharing of performance-linked fees assumes considerably greater significance in the facts of the present matter.

95. Performance fee in a PMS structure is intrinsically linked to the investment performance generated for clients. Such fee is earned not merely for maintaining technological infrastructure but for the quality and success of investment decisions, portfolio allocation and portfolio management outcomes delivered to clients.

96. Therefore, where an external entity shares in the upside linked to portfolio performance, the same materially indicates that the external entity was expected to contribute to, participate in or influence the investment process which generated such performance.

97. In this regard, the Noticees have submitted that the compensation structure

represented a legitimate commercial arrangement for provision of technology consulting services, development and maintenance of quantitative systems and operational technological support infrastructure utilized in the PMS business of FGF.

The Noticees have further contended that the percentage-based compensation structure comprising 20% of net management fees and 45% of net performance fees merely aligned Algo's remuneration with the scale, scope and success of its continuing technology support services and did not represent any participation in investment discretion or portfolio management functions.

The Noticees have argued that the payments constituted operational business expenditure incurred for maintaining and operating technology infrastructure supporting PMS operations and were not fee-sharing arrangements in the nature of co-management or investment advisory participation.

The Noticees have additionally submitted that the consideration paid to Algo was not linked to any authority to recommend securities, determine portfolio weights or execute trades and that investment discretion and fiduciary control continued to vest exclusively with FGF and its internal decision-makers.

It has further been contended that the revenue-sharing model merely reflected an industry-standard incentive mechanism adopted for a strategic technology partner whose systems materially contributed to operational efficiency, scalability and client servicing and that the revenue linkage did not alter the regulatory locus of investment control.

98. In this regard, I note that commercial parties may structure compensation arrangements in diverse forms including recurring revenue-linked arrangements and

that a technology vendor may, in certain situations, be compensated through variable fee mechanisms linked to scale of operations or business growth. Similarly, viewed in isolation, the mere sharing of management fees or performance-linked compensation may not conclusively establish rendering of investment advice by an external entity.

99. However, in the present matter, the fee arrangement cannot be appreciated in isolation or separated from the actual operational conduct and evidentiary circumstances already established on record.

100. As already discussed hereinabove, the material on record establishes:

    100.1. participation of Mr. Achin Agarwal in the Investment Committee constituted for taking investment-related decisions;

    100.2. involvement in client-specific allocation and reallocation matters;

    100.3. generation of client-specific basket files through Algo systems; and

101. Therefore, the issue is whether the commercial arrangement, when viewed cumulatively with the operational realities evidenced on record, corroborates the substantive investment-related role actually performed by Algo and Mr. Achin Agarwal.

102. I note that the sharing of performance-linked fees assumes particular significance. Performance fees in a PMS structure are intrinsically linked to the quality and success of investment decisions, portfolio allocation, portfolio construction and investment outcomes generated for clients. Such fees arise from the performance achieved in client portfolios and are fundamentally connected with the investment management function itself.

103. If Algo were functioning merely as a passive provider of backend technological

infrastructure or software maintenance support disconnected from the investment process, a fixed technological service fee would ordinarily suffice. The sharing of as much as 45% of net performance fees therefore assumes considerable significance in understanding the true commercial substance of the arrangement.

104. The linkage of compensation to portfolio performance demonstrates commercial alignment with the investment outcomes generated for PMS clients and materially indicates participation in or contribution to the investment process responsible for generating such outcomes.

105. The contention of the Noticees that the revenue linkage merely ensured quality engagement and sustained technological support does not adequately explain why compensation was specifically tied to PMS performance outcomes rather than ordinary operational metrics associated with technology services.

106. Further, the evidentiary record already demonstrates that Algo and Mr. Achin Agarwal were not operating as isolated software vendors detached from investment functions. Client-specific allocation guidance, portfolio reallocation inputs and investment implementation related functions were being undertaken with their substantive involvement.

107. Therefore, the performance-linked fee arrangement cannot be viewed merely as a neutral commercial mechanism for operational scalability or technology maintenance.

108. While the fee sharing arrangement may not independently establish the violation in isolation, the same constitutes a highly significant corroborative circumstance when viewed cumulatively with the operational role, client-specific communications,

Investment Committee participation, involvement in other investment related activities and basket file mechanism already discussed hereinabove.

109. I therefore find no merit in the contention of the Noticees that the sharing of management fees and performance-linked fees with Algo was merely an innocuous commercial technology arrangement unrelated to investment-related participation in the PMS operations of FGF.

110. In the present matter, following facts are already established above:
    110.1. participation of Mr. Achin Agarwal in the Investment Committee constituted for taking investment-related decisions;
    110.2. involvement in client-specific allocation and reallocation matters;
    110.3. generation of client-specific basket files through Algo systems; and
    110.4. Involvement in various investment related activities;

111. When these operational facts are viewed together with the performance-linked fee sharing arrangement, the defence of the Noticees that Algo functioned merely as a passive technology provider becomes untenable.

112. A passive technology vendor ordinarily receives compensation for provision and maintenance of technological infrastructure irrespective of the investment performance achieved by the portfolio manager. In contrast, linkage of compensation to portfolio performance reflects commercial participation in the investment outcomes generated for PMS clients.

113. The aforesaid conclusion regarding substantive involvement of Algo and Mr. Achin Agarwal in investment-related activities is therefore supported not only by the operational and documentary evidence already discussed hereinabove, but also by

the commercial structure adopted between the parties.

114. The cumulative effect of the aforesaid circumstances clearly demonstrates that Algo and Mr. Achin Agarwal were not functioning merely as passive technology vendors or software support providers. Rather, this establishes substantive participation by another entity in the investment advisory, portfolio allocation and implementation process through which PMS client funds were invested.

