

## CONSOLIDATED CIRCULAR - MEMBER INSPECTION

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**Item 1**  
**CLIENT REGISTRATION**

**1.1 CM-CP Agreement –**

Custodial participants are those constituents who are eligible for trading through trading members and clearing and settling deals through clearing members. Such custodial participants shall register themselves with the Clearing Corporation through their clearing members.

The agreement to be executed between the clearing members and custodial participants shall be as per the format as prescribed by NSE Clearing Limited from time to time.

**1.2 CM-TM Agreement –**

The agreement to be executed between the clearing members and trading members shall be as per the format as prescribed by NSE Clearing Limited from time to time.

**REGULATORY REQUIREMENTS/ REFERENCES:**

1	CM-CP Agreement	NCL Circular No. NCL/CMPT/55098 dated January 02, 2023
2	CM-TM Agreement	NSE website. <u>All Formats (nseindia.com)</u>

Item 2  
**MARGIN COLLECTION FROM CLIENTS**

**2.1 Guidelines/Clarification on Margin Collection and Reporting –****2.1.1. Margins required to be collected by Clearing Members from Trading Members and Custodial Participants in Capital Market & Derivatives Segment****A. Capital Market Segment**

In Capital Market segment, Clearing Members (CMs) are required to mandatorily collect VaR margins and Extreme Loss Margin (ELM) from their Trading Members (TMs) and Custodial Participants (CPs) on an upfront basis. Other margins such as delivery margin, special/additional margin or such other margins as may be prescribed from time to time, shall be collected within 'T+2' working days from their TMs/CPs. The period of T+2 days has been allowed to CMs to collect margin from TMs/CPs considering the practical difficulties often faced by them only for the purpose of levy of penalty and it should not be construed that TM/CPs have been allowed 2 days to pay margin due from them. The TM/CM shall be exempted from collecting upfront margins from the institutional investors carrying out business transactions and in cases where early pay-in of securities is made.

**B. F&O segment**

In the F&O segment, it is mandatory for CMs to collect Initial Margin & ELM from respective TMs/CPs on an upfront basis. It must be ensured that all upfront margins are collected in advance of trade. Delivery Margin and margin on consolidated crystallized obligation shall be collected from TMs/CPs by T+1 day.

**C. Currency Derivatives segment**

In case of Currency Derivatives segment also, it is mandatory for Trading Members to collect Initial Margin and ELM from TMs/CPs on an upfront basis. It must be ensured that all upfront margins are collected in advance of trade. Margin on consolidated crystallized obligation shall be collected from TM/CPs by T+1 day. However, in case of currency future contracts, final settlement amount shall be collected by T+2 day.

**D. Commodity Derivatives Segment**

Initial Margin and ELM shall be collected from TMs/CPs on an upfront basis. It must be ensured that all upfront margins are collected in advance of trade. Other margins such as Mark-to-Market margin (MTM), delivery margin, special/additional margin or such other margins as may be prescribed from time to time, shall be collected within 'T+2' working days from the TMs/CPs.

**2.1.2. Form of collection of margins by Clearing Members in all segments**

CMs may collect the margins from its respective TMs/CPs, in any of the following forms, provided they are free & unencumbered, after considering their risk management policy and liquidity aspects:

- Consolidated funds balance across all segments and Clearing Corporations (including Commodities)
- Bank guarantee received towards margin, issued by any scheduled commercial bank, and approved in accordance with the risk management policy of the CM

- Fixed Deposit Receipts (FDRs) received towards margin issued by any scheduled commercial bank and approved in accordance with the risk management policy of the CM
- Securities in dematerialized form actively traded on the National Exchanges, which are liquid securities traded on in any of the Exchanges, with appropriate haircut.
- Units of mutual funds in dematerialized form, whose NAVs are available, and which could be liquidated readily with appropriate haircut.
- Government securities and Treasury bills in electronic form with appropriate haircut.
- Securities, which are provided as margin, but are sold in the cash market can be considered up-to T+1 end of the day from the date of sale.
- Any other such collaterals, as may be specified by clearing corporation from time to time

### 2.1.3. Manner of collection of margins on Consolidated Crystallised Obligation in F&O and Currency Derivatives segment

The CMs are required to collect margins on Consolidated Crystallised Obligation from its respective TMs/CPs only in the form of Cash (and not in the form of FDRs/BGs or any other form of collateral) in the F&O and Currency Segment (except for physical settlement component on expiry of the contract, as may be specified by Clearing Corporation).

### 2.1.4. Adjustment of margins on Consolidated Crystallised Obligation with T+1-day obligations

T-day margins on Consolidated Crystallised Obligation has to be collected by T+1 day in Cash and cannot be set off against margins on Consolidated Crystallised Obligation of T+1 day.

### 2.1.5. Exemption in case of Early Pay in (EPI) of securities / funds

CM shall not be required to collect upfront margins, for which early pay-in of securities/funds is made by TMs/CPs to the CM on the date of execution of the transaction.

In case of EPI to Clearing Corporation, the sale value of such securities, as reduced by value of the upfront Margin (i.e., VAR + ELM component), exempted in CM segment due to such EPI, shall be available as Margin, for other positions across all the segments up-to T+1 end of the day. For availing margin benefit against early pay-in to Clearing Corporation, the CM shall provide details of the TMs / CPs / clients for whom the early pay-in has been made to the Clearing Corporation.

Illustration is mentioned below:

Day	Transaction	Scrip	Value	VAR and ELM(Value)	Upfront margin
T day	Sell	ABC Ltd.	100	20	Nil (Since EPI is made to CC on T Day)
Note: In this case, member can consider 80 (100-20) as margin for other positions across all the segments up-to T+1 day.					

Please refer to NCL circular no. NCL/CMPL/61800 dated April 29, 2024 for EPI through block mechanism.

**2.1.6. Procedure for valuation of Securities**

For the purpose of margin collection and reporting, the CM may compute the value of such securities as per the closing rate on T-1 day or more frequent interval as per the risk management policy of the CM as reduced by the appropriate haircut at a rate not less than the VAR margin rate of the security on that day.

**2.1.7. Methodology to be adopted while considering margin received in the form of liquid mutual funds**

Dematerialized units of liquid mutual funds whose NAVs are available, and which could be liquidated readily may be considered while considering margins collection and reporting from TMs/CPs. Such units should be available with the CM or should be lien marked in favour of the member only by way of 'margin pledge', created in the Depository system. The value of listed liquid mutual funds should be computed based on the NAV on T-1 day, reduced by a haircut equivalent to the VAR. In case of others (mutual funds not listed) the haircut should be equivalent to 10% of the NAV.

**2.1.8. Methodology to be adopted while reporting margin received in the form of Government securities and Treasury bills**

G-Sec/T-Bills available in electronic form or lien marked in favour of the CM may also be considered while reporting margin collection to the CC.

The valuation of G-Sec/T-Bill shall be based on closing price of G- Sec/T-Bills on NDS on T-1 day reduced at a rate not less than the VAR margin rate of the security on that day

**2.1.9. Precautions to be taken in case of securities expected to be received in pay-out**

Only free and unencumbered balances of securities available with the CM for respective TMs/CPs in different segments shall be considered for margin collection and reporting. Accordingly, securities received in pay out shall be considered only after it is received from the clearing corporation. However, funds pay- in received from TMs/CPs for such securities may be considered while calculating the ledger balance for the purpose of reporting of margins.

**2.1.10. Non-reporting/ non submission of client margin**

All instances of non-reporting of client margins by the members shall be treated similar to and as 100% short reporting of client margins and accordingly penalties shall be imposed.

**2.1.11. Penalty for short / non-reporting of client margin/short allocation**

Margin amount reported to the CC/Exchange as collected, however margins not collected in any of the prescribed method, if considered by the member as margins collected would be construed as false reporting to the Exchange/CC.

In case, false reporting of margins is observed, the penalty structure for disciplinary action as stipulated in NCL Circular NCL/CMPL/42946 dated December 19, 2019.



In order to avoid duplicity of penalty levied for the same violation (i.e., non-collection and consequent non-allocation of client collateral), the penalty for short allocation and short margin reporting shall be combined (the provisions regarding higher penalty for multiple days shortfall etc. shall be considered across the violations and not separately.).

A single penalty as per the existing penalty structure (applicable for client margin short reporting, including exceptions such as non-levy of penalty in case of extreme market movements etc.) shall be applicable. The amount to be considered for levy of penalty shall be the highest of:

1. Highest intraday peak margin short-reported amount
2. End-of-day margin short-reported amount
3. Highest intraday short allocation amount (after considering excess collateral across segments and the reporting for valid reason codes if any)
4. End-of-day short allocation amount.

In case of instances of Intraday/ EOD short allocation; members shall have an opportunity to report amount of client collateral available with the permitted reasons and codes. In case of such reporting, penalty will not be applicable. However, in case of false reporting, penalty as applicable on false margin reporting will be applicable.

#### **2.1.12. Recovery of penalties for short reporting of upfront margins/ margins on Consolidated Crystallised Obligation from TMs/CPs**

The penalty levied by the Clearing Corporation on the CM for short reporting of TMs/CPs upfront margins/ margins on Consolidated Crystallised Obligation and attributable to failure on the part of the TMs/CPs, can be passed to the TMs/CPs, provided the CM has evidence to demonstrate failure on part of the TMs/CPs to pay the margin.

#### **2.1.13. Requirement for a Risk Management Policy**

The Clearing Member shall be required to have a Risk Management Policy (RMP) in place. The RMP should be duly approved by the Board / Board Approved Authority / Committee (for corporate members) and by the managing partners in case of partnership firm and shall inter alia include the following:

- Internal escalation matrix with respect to non-compliances / defaults by TMs/CPs
- Performance evaluation process of TMs/CPs registered with the CMs including its periodicity.
- Seeking data information from TMs/CPs in the event of repeated cases of shortfall in margins / margins on Consolidated Crystallised Obligation or governance issues.
- Procedures for segregation of TM proprietary and Client collaterals.
- Inspection of TMs.
- Upper Cap for acceptance of securities from a member and / or across all members in absolute terms and / or on an overall basis to avoid concentration risk.
- List of banks from which FDRs and BGs shall be accepted.
- List of securities that shall be accepted as collaterals.
- Components of cash collateral and non-cash collateral.

- Ratio of Cash and Non-cash component of collateral.
- Haircut percentage for all types of collaterals other than Cash, FDRs, and BGs. In this regard, Securities subject to a minimum of VAR. and other collateral shall be subject to minimum haircut of 10%.
- Timelines and threshold limits beyond which action such as square off of positions shall be undertaken by CM for non-payment of margins on Consolidated Crystallised Obligation by the TMs/CPs.

#### 2.1.14. Requirement to report shortfall in margins on Consolidated Crystallised Obligation from TMs/CPs to CC

The CM shall report segment wise shortfall amount of Crystallised Settlement Obligation of TMs and CPs to the Clearing Corporation in excess of Rs 5 lakhs if the shortfall continues beyond 1 day of the stipulated timeframe. E.g., If settlement cycle is T+1, and shortage continues till T+2, CMs shall report to CC on T+3. The format for reporting by CMs is provided is provided below.

**Format of informing Clearing Corporation for margins on Consolidated Crystallised Obligation by TMs/CPs beyond Rs 5 lakhs**

A	B	C	D	E	F	G	H	I	J
Reporting Date	Scheduled Due Date for Payment of margins on Consolidated Crystallised Obligation	Segment	CM Code	CM Name	TM/CP Code	TM / CP Name	Shortfall Amt (Rs in lakhs)	Actual Payment Date after Due Date + 1 day	Actual Payment Amount

#### 2.1.15 Acceptance of Collateral from clients only by way of “Margin Pledge”

The TM / CM shall have a separate Demat account tagged ‘Client Securities under Margin Funding Account’ in which only funded stocks in respect of margin funding shall be kept/ transferred, and no other transactions shall be permitted. The securities lying in ‘Client Securities under Margin Funding Account’ shall not be available for pledge with any other Bank/ NBFC. The TM / CM shall be required to close all existing Demat accounts tagged as ‘Client Margin/ Collateral’ on or before September 30, 2020 and transfer all client’s securities lying in such accounts to the respective clients’ Demat accounts.

For the purpose of providing collateral in form of securities as margin, a client shall pledge securities with TM, and TM shall re-pledge the same with CM, and CM in turn shall re-pledge the same to Clearing Corporation (CC). The complete trail of such re-pledge shall be reflected in the de-mat account of the pledgor.



### 2.1.16 Margins collected/available with the member from eligible related persons/entities

This has reference to Exchange circular NSE/INSP/43069 dated December 31, 2019 with respect to Margin collection & reporting. As per the existing requirement, margins collected/available with the member from eligible related persons/entities in the approved forms was considered towards margin of the client. In consultation with SEBI and other Exchanges it is clarified that with effect from April 01, 2020 margin available with related entities (as specified in the question no. 14 of Exchange circular NSE/INSP/43069 dated December 31, 2019) of the client cannot be considered as margin of the respective client. All margins should necessarily be collected from the respective client only.

**2.2. Daily Margin Statement** – Members should send margin related information to their clients. Such margin related information (Daily margin statement) should be issued by Members to clients daily at the end of the trade day (T-Day) itself or by such timelines as may be specified from time to time.

An indicative format of daily margin statement stipulating the minimum information to be provided to clients is enclosed below –

**Format – Daily Margin Statement to be issued to clients**

Client Code:  
ClientName:  
Exchange:

Seg	Trade day	Margins available till T day						Margin/ Consolidated Crystallized Obligation / MTM required by Exchange/CC end of T & T+1 day respectively				Excess / Shortfall w.r.t. Requirement by Exchange / CC	Additional Margin required by member as per RMS	MarginStatus (Balance with Member /Due fromclient)
		Funds	Value of Securities (after haircut)	Value of margin pledge Securities (after haircut)	Bank Guarantees /FDR	Any other approved form of Margin	Total Margins Available (E)	Total upfront Margin	Consolidated Crystallized Obligation / MTM	Delivery Margin	Total Requirement			
		A	B	C	D	E	F=(A+B+C+D+E)	G	H	I	J=( G+H+I)	K=F-J	L	M=(K-L)

\*approved form as may be specified by the Exchange/CC from time to time

**Notes:**

- Daily Margin Statement to be issued on T dayitself
- Daily Margin statement to mention the name, email id, telephone number and address of complianceofficer
- Detailed exhibits for the margin collected to be provided to the clients. In case of securities (scrip name, qty, value) Bank Guarantee (BG no, amount, expiry date) and FDR's (FDR No., Amount and Maturity date)

### 2.3 Prudent risk management for Margin collection:

Bye Law 1 of Chapter IX of the Bye Laws (F&O) of NCL states that a clearing member shall demand from his constituent the margin he has to provide under the Rules, Bye Laws and Regulations in respect of the business done by him for such constituent. In terms of clause 10.10 of NCL circular no. NCL/CMPT/55098 dated January 02, 2023, *"The initial and extreme*

*loss margin shall be payable upfront by the clearing members. Members are required to collect initial and extreme loss margins from their client/constituents on an upfront basis."*

Further, in line with the model CM-TM agreement given by NCL under "**Obligations of the Clearing Member**", "*The Clearing Member shall ensure that the Trading Member collects the margins from it / his constituents on such basis as may be prescribed by NCL from time to time*".

## 2.4 Modifications in the STP messaging formats on account of implementation of the Stamp Duty

Members' attention is drawn to Exchange Circular NSE/INSP/45900 dated September 30, 2020, wherein it was advised to incorporate stamp duty as a separate field in the Straight Through Processing (STP) system with effect from January 01, 2021 and accordingly, appropriate changes to the messaging standards were stipulated. It has come to notice of the Exchange that certain members have been issuing contract notes through Straight Through Processing (STP) system without inclusion of separate field for stamp duty or without providing stamp duty in the specified field. In view of the same, STP centralised hub, STP service providers and members are strictly advised to ensure the compliance of aforesaid clause.

In view of the above directives, the Custodians are advised to verify the stamp duty disclosures in the contract notes. In case, the contract notes issued does not contain the separate details of stamp duty, the Custodians are advised to request the Trading Member to make necessary changes in the contract notes.

