

CIRCULAR

SEBI/HO/MIRSD/DPIEA/P/CIR/2022/72

May 27, 2022

To,

**All Recognised Stock Exchanges
All Recognised Clearing Corporations
All Depositories**

Dear Sir/Madam,

Subject: Modification to Standard Operating Procedure in the cases of Trading Member / Clearing Member leading to default

1. SEBI vide circular no. SEBI/HO/MIRSD/DPIEA/CIR/P/2020/115 dated July 1, 2020 had specified the Standard Operating Procedure enumerating the steps to be taken by the Stock Exchanges ("SEs"), Clearing Corporations ("CCs") and Depositories in cases where SE / CC is of the view that Trading Member / Clearing Member is likely to default in repayment of funds or securities to its clients.
2. SEBI, in consultation with the Market Infrastructure Institutions, has decided to modify clause 4.25 of SEBI circular no. SEBI/HO/MIRSD/DPIEA/CIR/P/2020/115 dated July 1, 2020 in order to provide equitable distribution of funds amongst investors. Accordingly, clause 4.25 of the said circular stands modified as under:

Sr. No.	Action	Timeline
4.25	<p>ISE / SEs / CCs shall endeavour to settle the claims of maximum number of clients by way of interim measures, under their supervision prior to issuing show cause notice (SCN) for declaring the TM a defaulter. The TM shall be instructed to pay small investors out of available funds and own resources (movable and immovable) under the supervision of the ISE/ SEs.</p> <p>Further, the unencumbered deposits available with the SEs/ CCs, after adjusting for any dues of the SE / CC and maintaining the minimum BMC, shall also be utilised for settling the credit balance of investors starting from the smallest amount. Such amount shall be paid in full to all such investors having credit balance up to the amount of Rs. 25,00,000/- (Rupees twenty five lakh), subject to availability of funds. Further, investors having credit balance of more than Rs. 25,00,000/- (Rupees twenty five lakh) shall be paid on pro-rata basis from the remaining funds.</p> <p>Also, any surplus available with any SEs / CCs shall be utilised for settling the credit balances of clients with respect to other SEs. BGs of the TM shall be invoked and also the FDRs shall be encashed for utilisation. SEs / CC may settle such clients in tranches. For this purpose, the balances of client will be netted across exchanges to arrive at the final credit balance due to such client.</p> <p>The TM shall furnish the proof of payment to the clients, to the SEs.</p> <p>In this regard, the related parties of the TM shall not be considered for settlement, for which the TM shall provide an undertaking to the SEs/ CC. TM shall provide indemnity to the SEs to make available the funds to meet any shortfall in meeting investor's claim (other than those who have withdrawn their claim). Clients withdrawing their claim will have to submit unconditional withdrawal letter to the SEs.</p>	Within 30 trading days from crystallization of balances

3. All other provisions specified in SEBI circular dated July 1, 2020 shall continue to remain applicable.
4. Stock Exchanges, Clearing Corporations and Depositories are directed to:
 - 4.1. bring the provisions of this Circular to the notice of their members / participants and also disseminate the same on their websites.
 - 4.2. make amendments to the relevant Bye-laws, Rules and Regulations, as may be necessary; and
 - 4.3. communicate the status of the implementation of the provisions of this Circular in their monthly development report to SEBI.
5. This Circular shall be applicable with immediate effect.
6. This Circular is issued in exercise of the powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992 read with section 10 of the Securities Contract (Regulation) Act, 1956 and Section 19 of the Depositories Act, 1996, to protect the interests of investors in securities and to promote the development of and to regulate the securities markets.
7. This Circular is issued with the approval of competent authority.
8. This Circular is available at www.sebi.gov.in under the link "Legal→Circulars"

Yours faithfully

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