

Chief General Manager

Market Regulation Department-Division of Policy

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MRD/DoP/SE/Cir- 11/2008

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The Executive Directors/Managing Directors of all Stock Exchanges

Dear Sir / Madam,

Sub: Collateral deposited by clients with brokers

1. SEBI has earlier issued circular Ref.:SMD/SED/CIR/93/23321 on November 18, 1993 specifying the norms for regulation of transactions between clients and brokers, and circular SEBI/MIRSD/DPS-1/Cir-31/2004 dated August 26, 2004 specifying the model format for the Member Clients Agreements, which also inter-alia specifies need for segregation of client money's / securities deposited as margin.
2. In continuation of earlier circulars and in order to reiterate the need for brokers to maintain proper records of client collateral and to prevent misuse of client collateral, it is advised that :-
 - 2.1 Brokers should have adequate systems and procedures in place to ensure that client collateral is not used for any purposes other than meeting the respective client's margin requirements / pay-ins. Brokers should also maintain records to ensure proper audit trail of use of client collateral.
 - 2.2 Brokers should further be able to produce the aforesaid records during inspection. The records should include details of :-
 - a. Receipt of collateral from client and acknowledgement issued to client on receipt of collateral
 - b. Client authorization for deposit of collateral with the exchange / clearing corporation / clearing house towards margin
 - c. Record of deposit of collateral with exchange / clearing corporation / clearing house
 - d. Record of return of collateral to client
 - e. Credit of corporate action benefits to clients
 - 2.3 The records should be periodically reconciled with the actual collateral deposited with the broker.

- 2.4 Brokers should issue a daily statement of collateral utilization to clients which shall include, inter-alia, details of collateral deposited, collateral utilised and collateral status (available balance / due from client) with break up in terms of cash, Fixed Deposit Receipts (FDRs), Bank Guarantee and securities.
3. In case of complaints against brokers related to misuse of collateral deposited by clients, exchanges should look into the allegations, conduct inspection of broker if required and based on its findings take necessary action.
4. In case client collateral is found to be mis-utilised, the broker would attract appropriate deterrent penalty for violation of norms provided under Securities Contract Regulation Act, SEBI Act, SEBI Regulations and circulars, Exchange Byelaws, Rules, Regulations and circulars.
5. The Stock Exchanges are advised to :-
 - 5.1. make necessary amendments to the relevant bye-laws, rules and regulations for the implementation of the above decision.
 - 5.2. bring the provisions of this circular to the notice of the member brokers/clearing members, depository participants and also disseminate the same on their website.
 - 5.3. communicate to SEBI, the status of the implementation of the provisions of this circular in the Monthly Development Report.
6. This circular is being 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 market.

Yours faithfully,

S V Murali Dhar Rao