## 2.5 Peak Margin Collection & Reporting

- Clearing Corporation shall send minimum 4 snapshots of client wise margin requirement to clearing /trading members for them to know the intraday margin requirement per trading member/custodial participant/client. The snapshots would be randomly taken in pre-defined time windows
- The margin requirements to be considered for the intra-day snapshots, shall be calculated based on the fixed Beginning of Day (BOD) margin parameters. The BOD margin parameters would include all SPAN margin parameters as well as ELM requirements
- The client wise margin file (MG-12/13) provided by Clearing Corporation to clearing /trading members shall contain the end of day margin requirements of the trading member/custodial participant/client as well as the peak margin requirement of the trading member/custodial participant/client, across each of the intra-day snapshots
- The clearing /trading members shall have to report the margin collected from each trading member/custodial participant/client, as at EOD and peak margin collected during the day

## 2.6 Daily reporting of Short-collection/Non-collection of client margin

In terms with various SEBI and NCL circulars, Members are required to collect margins (initial, exposure, net buy premium, minimum, additional margin etc.), mark to market losses from their client/constituents. It is mandatory for all clearing /trading members to report details of actual amount collected to the Clearing Corporation in accordance with the existing procedures and formats specified by NCL.

It is observed that some of the members report matched margins to the Clearing Corporation (i.e., the margin required to be collected from the client) rather than the actual collected margin. However, such reporting of margins by the members does not reflect the true picture of margins of clients with the members.

In view of the above inconsistency, the members are hereby directed to report the correct value of margins and mark to market losses etc. collected from the clients even if the amount collected is more than the requirement.

Members are requested to take note of the contents of the circular and ensure compliance failing which appropriate action would be taken against the member.

**REGULATORY REQUIREMENTS/ REFERENCES:**

1	Guidelines/ Clarification and FAQ on margin collection and reporting by members	SEBI/HO/MIRSD/DOP/CIR/P/2020/28 dated Feb 25, 2020, NSE circular no. NSE/INSP/43493 dated February 11, 2020, SEBI/HO/MIRSD/DOP/CIR/P/2020/88 dated May 25, 2020, NSE/INSP/44490 dated May 28, 2020, NCL Circular No. NCL/CMPL/44977 dated July 10, 2020, NSE/INSP/45191 dated July 31, 2020, SEBI/HO/MRD2/DCAP/CIR/P/2020/127 dated July 20, 2020, SEBI/HO/MIRSD/DOP/CIR/P/2020/143 dated July 29, 2020, Circular Ref. No: 47/2020 dated July 31, 2020, NSE/INSP/46302 dated Nov 06, 2020, NCL/CMPT/51658 dated March 17, 2022, SEBI circular SEBI/HO/MIRSD/MIRSD_DPIEA/P/CIR/2022/83 dated June 20, 2022, NCL/CMPT/61800 dated April 29, 2024
2	Daily Margin Statement Format	NSE/INSP/10367 dated February 28, 2008, NSE/INSP/10605 dated April 21, 2008, NSE/INSP/38154 dated June 27, 2018, NSE/INSP/43069 dated December 31, 2019, NSE/INSP/45191 dated July 31, 2020
3	Modifications in the STP messaging formats on account of implementation of the Stamp Duty	NSE/INSP/52257 dated May 10, 2022.
4	Peak Margin Collection & Reporting	SEBI circular No. SEBI/HO/MRD2/DCAP/CIR/P/2020/127 dated July 20, 2020
5	Daily reporting of Short-collection/Non-collection of client margin	NCL Circular No. NCL/CMPL/56624 dated May 5, 2023

**Item 3**  
**DEALINGS WITH CLIENTS**

**3.1 Handling of client funds & Securities**

Members shall note the following: -

- In order to protect clients' funds and securities and to ensure that the Stockbroker segregates securities or moneys of the client or clients and does not use the securities or moneys of a client or clients for self or for any other client
- All the securities received in pay-out, shall be transferred to the Demat account of the respective clients directly from the pool account of the TM/CM within one working day of the pay-out.
- With regard to the unpaid securities (i.e., the securities that have not been paid for in full by the clients), such securities shall be transferred to respective client's Demat account followed by creation of an auto-pledge (i.e., without any specific instruction from the client) with the reason "unpaid", **in favor of a separate account titled – "client unpaid securities pledgee account", which shall be opened by TM/CM.**
- After the creation of pledge, a communication (email / SMS) shall be sent by TM/CM informing the client about their funds obligation and also about the right of TM/CM to sell such securities in event of failure by client to fulfil their obligation.
- If the client fulfils its funds obligation within five trading days after the pay-out, TM/CM shall release the pledge so that the securities are available to the client as free balance.
- If the client does not fulfil its funds obligation, TM / CM shall dispose off such unpaid securities in the market within five trading days after the pay-out. TM/CM, before disposing the securities, shall give an intimation (email / SMS) to the client, one trading day before such sale.
- The unpaid securities shall be sold in the market with the Unique Client Code (UCC) of the respective client. Profit/loss on the sale transaction of the unpaid securities, if any, shall be transferred to/adjusted from the respective client account.
- TM / CM shall invoke the pledge only against the delivery obligation of the client. On invocation, the securities shall be blocked for early pay-in in the client's Demat account with a trail being maintained in the TM/CM's client unpaid securities pledgee account.
- Once such securities are blocked for early pay-in in client's Demat account, the depositories shall verify the block details against the client level obligation in accordance with the SEBI Circular No. SEBI/HO/MIRSD/DOP/P/CIR/2021/595 dated July 16, 2021 and SEBI/HO/MIRSD/DoP/P/CIR/2022/109 dated August 18, 2022.
- In case, such pledge is neither invoked nor released within seven trading days after the pay-out, the pledge on securities shall be auto released and the securities shall be available to the client as free balance without encumbrance.
- Such unpaid securities pledged in client's account shall not be considered for the margin obligations of the client.
- **All the existing "client unpaid securities accounts" shall be wound up on or before April 15, 2023.** The securities lying in such accounts shall either be disposed off in the market or be transferred to the client's Demat account by the TM/CM accordingly, failing which such accounts shall be frozen for debit and credit.

### 3.2 Discontinuation of acceptance of cash by Clearing Members

All payments shall be received / made by the clearing members from / to the clients strictly by account payee crossed cheques/ demand drafts or by way of direct credit into the bank account through electronic fund transfer, or any other mode permitted by the Reserve Bank of India. The clearing members shall accept cheques drawn only by the clients and issue cheques in favour of the clients only, for their transactions. Clearing members shall not accept cash from their clients either directly or by way of cash deposit to their bank account.

### 3.3 Clarification to the Rule 8(1)(f) and 8(3)(f) of Securities Contracts (Regulation) Rules, 1957

The Rule 8(1)(f) and Rule 8(3)(f) of Securities Contracts (Regulation) Rules, 1957 ("SCRR"), requires that members of the Clearing Corporation, except those provided under Rule 8 (8) of SCRR, shall not engage either as principal or employee, in any business, other than that of securities or commodity derivatives, except as a broker or agent, not involving any personal financial liability.

SEBI vide Circular No. SMD/Policy/Cir-6 dated May 07, 1997, had clarified, inter alia, that borrowing and lending of funds by a trading member/clearing member in connection with or incidental to or consequential upon the securities business would not be disqualified under rule/s 8(1)(f) and 8(3)(f) of Securities Contract (Regulations) Rules, 1957.

It was further clarified vide SEBI Circular No. CIR/MIRSD/4/2015 dated September 29, 2015, that business in goods related to the underlying" and/ or "business in connection with or incidental to or consequential to trades in commodity derivatives", by a member of a commodity derivatives exchange, would not be disqualified under Rule 8(1)(f) and Rule 8(3)(f) of the Securities Contract (Regulation) Rules, 1957

In consultation with SEBI and other Stock Exchanges, the illustrative list of activities that are construed as non-compliance to Rule 8(1)(f) and 8(3)(f) of SCRR, if undertaken by a member, are provided as below.

1. Issuing Corporate Guarantees towards credit facilities availed by any entity, including group companies such as subsidiaries & associates etc. of the Member, not in connection with or incidental to or consequential upon securities / commodity derivatives business, as applicable.
2. Deposit pledged with the bank for overdraft facilities availed by any entity, including the group companies such as subsidiaries & associates etc. of the Member, not in connection with or incidental to or consequential upon securities / commodity derivatives business, as applicable.
3. Borrowing of funds for the purpose of granting loans to its associates/ group companies or other entities.
4. Issuing commercial papers to raise money (except as permitted vide Exchange circular No: NSE/COMP/35521 dated August 03, 2017, for providing the margin trading facility) and funding it to any entity including group companies, not in connection with or incidental to or consequential upon securities business.



5. Engaging into activities/schemes of unauthorised collective investments/portfolio management, promising, or indicating fixed/guaranteed/regular returns/capital protection.
6. Entering any arrangement with clients to extend loans, financing the securities transactions directly/indirectly except as allowed for Margin Trading purposes.
7. Any arrangement with registered clients to borrow funds/loans.
8. Pledging of client securities with Bank/NBFC for raising funds.
9. Entering any arrangement for extending loans or giving deposits / advances to any entity, including group companies such as subsidiaries & associates etc., not in connection with or incidental to or consequential upon the securities/ commodity derivatives business
10. Investments made in group companies such as subsidiaries & associates etc., not in connection with or incidental to or consequential upon the securities/ commodity derivatives business. (Ex: Investment in companies engaged in other businesses such as NBFC, Real Estate etc.)
11. Entering into any arrangement/scheme for accepting securities from any client/ entity other than through approved Securities and Lending Borrowing mechanism into the own Demat account of the Stockbroker/director/shareholder/entity associated with Trading Member/Clearing Member.
12. Entering any arrangement/scheme and providing a platform to the clients for buying and selling of digital gold or any product not covered under the definition of securities as per SCRR.

The activities mentioned above are only illustrative in nature. On a case-to-case basis and based on the gravity of the violation, the relevant authority of the Clearing Corporation shall deal with such non-compliances after following the due process and providing the necessary opportunity to the trading members/clearing members for clarification in the matter.

Further, attention is also drawn to SEBI circular CIR/HO/MIRSD/DOP/CIR /P/2019/75 dated June 20, 2019 which states that clients' securities lying with the TM/CM cannot be pledged to the Banks/NBFCs for raising funds, even with authorization by client as the same would amount to fund based activity by TM/CM which is in contravention of Rule 8(1)(f) & 8(3)(f) of Securities Contracts (Regulation) Rules, 1957. In line with the same, members are advised to ensure the following:

- a) Members shall not be a party to any agreement or arrangement, directly or indirectly, entered into between their clients and any person including their subsidiary / holding company or group or associate company, to fund any secondary market transactions or margin requirements in respect of transactions executed by the trading members on behalf of their clients, or recognise or act in accordance with any such agreement or arrangement entered into by the members' clients with any person.
- b) Any financing arrangement with a general authorization by the clients are not permitted.



- c) Members shall not also otherwise finance or act as a conduit or front for financing any secondary market transactions entered by their clients, directly or indirectly except in accordance with the regulatory provisions of Margin Trading Facility and Securities Lending and Borrowing.
- d) Members shall not share transaction/obligation details of the clients with NBFC or any other lending institutions.
- e) Members shall not engage in cross-selling of lending products or open joint (2 in 1 type of) accounts in collaboration with NBFC or any other lending institutions.

### 3.4 Naming/Tagging of Demat accounts maintained by members

1. SEBI vide circular no. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 had mandated uniform nomenclature to be followed by stock brokers for Naming/Tagging of Bank and Demat Accounts to reflect the purpose for which those bank/Demat accounts are being maintained and the reporting of such accounts to the Stock Exchanges/Depositories.
2. Subsequently, vide circular no. CIR/HO/MIRSD/MIRSD2/CIR/P/2017/64 dated June 22, 2017, circular no. CIR/HO/MIRSD/DOP/CIR/P/2019/75 dated June 20, 2019, and circular no. SEBI/HO/MIRSD/DOP/CIR/P/2020/28 dated February 25, 2020, modifications to such naming/tagging of Demat accounts have been prescribed.
3. Thus, currently, members are required to maintain Demat accounts only under the following 5 categories:

S.No.	Demat Account Category	Purpose of Demat Account
1	Proprietary Account	Hold Own Securities
2	Pool account	Settlement Purpose
3	Client Unpaid Securities Account*	Hold Unpaid Securities of Clients (Up to April 15, 2023)
4	Client Securities Margin Pledge Account	For Margin obligations to be given by way of Pledge/ Re-pledge
5	Client Securities under Margin Funding Account	Hold funded securities in respect of margin funding

\*Replaced by Client unpaid securities pledgee account w.e.f. April 15, 2023, in accordance with circular no. NCL/CMPL/54601 dated November 25, 2022.

### 3.5 Guidelines for maintaining client & settlement bank accounts by Clearing Members

Clearing Corporation has observed that some of the Members are maintaining large number of bank accounts named as "Name of Clearing Member - Client Account" and "Name of Clearing Member - Settlement Account". As per Exchange circular NSE/INSP/44478 dated May 27, 2020, members are reporting the bank balance of all bank accounts to the exchange on weekly basis. For the purpose of ease of monitoring of such bank accounts, there is a need for restriction in the maximum number of client and settlement bank accounts to be maintained by members. Further, the restriction on maintenance of such bank accounts will also ease the reporting requirement of the members.

Accordingly, it has been decided that a member can maintain maximum of 30 bank accounts named as "Name of Clearing Member - Client Account" and "Name of Clearing Member - Settlement Account" across all segments and Clearing Corporations at a time.

Further, in case, member has more than 30 such bank accounts, then members are directed to close the excess bank accounts named as "Name of Clearing Member - Client Account" & "Name of Clearing Member - Settlement Account" by December 31, 2020.

**REGULATORY REQUIREMENTS/ REFERENCES:**

1	Handling of client funds and securities	SEBI circular SMD/SED/CIR/93/23321 dated November 18, 1993, , SEBI circular No. CIR/HO/MIRSD/DOP/CIR/P/2019/75 dated June 20, 2019, NSE/INSP/41359 dated June 20, 2019 , NSE/INSP/42052 dated September 04, 2019, NSE/INSP/47619 dated March 12, 2021, SEBI Circular No. SEBI/HO/MRD2_DCAP/CIR/2021/0598 dated July 20, 2021, NSE/INSP/49008 dated July 20, 2021, NSE/INSP/46729 dated December 18, 2020, SEBI Circular No: SEBI/HO/MIRSD/DOP/P/CIR/2021/59 dated July 16, 2021, SEBI Circular No. SEBI/HO/MIRSD/DoP/P/CIR/2022/109 dated August 18, 2022, SEBI Circular No : SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2022/153 dated November 11, 2022, NCL circular no. NCL/CMPL/54601 dated Nov 25, 2022.
2	Discontinuation of acceptance of cash by Stockbrokers	NSE/INSP/38322 dated July 13, 2018; SEBI/HO/MIRSD/DOP/CIR/P/2018/113 dated July 12, 2018
3	Illustrative list of activities that are construed as non-compliance to Rule 8(1)(f) and 8(3)(f) of SCRR	Rule 8(1)(f) and 8(3)(f) of Securities Contracts (Regulation) Rules, 1957, NSE/COMP/50957 dated January 07, 2022, NSE/COMP/53802 dated September 22, 2022 Circular no. NSE/INSP/2005/42, NSE/INSP/6938 Dated December 09, 2005, NSE/INSP/47278 dated February 09, 2021
4	Naming/Tagging of Demat accounts maintained by members	SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95dated September 26, 2016, CIR/HO/MIRSD/MIRSD2/CIR/P/2017/64 dated June 22, 2017, CIR/HO/MIRSD/DOP/CIR/P/2019/75 dated June 20, 2019, SEBI/HO/MIRSD/DOP/CIR/P/2020/28 dated February 25, 2020, SEBI/HO/MIRSD/MIRSD_DPIEA/P/CIR/2022/83 dated June 20, 2022
5	Guidelines for maintaining client and settlement bank accounts by clearing members	NCL/CMPL/46334 dated November 12, 2020, NCL/CMPL/46511 dated December 01, 2020

**Item 4****DEALINGS WITH INTERMEDIARIES / SELF DEALINGS****4.1 NISM Series VII – Securities Operation and Risk Management**

SEBI vide its notification no. LAD-NRO/GN/2010-11/21/29390 published in the Gazette of India on December 10, 2010, regarding the above subject matter notified that the members are required to comply with the requirements of the notification.