115. In the present matter, the cumulative evidentiary record demonstrates that investment-related inputs, allocation guidance, client-specific implementation directions and portfolio management functions were being undertaken with active involvement of Algo and Mr. Achin Agarwal. Therefore, even if certain formal approvals or execution functions ultimately rested with FGF, the substantive investment process itself was materially dependent upon advice, inputs and involvement emanating from another entity, namely Algo and Mr. Achin Agarwal.

116. Accordingly, I hold that FGF invested client funds based on the advice of another entity and outsourced core PMS and investment related activities to Algo One and failed to exercise independent professional judgment in management of PMS portfolios in violation of the provisions of Regulation 24(10) and Clause 1, 3 and 13(a) of Schedule III (Code of Conduct) read with Regulation 21 of SEBI (Portfolio Managers) Regulations 2020 and SEBI Circular CIR/MIRSD/24/2011 dated 15th December 2011

Issue B: Whether the marketing and advertisement related statements disseminated by FGF were exaggerated, misleading and in violation of provisions of Clause 2.1 read with Clause 1.1, 1.2, 1.3, 1.4, 1.5, 1.6 and 1.8 of Annexure 2A of SEBI Master Circular for Portfolio Managers dated June 07 ,2024; Clause 1, 3, 5, 6, 10(a) and 13(a)

of Schedule III (Code of Conduct) read with Regulation 21 of SEBI (Portfolio Managers) Regulations 2020 and Regulation 4(2)(k) and Regulation 4(2)(s) of the PFUTP Regulations?

117. The SCN alleges that FGF disseminated exaggerated and misleading statements through its performance reports, fact sheets, website disclosures, emails and marketing presentations sent to existing and prospective clients.

118. The SCN specifically refers to statements made by FGF in its performance reports dated January 31, 2023 and May 31, 2022, wherein FGF claimed, inter alia, that:
    118.1. it was the "No. 1 PMS provider in the multi-cap space";
    118.2. its returns were "far better than the next best";
    118.3. "no one else is at even half our levels on risk-adjusted returns";
    118.4. it was "right on the top performance list"; and
    118.5. its portfolios were expected to outperform for "7 to 8 months in a year".

119. The SCN further records that such claims were accompanied by comparative charts and tables comparing the performance of selected investment strategies of approximately 20 to 21 portfolio managers for selective periods beginning from March 1, 2020, i.e. the inception period of FGF's PMS operations.

120. According to the SCN, the aforesaid statements created an exaggerated impression regarding the superiority of FGF's PMS services, technological capabilities and comparative market standing.

121. The SCN further alleges that the comparative statements were based on selective comparisons with a limited number of PMS strategies chosen by FGF and for selective time periods and therefore lacked fairness, completeness and adequate disclosure of relevant assumptions and risk parameters.

122. Based on the above, SCN alleged that the Noticees have made exaggerated and misleading claims to the existing clients and prospective investors giving an impression that FGF is the best Portfolio Manager and disguised the investors about the returns generated in PMS and overlook the risks associated with investing. SCN alleged that such acts were in violation of Clause 2.1 read with Clause 1.1, 1.2, 1.3, 1.4, 1.5, 1.6 and 1.8 of Annexure 2A of SEBI Master Circular on Portfolio Managers dated June 07 ,2024; Clause 1, 3, 5, 6, 10(a) and 13(a) of Schedule III (Code of Conduct) read with Regulation 21 of SEBI (Portfolio Managers) Regulations 2020

123. The Noticees, in their replies, have contended that the statements and comparisons were based on actual performance data compiled from information reported to SEBI and were intended to communicate comparative PMS performance to investors.

124. The Noticees have also submitted that appropriate disclaimers and contextual disclosures were provided and that the communications were intended to explain the investment process and performance framework adopted by FGF.

125. The Noticees have argued that 21 investment strategies are not 'a few' or 'a limited number'. It was the most relevant subset in the operating universe of multi-cap PMS strategies in the relevant period.

126. I have considered the allegations in the SCN, the material relied upon therein and the submissions of the Noticees. I have also considered the comparative charts and tables published by FGF comparing its performance with selected strategies of other portfolio managers. At the outset, it is noted that a portfolio manager is entitled to disseminate factual information relating to its products and performance. However, such communications are required to satisfy the standards prescribed under the Code of Advertisement and the Code of Conduct applicable to portfolio managers.

127. I note that the regulatory framework governing advertisements by portfolio managers proceeds on the principle that advertisements in the securities market are not mere commercial publicity materials but investor-facing communications capable of influencing investment decisions. Consequently, the regulatory framework mandates that comparative claims and performance representations must satisfy standards of truthfulness, fairness, clarity, completeness and contextual accuracy. The object underlying these provisions is to ensure that investors are not induced into investment decisions through exaggerated superiority claims, selective data presentation or incomplete comparisons.

128. In this regard, Clause 1.1 of Annexure 2A requires that advertisements shall be "truthful, fair and clear" and shall not contain any statement, promise or forecast which is untrue or misleading. Clause 1.2 further provides that an advertisement would be misleading where statements regarding the performance or activities of the portfolio manager are made without necessary explanatory or qualifying statements, thereby giving an exaggerated picture of the performance or activities of the portfolio manager than what really exists. Clause 1.3 additionally prohibits advertisements designed in a manner likely to disguise the significance of statements or likely to mislead investors either directly, indirectly or by omission. Clause 1.6 specifically prohibits advertisements containing information whose accuracy is dependent upon assumptions. Further, Clause 1.8 permits comparison between portfolio managers only where such comparison is fair and all information relevant to the comparison is included in the advertisement.

129. Thus, the regulatory scheme does not prohibit performance disclosures per se. However, where a portfolio manager seeks to compare itself with competitors and make superiority claims such as "No.1 PMS", "Best PMS", or "far better than the next

best", the comparison must necessarily satisfy the standards of fairness, completeness, comparability and contextual neutrality contemplated under the above clauses.

130. For instance, in the performance report dated January 31, 2023, FGF stated:

"We remain No.1 PMS provider in the multi-cap space – with a return that's far better than the next best."

