

National Stock Exchange of India Limited

Circular

DEPARTMENT: INSPECTION

Download Ref No: NSE/INSP/58147	Date: August 29, 2023
Circular Ref. No: 74/2023	

To All Members,

Sub: Penalty Structure related to provisions of Upstreaming of clients' funds by Stock Brokers (SBs) / Clearing Members (CMs) to Clearing Corporations (CCs) and Bank Guarantees (BGs) created out of clients' funds

This is with reference to Exchange Circulars No. NSE/INSP/57041 dated June 09, 2023, NSE/INSP/57382 dated June 30, 2023, NSE/INSP/57959 dated August 11, 2023, NSE/INSP/58146 dated August 29, 2023 on Upstreaming of clients' funds by Stock Brokers (SBs) / Clearing Members (CMs) to Clearing Corporations (CCs) and Exchange circular NSE/INSP/56489 dated April 25, 2023 on Bank Guarantees (BGs) created out of clients' funds.

In this regard, Exchange 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.

All Members are advised to take note of the above and strictly comply.

For and on behalf of
National Stock Exchange of India Limited

Naresh Sawana
Chief Manager– Inspection

In case of any clarifications, Members may contact our below offices:

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Annexure A

(A) Client's funds/units of Mutual Fund Overnight Schemes (MFOS)/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"> • Clients' funds received before cut-off are not upstreamed to Clearing Corporation and lying with member in any of its bank account* • Unit of Mutual fund overnight schemes/ FDR made out of clients' funds are not pledged/ lien marked as case may be to Clearing Corporation* • Non-compliance with respect to tenure of FDR made out of clients' funds* • Non-compliance with respect to debit freeze of funds received after upstreaming cut off time • Transfer of funds to client from other than DSCNB account • Receipt of funds from client in other than USCNB account • Non permissible transfer of funds between USCNB, DSCNB and any other bank account of member • BG created out of clients' funds on or after May 			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 trading terminals 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.
	Value of Violation	Penalty	
	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		

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01,2023 or Existing BG created out of clients' funds is not wound down by September 30,2023*		
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* 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 border="1" data-bbox="511 871 1050 1222"> <thead> <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> </thead> <tbody> <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> </tbody> </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											
	Rs. 50000 per day if violation is observed after 120 days from the effective date of circular	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 trading terminals of the member in all segments for 1 day in case of 3rd time repeat violation on case-to-case basis										

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		and based on the gravity of the violation.
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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