Accordingly, it is notified that with effect from the date of this notification, the following category of associated persons, i.e., persons associated with a registered stockbroker/trading member/clearing member in recognized stock exchanges, who are involved in, or deal with, any of the following, namely:

- a. Assets or funds of investors or clients,
- b. Redressal of investor grievances,
- c. Internal control or risk management, and
- d. Activities having a bearing on operational risk,

shall be required to have a valid certification from the National Institute of Securities Markets NISM by passing the NISM-Series-VII: Securities Operations and Risk Management Certification Examination as mentioned in the NISM communiqué/Press Release NISM/Certification/Series-VII: SORM/2010/01 dated November 11, 2010, read with Annexures-I and II thereto.

In view of the operational difficulties expressed by the Members, in consultation with SEBI and other Exchanges it has been decided that requirement of passing of NISM Series VII - Securities Operations and Risk Management Certification exam would be optional for associated persons handling the basic clerical/elementary functions in the above stated areas and whose work is supervised by NISM Series VII -Securities Operations and Risk Management Certification certified personnel.

The broad

indicative activities that can be classified as basic elementary level/clerical level are provided in the Annexure-A of the Circular.

Members should have a well-documented internal policy based on the above guidelines, approved by its Board. The adherence to the above shall be verified during the inspections and Internal Audits of the Members.

**4.2 NISM Series IIIA – Securities Intermediaries Compliance**

SEBI vide its notification no. LAD-NRO/GN/202-13/33/1103 published in the Gazette of India on March 11, 2013, notified about requisite certifications for compliance officers.

Accordingly, it is notified that with effect from the date of this notification, the associated persons functioning as compliance officers of intermediaries registered with the Board as stock brokers, or depository participants, or merchant bankers, or underwriters, or bankers to the Issue, or debenture trustees or credit rating agencies, shall obtain certification from the National Institute of Securities Markets hereinafter referred to as “NISM” by passing the NISM-Series-III A: Securities Intermediaries Compliance Non-Fund Certification Examination hereinafter referred to as “SICCE” as mentioned in the NISM communiqué No. NISM/Certification/Series-III A: SIC/2013/01 dated January 7, 2013.

Provided that an intermediary, who engages or employs any such associated persons functioning as compliance officer after the date of this notification, shall ensure that such person obtains certification by passing SICCE within one year from the date of his employment.

### 4.3 Guidelines on Outsourcing of Activities by Intermediaries

SEBI Regulations for various intermediaries require that they shall render at all times high standards of service and exercise due diligence and ensure proper care in their operations. It has been observed that often the intermediaries' resort to outsourcing with a view to reduce costs, and at times, for strategic reasons.

Outsourcing may be defined as the use of one or more than one third party – either within or outside the group - by a registered intermediary to perform the activities associated with services which the intermediary offers.

#### Principles for Outsourcing

The risks associated with outsourcing may be operational risk, reputational risk, legal risk, country risk, strategic risk, exit-strategy risk, counter party risk, concentration and systemic risk. In order to address the concerns arising from the outsourcing of activities by intermediaries, the principles for outsourcing by intermediaries have been framed which shall be followed by all intermediaries registered with SEBI.

#### PRINCIPLES FOR OUTSOURCING FOR INTERMEDIARIES

**1. An intermediary seeking to outsource activities shall have in place a comprehensive policy to guide the assessment of whether and how those activities can be appropriately outsourced. The Board / partners as the case may be {hereinafter referred to as the "the Board"} of the intermediary shall have the responsibility for the outsourcing policy and related overall responsibility for activities undertaken under that policy.**

1.1 The policy shall cover activities or the nature of activities that can be outsourced, the authorities who can approve outsourcing of such activities, and the selection of third party to whom it can be outsourced. For example, an activity shall not be outsourced if it would impair the supervisory authority's right to assess, or its ability to supervise the business of the intermediary. The policy shall be based on an evaluation of risk concentrations, limits on the acceptable overall level of outsourced activities, risks arising from outsourcing multiple activities to the same entity, etc.

1.2 The Board shall mandate a regular review of outsourcing policy for such activities in the wake of changing business environment. It shall also have overall responsibility for ensuring that all ongoing outsourcing decisions taken by the intermediary and the activities undertaken by the third-party, are in keeping with its outsourcing policy.

**2. The intermediary shall establish a comprehensive outsourcing risk management programme to address the outsourced activities and the relationship with the third party.**

2.1 An intermediary shall assess outsourcing risk which depends on several factors, including the scope and materiality of the outsourced activity, etc. The factors that could help in considering materiality in a risk management programme include:

2.2 While there shall not be any prohibition on a group entity / associate of the intermediary to act as the third party, systems shall be put in place to have an arm's length distance between the intermediary and the third party in terms

of infrastructure, manpower, decision-making, record keeping, etc. for avoidance of potential conflict of interests. Necessary disclosures in this regard shall be made as part of the contractual agreement. It shall be kept in mind that the risk management practices expected to be adopted by an intermediary while outsourcing to a related party or an associate would be identical to those followed while outsourcing to an unrelated party.

2.3 The records relating to all activities outsourced shall be preserved centrally so that the same is readily accessible for review by the Board of the intermediary and / or its senior management, as and when needed. Such records shall be regularly updated and may also form part of the corporate governance review by the management of the intermediary.

2.4 Regular reviews by internal or external auditors of the outsourcing policies, risk management system and requirements of the regulator shall be mandated by the Board wherever felt necessary. The intermediary shall review the financial and operational capabilities of the third party in order to assess its ability to continue to meet its outsourcing obligations

- a. The impact of failure of a third party to adequately perform the activity on the financial, reputational, and operational performance of the intermediary and on the investors / clients.
- b. Ability of the intermediary to cope up with the work, in case of non-performance or failure by a third party by having suitable back-up arrangements.
- c. Regulatory status of the third party, including its fitness and probity status.
- d. Situations involving conflict of interest between the intermediary and the third party, and the measures put in place by the intermediary to address such potential conflicts, etc.

**3 The intermediary shall ensure that outsourcing arrangements neither diminish its ability to fulfil its obligations to customers and regulators, nor impede effective supervision by the regulators.**

3.1 The intermediary shall be fully liable and accountable for the activities that are being outsourced to the same extent as if the service were provided in-house.

3.2 Outsourcing arrangements shall not affect the rights of an investor or client against the intermediary in any manner. The intermediary shall be liable to the investors for the loss incurred by them due to the failure of the third party and also be responsible for redressal of the grievances received from investors arising out of activities rendered by the third party.

3.3. The facilities / premises / data that are involved in carrying out the outsourced activity by the service provider shall be deemed to be those of the registered intermediary. The intermediary itself and Regulator or the persons authorized by it shall have the right to access the same at any point of time.

3.4 Outsourcing arrangements shall not impair the ability of SEBI/SRO or auditors to exercise its regulatory responsibilities such as supervision/inspection of the intermediary.

**4 The intermediary shall conduct appropriate due diligence in selecting the third party and in monitoring of its performance.**

4.1 It is important that the intermediary exercises due care, skill, and diligence in the selection of the third party to ensure that the third party has the ability and capacity to undertake the provision of the service effectively.

4.2 The due diligence undertaken by an intermediary shall include assessment of:



- a. third party's resources and capabilities, including financial soundness, to perform the outsourcing work within the timelines fixed.
- b. compatibility of the practices and systems of the third party with the intermediary's requirements and objectives.
- c. market feedback of the prospective third party's business reputation and track record of their services rendered in the past.
- d. level of concentration of the outsourced arrangements with a single third party; and
- e. the environment of the foreign country where the third party is located.

**5 Outsourcing relationships shall be governed by written contracts / agreements / terms and conditions as deemed appropriate {hereinafter referred to as "contract"} that clearly describe all material aspects of the outsourcing arrangement, including the rights, responsibilities and expectations of the parties to the contract, client confidentiality issues, termination procedures, etc.**

5.1 Outsourcing arrangements shall be governed by a clearly defined and legally binding written contract between the intermediary and each of the third parties, the nature and detail of which shall be appropriate to the materiality of the outsourced activity in relation to the ongoing business of the intermediary.

5.2 Care shall be taken to ensure that the outsourcing contract:

- a. clearly defines what activities are going to be outsourced, including appropriate service and performance levels.
- b. provides for mutual rights, obligations, and responsibilities of the intermediary and the third party, including indemnity by the parties.
- c. provides for the liability of the third party to the intermediary for unsatisfactory performance/other breach of the contract
- d. provides for the continuous monitoring and assessment by the intermediary of the third party so that any necessary corrective measures can be taken up immediately, i.e., the contract shall enable the intermediary to retain an appropriate level of control over the outsourcing and the right to intervene with appropriate measures to meet legal and regulatory obligations.
- e. includes, where necessary, conditions of sub-contracting by the third-party, i.e., the contract shall enable intermediary to maintain a similar control over the risks when a third party outsources to further third parties as in the original direct outsourcing.
- f. has unambiguous confidentiality clauses to ensure protection of proprietary and customer data during the tenure of the contract and also after the expiry of the contract.
- g. specifies the responsibilities of the third party with respect to the IT security and contingency plans, insurance cover, business continuity and disaster recovery plans, force majeure clause, etc.
- h. provides for preservation of the documents and data by third party.
- i. provides for the mechanisms to resolve disputes arising from implementation of the outsourcing contract.
- j. provides for termination of the contract, termination rights, transfer of information and exit strategies.
- k. addresses additional issues arising from country risks and potential obstacles in exercising oversight and management of the arrangements when intermediary outsources its activities to foreign third party. For example, the contract shall include choice-of-law provisions and agreement covenants and jurisdictional covenants that provide for adjudication of disputes between the parties under the laws of a specific jurisdiction.
- l. neither prevents nor impedes the intermediary from meeting its respective regulatory obligations, nor the regulator from exercising its regulatory powers; and



m. provides for the intermediary and /or the regulator or the persons authorized by it to have the ability to inspect, access all books, records, and information relevant to the outsourced activity with the third party.

**6. The intermediary and its third parties shall establish and maintain contingency plans, including a plan for disaster recovery and periodic testing of backup facilities.**

6.1 Specific contingency plans shall be separately developed for each outsourcing arrangement, as is done in individual business lines.

6.2 An intermediary shall take appropriate steps to assess and address the potential consequence of a business disruption or other problems at the third-party level. Notably, it shall consider contingency plans at the third party; co-ordination of contingency plans at both the intermediary and the third party; and contingency plans of the intermediary in the event of non-performance by the third party.

6.3 To ensure business continuity, robust information technology security is a necessity. A breakdown in the IT capacity may impair the ability of the intermediary to fulfil its obligations to other market participants/clients/regulators and could undermine the privacy interests of its customers, harm the intermediary's reputation, and may ultimately impact on its overall operational risk profile. Intermediaries shall, therefore, seek to ensure that third party maintains appropriate IT security and robust disaster recovery capabilities.

6.4 Periodic tests of the critical security procedures and systems and review of the backup facilities shall be undertaken by the intermediary to confirm the adequacy of the third party's systems.

**7 The intermediary shall take appropriate steps to require that third parties protect confidential information of both the intermediary and its customers from intentional or inadvertent disclosure to unauthorised persons.**

7.1 An intermediary that engages in outsourcing is expected to take appropriate steps to protect its proprietary and confidential customer information and ensure that it is not misused or misappropriated.

7.2 The intermediary shall prevail upon the third party to ensure that the employees of the third party have limited access to the data handled and only on a "need to know" basis and the third party shall have adequate checks and balances to ensure the same.

7.3 In cases where the third party is providing similar services to multiple entities, the intermediary shall ensure that adequate care is taken by the third party to build safeguards for data security and confidentiality.

**8 Potential risks posed where the outsourced activities of multiple intermediaries are concentrated with a limited number of third parties.**

In instances, where the third-party acts as an outsourcing agent for multiple intermediaries, it is the duty of the third party and the intermediary to ensure that strong safeguards are put in place so that there is no co-mingling of information /documents, records, and assets.

**REGULATORY REQUIREMENTS/ REFERENCES:**

1	Notification under regulation 3 of the Securities and Exchange board of India Certification of Associated Persons in the Securities Markets Regulations, 2007	SEBI notification no. LAD- NRO/GN/2010- 11/21/29390 dated December 10, 2010, SEBI notification no. LAD-NRO/GN/202-13/33/1103 dated March 11, 2013; NSE/INSP/55251; Circular Refn.: 04/2023 dated January 13, 2023
2	Guidelines on Outsourcing of Activities by Intermediaries	SEBI Circular No. CIR/MIRSD/24/2011 dated December 15, 2011; NSE/INSP/19603; Circular Refn.: 127/2011 dated December 15, 2011

Item 5**BOOKS OF ACCOUNTS AND OTHER DOCUMENTS****5.1 Maintenance of books of accounts and other documents / Preservation of records**

Every clearing member shall preserve the books of account and other records maintained under regulation 8.1, 8.2 & 8.3 of clearing corporation (F & O segment) for a minimum period of five years. In case such documents are maintained in electronic form, provisions of Information Technology Act, 2000 in this regard shall be complied with.

It has been noticed that enforcement agencies like CBI, Police, crime Branch etc. have been collecting copies of the various records/documents during their investigation. The originals of such documents maintained either in physical or in electronic form or in both would be required by such enforcement agencies during trial of the case also. In view of the above, it is clarified that if a copy is taken by such enforcement agency either from physical or electronic record then the respective original is to be maintained till the trial or investigation proceedings have concluded.

**5.2 Maintenance of Register of Securities, Holding Statement, Bank Book, & Client Ledger**

Every clearing member shall maintain the documents such as Register of Securities, Holding Statement, Bank Book & Client Ledger. Members may note that non-maintenance of **client-wise, security-wise** Register of Securities is a violation of the provisions of the Securities Contracts Regulation Rules 1957 and the Regulations of the Exchange and will be viewed seriously.

**REGULATORY REQUIREMENTS/ REFERENCES:**

1	Maintenance of books of accounts and other documents / Preservation of records	Regulation 8.1, 8.2 & 8.3 of clearing corporation (F & O segment), NSE/INSP/6991, Dated: 26th December 2005 and SEBI circular MRD/Dop/SE/CIR-21/2009 dated December 09, 2009, NSE/INSP/13701, Exchange Circular No. NSE/INSP/2009/87 dated 16th December 2009
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**Item 6****COMPLIANCE SUBMISSIONS AND REQUIREMENTS****6.1 Reporting of Trading Member-wise, client-wise Collateral details by Clearing Members**

Member's attention is drawn towards circular Ref No: NCL/COMP/41068 dated May 20, 2019, NCL/COMP/41500 dated July 03, 2019, NCL/CMPL/43201 dated January 10, 2020, and NCL/CMPL/46450 dated November 25, 2020 requiring upload of Trading Member-wise / Custodial Participant wise collateral details by Clearing Member.

It is clarified that clearing members who are registered with multiple clearing corporations i.e. registered with more than one equity or commodity clearing corporation are required to report the collaterals which is available with respective clearing corporation only instead of aggregated collateral across all clearing corporations. Collaterals lying with other clearing corporations should be reported to the respective clearing corporations with whom the same is available e.g. a clearing member is clearing through NCL in one segment and ICCL in another segment is required to upload collateral available with NCL to NCL only and collateral available with ICCL to ICCL only instead of reporting aggregated value of collateral across NCL & ICCL to both NCL and ICCL.

The aforesaid is applicable for the reporting for week ended November 13, 2021 onwards.