131. FGF further stated:

"Not only are we way ahead of all others on returns, the next best are at only about half our levels on risk-adjusted returns."

132. Similarly, in the performance report dated May 31, 2022, FGF represented that:

"We remain the No.1 PMS provider in the multi-cap space, with a return that's 50% better than the next best."

133. Further, in the communications dated December 2023, FGF continued to represent that it was ahead of "all Multi-cap PMS in the market."

134. These superiority claims were accompanied by charts and comparative tables wherein FGF compared itself against selected strategies of certain portfolio managers over a period beginning from March 1, 2020, being the inception period of FGF's PMS operations

135. However, the comparative analysis relied upon by FGF was based on selective PMS strategies and selective time periods chosen by FGF itself. The SCN specifically

records that the comparisons were prepared using selected investment strategies of other portfolio managers for selected periods beginning from March 1, 2020.

136. A claim that an entity is "No.1" inherently conveys to an investor that the comparison has been undertaken across the relevant market universe and not merely against selectively chosen entities. The evidentiary material therefore demonstrates that the broad market-wide claims of being "No. 1", "best" and "ahead of all" were not based on a comprehensive comparison across the PMS industry on standardized parameters but on selective comparative presentations prepared by FGF.

137. I note that merely because multiple portfolio management schemes are classified within the broad "multi-cap" category does not render all such schemes inherently comparable for the purpose of making categorical superiority claims such as "No.1 PMS provider", "far better than the next best", or "way ahead of all others".

138. The term "multi-cap" itself is only a broad classification indicating that the portfolio may invest across market capitalizations. However, within the multi-cap category, portfolio managers may adopt materially different investment philosophies, portfolio construction methodologies, concentration levels, turnover strategies, risk appetites, hedging approaches and sector allocations. Consequently, two schemes falling within the same broad multi-cap category may nevertheless have fundamentally different return objectives and risk characteristics.

139. Thus, the mere fact that strategies fall within the broad "multi-cap" space does not establish that their risk-return characteristics are identical or directly comparable without extensive contextual disclosures. This assumes significance because return figures in isolation do not adequately capture the nature of risk undertaken to generate such returns. A strategy generating higher returns through significantly

higher concentration, volatility cannot automatically be represented as objectively "better" than another strategy following a different risk philosophy.

140. In this regard, Clause 1.8 specifically requires that comparison between portfolio managers must be fair and all information relevant to the comparison must be included. Therefore, where comparison is undertaken between strategies having materially different risk structures and investment approaches, fairness requires disclosure of the contextual parameters necessary to interpret the comparison

141. In this regard, Clause 1.8 of Annexure 2A specifically prohibits comparison with another portfolio manager unless the comparison is fair and all relevant information relating to such comparison is included. Similarly, Clauses 1.1, 1.2 and 1.3 require that advertisements and communications be truthful, fair and not misleading or designed in a manner likely to disguise the significance of statements or give an exaggerated picture of performance or activities.

142. The Noticees have not produced supporting material establishing the objective basis, benchmarking methodology or independent substantiation underlying such global superiority claims.

143. In the present matter, I note that the advertisements merely presented comparative return tables and the cumulative tenor of the communications, particularly repeated use of expressions such as "No.1 PMS", "best PMS", "best hands in the business" and "way ahead of all others", conveyed superiority claims without the advertisements adequately disclosing differences in concentration levels, differences in volatility profiles, differences in investment mandates, differences in turnover strategies, differences in allocation frameworks, differences in liquidity exposure etc, is capable of misleading investors into assuming that the compared products are homogeneous and genuinely comparable on a like-for-like basis. Once

a portfolio manager seeks to move from factual disclosure to superiority representation, the obligation of fairness, completeness and contextual neutrality becomes significantly higher.

144. Accordingly, I find that the statements and comparative claims disseminated by FGF through its performance reports, presentations, website disclosures, fact sheets and investor communications were exaggerated and misleading in nature and violated the Code of Advertisement provisions referred to in the SCN, including Clauses 1.1, 1.2, 1.3 and 1.8 of Annexure 2A of the SEBI Master Circular, read with Clauses 1, 3, 5, 6 and 10(a) of Schedule III to the PMS Regulations.

145. I note that the SCN has further alleged that the Noticees disseminated exaggerated and misleading representations regarding the technological capabilities, artificial intelligence infrastructure and quantitative investment systems purportedly used in FGF's PMS operations. The SCN specifically refers to statements such as "the most advanced Artificial Intelligence and Machine Learning known to man", "one of the most sophisticated quantitative investment engines in the world", "best hands in this business" and "the best", and alleges that such representations conveyed misleading statements regarding the nature, ownership, uniqueness and sophistication of the technology and investment infrastructure associated with FGF's PMS activities.

146. In this regard, the SCN alleges that FGF did not itself own any proprietary artificial intelligence software or intellectual property relating to such technology and that the technology arrangements substantially involved services obtained from Algo One. It is further alleged that Algo One also itself did not possess proprietary software or intellectual property corresponding to the nature of the representations disseminated by FGF and substantially utilized open-source tools and infrastructure.

147. SCN alleges that the dissemination of such exaggerated and misleading representations through website communications, investor communications, etc amounted to mis-selling of PMS services and induced investors to invest on the expectation of superior technological and investment capabilities which is alleged to be in violation of Regulations 4(2)(k) and 4(2)(s) of the PFUTP Regulations.

148. In response thereto, the Noticees have contended that the allegations proceed on an incorrect assumption that ownership of proprietary artificial intelligence software or intellectual property is a necessary precondition for making statements regarding sophisticated quantitative investment capability or use of artificial intelligence methodologies.

149. The Noticees have submitted that the Turbo system was conceived, designed and specified by FGF itself and that Algo One merely acted as a technology implementer for translating FGF's analytical specifications and investment methodology into technological infrastructure. According to the Noticees, the analytical methodology, factor design, financial parameters and proprietary refinements embedded in the systems were developed by FGF over several years of investment research and therefore the intellectual framework and analytical methodology substantially belonged to FGF.