**6.2 Segregation and Monitoring of Collateral at Client Level**

- Clearing Members are required to upload the data as sought in the format to NCL daily. Further, it is clarified that clearing members who are registered with multiple clearing corporations i.e., registered with more than one equity or commodity clearing corporation are required to report the collaterals which is available with respective clearing corporation only instead of aggregated collateral across all clearing corporations. Collaterals lying with other clearing corporations should be reported to the respective clearing corporations with whom the same is available e.g., a clearing member is clearing through NCL in one segment and ICCL in another segment, such clearing member is required to upload collateral available with NCL to NCL only and collateral available with ICCL to ICCL only instead of reporting aggregated value of collateral across NCL & ICCL to both NCL and ICCL. Members are also additionally required to include NIL holding or Zero balance clients in the daily Collateral Segregation reporting. It may be noted that members are not required to upload data for clients with zero balance / NIL holding who have not traded in last 12 months.

In consultation with other Clearing Corporations and SEBI, penalty structure as mentioned below, shall be applicable for the irregularities observed with respect to the daily collateral reporting by the Clearing members as defined under NCL/CMPL/50662 dated December 17, 2021.

Further, members may please note that cut off time for reporting of client collateral segregation data is 11:59:59 hours on T+1 day, refer to NCL circular NCL/CMPL/ 56655 dated May 09, 2023 in this regards.

**Violation 1: Non reporting of data**

Period	Applicable penalty
From December 16, 2021 till March 31, 2022	Collateral reporting is not done by the CM for clients where there exists collateral with the CC/CM/TM In such case, penalty of 0.1% on the amount of margin reported shall be applicable.  For this purpose, EOD margin reported, or peak margin reported, whichever is higher shall be considered.
From April 1, 2022 onwards	Collateral reporting is not done by the CM for clients where there exists collateral with the CC/CM/TM In such case penalty of 0.5% on the amount of margin reported shall be applicable.  For this purpose, EOD margin reported or peak margin reported, whichever is higher shall be considered.

**Violation 2: Incorrect data reporting (checked during inspection)**

% of the violation in the current inspection (Proportion of the instances with false reporting to the Total sample instances verified)	Penalty As A Percentage (%) Of The False Reporting			
	Observed only in current Inspection	Observed only in 1 out of 3 previous Inspections in addition to the current Inspection	Observed in 2 out of 3 previous inspections in addition to the current Inspection	Observed in all the previous 3 Inspections in addition to the current Inspection
Above 50%	50%	60%	75%	100%
25%-50%	25%	50%	60%	75%
10%-25%	10%	25%	50%	60%
Less than 10%	5%	10%	25%	50%

Along with the monetary penalty, the Member may also be subjected to suspension for one day in the respective segment in case of material instances. The false reporting shall be treated as material for the purpose of suspension, if it meets all the following broad criteria:-

1. Instances of false reporting is more than 5% of the instances verified (minimum 3 instances) during inspection, and
2. Percentage of value of false reporting is more than 5% of total margin required to be collected for the instances verified during inspection, and

3. Value of false reporting of margin is more than Rs. 15 lakhs.

- With reference to SEBI circular SEBI/HO/MRD2\_DCAP/CIR/2021/0598 dated July 20, 2021 and further to NCL circular nos. NCL/CMPL/49348 dated August 20, 2021, NCL/CMPL/49640 dated September 17, 2021 and NCL/CMPL/49764 dated September 29, 2021 regarding Segregation and Monitoring of Collateral at Client Level.

The aforementioned NCL circulars required members, who are exempted from reporting, to provide declaration to NCL on daily basis.

In order to ease out the compliance of the members, it has been decided to discontinue the requirement of the aforesaid declaration on a daily basis for members who are exempted from reporting.

Accordingly, the last submission of daily declaration shall be done by such members for trade date November 23, 2023 for which due date shall be on or before November 24, 2023.

It may further be noted that if members do not fall into the category of “Exempted from Reporting” at any point of time, the reporting of segregation of client collateral shall be applicable in terms of the prescribed guidelines and format.

#### **Facility for viewing of penalties at NCL**

NCL has also introduced a new functionality “Penalties at NCL” menu on member portal where details of penalties levied by various departments of NCL are being made available. Under the “Penalties at NCL” menu members can view the following penalties levied by NCL:

1. Penalty for Non-Submission
2. Penalty for Modification and Delayed Submission
3. Penalty for Client Margin/Short Allocation

The steps to view the penalty on member portal have been detailed in NCL circular NCL/CMPL/60552 dated February 05, 2024.

In the event of any discrepancy or clarification related to penalty or review of penalty, Clearing members are advised to reach out to NCL within 7 working days from the date of penalty being made available and the details have been mentioned in the NCL circular NCL/CMPL/58063 dated August 23, 2023

Members can submit review requests for the following penalties via member portal:

1. Penalty for Non-Submission
2. Penalty for Modification and Delayed Submission
3. Penalty for Client Margin/Short Allocation

The user manual to submit review requests is enclosed as Annexure 1 of NCL circular NCL/CMPL/ 60651 dated February 12, 2024.



### 6.3 Guidelines for allocation of collateral

SEBI circular no. SEBI/HO/MRD2\_DCAP/CIR/2021/0598 dated July 20, 2021, mandates that -

- (i) The amount of collateral allocated shall not exceed the amount of collateral received by the TM/CM from the client and reported as such under the reporting mechanism
- (ii) The allocation of collateral at CC shall not be lower than the amount of collateral (except securities collateral re-pledged to CC) reported as having been passed on by the CM to the CC, Client collateral data that is reported by the members is being validated with that of allocation details at EOD.

Discrepancies observed between reporting and allocation of collateral data with regards to the aforesaid checks (i & ii above) are made available on the member portal (ENIT) under allocation mismatch details.

User manual to view and download the reports is enclosed as Annexure 1 to NCL circular no. NCL/CMPL/53287 dated August 12, 2022

This is further to NCL circular NCL/CMPL/53287 dated August 12, 2022, wherein discrepancies observed between reporting and allocation of collateral data are made available on the member portal (ENIT).

Members may please note that the following reports are being made available under menu option “Allocation Mismatch Details”

- Band Mismatch report – Discrepancy in either Lower Band or Upper Band
- Unmatched Collateral Report – Client Collateral reported as “Passed on to NCL” but Allocation not done.
- Unmatched Allocation- Collateral allocated for client but Collateral reporting not done for the client.

The user manual to view and download the reports is enclosed as Annexure 1 of NCL/CMPL/54389 dated November 11, 2022

### 6.4 Guidelines to Clearing Members for effective oversight over trading members cleared by Clearing Members – Clarification

NSE Clearing Ltd. in consultation with other Clearing Corporations and SEBI has come out with certain norms for strengthening of oversight on the Clearing Members. The same is enclosed below -

The model CM-TM agreement provides rights to the Clearing Members to call for information from and inspect the trading members. The following guidelines are issued to CMs for effective oversight over TMs cleared by CM:

- a. Monitoring payin timelines by the TMs CM should monitor the payin timelines by the TM and regular delayed receipt of payins/ repeated instances of shortfalls be dealt with in accordance with the Risk Management Policy of the Clearing Member
- b. Monitoring penalties levied to clients of the Trading Members:

The CM should analyse the data of the Trading Members such as repeated instances of penalties being levied to the clients of TM for client margin reporting.

c. Seeking data of debit balances of Trading Member's clients

CM should seek data with respect to debit balances of clients from Trading Member and review the exposure allowed by the TM and direct the TM to restrict / reduce exposure for such clients.

d. Monitoring misuse of client collaterals by TM for proprietary trading

The CM should ensure that the TM does not commingle client collateral with the proprietary collateral and that it provides separate collaterals for proprietary positions out of own funds only and not from the client collaterals. The inspection of TM should cover this aspect.

e. Correctness of data submitted by TMs to CM

TMs submit various data to the CM, which may be submitted by the CM to Exchange/CC. The CM should assess the correctness of the data submitted by the TMs to CM.

f. Inspection of TMs

It is recommended that the CM carry out inspections of Trading Members, covering atleast 1/3rd of the TMs cleared by it each year in order to cover all TMs over a period of 3 years. Additionally, CM may also conduct surprise inspection based on any rumours / adverse news in the media about the TM or any other concern/ alerts as arising out of the above points by the CM during the course of business.

g. Formation of Risk Management Committee / Board Approved Committee for monitoring the risks

The CMs should be required to form a Risk Management Committee / Board Approved Committee to monitor the various risks in the business. A periodic report (monthly or atleast quarterly) for the TMs for which it has undertaken the clearing activity should be submitted to such Committee.

h. Reporting of alerts by Clearing Members:

Clearing Members should be reporting the concerns identified by them during the oversight over Trading Members to the concerned Clearing Corporation, which in turn would report the same to the concerned Exchange for further action.

i. Internal Audit of Clearing Members:

NCL has along with other Clearing Corporations (ICCL and MCCIL) introduced a requirement for Clearing Members to adopt a Risk Management Policy duly approved by the Board / Board Approved Committee in July 2020. It has been mandated that the Risk Management Policy of Clearing Members should cover mandatorily the following points:

i. Internal escalation matrix with respect to non-compliances / defaults by TMs/CPs

ii. Performance evaluation process of TMs/CPs registered with the CMs including its periodicity

iii. Seeking data information from TMs/CPs in the event of repeated cases of shortfall in margins / margins on Consolidated Crystallised Obligation or governance issues

iv. Procedures for segregation of TM proprietary and Client collaterals

v. Inspection of TMs

- vi. Upper Cap for acceptance of securities from a member and / or across all members in absolute terms and / or on an overall basis to avoid concentration risk
- vii. List of banks from which FDRs and BGs shall be accepted
- viii. List of securities that shall be accepted as collaterals
- ix. Components of cash collateral and non-cash collateral
- x. Ratio of Cash and Non-cash component of collateral
- xi. Haircut percentage for all types of collaterals other than Cash, FDRs and BGs.
- xii. Securities subject to a minimum of VAR and other collateral shall be subject to minimum haircut of 10%
- xiii. Timelines and threshold limits beyond which action such as square off of positions shall be undertaken by CM for non-payment of margins on Consolidated Crystallised Obligation by the TMs/CPs.

The Clearing Members shall submit an internal audit report, providing compliance to on all the above points (a to i). Additionally, the internal audit report should cover the following points:

- i. Confirmation on reporting of TM/CP level fund shortfall beyond Rs 5 lacs to CC as per the timelines prescribed by CC
- ii. Invocation of pledged securities by the Clearing Member was carried out only in respect of debit balance clients

The Internal Audit shall be conducted only by independent qualified Chartered Accountants or Company Secretaries or Cost & Management Accountants who are in practice and do not have any interest in or relation with the Member other than the Internal Audit assignment. The report shall be submitted on half yearly basis for April to September and October to March, within 2 months from the end of the half year. The points referred herein above can be clubbed with the half yearly internal audit report submitted by the Members.

This is in continuation of NCL circular NCL/CMPL/49287 dated August 13, 2021, on Strengthening oversight on Clearing Members. It is hereby further clarified that in order to comply with the requirements given in clause d, e and f of the Annexure 1 of the above referred circular, the Clearing Members (CM) may place reliance on an internal audit report submitted by the Trading Member (TM), on a quarterly basis to the Clearing Member.

The indicative scope of internal audit/checklist has been enclosed as Annexure 1. It is hereby further clarified that such internal audit may be carried out by independent qualified Chartered Accountants or Company Secretaries or Cost & Management Accountants who are in practice and do not have any interest in or relation with the Trading Member other than the Internal Audit assignment and who qualify with the eligibility criteria as prescribed vide NSE circular no. 60/2021 dated December 13, 2021 (NSE/INSP/50574).

It is further clarified that the Clearing Member may place reliance on half yearly internal audit report submitted by Trading Members to the Exchange and relevant extract shared with the Clearing Member.

The CM shall review the internal audit report and observations, if any and submit the periodic reports to its Risk Management Committee.

The CM may conduct surprise inspection of TM cleared by him based on any rumours / adverse news in the media about the TM or any other concern/ alerts as arising out of the above points by the CM during the course of business.

The CM should continue to report the concerns identified by them during the oversight over Trading Members to the concerned Clearing Corporation.

### 6.5 Discontinuation of Reporting of Bank Account Balances

This is further to circular no. NCL/CMPL/47241 dated February 04, 2021 regarding reporting of bank account balances (weekly basis) and circular no. NCL/CMPL/55352 dated January 24, 2023 on daily submissions of bank balances by clearing members.

We also refer to Exchange circular no. NSE/INSP/59044 dated October 20, 2023 on Discontinuation of Reporting of Bank Account Balances and Bank Statements. In order to ease out the compliance burden of the members, it has been decided to discontinue the aforesaid requirement of reporting of bank account balances and accordingly period of last submission which would be applicable to member for daily bank balance reporting shall be October 28, 2023.

### 6.6 Undertaking/Authorisation to Stock Exchanges and NSE Clearing Limited to access the information/statements pertaining to all bank accounts (maintained by the members) from Banks

With a view to enhance the level of monitoring over client funds, Members' attention is drawn to NSE circular bearing reference no. NSE/INSP/46822 dated December 28, 2020 and BSE Notice No 20201229-32 dated December 29, 2020 wherein members are required to submit Undertaking/Authorisation to NSE/BSE to access the information/statements pertaining to all bank accounts (maintained by members) from Banks. Stock Exchanges have decided to seek information/statements pertaining to all Bank accounts maintained by members directly from Bank or through a financial technology solution provider authorised by the Exchanges.

NSE Clearing Ltd. has therefore decided to seek an undertaking from the members, authorising Exchanges and NSE Clearing Ltd. to instruct the bank(s) of the members to seek any information/statements pertaining to all bank accounts (maintained by members) directly from the Bank or through a financial technology solution provider authorised by Stock Exchanges and/or NSE Clearing Ltd. The format of the undertaking/authorisation is attached as Annexure A of NCL/CMPL/47228 dated February 04, 2021.

Trading cum Clearing/Self-Clearing Members who have already submitted the Undertaking/Authorisation for all their existing bank accounts to Stock Exchanges, are not required to re-submit the same. The procedure for submitting the aforesaid information through the inspection module of the Member portal is enclosed as Annexure B of NCL/CMPL/47228 dated February 04, 2021.

Further, members are advised to keep the Bank/s appropriately notified of the said authorisation to enable them to honour the instructions received in this regard. Members shall submit updated/ fresh undertaking/authorisation to the Stock Exchanges and NSE Clearing Ltd. within seven working days of opening of any new bank account.

Accordingly, all members are advised to submit the said authorisation on or before February 12, 2021.

## 6.7 Submission of undertaking pursuant to Standard Operating Procedure in the cases of Clearing Member leading to default

All members are advised to provide:

- 1 A list of all its bank accounts.
- 2 An undertaking enabling the Exchange/CC to instruct the bank(s) of the members to freeze the bank account(s) for debits in the cases of Trading member/Clearing Member leading to default.

Accordingly, all members are advised to submit the said undertaking on or before the due date i.e., September 30, 2020, as per the below details. The format of undertaking is attached as Annexure A to NCL circular no. NCL/CMPL/45608 dated September 08, 2020

Entity Type	Undertaking to be addressed to	Undertaking to be submitted
Self-Clearing Member/Trading Member cum Clearing Member	Exchange & Clearing Corporation	Exchange (As per Annexure B)
Professional Clearing Member	Clearing Corporation	Exchange (As per Annexure B)

The procedure for submitting the aforesaid information through the inspection module of the Member portal is enclosed as Annexure B to NCL circular no. NCL/CMPL/45608 dated September 08, 2020

Further, members are requested to note that for all new bank accounts, members are required to submit the additional undertaking within seven days of the opening of the account through the inspection module.

## 6.8 Guidelines on Compliance Officers

As per Regulation 18A of SEBI (Stockbroker) Regulation, 1992, all the registered Members of the Clearing Corporation are required to appoint a Compliance Officer who shall be responsible for monitoring the compliance relating to the Act, rules and regulations, notifications, guidelines, instructions, etc., issued by SEBI or Central Government or Exchanges for redressal of investors' grievances.