150. The Noticees have further contended that use of open-source infrastructure such as Python, MySQL, Eclipse IDE or VS Code does not imply that the resulting investment system is unsophisticated, since such infrastructure is widely used across institutional finance and quantitative investment firms globally.

151. The Noticees have additionally submitted that the sophistication of a quantitative investment system lies not merely in ownership of infrastructure software but in the

analytical methodology, factor design, back-testing framework, human-machine integration and systematic application of analytical tools within the investment process.

152. In this regard, the Noticees have submitted that FGF operated a "Human plus Machine" investment process integrating the deliberations of an Investment Committee possessing more than 112 combined years of experience with multiple analytical and quantitative systems deployed within the PMS operations.

153. The Noticees have further contended that there existed no regulatory requirement mandating public disclosure of technology consulting arrangements with Algo. The Noticees have also submitted that the subsequent disclosure of the commercial engagement with Algo One in revised disclosure documents demonstrates absence of concealment or deliberate suppression.

154. The Noticees have also argued that the Inspection Report merely records absence of material indicating ownership of proprietary artificial intelligence software and that absence of evidence of ownership cannot automatically be converted into a positive finding that the impugned statements were false or misleading.

155. According to the Noticees, the SCN incorrectly transposes the finding that "no records indicate ownership" into an affirmative allegation that the representations "convey untrue information".

156. The Noticees have therefore contended that the SCN fails to establish the necessary element required under Regulation 4(2)(k) and 4(2)(s) of the PFUTP Regulations.

157. At the outset, I find merit in the contention of the Noticees to the limited extent that

ownership of proprietary software or formal intellectual property registration is not the sole determinant of whether an entity may legitimately deploy sophisticated quantitative or technology-assisted investment systems. I also agree that use of open-source technological infrastructure by itself does not imply that the resulting investment framework lacks sophistication. Modern institutional finance and quantitative investment operations often utilize standardized technological infrastructure and open-source software frameworks. Similarly, the absence of formal intellectual property registration by itself cannot automatically establish that every representation relating to technological sophistication is false.

158. However, I note that the issue arising in the present matter is materially broader than mere ownership of software or existence of analytical tools. The relevant issue is whether the overall investor-facing representations fairly and accurately conveyed the actual nature, extent, ownership and sophistication of the technology and artificial intelligence capability associated with FGF's PMS operations.

159. In this regard, I note that the impugned statements were not confined to general descriptions regarding use of technology-assisted investment methodologies or quantitative systems. The representations disseminated by FGF went substantially further and included absolute and highly superlative assertions such as use of "the most advanced Artificial Intelligence and Machine Learning known to man" and creation of "one of the most sophisticated quantitative investment engines in the world".

160. Such expressions are not ordinary descriptive or generic statements regarding use of technology. They convey to prospective investors an impression of exceptional technological superiority, uniquely advanced artificial intelligence capability and extraordinarily sophisticated investment infrastructure associated with FGF's PMS operations.

161. While the Noticees have subsequently provided explanations regarding the conceptualization of the Turbo system, analytical methodology, factor design and integration of quantitative tools within the investment process, the investor-facing communications themselves did not disclose the actual basis, scope or limitations underlying such broad superiority claims.

162. The issue therefore is not whether some analytical framework or technology-assisted investment process existed but whether the impugned statements, viewed in their overall context and language, were capable of conveying misleading impressions regarding the nature and extent of the technological and artificial intelligence capability available with FGF.

163. I note that the investor communications did not disclose that the technology framework substantially involved third-party technology implementation arrangements and use of standard open-source infrastructure. Nor did the investor-facing representations disclose the objective basis on which conclusions such as "most advanced Artificial Intelligence and Machine Learning known to man" or "one of the most sophisticated quantitative investment engines in the world" were being asserted.

164. The Noticees have argued that the statements reflected FGF's overall investment process, including its analytical methodology and human-machine integration. However, even assuming that such explanation is accepted, the investor-facing communications themselves did not provide the contextual disclosures necessary for investors to understand the actual basis of the superlative representations being made.

165. A regulated intermediary functioning in a fiduciary segment such as PMS is expected to exercise heightened care and discipline while disseminating investor-facing representations concerning technological superiority, artificial intelligence capability and investment sophistication. Statements of the nature disseminated in the present matter are capable of materially influencing investor perception regarding the comparative competence, sophistication and expected investment capability of the intermediary.

166. The issue therefore is not whether the systems used by FGF had some analytical capability or technological sophistication. The issue is whether the absolute and superlative representations disseminated to investors were made with adequate factual basis and disclosure proportionate to the nature of the claims being asserted.

167. In my view, dissemination of statements such as “the most advanced Artificial Intelligence and Machine Learning known to man” without adequate substantiation or disclosure regarding the actual technological framework clearly travels beyond ordinary promotional language. Similarly, the statement that FGF had created “one of the most sophisticated quantitative investment engines in the world” conveys a comparative and objectively measurable superiority claim, the basis of which was not disclosed to investors. The cumulative use of statements such as investors’ money being in “the best hands in this business” and “it’s great to see you at the best”, when read together with the technological superiority claims, further reinforced the impression of unmatched technological and investment capability.

168. The gravamen of the present allegation is not merely the existence of the arrangement with Algo One, but the dissemination of exaggerated and inadequately substantiated representations concerning technological sophistication and artificial intelligence capability in investor-facing communications.

169. The contention that the Inspection Report merely records absence of records evidencing ownership and therefore cannot establish falsity also does not fully answer the allegation.

170. The PFUTP framework is not confined only to cases of deliberate fabrication or knowingly false statements. Regulation 2(1)(c) of the PFUTP Regulations specifically includes within the ambit of "fraud" representations made in a reckless or careless manner whether or not the person making them believes them to be true.

171. I note that there is no sufficient circumstantial material to conclude that the impugned claims were deliberately made with knowledge that they were false. However, the nature of the expressions used, the absence of adequate disclosure regarding the actual technological arrangements and the absence of objective substantiation for the superlative claims clearly indicate recklessness and carelessness in dissemination of such representations.

172. A SEBI-registered intermediary cannot disseminate broad superiority claims relating to artificial intelligence capability and technological advancement first and subsequently seek to justify them through internal explanations or post facto contextualization not disclosed to investors at the time of solicitation.

173. The contention that the statements constituted mere promotional language also cannot be accepted in the facts of the present matter. Promotional communications issued by regulated intermediaries remain subject to standards of fairness, balance and non-misleading disclosure. In the present matter, the impugned representations, viewed cumulatively, were capable of conveying misleading impressions regarding the nature, uniqueness and sophistication of the technological and artificial

intelligence infrastructure associated with FGF's PMS operations and were disseminated without adequate disclosure or substantiation of the basis underlying such claims.

174. I therefore find that the impugned statements were disseminated in a reckless and careless manner and were capable of misleading investors regarding the nature and extent of technology and artificial intelligence capability employed in the PMS operations of FGF. Accordingly, I am unable to accept the above contentions of the Noticees that the impugned representations fall outside the scope of Regulations 4(2)(k) and 4(2)(s) of the PFUTP Regulations.

175. Accordingly, I find that by the aforesaid acts, Noticees did mis-selling of PMS services and induced investors to invest on the expectation of superior technological and investment capabilities and violated Regulations 4(2)(k) and 4(2)(s) of the PFUTP Regulations.

Issue C: Whether there are inconsistencies in methods used for disclosing performance of the PMS in violation provisions of Regulation 22(10) of PMS Regulations, Clause 4.5.2.1, 4.5.3.4 and 5.6.1 of the Master Circular for Portfolio Managers and Clause 1, 3 and 13(a) of Schedule III of Code of Conduct read with Regulation 21 of SEBI (Portfolio Managers) Regulations 2020?

176. The SCN alleges that FGF adopted inconsistent methodologies for disclosure of PMS performance by reporting performance using TWRR methodology in disclosure documents and reports filed with SEBI, while simultaneously disseminating performance to clients and prospective investors through performance reports, fact sheets, website disclosures and marketing presentations using CAGR methodology.

177. The SCN specifically alleges that:

177.1. performance reports dated May 2022 and January 2023 disclosed performance using CAGR methodology;

177.2. the factsheet dated October 2023 disclosed performance using CAGR methodology;

177.3. presentations sent to clients regarding PMS offerings also reflected CAGR-based disclosures; whereas

177.4. the disclosure document dated September 2022 disclosed performance using TWRR methodology in line with regulatory reporting requirements.

178. Based on the aforesaid, the SCN alleges violation of Regulation 22(10) of the PMS Regulations and Clauses 4.5.2.1, 4.5.3.4 and 5.6.1 of the Master Circular and Clause 1, 3 and 13(a) of Schedule III of Code of Conduct read with Regulation 21 of SEBI (Portfolio Managers) Regulations 2020 on the ground that performance reporting made in marketing materials, client communications and website disclosures was inconsistent with the methodology adopted for reporting to SEBI.

179. In response thereto, the Noticees have contended that FGF consistently used and reported the TWRR methodology in its PMS Disclosure Documents, monthly reports filed with SEBI and reports sent to clients in line with SEBI's regulatory requirements.

The Noticees have further submitted that CAGR was used only as an additional metric and never as a substitute or replacement for TWRR, particularly because several investors were more familiar with CAGR as a comparative metric across financial products.

The Noticees have additionally contended that wherever CAGR was disclosed, the same was accompanied by appropriate context and disclaimers and that the

underlying performance data remained consistent with TWRR-compliant reporting.

The Noticees have also submitted that they have subsequently reviewed and updated their marketing communications so as to clearly disclose when CAGR is used as an additional metric; explain the purpose and limitations of CAGR; and reinforce that TWRR is the SEBI-mandated benchmark for PMS performance evaluation.

180. At the outset, I note that the present allegation pertains to inconsistency and lack of uniformity in performance reporting across different categories of communications. Regulation 22(10) of the PMS Regulations specifically requires that the portfolio manager shall report its performance uniformly in disclosures to SEBI, marketing materials, reports to clients and on its website. Similarly, Clause 4.5.3.4 of the Master Circular for PMS dated June 07, 2024 specifically requires that the performance reported in all marketing material and website disclosures shall be the same as that reported to SEBI.

181. I further note that Clause 4.5.2.1 and Clause 5.6.1 of the aforesaid master circular requires Portfolio Managers to disclose the performance of their portfolios to their clients, including disclosure of the performance indicators calculated on the basis of 'TWRR' method and present the present the TWRR of the IA along with the trailing return of the selected benchmark when communicating/ advertising/ publishing/ mentioning performance of an Investment Approach.

182. From the evidentiary material referred to in the SCN, it is observed that various investor-facing materials including performance reports, fact sheets and PMS presentations disclosed performance using CAGR methodology and "total returns" comparisons.

183. The SCN also records that comparative performance charts and tables disseminated by FGF were prepared on the basis of "CAGR" for selected periods and were prominently used in investor-facing communications while simultaneously claiming superiority over other PMS providers.

184. Therefore, while TWRR disclosures existed in the disclosure document and regulatory filings, the investor-facing communications relied upon CAGR and total-return presentation formats for communicating performance to clients and prospective investors.

185. The contention of the Noticees that CAGR was merely an "additional metric" does not fully address the inconsistency identified in the SCN. The issue is not merely whether CAGR could additionally be disclosed in some context. The issue is that the performance methodology reflected in marketing materials, fact sheets, performance reports and presentations was not uniform with the methodology adopted in disclosures made to SEBI as specifically required under Regulation 22(10) and the Master Circular.