## 6.9 Bank Guarantees (BGs) created out of clients' funds

SEBI vide circular no. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/061 dated April 25, 2023 had provided the measures in order to safeguard the interests of the investors with respect to Bank Guarantees (BGs) created out of clients' funds. The same is given below:

1. Currently Stock Brokers (SBs)/ Clearing Members (CMs) pledge client's funds with Banks which in turn issue Bank Guarantees (BGs) to clearing corporations for higher amounts. This implicit leverage exposes the market and especially the



client's funds to risks. Pursuant to discussions with various stakeholders, it has been decided to implement the following measures in order to safeguard the interests of the investors: -

a. Beginning May 01, 2023, no new BGs shall be created out of clients' funds by SBs/CMs.

b. Existing BGs created out of clients' funds shall be wound down by September 30, 2023.

2. The provisions of this framework shall not be applicable for proprietary funds of SBs/CMs in any segment and SB's proprietary funds deposited with CM in the capacity of a client.

Monitoring and reporting:

3. The stock exchanges and clearing corporations shall take stock of the current position of the BGs issued out of clients' funds by SBs/CMs and monitor the wind down to ensure implementation of the circular without any disruption of services to clients. For the purpose, stock exchanges and clearing corporations shall put in place periodic reporting mechanisms for SBs/CMs.

4. Stock exchanges and clearing corporations are directed to submit the following data to SEBI on fortnightly basis (starting from June 01, 2023):

Collateral data as on <Date> at <Name of the clearing corporation>				
Name of the SB/CM	Nature of the entity (SB/CM/SCM)	Total BG amount as collateral	Total BG amount (out of clients' funds) as collateral	Total BG amount (out of prop funds) as collateral

5. SBs/CMs shall be required to provide a certificate, by its statutory auditor confirming the implementation of this circular. Such a certificate shall be submitted to stock exchanges/clearing corporations by October 16, 2023.

6. Stock exchanges and clearing corporations shall verify the compliance of the provisions of the circular in their periodic inspections/reporting. They shall also evolve adequate mechanisms to address cases of SBs/CMs who do not comply with the provisions of the circular by the stipulated dates.

7. Given the implementation of the above measures, the provisions of following SEBI circulars shall stand modified to the extent as stated hereinabove:

a. SEBI circular MRD/DoP/SE/CIR-11/2008 dated April 17, 2008 on 'Collateral deposited by clients with SBs';

b. SEBI circular MIRSD/ SE /Cir-19/2009 dated December 03, 2009 on 'Dealings between a client and a stock broker';

c. SEBI circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 on 'Enhanced supervision of stock brokers/depository participants';



d. SEBI circular no. SEBI/HO/MIRSD/DOP/CIR/P/2020/28 dated February 25, 2020 on 'Margin obligations to be given by way of pledge/ re-pledge in the depository System';

e. SEBI circular SEBI/HO/MIRSD/DPIEA/CIR/P/2020/115 dated July 01, 2020 on 'Standard Operating Procedure in the cases of Trading Member / Clearing Member leading to default'; and

f. SEBI circular SEBI/HO/MRD2\_DCAP/CIR/2021/0598 dated July 20, 2021 on 'Segregation and monitoring of collateral at client level'.

8. The stock exchanges and clearing corporations are directed to:

a. bring the provisions of this circular to the notice of stock brokers and clearing members, as the case may be, and also disseminate the same on their websites;

b. make amendments to the relevant bye-laws, rules and regulations for the implementation of the above provisions;

c. communicate to SEBI, the status of the implementation of the provisions of this circular in their monthly development report.

9. This circular is issued in exercise of powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992, to protect the interests of investors in securities and to promote the development of, and to regulate the securities markets.

#### **6.10 Upstreaming of clients' funds by Stock Brokers (SBs) / Clearing Members (CMs) to Clearing Corporations (CCs)**

1. SEBI vide Circular No. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/84 dated June 08, 2023 has specified the framework for upstreaming of clients' funds by SBs/CMs to CCs

2. Subsequently, vide circular No. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/110 dated June 30, 2023, modifications have been prescribed.

3. To address operation difficulties SEBI vide circular No. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/187 dated December 12, 2023, revised framework has been prescribed. The same is given below:

1. With a view to safeguard clients' funds placed with Stock Brokers (SBs) / Clearing Members (CMs), SEBI, vide circular no. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/084 dated June 08, 2023, and vide circular no. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/110 dated June 30, 2023 (collectively hereinafter referred to as "June Circulars"), had specified the framework requiring SB/CMs to upstream (i.e. placed with) clients' funds to CCs.

2. Representations have been received from various stakeholders viz. stock brokers, and Brokers' associations citing certain operational difficulties in implementation. In order to address the issue, SEBI advised the industry associations to consult

with MII under the aegis of Broker's Industry Standards Forum (ISF) and submit a proposal to SEBI so that the principle of upstreaming is complied with and operational difficulties are suitably addressed.

3. The recommendations made by ISF have been considered by SEBI and accordingly as a step towards ease of doing business, the revised framework is specified below.

4. Principle: SBs/CMs shall upstream all the clients' clear credit balances to CCs on End of Day (EOD) basis. Such upstreaming shall be done only in the form of either cash, lien on Fixed Deposit Receipts (FDRs) created out of clients' funds, or pledge of units of Mutual Fund Overnight Schemes (MFOS) created out of clients' funds.

A. Receipt/payment of funds by SBs and CMs from/to their clients:

I. Clause 15.3.2.1 of SEBI's "Master Circular on Stock Brokers" dated May 17, 2023 mandates stock brokers to maintain designated client bank account(s) ("Name of SB/CM - Client Account") to receive/pay funds from/to their clients. The nomenclature of all such accounts shall be changed to either of the following two categories of bank accounts:

a. Up Streaming Client Nodal Bank Account (USCNBA): SB/CM shall receive clients' funds in USCNBA. The nomenclature for such accounts shall be "Name of the SB/CM – USCNB account".

b. Down Streaming Client Nodal Bank Account (DSCNBA): Payment to clients shall be done only from DSCNBA account. The nomenclature for such accounts shall be "Name of the SB/CM – DSCNB account".

II. In addition, CMs, who clear trades for other SBs, shall only use the designated bank account(s) maintained with the nomenclature "Name of the CM – TM prop account" to receive/pay proprietary funds from/to stock brokers.

III. Payment to Clients: The clients may request SBs/CMs to release funds at any time during the day. The processing of such release requests shall be as per respective risk management practices of SB/CMs. All payment requests of the client received on a day shall be processed on or before the next settlement day. In cases, where the payment request is not processed on the same day, SB/CMs need to ensure that the funds of the client are placed with CC in terms of this circular.

B. Upstreaming via FDRs created out of clients' funds:

I. FDRs created out of clients' funds by SBs/CMs shall satisfy the following conditions:

a. The FDR shall be created only with banks which satisfy the CC's exposure norms as specified by CCs/SEBI from time to time.

b. FDRs shall be created only from 'Up Streaming Client Nodal Bank Account (USCNBA)'.

c. Such FDRs shall necessarily be lien-marked to one of the CCs at all times, and CCs shall have explicit precedence on the FDR funds over every other stakeholder, including over the bank providing the FDR.

d. The tenor of such FDRs shall not be more than one year and one day; and the FDRs should be pre-terminable on demand.

e. The principal amount of the FDR shall remain protected throughout the tenure, even after accounting for all possible pre-termination costs.

f. SBs/CMs shall not avail any funded or non-funded banking facilities based on FDRs created out of clients' funds.

II. It is clarified that existing FDRs (created out of clients' funds and having tenor of more than one-year) created prior to June 30, 2023 shall be allowed to be grandfathered till maturity. Such FDRs at the time of renewal shall meet the conditions specified at clause 4.B.I of the circular.

C. Upstreaming via pledge of units of Mutual Fund Overnight Schemes (MFOS):

I. Units of Mutual Fund Overnight Schemes (MFOS) is a new avenue being made available to SBs/ CMs to deploy client funds into. MFOS ensures minimal risk transformation of client funds (that are withdrawable on demand) available with SBs/ CMs because of overnight tenure and exposure to only risk-free government securities.

II. SBs/CMs shall ensure that client funds are invested only in such MFOS that deploy funds into risk-free government bond overnight repo markets and overnight Tri-party Repo Dealing and Settlement (TREPS). Such MFOS units should be in dematerialized (demat) form, and must necessarily be pledged with a CC at all times.

III. SBs/CMs shall maintain a dedicated demat account (hereinafter referred to as "Client Nodal MFOS Account") for subscription/ redemption of MFOS units. The depositories shall allow subscription/redemption transactions only in the said account.

IV. From "Client Nodal MFOS Account", SBs/CMs shall provide MFOS units as collateral to the CC. While providing the units as collateral, SBs/CMs shall identify the end clients. In order to implement the same, a pledge shall be created from the Client Nodal MFOS account to SB/CM margin pledge account of the SB/CM. The SB/CM shall further repledge the same to CC using the existing pledge re-pledge mechanism.

V. Clause 15.3.2.3 of SEBI's "Master Circular on Stock Brokers" dated May 17, 2023 mandates stock brokers to maintain demat accounts under 5 defined categories. The said clause of master circular is being modified to include 'Client Nodal MFOS Account' as sixth category of permissible demat account that can be maintained by stock brokers.

5. To improve operational efficiency and reduce transaction costs, CCs shall build a mechanism for utilization of surplus unutilized collateral (i.e. collateral in excess of margin blocked) lying with CC in cash form, towards fund pay-in requirements across segments.

6. Further, to improve operational efficiency and to reduce costs, CCs shall also facilitate a mechanism to adjust the margin blocked in the form of cash, towards client fund pay-in obligations. As CCs are in the process of evolving such a mechanism since issuance of June Circulars, the same shall be made available by January 01, 2024.

Eligibility of bank instruments as collateral:

7. The bank instruments provided by clients as collateral (i.e. client FDRs and BGs) cannot be upstreamed to CCs, and they shall be ineligible to be accepted as collateral in any segment of securities market.
8. However, in the interest of encouraging and development of hedging in the commodity derivatives market, it has been decided to allow Bank guarantees provided only by non-individual clients, based on certain terms and conditions. Such clients shall provide a declaration and underwriting that they shall have no recourse to SEBI or exchanges in case of wrongful invocation of such BGs by SB/CM. These BGs shall bear a condition that on invocation, the moneys shall be credited only to the (USCNBA) account and thereafter upstreamed to the CC. The other terms and conditions are mentioned in the Annexure A. The CCs are at liberty to apply stricter conditions other than those specified based on their risk assessment.
9. The cut-off times for upstreaming of clear credit balance of clients shall be determined by the CCs in consultation with ISF. Any clear credit balance that could not be upstreamed to CCs due to receipt of funds from clients beyond cut-off time shall necessarily remain in UNSCBA until it is upstreamed to CC on the next day.
10. The provisions of this framework shall not be applicable to bank-CMs (including Custodians that are banks), and for proprietary funds of SBs/CMs in any segment and SB's proprietary funds deposited with CM in the capacity of a client.
11. This revised framework supersedes the framework issued by SEBI in June Circulars.
12. The provisions of this circular shall come into force with immediate effect.

Monitoring mechanisms

13. The stock exchanges, depositories, and clearing corporations are directed to:
- a. bring the provisions of this circular to the notice of stock brokers, depository participants, and clearing members, as the case may be, and also disseminate the same on their websites;
  - b. jointly issue the following within 15 days from the date of issuance of this circular
    - i. operational guidelines in consultation with relevant stakeholders;
    - ii. an SOP for monitoring the implementation of provisions of this circular (including determination of cut-off times) and
    - iii. a penalty structure for non-compliance;
  - c. make amendments to the relevant bye-laws, rules and regulations for the implementation of the above provisions; and
  - d. communicate to SEBI, the status of the implementation of the provisions of this circular in their monthly development report.
14. This circular is issued in exercise of powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992 read with Regulation 30 of SEBI (Stock Brokers) Regulations, 1992 and Regulation 51 of Securities Contracts

(Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2018, to protect the interests of investors in securities and to promote the development of, and to regulate the securities markets.

**Annexure A of SEBI Circular SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/187 dated December 12, 2023**

Eligible clients:

1. Only non-individual clients shall be allowed to give BGs as margins, specifically for commodities segment.
2. Net worth of such clients should be at least Rs. 1000 crores. If the net worth of the client is less than Rs. 1000 crores and client is a part of a group company of a MNC group or large conglomerate in India and that MNC or large conglomerate has Ultimate Beneficial Ownership of more than 50% in the concerned client, then the net worth of the MNC group as a whole or the net worth of the large conglomerate can be considered which should be minimum Rs. 5000 crores.

Eligibility conditions for BGs

3. Only Banks approved by CCs shall be considered for issuance of such BGs.
4. BG terms and conditions should clearly mention the Upstreaming Client Nodal Bank Account (USCNBA) bank account number where the funds shall be credited in case of invocation by SB/CM.
5. In the event of invocation of BG, the funds shall be credited only to USCNBA bank account of the SB/CM and the funds shall be up-streamed on the same day to CC.
6. SB/CM shall mandatorily inform the CC at the time of invocation of BG.
7. SB/CM cannot accept BGs as margins from the above mentioned clients in excess of 25% of its net worth.

Declaration and undertaking to be given by clients

8. CFO / COO / CEO / MD of such clients should give an undertaking to the Member at the time of giving BG as margins:
  - a. We agree to issue the BG lien in favour of trading member \_\_\_\_\_ for trading in capital markets for client code \_\_\_\_\_ as per the contractual arrangement with the said trading member.
  - b. We declare that we clearly understand that in case trading member wrongly invokes the BG, we shall not have any recourse to Exchange or SEBI to the extent of BG amount and shall not be compensated in any manner from Investor Protection Fund.

Other conditions

9. SB/CM shall put its own funds with CC to the extent of BG amount towards the margin requirements of these clients.



10. SB/CM cannot use borrowed funds for this purpose. Trading member shall give auditors certificate on half yearly basis to CC in this regard.

*As mentioned in para 5 of the circular, the CCs are at liberty to apply stricter conditions other than those specified above based on their risk assessment.*

### **3.1 FAQ on Upstreaming of Client's Funds by Stock Brokers (SBs) / Clearing Members (CMs) to Clearing Corporation (CCs)**

#### **3.1.1 In which forms the client funds can be upstreamed by SB/CM?**

The client funds shall be upstreamed by SBs/CMs to CCs only in the form of either cash, lien on FDR or pledge of units of Mutual Fund Overnight Schemes (MFOS).

#### **3.1.2 To whom the framework of upstreaming of client funds is applicable?**

The framework is applicable to all SBs/CMs/non-bank Custodians. Bank-CMs (including custodians that are banks) and proprietary funds of SBs/CMs in any segment and SB's proprietary funds deposited with CM in the capacity of a client are exempt from the scope of this circular.

#### **3.1.3 Whether the tenure of existing FDRs is required to be reduced upto one year and one day?**

There is no tenure restriction of FDRs created out of proprietary funds. Existing FDRs (created out of clients' funds and having tenor of more than one-year and one day) created prior to issuance of the circular (before June 08,2023) shall be allowed to be grandfathered till maturity. Such FDRs at the time of renewal shall meet the conditions as mentioned below:

- The tenor of such FDRs shall not be more than one year and one day; and the FDRs should be pre-terminable on demand.
- SBs/ CMs may create FDRs out of clients' funds only with those banks which satisfy the CC's exposure norms as specified by SEBI or CCs from time to time.
- Every FDR created out of clients' funds shall necessarily be lien-marked to one of the CCs at all times.
- Through this lien, CCs shall have explicit precedence on the FDR funds over every other stakeholder, including over the bank providing the FDR.
- The principal amount of the FDR shall remain protected throughout the tenure, even after accounting for all possible pre-termination costs.
- SBs/CMs shall not avail any funded or non-funded banking facilities based on FDRs created out of clients' funds.

#### **3.1.4 Is it required to wind up the existing bank guarantees (BGs) created out of client funds and placed with CCs/CMs before June 30, 2023?**

As per SEBI Circular No. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/061 dated April 25, 2023, all the existing BGs created out of client funds and placed with CCs/CMs shall be wound down by September 30, 2023.

**3.1.5 Whether FDR can be created by SB in favour of CM including bank CM?**

No. FDRs created out of client funds shall necessarily be lien-marked to one of the CCs at all times. Through this lien, the CCs shall have explicit precedence on the FDR funds over every other stakeholder, including over the bank providing FDR.