186. Further, the material on record relied upon in the SCN evidences instances where the investor-facing documents prominently disclosed CAGR and total-return figures without corresponding disclosure of TWRR in the same communication. The Noticees have contended that CAGR disclosures were accompanied by disclaimers and context. However, no material has been brought on record by the Noticees demonstrating that the investor-facing performance reports, fact sheets and presentations referred to in the SCN prominently and simultaneously disclosed TWRR methodology in a manner ensuring uniformity with the disclosures made to SEBI.

187. The subsequent corrective steps stated to have been undertaken by the Noticees, including updating marketing communications and introducing greater clarity regarding use of CAGR, themselves indicate that the earlier communications required further standardization and clarification.

188. I note that compliance with the PMS disclosure framework requires consistency and uniformity in performance reporting across regulatory filings, marketing materials, website disclosures and client communications. However, in the present matter, the material on record establishes that investor-facing communications disseminated by FGF reflected CAGR and total-return based disclosures whereas disclosures made to SEBI followed TWRR methodology, thereby resulting in inconsistency in performance reporting across different categories of communications.

189. Accordingly, I find that the Noticees failed to ensure uniformity and consistency in performance reporting across marketing materials, performance reports, fact sheets, presentations and disclosures made to SEBI, in violation of Regulation 22(10) of the PMS Regulations and Clauses 4.5.2.1, 4.5.3.4 and 5.6.1 of the Master Circular and Clause 1, 3 and 13(a) of Schedule III of Code of Conduct read with Regulation 21 of SEBI (Portfolio Managers) Regulations 2020.

Issue D: Whether Noticee No. 2 and 3 are liable for the alleged violations?

190. With respect to the issue of personal liability of Noticee Nos. 2 and 3 for the violations committed by FGF, I note that the SCN has alleged that Noticee No.2, being the Managing Director and Noticee No.3, being the Director cum Principal Officer of FGF, have violated the respective provisions as alleged against FGF.

191. The SCN has alleged that FGF disseminated misleading and exaggerated representations relating to its technology capabilities, investment process and PMS services and thereby violated, inter alia, Regulation 4(2)(k) and Regulation 4(2)(s) of the PFUTP Regulations. The SCN has further alleged violations relating to investment related involvement of another entity, namely Algo One and Mr. Achin Agarwal, in the portfolio management activities of FGF.

192. Noticee Nos. 2 and 3 have denied personal liability and have contended that no material exists to establish their individual involvement in the alleged violations. The Noticees have particularly relied upon the decision of the Hon'ble SAT in the matter of ***Mani Oommen V. SEBI (Appeal No.183 of 2020)*** to contend that personal liability under the PFUTP framework requires specific material establishing individual knowledge, participation, scienter or direct involvement and cannot be imposed merely because a person occupied a managerial or directorial position in the company.

193. The Noticees have further contended that the SCN does not establish that Noticee Nos. 2 and 3 knowingly disseminated false information or consciously participated in any alleged misleading conduct. According to the Noticees, the investment process, technological systems and quantitative infrastructure actually existed and therefore there was no deliberate dissemination of falsehoods.

194. I have examined the aforesaid contention in light of the material available on record. I note that the present matter is not a case where liability is being fastened upon Noticee Nos. 2 and 3 merely on the basis of designation or official position. The record contains material evidencing their direct involvement, awareness and participation in the relevant operational and investment related activities forming subject matter of the proceedings.

195. In this regard, I note that Noticee Nos. 2 and 3, being the Managing Director and the Director cum Principal Officer of FGF respectfully, occupied positions of substantial control and responsibility within FGF and were directly connected with the investment management and operational affairs of the PMS business. The record further indicates their direct participation in the decisions relating to operational interaction with Algo One and implementation of investment related processes.

196. I note that the material on record as well their own submissions indicates that basket files generated through the Algo related infrastructure were ultimately approved by either Noticee No.2 or Noticee no.3 and acted upon by FGF. The Noticees themselves have contended that final authority and approval remained with FGF and they were the approving authority. Therefore, the approval and implementation of basket files generated through the said process necessarily involved awareness and involvement in the operational role being played by Algo One and Mr. Achin Agarwal.

197. Further, the fee arrangement between FGF and Algo One also forms a relevant surrounding circumstance while examining the knowledge and involvement of Noticee Nos. 2 and 3. The material on record indicates sharing of management fees and performance fees with Algo One. Such arrangement could not have existed without the knowledge and approval of the persons controlling the affairs of FGF.

198. The cumulative material on record therefore demonstrates that Noticee Nos. 2 and 3 were not merely passive office bearers disconnected from the impugned activities. The evidence shows their direct connection with the governance structure, operational approvals, basket file approval process and continuing engagement with the Algo One arrangement.

199. Insofar as the reliance placed upon the decision in Mani Oommen is concerned, I note that the principle emerging therefrom is that personal liability under the PFUTP framework cannot be imposed merely by virtue of designation and requires material establishing personal involvement, knowledge or participation. In the present matter, however, the liability proposed against Noticee Nos. 2 and 3 is not founded merely upon their official position in FGF. The record contains specific material evidencing their knowledge of and involvement in the relevant conduct. Therefore, the present matter stands on a materially different footing from a case involving mere vicarious attribution of liability without evidence of participation or knowledge.

200. I further note that the violations alleged in the present proceedings pertain to activities carried out in the ordinary course of PMS operations and investor solicitation activities of FGF. The nature of such activities is such that they directly relate to the core operational and managerial domain of the persons controlling the affairs of the portfolio manager.

201. In particular, representations regarding technology capability, investment process, AI infrastructure, investment methodology and PMS operations could not reasonably have been disseminated repeatedly through official investor communications without the knowledge and approval of the persons managing and controlling the affairs of FGF.

202. Therefore, upon cumulative appreciation of the material available on record, I find that the evidence establishes sufficient personal knowledge, involvement and participation of Noticee Nos. 2 and 3 in the impugned conduct.

203. Accordingly, I am unable to accept the contention that the allegations fail solely on the ground that personal scienter or individual involvement has not been established.

The material on record sufficiently demonstrates involvement and knowledge of Noticee Nos. 2 and 3 in the acts and omissions forming subject matter of the present proceedings.

204. Therefore, I find that Noticee No. 2 and 3 have violated the provisions of Regulation 24(10), Clause 1, 3 and 13(a) of Schedule III (Code of Conduct) read with Regulation 21 of SEBI (Portfolio Managers) Regulations 2020 and SEBI Circular CIR/MIRSD/24/2011 dated 15th December 2011, Clause 2.1 read with Clause 1.1, 1.2, 1.3, 1.4, 1.5, 1.6 and 1.8 of Annexure 2A of SEBI Master Circular for Portfolio Managers dated June 07 ,2024; Clause 1, 3, 5, 6, 10(a) and 13(a) of Schedule III (Code of Conduct) read with Regulation 21 of SEBI (Portfolio Managers) Regulations 2020, Regulation 22(10) of PMS Regulations, Clause 4.5.2.1, 4.5.3.4 and 5.6.1 of the SEBI Master Circular for Portfolio Managers and Clause 1, 3 and 13(a) of Schedule III of Code of Conduct read with Regulation 21 of SEBI (Portfolio Managers) Regulations 2020 and Regulation 4(2)(k) and Regulation 4(2)(s) of the PFUTP Regulations.

Conclusion:

205. In view of the foregoing findings and appreciation of the material available on record, I find that the element of advice from another entity was present at two distinct stages of the PMS investment process undertaken by FGF. Firstly, the advice component existed at the stage of formulation and approval of the Model Portfolio itself, by virtue of participation of Mr. Achin Agarwal as part of the Investment Committee which deliberated upon and approved the Model Portfolio forming the basis of deployment of client funds. The material on record establishes that Mr. Achin Agarwal was not merely a technology consultant but participated in the investment deliberative framework of FGF relating to portfolio construction and allocation decisions.

206. Secondly, the advice component also existed at the stage of generation of basket files and client specific portfolio implementation. The material on record establishes that basket files generated through Algo One systems involved client specific allocation adjustments, resulting portfolio alignment decisions, consequential allocation related decisions connected with actual deployment of client funds and decision regarding timing of trades. The basket files so generated were thereafter transmitted to FGF for execution and implementation in client accounts and were substantially acted upon by FGF through its dealing and execution mechanism.

207. The material on record further establishes that Algo One was integrated into multiple investment related and PMS operational functions including client specific portfolio alignment, generation of executable basket files, access to client portfolio data and execution related coordination. Further, the fee sharing arrangement, including sharing of management fees and substantial sharing of performance fees, reinforces the conclusion that the role performed by Algo One extended beyond detached technology support and was intrinsically connected with PMS and investment related activities.

208. Accordingly, I find that Noticee No. 1 invested client funds based on the advice and investment related inputs received from another entity, namely Algo One and Mr. Achin Agarwal, in violation of Regulation 24(10) of the SEBI (Portfolio Managers) Regulations, 2020. I further find that the operational arrangement adopted by Noticee No. 1 resulted in outsourcing of core PMS and investment related activities in violation of Clause 1, Clause 3 and Clause 13(a) of Schedule III read with Regulation 21 of the PMS Regulations and SEBI Circular CIR/MIRSD/24/2011 dated December 15, 2011.

209. In so far as the allegations relating to misleading claims, exaggerated representations and dissemination of misleading information are concerned, I find that the material on record established that FGF made statements and claims through its performance reports, presentations, website disclosures, fact sheets and investor communications, which were exaggerated and misleading in nature and violated the Code of Advertisement provisions, including Clauses 1.1, 1.2, 1.3 and 1.8 of Annexure 2A of the SEBI Master Circular, read with Clauses 1, 3, 5, 6 and 10(a) of Schedule III to the PMS Regulations. Further, FGF disseminated investor facing representations without adequate basis or disclosure capable of substantiating such absolute and superlative claims, amounting to dissemination of misleading information and mis-selling of PMS services in a reckless and careless manner, thereby violating Regulation 4(2)(k) and Regulation 4(2)(s) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003.

210. I further note that the material on record establishes inconsistencies in the manner in which portfolio performance was presented by FGF through factsheets, presentations and investor communications by prominently disseminating CAGR based performance figures and total return comparisons, despite using TWRR while reporting to SEBI, resulting in misleading impressions regarding comparative portfolio performance and therefore not being fully fair, balanced and transparent in the context of investor communications disseminated by a regulated intermediary. Accordingly, FGF violated Regulation 22(10) of the PMS Regulations and Clauses 4.5.2.1, 4.5.3.4 and 5.6.1 of the Master Circular and Clause 1, 3 and 13(a) of Schedule III of Code of Conduct read with Regulation 21 of SEBI (Portfolio Managers) Regulations 2020.

211. I further find that the material on record establishes that Noticee No. 2 and 3, namely Ms. Devina Mehra and Mr. Neeraj Khanna, were directly involved in and aware of the operational arrangement with Algo One and Mr. Achin Agarwal, including inclusion of Mr. Achin Agarwal in the Investment Committee, approval and implementation related processes concerning basket files and various communications relating to portfolio allocation and execution workflows. The material further reflects that basket files generated through Algo One systems were subject to approval by Noticee Nos. 2 or 3, prior to execution. In view of the same, I find that the violations established hereinabove were committed with their knowledge and involvement and accordingly Noticee No. 2 and 3 are also liable for the violations established against Noticee No. 1 under the applicable provisions of the SEBI Act, 1992 and the PMS Regulations.