**3.1.6 Can FDRs be made from multiple USCNB accounts?**

Yes. Client FDRs may be created from the USCNB accounts across the multiple bank accounts.

**3.1.7 In which kind of MFOS can the client funds be invested?**

SBs/CMs shall ensure that client funds are invested only in such eligible MFOS that deploy funds into risk-free government bond overnight repo markets and overnight Tri-party Repo Dealing and Settlement (TREPS). The list of such eligible MFOS would be published from time to time.

**3.1.8 Whether the MFOS can be considered as collateral with CC/CM under Enhanced Supervision reporting?**

MFOS can be included in collateral available with CC/CM for the purpose of reporting under Enhanced Supervision. Accordingly, the provision of Exchange Circular NSE/INSP/52724 dated June 24, 2022 shall stand modified to this extent with effect from July 1, 2023.

**3.1.9 Which bank accounts to be displayed on website?**

Name of Bank Account, Bank Account number and IFSC of Only USCNB accounts along with following note shall be displayed on website.

*“Investors are requested to note that Stock broker (name of stock broker) is permitted to receive money from investor through designated bank accounts only named as Up streaming Client Nodal Bank Account (USCNBA). Stock broker (name of stock broker) is also required to disclose these USCNB accounts to Stock Exchange. Hence, you are requested to use following USCNB accounts only for the purpose of dealings in your trading account with us. The details of these USCNB accounts are also displayed by Stock Exchanges on their website under “Know/ Locate your Stock Broker.”*

Accordingly, the provision of Exchange Circular NSE/INSP/55402 dated January 27, 2023 shall stand modified to this extent with effect from September 1, 2023.

**3.1.10 Can the member maintain FDR/MFOS that are not lien marked/pledged with CC?**

FDR created out of client funds shall necessarily be lien-marked to one of the CCs at all the times. Further, SBs/CMs shall provide MFOS units as collateral to the CC. While providing the units as collateral, SBs/CMs shall identify the end clients. In order to implement the same, a pledge shall be created from the Client Nodal MFOS account to SB/CM margin pledge account of the SB/CM. SB/CM shall further repledge the same to CC using the existing pledge re-pledge mechanism.

**3.1.11 Whether any client funds remaining after making FDR or investment in MFOS are required to be upstreamed?**

Yes. As per Para I of Part C of the SEBI circular dated June 8, 2023 on Upstreaming of clients funds, other than the FDRs (liened to CCs) and MFOS (pledged to CCs), any remaining client funds with SBs/CMs shall be upstreamed to a CC before a stipulated cut-off time.

**3.1.12 Is it mandatory to open new bank account with nomenclature "Name of the SB/CM – USC NBA" and "Name of the SB/CM – DSC NBA" or whether nomenclature of existing accounts reported as "Name of SB/CM – Client Account" can be changed? Further can member open multiple USC NBA or DSC NBA?**

SBs/CMs may change the nomenclature of existing client accounts to "Name of the SB/CM – USC NBA" and/or "Name of the SB/CM – DSC NBA". All other bank accounts named as "Name of SB/CM - Client Account" shall be closed.

Further, member may also open new bank account with nomenclature "Name of the SB/CM – USC NBA" and "Name of the SB/CM – DSC NBA". However, member can maintain USC NBA or DSC NBA up to 30 only as per the guidelines issued by the Exchange on maintenance of client bank accounts. Member shall comply the same by August 31, 2023.

**3.1.13 How shall member inform revised nomenclature of existing client bank accounts to the Exchange? What will be the impact of this circular on Daily Bank balance reporting, Holding Statement and weekly cash & cash equivalent submission by member to Exchange?**

Member can input "Up streaming Client Nodal Bank Account (USC NBA)" and "Down streaming Client Nodal Bank Account (DSC NBA)" for all existing client bank accounts in a separate column in the existing Bank account reporting structure through the Inspection module of the Member portal. The detailed process for reporting of revised nomenclature of bank account has been communicated to members vide Exchange circular NSE/INSP/57266 dated June 23, 2023. Similarly, one more category i.e., "Client Nodal MFOS Account", for reporting of demat account has been made available in the existing DP account reporting structure through the Inspection module of the Member portal.

Members shall not report holding lying in "Client Nodal MFOS Account" to the Exchange. Therefore, there shall not be any impact on reporting format of Holding statement submission.

Since the members shall also upstream unclaimed client funds to CC, member is required to report 0 in "CLIENT BANK ACCOUNT NO." column of Cash & Cash equivalent submission with effect from July 01, 2023.

Further, there is no change in the existing reporting format of daily bank balances to the Exchange as both "Up streaming Client Nodal Bank Account (USC NBA)" and "Down streaming Client Nodal Bank Account (DSC NBA)" bank accounts shall continue to be reported with purpose "CLIENT BANK ACCOUNT" under Bank account type column.

**3.1.14 Whether requirement pertaining to running account settlement of client funds continue after implementation of this circular?**

Yes. Compliance with respect to running account settlement of client funds shall continue.

**3.1.15 How to treat the funds which are received after CM upstreaming cut off time?**

As per Para (V) of Part C of SEBI Circular dated June 8, 2023 which has been further modified by SEBI circular dated June 30, 2023 on Upstreaming of client funds, SBs/CMs may receive funds from clients beyond the prescribed cutoff time for upstreaming subject to the condition that there shall not be any further movement of funds from that account (i.e., a debit freeze) till the opening of upstreaming window on the next day. However, such funds should be received for legitimate purpose. The said provision is applicable with effect from September 1, 2023.

**3.1.16 Whether the funds received by SB for OFS issues also have to be upstreamed?**

Yes. All the funds received from clients by SBs shall be upstreamed to CC. These funds may also be upstreamed as EPI to CCs since OFS is 100% pre margins.

**3.1.17 Can funds be retained by SB in USCNBA and directly transferred to DSCNBA in case of intraday trades? (Trades squared off on the same day)**

No. All client funds received in USCNBA shall be first upstreamed to CCs through settlement account and then the same can be received back from CC to settlement account and settlement account to DSCNBA from which, funds shall be released to the client.

**3.1.18 For management of FDR (creation, renewal, and maturity), which bank account (USCNBA or DSCNBA) should be utilized?**

SBs/CMs may create FDRs out of clients' funds from USCNCB account only. Such FDRs created out of client funds shall necessarily be lien-marked to one of the CCs at all the times. Upon encashment/maturity of the FDR, the funds shall necessarily be received in the same USCNCB account.

**3.1.19 For management of MFOS (subscription/redemption), which bank account (USCNBA or DSCNBA) should be utilized?**

As per Para III of Part B of SEBI Circular dated June 8, 2023, SBs/CMs shall maintain a dedicated demat account (hereinafter referred to as "Client Nodal MFOS Account") for subscription/ redemption of MFOS units. The depositories shall allow subscription/redemption transactions only in the said account.

Further, SBs/CMs shall subscribe for MFOS units out of clients' funds from USCNCB account only. Such MFOS units should be in dematerialized (demat) form and must necessarily be pledged with a CC at all times. Upon redemption of MFOS units, the funds shall necessarily be received in the same USCNCB account.

**3.1.20 How does the SB/CM consider / process the release requests received from the clients before the client release request cut-off time?**

The release requests received from the clients before “client release request cut off time” must be processed the same day. Further, such funds received from the CC must either be paid out to the clients on the same day or upstreamed back to the CC on the same day.

**3.1.21 Whether any fund movements between USC NBA and DSC NBA be allowed?**

As per Para II (b) of Part C of the SEBI circular dated June 8, 2023, payment to clients should be done by SBs only from DSC NBA account post receiving of funds from CC/CM same day. Therefore, no fund movements from USC NBA to DSC NBA shall be allowed. However, funds from one USC NBA can be moved to another USC NBA. Similarly, funds from one DSC NBA can be moved to another DSC NBA, and from DSC NBA to USC NBA. The aforesaid provision is applicable from September 01, 2023.

**3.1.22 Can one common USC NBA account and one common DSC NBA account be maintained across all segments (EQ, F&O & CDS)?**

Yes, one common USC NBA account and one common DSC NBA account can be maintained across all segments.

**3.1.23 Is there any restriction on the count of USC NBA and DSC NBA ?**

Members may have multiple USC NBA and DSC NBA; however, the count of all USC NBA and DSC NBA shall not exceed 30 bank accounts.

**3.1.24 Is there any collateral benefit provided by the CCs on the up-streamed funds?**

Collateral benefit shall be provided to the respective client based on the segment wise collateral allocated to the clients and reported by the Trading Member in accordance with the provisions of the SEBI Circular No. SEBI/HO/MRD2\_DCAP/CIR/2021/0598 dated July 20, 2021 on "Segregation and Monitoring of Collateral at Client Level".

**3.1.25 Is there any impact on maintenance of a separate client bank account maintained for keeping untraceable/unclaimed clients funds?**

Funds lying in a separate client bank account maintained for keeping untraceable/unclaimed clients funds shall be upstreamed to CC.

**3.1.26 What if Self Clearing Member (SCM) in Capital market segment, Trading Member (TM) in Derivative segment(s) – Can the member maintain the common USC NBA & DSC NBA or Separate for SCM & TM?**

Yes, one common USC NBA and one common DSC NBA across segments may be maintained.



### 3.1.27 Whether the balance of the Settlement account shall be considered under Weekly Enhanced Reporting?

Balance of the Settlement account shall not be considered. Accordingly, members shall not report the same under Weekly Enhanced Reporting. Accordingly, the provision of Exchange Circular NSE/INSP/52724 dated June 24, 2022 shall stand modified to this extent with effect from July 1, 2023. However, amount to the extent of client funds credited back to settlement account of member by CC on account of Offer for Sale (OFS) release after cut off time can be considered while reporting Enhanced supervision data to Exchange.

### 3.1.28 Whether the SBs/CMs are required to submit any reconciliation statement? If so, what is the periodicity?

Members shall maintain the reconciliation statement for withdrawal of client funds from CCs on a daily basis and provide the same as and when sought by the relevant authority.

### 3.1.29 Whether member is required to upstream the funds received from client on pay in day for the purpose of pay in obligation?

Member is not required to upstream the funds to CC which are received from clients on settlement/pay in date itself before funds pay in time against their funds pay in obligation as such funds shall be taken by CC during the settlement process against settlement obligation .e.g. if time for funds pay in to CC is 11:00 AM and client transfers funds before 11:00 AM against its funds pay in obligation to be settled today, then funds received from such client in USCNB account shall be transferred to settlement account from which CC shall take the same as part of settlement process. However, funds received which would not be needed for CC pay-in and used by member for internal settlement shall need to be upstreamed.

### 3.1.30 Whether member is required to upstream the funds payout received from CC before releasing it to clients?

No, funds received in form of payout from CC can directly be transferred to DSCNB account for onward transfer to clients.

### 3.1.31 In case of TM/CM investing in MFOS, should TM take consent of the client?

TM/CM is not required to take consent of the client.

### 3.1.32 What would be the impact of variable net worth computation due to SEBI circular of Upstreaming?

There is no change in the method of calculation of variable net worth by the members.

### 3.1.33 To which accounts will the member transfer the funds released by CC?\*

Sr. No.	Reason for collateral withdrawal	Transferred from settlement account to
1	CM Prop (only for PCMs)	CM Own Account

2	TM Prop (for PCMs, TCMs and SCMs)	CM Own Account if it is not required to pass on to TM else CM DSCNBA to CM-TM prop account to TM own account.
3	TM - Client unpaid securities obligations / MTF Obligations	CM Own Account if it is not required to pass on to TM else CM DSCNBA to CM-TM prop account to TM own account.
4	TM - Loss due to sale of unpaid securities	CM Own Account if it is not required to pass on to TM else CM DSCNBA to CM-TM prop account to TM own account.
5	TM - Penalties	CM Own Account if it is not required to pass on to TM else CM DSCNBA to CM-TM prop account to TM own account.
6	TM - Statutory levies (STT / Stamp Duty / SEBI Turnover Fee)	CM Own Account if it is not required to pass on to TM else CM DSCNBA to CM-TM prop account to TM own account.
7	TM - Brokerage (including exchange transaction fee)	CM Own Account if it is not required to pass on to TM else CM DSCNBA to CM-TM prop account to TM own account.
8	TM - Other charges (DP charges, etc.)	CM Own Account if it is not required to pass on to TM else CM DSCNBA to CM-TM prop account to TM own account.
9	TM - Funds to be released to client on account of regulatory requirements such as running account settlement	CM DSCNBA for onwards transfer to client if it is not required to pass on to TM else CM DSCNBA to TM DSCNBA for onwards transfer to client.
10	TM - Funds withdrawal request from client	CM DSCNBA for onwards transfer to client if it is not required to pass on to TM else CM DSCNBA to TM DSCNBA for onwards transfer to client.
11	Reconverting to another form of Collateral	DSCNBA for onward transfer to USC NBA
12	Giving to Other CC	Other CC Settlement account
13	Pay-in purpose	No action

\* With reference to NCL Circular NCL/CMPL/59729 dated December 13, 2023 the requirement of Reporting of Reasons for Collateral withdrawal by clearing members is discontinued.

**3.1.34 In which account will the CM receive the funds of TMs (Pro) and the funds of TM clients?**

CMs, who clear trades for other SBs, shall only use the designated bank account(s) maintained with the nomenclature "Name of the CM –TM prop account" to receive/pay proprietary funds from/to stock brokers. Further, the CM should also ensure that Stock broker Prop funds are received only from "Name of Stock- Broker -Proprietary Account".

CMs shall receive clients' funds in USC NBA for further upstreaming it to the CC.

**3.1.35 In case of receipt of payout to CM by CC for TMs (only doing Pro trades), how the fund flow will happen?**

The withdrawal request/payout shall be transferred from CC to CM settlement account and from there to DSC NBA. The CM may further transfer it to "Name of the CM –TM prop account" for onward transfer to "Name of Stock-Broker -Proprietary Account".

**3.1.36 Is there a requirement for SBs to open USC NBA/DSC NBA if SBs are only trading and/or clearing for their prop/own trades and do not have any clients/CPs?**

No. There is no mandate to open USC NBA/DSC NBA if SBs are only trading and/or clearing for their prop/own trades and do not have any clients/CPs.

**3.1.37 Fixed Deposit created out of client's monies but could not be lien marked to CC within operating hours, would there be any implications?**

In accordance with SEBI circular dated June 8, 2023, Every FDR created out of clients' funds shall necessarily be lien-marked to one of the CCs at all times.

**3.1.38 For the purpose of upstreaming of clients' funds, do clients' funds mean net of brokerage / debits / charges to be recovered etc. or upstreaming is expected on Gross basis for receipt of any funds from the clients?**

All funds received from client is required to be up streamed as per SEBI circular. Further, the SBs/CMs may seek withdrawal of client funds from CCs only under scenarios as mentioned with appropriate reason code.

**3.1.39 Do we need to allocate all the funds upstreamed to CC?**

Yes, in order to comply with SEBI Circular No. SEBI/HO/MRD2\_DCAP/CIR/2021/0598 dated July 20, 2021 on "Segregation and Monitoring of Collateral at Client Level".

**3.1.40 For FDR's created towards base capital / interest free security deposit given to CC, whether this can be placed for more than one year and one day?**

Yes, as membership deposit requirement is required to be placed out of own funds from members.

**3.1.41 Whether the cut off prescribed by the CCs are for USC NBA or for settlement account?**

In terms of SEBI circular, the CM shall transfer to CC any time during the day but not later than the respective cut off time prescribed by the CC. Hence, CMs are required to ensure that all client funds are transferred from USC NBA to Settlement to CC before cut off time.

**3.1.42 What shall be the flow of funds received in CM-TM prop account?**

Proprietary funds received from the Stock Broker by the Clearing Member in the CM-TM prop account should be transferred to USC NBA for onward upstreaming to CC. Further, the CM should also ensure that proprietary funds of the Stock broker are received in the said CM – TM prop Account only from Stock broker proprietary account named as “Name of Stock Broker – Proprietary account”.

**3.1.43 Is the clause 2.3 of SEBI circular SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/110 dated June 30, 2023 applicable to existing FDRs which are placed with CM by SBs (created out of client funds) and such FDRs are not placed with CC?**

No. As clause 2.3 of SEBI circular SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/110 dated June 30, 2023 is applicable only for FDRs which are placed with CCs. Therefore, CM shall not retain any FDRs which are created out of client funds and submitted by SBs to them.

**3.1.44 Can member have funds in DSCNB account post upstreaming cut off time for releasing the same to clients?**

Yes, member can have funds in DSCNB account post upstreaming cut off time to transfer the same to client on same day itself thereby ensuring that there is no balance in DSCNB account on EOD basis. On running account settlement days, funds may remain in DSCNB account even beyond EOD, on exception basis, as long as instructions to banks have been given by EOD.

**3.1.45 Whether member is required to upstream the funds received for trades rejected by custodian ( i.e. DVP trades) ?**

In case of DVP trades, member may receive funds from custodians in their own account instead of USC NB account and accordingly, member shall not require to upstream these funds to clearing corporations. However, in case such funds are received in the USC NB account, then such funds would need to be upstreamed and withdrawn with appropriate reason code.

**6.11 Submission of Half Yearly Internal Audit Report by Clearing Members**

This is to inform that all Clearing Members undertaking clearing activities, for at-least one trade during the period from April 01, 2023 till September 30, 2023, for other stock-brokers and/or for custodian participants code (their direct trading clients or otherwise) are required to carry out Internal Audit and submit the report to NSE Clearing Ltd. (NCL).

The process for submission of such reports including format of Internal Audit Certificate, Format of Internal Audit Report, Guidelines on sample selection etc. shall be communicated separately through the circular.

The Internal Audit shall be certified by auditors empanelled by National Stock Exchange of India Limited as prescribed in the circular no. NSE/INSP/60986 dated March 4, 2024 as updated from time to time.

It is to be noted that the due date to submit the Internal Audit Report is within two months from the end of half year i.e., for the half year ended September 30, 2023, the due date is November 30, 2023 and for the half year ended March 31, 2024, the due date is March 31, 2024.

The penalties/disciplinary actions for late/non-submission of the Internal Audit Report shall be as below: -

Details of Violation	Penalty/disciplinary actions
Failure to furnish Internal Audit report to Clearing Corporation for half year ending 30th September within the due date	<p>1. For 1st week after due date, Charges of Rs. 2,500/- per day</p> <p>2. Charges of Rs. 5,000/- per day from second week after due date</p> <p>3. In case of non-submission within three weeks from the due date of submission, New TM/CP registration for clearing to be prohibited and notice of 7 days for disablement of clearing facility till submission of data/report. The disablement notice issued to the member shall be shared with all the CCs for information.</p> <p>4. In case of non-submission within four weeks from the due date of submission, member shall be disabled in all segments till submission of data/report.</p> <p><b>Penalty for Repeat Violation</b> In case of a repeat instance by the Member, levy of applicable monetary penalty along with an escalation of 50%.</p> <p>In case of non-submission within three weeks from the due date of submission, New TM/CP registration for clearing to be prohibited and notice of 7 days for disablement of clearing facility till submission of data/report.</p> <p>The disablement notice issued to the member shall be shared with all the CCs for information. In case of non-submission within four weeks from the due date of</p>



Details of Violation	Penalty/disciplinary actions
	submission, Member shall be disabled in all segments till submission of data/report.

The penalties/disciplinary action for non-compliances reported in the Internal Audit Report shall be as prescribed by NCL circular no. NCL/CMPL/49286 dated August 13, 2021, NCL/CMPL/59930 dated December 26, 2023 or any other relevant circular that may be issued by NCL from time to time.

**REGULATORY REQUIREMENTS/ REFERENCES:**

1	Reporting of Trading Member-wise, client-wise Collateral details by Clearing Members	NCL/COMP/41068 dated May 20, 2019, NCL/COMP/41500 dated July 03, 2019, NCL/COMP/41725 dated July 26, 2019, NCL/CMPL/43201 dated January 10, 2020, NCL/CMPL/46450 dated November 25, 2020, NCL/CMPL/50196 dated November 03, 2021
2	Segregation and Monitoring of Collateral at Client Level	SEBI Circular SEBI/HO/MRD2_DCAP/CIR/2021/0598 dated July 20, 2021, NCL Circular No NCL/CMPL/49348 dated August 20, 2021, NCL Circular NCL/CMPL/49640 dated September 17, 2021, NCL Circular NCL/CMPL/49764 dated September 29, 2021, NCL/CMPL/50662 dated Dec 17, 2021, NCL/CMPT/51658 dated March 17, 2022, NCL/CMPL/54214 dated October 27, 2022, NCL/CMPL/ 56655 dated May 09, 2023, NCL/CMPL/ 57978 dated August 16, 2023, NCL/CMPL/ 58063 dated August 23, 2023, NCL/CMPL/60552 dated February 05, 2024, NCL/CMPL/ 60651 dated February 12, 2024, NCL/CMPL/59519 dated November 24, 2023
3	Guidelines for allocation of collateral	NCL/CMPT/50217 dated November 03, 2021, NCL/CMPT/51657 dated March 17, 2022, NCL/CMPT/51658 dated March 17, 2022, NCL/CMPT/51659 dated March 17, 2022, NCL/CMPL/53287 dated August 12, 2022. NCL/CMPL/54389 dated November 11, 2022
4	Guidelines to Clearing Members for effective oversight over trading members cleared by Clearing Members – Clarification	NCL circular NCL/CMPL/49287 dated August 13, 2021, NCL/CMPL/51038 dated January 14, 2022
5	Discontinuation of Reporting of Bank Account Balances	NCL/CMPL/47241 dated February 4, 2021, NCL/CMPL/47240 dated February 4, 2021, NSE/INSP/55039 dated December 28, 2022, NCL/CMPL/55352 dated January 24, 2023 and NCL circular no. NCL/CMPL/59048 dated October 23, 2023
6	Undertaking/Authorisation to Stock Exchanges and NSE Clearing Limited to access the information/statements pertaining to all bank accounts	NCL/CMPL/47228 dated February 04, 2021

	(maintained by the members) from Banks	
7	Submission of undertaking pursuant to Standard Operating Procedure in the cases of Clearing Member leading to default	SEBI circular no. SEBI/HO/MIRSD/DPIEA/CIR/P/2020/115 dated July 01, 2020, and NCL circular NCL/CMPL/44871 dated July 02, 2020, NCL/CMPL/45608 dated September 08, 2020. SEBI circular no. SEBI/HO/MIRSD/DPIEA/P/CIR/2022/72 dated May 27, 2022, NSE/INSP/52445 dated May 27, 2022.
8	Guidelines on Compliance Officers	NSE/COMP/54600 dated November 25, 2022
9	Bank Guarantees (BGs) created out of clients' funds	SEBI circular no. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/061 dated April 25, 2023, NCL circular NCL/CMPL/56488 dated April 25, 2023, NCL circular no. NCL/CMPL/ 58775 dated October 06, 2023, NCL circular no. NCL/CMPL/ 59152 dated October 31, 2023
10	Upstreaming of clients' funds by Stock Brokers (SBs) / Clearing Members (CMs) to Clearing Corporations (CCs) and FAQ	SEBI circular no. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/84 dated June 08, 2023, NCL circular no. NCL/CMPL/57037 dated June 09, 2023, SEBI circular no. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/110 dated June 30, 2023, NCL circular no. NCL/CMPL/57374 dated June 30, 2023, NCL/CMPL/57962 dated August 14, 2023, NCL/CMPL/58134 dated August 30, 2023, SEBI circular no. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/187 dated December 12, 2023, NCL circular no. NCL/CMPL/59724 dated December 12, 2023
11	Submission of Half Yearly Internal Audit Report by Clearing Members	NCL circular no. NCL/CMPL/58437 dated September 18, 2023 and NCL/CMPL/58850 dated October 10, 2023, NCL/CMPL/61288 dated Mar 22, 2024, NCL/CMPL/61662 dated April 22, 2024

### Item 7

### ENFORCEMENT ACTIONS AGAINST CLEARING MEMBERS

NSE Clearing Ltd. (NCL) in consultation with other Clearing Corporations and SEBI has formulated an indicative penalty structure for violations observed by Clearing Members.

- It may be noted that the penalties/ disciplinary action(s)/charges are indicative in nature and could undergo change in specific cases depending on frequency and gravity of the violations. The penalties/disciplinary action(s)/charges levied are decided by the Relevant Authority of the Clearing Corporation. Penalty/disciplinary action in respect of violations having high impact would be dealt with on case-to-case basis depending on seriousness and gravity of such violations. The penalties/disciplinary action to be taken is enclosed below -

Sr. No.	Violations	Penalty/disciplinary action for first time Violation	Penalty/disciplinary action in case of Repeat violation/contravention
1	<p>Use of TM/ CP funds / securities for other than specified purposes/Use of TM/CP funds/ securities for own purpose/for other clients</p> <p>a) Misuse up to Rs. 50 Lakhs</p> <p>b) Misuse above Rs. 50 Lakhs and up to Rs.2 crores</p> <p>c) Misuse above Rs.2 crores and less than Rs. 10 Crore</p> <p>d) If misuse of Funds &amp; Securities is equal to or more than Rs. 10 Crores</p>	<p>a) Monetary penalty of Rs. 1 Lakh + Direction to recoup shortfall within reasonable time</p> <p>b) Monetary penalty of 2% of the misuse or Rs. 2 lakh whichever is higher + no onboarding new Trading Member/CP up to three months + Direction to recoup shortfall within reasonable time. Member can be expelled and/or declared defaulter depending upon gravity of violation</p> <p>c) Monetary penalty of 3% of the misuse + no onboarding new Trading Member/CP up to six months + Direction to recoup shortfall within reasonable time Member can be expelled and/or declared defaulter depending upon gravity of violation</p> <p>d) SEBI SOP Circular no. SEBI/HO/MIRSD/DPIEA/ CIR/P/2020/11 dated July 01, 2020 will be applicable</p>	<p>For a), b) and c) Direction to recoup shortfall within reasonable time + Monetary penalty of 4% of misuse or Rs. 4 lakhs whichever is higher + No onboarding new Trading Member/CP up to six months + Member can be expelled and or declared defaulter depends upon gravity of violation.</p> <p>For d) SEBI SOP Circular no. SEBI/HO/MIRSD/DPIEA/ CIR/P/2020/11 dated July 01, 2020 will be applicable</p>

Sr. No.	Violations	Penalty/disciplinary action for first time Violation	Penalty/disciplinary action in case of Repeat violation/contravention
2	Submission of information for inspection  a) Delay in submission of documents/data/records sought for inspection  b) Non co-operation in providing data/records/documents to inspecting officials for inspection resulting in non-completion of inspection.  c) Wrong/incorrect submission of data towards Inspection	a) Rs.1,000/- per day starting from final due date for submission of data/records/documents sought for inspection subject to a cap of Rs 1 lakh.  b) Monetary penalty of Rs. 1 lakh besides not allowing member to clear trades till the time of completion of inspection/Surrender/cessation of membership/ Declaration as default/ Expulsion.  c) Penalty may vary from warning to Rs.1 lakh on case to case basis.  (The serious case shall be discussed separately in applicable committee, which may enhance the penalty as deemed fit)	a) Rs.10,000/- per day starting from final due date for submission of data/records/documents sought for inspection subject to a cap of Rs 10 lakh.  b) Monetary penalty of Rs. 10 lakh besides not allowing member to clear trades till the time of completion of inspection/Surrender/cessation of membership/ Declaration as default/ Expulsion.  c) Penalty may vary from Rs.1 lakh to Rs. 10 Lakh on case-to-case basis.  (The serious case shall be discussed separately in applicable committee, which may enhance the penalty as deemed fit)
3	Cash dealings with TM/CP	10% of the amount of cash dealing or Rs. 1,000/- whichever is higher	2nd time - 50% escalation 3rd time - 100% escalation
4	Non-maintenance of a) Client/TM ledger b) Register of Securities (Client/TM wise scrip wise Register) (as applicable)	Rs. 1 Lakh + Direction to comply	2nd time - 50% escalation 3rd time - 100% escalation
5	Client/TM ledger not maintained properly (i.e. incomplete/erroneous/ delay in entries)	Rs.25,000/-	2nd time - 50% escalation 3rd time - 100% escalation
6	Register of Securities not in the prescribed format (as applicable) Discrepancies / Incorrect details in Register of Securities, non reconciliation of balances between	Rs.25,000/-	2nd time - 50% escalation 3rd time - 100% escalation

Sr. No.	Violations	Penalty/disciplinary action for first time Violation	Penalty/disciplinary action in case of Repeat violation/contravention
	client beneficiary accounts and register of securities ( as applicable)		
7	<p>Non segregation of transactions between Custodial Participant/TM and own bank accounts</p> <p>(money deposited in own account or expenses routed through CP/TM Bank Account or own money deposited in CP/TM account)</p> <p>Non segregation of CP/TM and own money and securities</p>	<p>a) If cumulative value of non-segregated transactions is less than Rs 1 crore – 0.5% of the cumulative value</p> <p>b) If cumulative value of non-segregated transactions is more than Rs 1 crore but less than Rs 5 crore – 0.75 % of the cumulative value</p> <p>c) If cumulative value of non-segregated transactions is more than Rs 5 crore – monetary penalty and/or any other disciplinary action, as may be decided by the Relevant Authority</p>	<p>2nd time - 50% escalation</p> <p>3rd time - 100% escalation</p>
8	Facilitating financing through NBFC in contravention of SEBI Circular	Rs. 5 Lakhs	<p>2nd time- 50% escalation + No New Clients till such activity is discontinued</p> <p>3rd time- 100% escalation + No New Clients till such activity is discontinued</p>
9	Delay in release of payout of funds or securities (beyond one working day) or commodities	<p>a) up to 5% of no. of instances – Rs. 15,000/-</p> <p>b) In excess of 5% and upto 10% of no. of instances - Rs 45,000/-</p> <p>c) In excess of 10% and upto 20% of no. of instances - Rs 75,000/-</p> <p>d) In excess of 20% of no. of instances-Rs.1,00,000/-</p>	<p>2nd time - 50% escalation</p> <p>3rd time - 100% escalation</p>
10	Non-appointment of compliance officer	Rs. 50,000/-	<p>2nd time - 50% escalation</p> <p>3rd time - 100% escalation</p>



Sr. No.	Violations	Penalty/disciplinary action for first time Violation	Penalty/disciplinary action in case of Repeat violation/contravention
11	a)Books (Except Client ledger) not maintained including: i ) General Ledgers , ii) Journals, iii) Cash and Bank Book, iv) Margin Deposit details, v) Register of complaints vi) Register of transaction vii Register of commodity (as applicable)	Rs. 50,000/- per book + No new TMs/CPs till the said records are maintained	2nd time - 50% escalation 3rd time - 100% escalation
12	Books (Except Client ledger) not maintained properly (i.e. incomplete/ erroneous/ delay in entries ) including i ) General Ledgers , ii) Journals, iii) Cash and Bank Book, iv) Margin Deposit details, v) Register of complaints vi) Register of transaction vii Register of commodity (as applicable)	Rs. 25,000/- per book	2nd time - 50% escalation 3rd time - 100% escalation
13	Incomplete / Non- display of details by member viz: Notice Board/name, its logo, registration no, address with telephone no, compliance officer name, telephone no, email id, SEBI Registration certificate/ other prescribed details	Rs.10,000/- per location	2nd time - 50% escalation 3rd time - 100% escalation

Sr. No.	Violations	Penalty/disciplinary action for first time Violation	Penalty/disciplinary action in case of Repeat violation/contravention
14	Clearing member has outsourced activities in violation of SEBI prescribed rules	To be decided on a case to case basis based on nature of non-compliances	To be decided on a case to case basis based on nature of non-compliances
15	Non-compliance with PMLA requirements based on confirmation from Compliance Officer		
	a. Non maintenance of Written Policy and Procedures relating to PMLA	Rs. 25,000	2nd time - 50% escalation 3rd time - 100% escalation
	b. Non Appointment of Principal Officer /Designated Director/ Non Intimation of Designated Director or change of Principal officer to FIU Delhi	Rs. 25,000	2nd time - 50% escalation 3rd time - 100% escalation
	c. Non-Implementation of systems in place to monitor, identify suspicious transaction and procedures for reporting the same	Rs. 25,000	2nd time - 50% escalation 3rd time - 100% escalation
	d. Non Adoption of customer due diligence	Rs. 25,000 per client	2nd time - 50% escalation 3rd time - 100% escalation
	e. Financial information of clients not obtained / updated / documentary evidence related to financial information not obtained in case of clients trading in derivatives segment	Rs. 25,000 per client	2nd time - 50% escalation 3rd time - 100% escalation