212. The aforesaid violations by the Noticees, established on the basis of the findings recorded hereinabove, warrant issuance of appropriate directions and imposition of monetary penalty under the following provisions of the SEBI Act, 1992 and the PMS Regulations:

Violation	**Provisions**	**Penal provision violated**
Investment of client funds based on the advice of another entity and outsourcing core PMS and investment related activities to Algo One	Regulation 24(10), Clause 1, 3 and 13(a) of Schedule III (Code of Conduct) read with Regulation 21 of SEBI (Portfolio Managers) Regulations 2020 and SEBI Circular CIR/MIRSD/24/2011 dated 15th December 2011	Section 15HB of SEBI Act
Exaggerated statements and comparisons made in various documents/ information sent by FGF to its clients	Clause 2.1 read with Clause 1.1, 1.2, 1.3, 1.4, 1.5, 1.6 and 1.8 of Annexure 2A of SEBI Master Circular for Portfolio Managers dated June 07 ,2024; Clause 1, 3, 5, 6, 10(a) and 13(a) of Schedule III (Code of Conduct) read with Regulation 21 of SEBI (Portfolio Managers) Regulations 2020	Section 15HB of SEBI Act
Mis-selling of PMS services by knowingly making false and misleading statements relating to its services	Regulation 4(2)(k) and Regulation 4(2)(s) of the PFUTP Regulations	Section 15HA of SEBI Act
Inconsistency in methods used for disclosing performance of the PMS	Regulation 22(10) of PMS Regulations, Clause 4.5.2.1, 4.5.3.4 and 5.6.1 of the SEBI Master Circular for Portfolio Managers and Clause 1, 3 and 13(a) of Schedule III of Code of Conduct read with Regulation 21 of SEBI (Portfolio Managers) Regulations 2020	Section 15HB of SEBI Act

213. Having considered the above facts and circumstances, while adjudging the quantum of penalty under the aforesaid sections, I have also given due regard to the factors provided in section 15J of the SEBI Act which provides as follows:

Factors to be taken into account while adjudging quantum of penalty.

15J. While adjudging quantum of penalty under 15-I or section 11 or section 11B, the Board or the adjudicating officer shall have due regard to the following factors, namely: —

(a)the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b)the amount of loss caused to an investor or group of investors as a result of the default; (c)the repetitive nature of the default.

Explanation. —For the removal of doubts, it is clarified that the power to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section."

214. In so far as the factor relating to loss caused to investors is concerned, I note that although the exact monetary loss caused to individual investors may not be precisely quantifiable from the material available on record, the violations established in the present proceedings directly affect the transparency, fairness and integrity expected from a regulated portfolio management intermediary dealing with deployment of client funds. The outsourcing of core investment related activities and involvement of an external entity in portfolio related decisions without regulatory permissibility deprived investors of transparency regarding the actual investment decision making framework governing their funds.

215. Further, dissemination of misleading and exaggerated claims in relation to performance, superiority and technological capabilities had the potential to distort informed investor decision making by creating unrealistic or unsubstantiated impressions regarding the PMS services offered by Noticee No. 1. In matters relating

to regulated investment intermediaries, investor harm cannot always be assessed merely in terms of direct pecuniary loss. Erosion of informed decision making, distortion of investor perception and impairment of fairness and transparency in investor communications itself constitute serious regulatory harm affecting investor protection and market integrity.

Directions:

216. In view of the aforesaid findings and having regard to the facts and circumstances of the case, I, in exercise of the powers conferred upon me under Sections 11(1), 11(4), 11(4A), 11B(1) and 11B(2) read with section 15HA and 15HB of the SEBI Act and rule 5 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995, direct as under:

216.1. Noticee No.1 is restricted from accepting new clients, in so far as maybe applicable to it as a SEBI registered Portfolio Manager, for a period of 21 (twenty-one) days.

216.2. Noticee No.1 is hereby directed to cease and desist from outsourcing core investment related activities to any other entity/person.

216.3. Noticee No.1 shall remove all the exaggerated and misleading advertisements issued in the public domain or in the marketing material.

216.4. Noticee No. 1 to 3 are imposed with monetary penalties, based on the count of violations, as specified hereunder:

Noticee No.	Name	Provisions under which penalty imposed	Penalty
1	First Global Finance Private Limited, Portfolio Manager, Reg. No - INP000006697	Section 15HA of SEBI Act	Rs.5,00,000 (Rupees five lakhs only)
		Section 15HB of SEBI Act	Rs.9,00,000 (Rupees nine lakhs only)
2	Ms. Devina Mehra	Section 15HA of SEBI Act	Rs.5,00,000 (Rupees five lakhs only)
		Section 15HB of SEBI Act	Rs.9,00,000 (Rupees nine lakhs only)
3	Mr. Neeraj Khanna	Section 15HA of SEBI Act	Rs.5,00,000 (Rupees five lakhs only)
		Section 15HB of SEBI Act	Rs.9,00,000 (Rupees nine lakhs only)

216.5. Noticees shall remit/ pay the amount of penalty mentioned above, within 45 days of receipt of this Order through online payment facility available on the website of SEBI i.e. SEBI i.e. www.sebi.gov.in on the following path, by clicking on the payment link www.sebi.gov.in/ENFORCEMENT -> Orders -> Orders

of EDs/CGMs -> PAY NOW. In case of any difficulty in online payment of penalty, the Noticee(s) may contact the support of portalhelp@sebi.gov.in.

217. The directions contained in this Order shall come into force with immediate effect, except the direction at para 216.1 above, which shall come into effect from June 08, 2026.

218. This order is signed with physical and digital signature.

219. A copy of this order shall be served on the Noticees to ensure necessary compliance.

N. MURUGAN Digitally signed by N. MURUGAN Date: 2026.05.26 20:29:16 +05'30'

DATE: May 26, 2026 **N. MURUGAN**

PLACE: MUMBAI **CHIEF GENERAL MANAGER**

SECURITIES AND EXCHANGE BOARD OF INDIA