Sr. No.	Violations	Penalty/disciplinary action for first time Violation	Penalty/disciplinary action in case of Repeat violation/contravention
	f. Non Maintenance of records regarding ongoing training to staff relating to PMLA	Warning	2 <sup>nd</sup> time- Rs.25,000 3 <sup>rd</sup> time- 50% escalation
	g. Disproportionate Exposure	Upto Rs.2,00,000/-	2nd time - 50% escalation 3rd time - 100% escalation
	h. Any other observation /violation which is required as per PMLA and not covered above	Warning	2 <sup>nd</sup> time- Rs.25,000 3 <sup>rd</sup> time- 50% escalation
16	Non adoption / Maintenance of prescribed policies	1. Non adoption / Maintenance of policies - Rs. 25,000/-  2. Per line item not followed – Rs. 2,500/- subject to maximum of 25,000/-	2nd time - 50% escalation 3rd time - 100% escalation
17	Non - adherence to Rule 8(1)(f) and 8(3)(f) of Securities Contract (Regulation) Rules, 1957, relating to fund based activities of member and in connection with / incidental to /consequential upon the securities business	Amount involved <= Rs. 5 Crores : 1% of the amount involved + Direction to recover the funds given as Loans/advances within the time allotted  Amount involved > Rs. 5 Crores : Penalty of Rs. 5 Lakhs + No new Trading Member/CP if funds given as loans / advances are not recovered within the time allotted	2nd time – Amount involved <= Rs. 5 Crores : 50% escalation + No new Trading Member/CP till CA certificate certifying that funds are recovered is submitted  3 <sup>rd</sup> time- Amount involved > Rs. 5 Crores : 50% escalation + appropriate disciplinary action such as suspension / disablement of clearing & settlement / Expulsion etc. as deemed fit by the relevant authority
18	False/Incorrect Reporting of Margin Collection to Clearing Corporation	As per NCL/CMPL/42946 dated December 19, 2019	As per NCL/CMPL/42946 dated December 19, 2019
19	Clients/TM securities lying with the CM cannot be pledged to the Banks/NBFCs or any other persons/entities for raising funds	Rs. 1,00,000/- or 2% of the Value of securities involved, whichever is higher. Direction to be given to unpledge the securities within 10 calendar days failing disciplinary	2nd time - 50% escalation 3rd time - 100% escalation Disciplinary action such as suspension / disablement of clearing & settlement / Expulsion etc. depending upon the gravity

Sr. No.	Violations	Penalty/disciplinary action for first time Violation	Penalty/disciplinary action in case of Repeat violation/contravention
		action will be taken by the Relevant Authority	of the case may also be considered
20	Incorrect / non-reporting under collaterals segregation reporting T+1 (checked during inspection)	As per NCL/CMPL/50662 dated Dec 17, 2021	As per NCL/CMPL/50662 dated Dec 17, 2021
21	Non maintenance of prescribed minimum net-worth	As per NSE/COMP/47735 dated March 24, 2021	As per NSE/COMP/47735 dated March 24, 2021
22	Non-adherence to effective oversight over trading members/ Custodial Participants cleared by Clearing Members	Rs.25,000/ per clause and submission of Compliance Officer certifying that necessary corrective measures are taken as directed by NCL	50% escalation and submission of Internal Auditors certifying that necessary corrective measures are taken as directed by NCL
23	Failure to monitor cash and cash equivalents reports received by CMs from its TMs in terms of NCL/CMPL/48236	Warning	2nd time-Rs.25,000/-
24	Non collection of crystallised obligation in cash from clients on T+1 day	Warning	2nd time-Rs.1,00,000/- 3rd time - 50% escalation
25	Incorrect allocation of client collateral done on Tday (verified during inspection)	As per Violation 3 of NCL/CMPL/50662 dated Dec 17, 2021	As per Violation 3 of NCL/CMPL/50662 dated Dec 17, 2021
26	Failure to open and use the designated bank account "Name of the CM-TM prop Account" to receive or pay proprietary funds from TMs	Rs. 50,000/- and a direction to open the designated bank account immediately	2nd time - 50% escalation and submission of Internal Auditors report certifying that the designated bank account has been opened and used as prescribed by the SEBI circular
27	Any Incorrect data reporting by CM towards SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/84 related to Upstreaming of clients funds by TMs/CMs to CCs	As per NCL/CMPL/58148 dated August 30, 2023 as updated from time to time.	As per NCL/CMPL/58148 dated August 30, 2023 as updated from time to time.
28	Any other violation / non compliance / non adherence to the Rules, Bye laws, Regulation of NCL, circular issued by SEBI/NCL, non-	Monetary penalty upto Rs. 25 Lakh and submission of Compliance Officer certifying that necessary corrective measures are taken as directed by NCL	50% escalation and submission of Internal Auditors certifying that necessary corrective measures are taken as directed by NCL

Sr. No.	Violations	Penalty/disciplinary action for first time Violation	Penalty/disciplinary action in case of Repeat violation/contravention
	compliance with directives/advisory issued by NCL	Depending upon gravity of violation, the Relevant Authority may also impose any other regulatory measures like No onboarding of new Trading Member/CP up to three months and /or Member can be suspended/expelled / declared defaulter in accordance with the provisions governing suspension/declaration of default/expulsion	Depending upon gravity of violation, the Relevant Authority may also impose any other regulatory measures like No onboarding of new Trading Member/CP up to three months and /or Member can be suspended/expelled / declared defaulter in accordance with the provisions governing suspension/declaration of default/expulsion
29	Discrepancy in computation of net worth  a) If discrepancy in net worth leads to shortfall   b) If discrepancy in net worth does not lead to shortfall	a) Provisions of NSE/COMP/47735 dated March 24, 2021 plus warning  <b><u>If discrepancy in net worth does not lead to shortfall</u></b>  b) Warning plus CA certificate with revised net worth plus certification from compliance officer to comply with the prescribed norms for calculation.	a) Provisions of NSE/COMP/47735 dated March 24, 2021 plus penalty of Rs.1 lakh for first time and Rs.2 lakh for 2 <sup>nd</sup> time.  <b><u>If discrepancy in net worth does not lead to shortfall</u></b> b) 2 <sup>nd</sup> time – Penalty of Rs.1 lakh  3 <sup>rd</sup> time- Penalty of Rs.2 lakh



## List of Procedural non compliances

Sr. No.	Violations	Penalty/disciplinary action for first time Violation	Penalty/disciplinary action in case of Repeat violation/contravention
1.	Daily Margin statement not sent to affiliated Trading Member & Custodial Participants or Delay in issue of Daily margin statement or Daily margin statement issued with material discrepancies	a) Upto 2% of number of instances- Warning b) In excess of 2% and upto 5% of no. of instances - Rs 15,000/- c) In excess of 5% and upto 10% of no. of instances - Rs 45,000/- d) In excess of 10% of no. of instances - Rs 75,000/-	Minimum Rs.25,000 shall be levied 2nd time - 50% escalation 3rd time - 100% escalation
2.	Non reporting/Incorrect reporting of weekly collateral reports/bank balances/bank account	a) Upto 2% of number of instances-Warning b) In excess of 2% and upto 5% of no. of instances - Rs 15,000/- c) In excess of 5% and upto 10% of no. of instances - Rs 45,000/- d) In excess of 10% of no. of instances - Rs 75,000/-	Minimum Rs.25,000 shall be levied 2nd time - 50% escalation 3rd time - 100% escalation
3.	Non-payment of statutory dues/duties/fees etc. (related to clearing & settlement related activities)	Warning	2nd time –Rs. 10,000/- 3rd time – Rs.20,000/-
4.	Delayed / non-payment of dividend	Non-payment of dividend – 2 times the amount of dividend not paid.  Delay in payment of dividend: ➤ Up to Rs. 1 lakh- Warning ➤ In excess of Rs. 1 lakh and up to Rs. 5 lakhs- 1% of the amount involved ➤ Above Rs. 5 lakhs- 2% of the amount involved	2nd time - 50% escalation 3rd time - 100% escalation  For delay in payment of dividend:-upto Rs.1 lakh- 0.5% of the amount involved
5.	Demat accounts like client beneficiary accounts, client collateral accounts, client	Delay = Warning  Non closure/opening = Rs. 50,000/- per account (where	Delay= Penalty Rs.1,00,000/-  2nd time - 50% escalation 3rd time - 100% escalation

Sr. No.	Violations	Penalty/disciplinary action for first time Violation	Penalty/disciplinary action in case of Repeat violation/contravention
	unpaid securities account etc. related operations:-  Delayed closure/opening of prescribed demat account Non closure/non opening of prescribed demat account  Transfer of securities in non-prescribed demat account  Incorrect reporting of Demat Accounts	Members are unable to provide reasonable explanation).  Member to be disabled in case account is not closed within one month of levy of penalty  Transfer of securities in non-prescribed demat account= 0.25% of the value of securities transferred  Incorrect reporting = Warning	
6.	Member has not maintained a daily reconciliation clearly indicating the reason for fund transfer between client bank and own bank account	Rs. 25,000/-	2nd time - 50% escalation 3rd time - 100% escalation
7.	Material discrepancies in the CM-CP/CM-TM agreement /inclusion of contravening clauses/omission of material clauses	Rs. 25,000/-	2nd time - 50% escalation 3rd time - 100% escalation
8.	Failure to hold valid NISM Series VII- SORM certificates during the inspection period	Rs. 1,500/- per user	Rs.25,000/-
9.	Failure to hold valid NISM Series IIIA certificates by the Compliance officer during the inspection period	Rs.2,500/- plus direction to submit the certificate within 45 days	Rs.25,000/-

- This is with reference to NCL circulars NCL/CMPL/57037 dated June 9, 2023, NCL/CMPL/57374 dated June 30, 2023, NCL/CMPL/57962 dated August 14, 2023 and NCL/CMPL/58134 dated August 30, 2023 on Upstreaming of clients' funds by Stock-Brokers (SBs) / Clearing Members (CMs) to Clearing Corporations (CCs) and NCL/CMPL/56488 dated April 25, 2023 on Bank Guarantees (BGs) created out of clients' funds.

In this regard, NCL has formulated a penalty structure for any non-compliance of the provisions of the aforementioned circulars. The penalty structure is enclosed as Annexure A which shall be applicable w.e.f. September 01, 2023.

## Annexure A

(A) Client's funds/liquid overnight funds/FDR made out of clients' funds are not upstreamed/pledged/lien marked by member or creation of BG out of clients' funds:

Details of contravention	Disciplinary Action/Charges		Repeat violation
<ul style="list-style-type: none"> <li>• Clients' funds received before cut-off are not upstreamed to Clearing Corporation and lying with member in any of its bank account*</li> <li>• Unit of Mutual fund overnight schemes/ FDR made out of clients' funds are not pledged/ lien marked as case may be to Clearing Corporation*</li> <li>• Non-compliance with respect to tenure of FDR made out of clients' funds*</li> <li>• Non-compliance with respect to debit freeze of funds received after upstreaming cut off time</li> <li>• Transfer of funds to client from other than DSCNB account</li> <li>• Receipt of funds from client in other than USCNB account</li> <li>• Non permissible transfer of funds between USCNB, DSCNB and any other bank account of member</li> </ul>			2nd time in the same month - 50% escalation  3rd time in the same month - 100% escalation. In addition to penalty, the relevant authority may decide to disable / suspend the clearing rights of the member in all segments for 1 day in case of 3rd time repeat violation on case-to-case basis and based on the gravity of the violation.
	<b>Value of Violation</b>	<b>Penalty</b>	
	Up to 5 Lakh	Rs.5000	
	> 5 to 10 Lakhs	Rs.10000	
	> 10 to 50 Lakhs	Rs. 15000	
	> 50 Lakhs to 1 Crore	Rs. 25000	
	> 1 Crore to 2 Crore	Rs. 50000	
	> 2 Crore to 5 Crore	Rs. 1 Lakh	
	> 5 Crore to 10 Crore	Rs. 2 lakhs	
	> 10 Crore	Rs. 5 lakhs	

- BG created out of clients' funds on or after May 01,2023 or Existing BG created out of clients' funds is not wound down by September 30,2023\*

\* Along with penalty, direction to take corrective actions and report the same within 7 days shall be issued.

**(B) Funds received after upstreaming cut off time and lying in bank account are not for legitimate purpose**

Details of contravention	Disciplinary Action/Charges	Repeat violation										
Funds received after upstreaming cut off time and lying-in bank account are not for legitimate purpose	Penalty shall be as under	-										
	<table><tr><th>Violation observed during the period from the effective date of circular i.e. September 01,2023</th><th>Penalty per day (Rs.)</th></tr><tr><td>First 30 days</td><td>5000</td></tr><tr><td>Next 31-60 days</td><td>10000</td></tr><tr><td>Next 61-90 days</td><td>15000</td></tr><tr><td>Next 91-120 days</td><td>20000</td></tr></table>	Violation observed during the period from the effective date of circular i.e. September 01,2023	Penalty per day (Rs.)	First 30 days	5000	Next 31-60 days	10000	Next 61-90 days	15000	Next 91-120 days	20000	
	Violation observed during the period from the effective date of circular i.e. September 01,2023	Penalty per day (Rs.)										
	First 30 days	5000										
	Next 31-60 days	10000										
	Next 61-90 days	15000										
Next 91-120 days	20000											

**NSE Clearing Limited**

Penalty prescribed in point number (B) mentioned above shall be applicable if value of such funds (i.e received after upstreaming cut off time and lying-in bank account are not for legitimate purpose) exceeds below mentioned threshold:

Value of Total Creditors ( i.e. client payables)	Thresholds
Member with total creditors value up to 100 crores	Higher of 1% of total creditors and 10 Lakhs
Member with total creditors value more than 100 crores up to 500 crores	1 crore plus 0.5% of incremental value of creditors above 100 crores
Member with total creditors value more than 500 crores	3 crores plus 0.25% of incremental value of creditors above 500 crores

Rationalization of imposition of fines for false/incorrect reporting of margins or non-reporting of margins by Clearing Member in all segments

% of the violation in the current inspection (Proportion of the instances with false reporting to the Total sample instances verified)	Penalty As A Percentage (%) Of The False Reporting			
	Observed only in current Inspection	Observed only in 1 out of 3 previous Inspections in addition to the current Inspection	Observed in 2 out of 3 previous inspections in addition to the current Inspection	Observed in all the previous 3 Inspections in addition to the current Inspection
Above 50%	50%	60%	75%	100%
25%-50%	25%	50%	60%	75%
10%-25%	10%	25%	50%	60%
Less than 10%	5%	10%	25%	50%

Based on the above slabs, the penalty amount for the false reporting of margin, shall be capped at Rs. 25,00,000/- in case of violation by a Clearing Member.

Along with the monetary penalty, the Member may also be subjected to suspension for one day in the respective segment in case of material instances. The false reporting shall be treated as material for the purpose of suspension, if it meets the all the following broad criteria: -

1. Instances of false reporting is more than 5% of the instances verified (minimum 3 instances) during inspection, and
2. Percentage of value of false reporting is more than 5% of total margin required to be collected for the instances verified during inspection, and
3. Value of false reporting of margin is more than Rs. 15 lakhs



**NSE Clearing Limited****REGULATORY REQUIREMENTS/ REFERENCES:**

1	Enforcements actions against clearing members	NCL/CMPL/42946 dated December 19, 2019, NCL/CMPL/44976 dated July 10, 2020, NCL/CMPL/49286 dated August 13, 2021
2	Uniform penalty structure for Clearing Members	NCL/CMPL/59930 dated December 26, 2023 and NCL/CMPL/58148 dated August 30, 2023