

National Stock Exchange Of India Limited**Department :**

Download Ref No: NSE/INSP/42052

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Circular Ref. No: 27/2019

To All Members,

Sub: FAQ on Handling of Clients' Securities by Trading Members/Clearing Members

This has reference to the SEBI circular CIR/HO/MIRSD/DOP/CIR/P/2019/75 dated June 20, 2019, SEBI/HO/MIRSD/DOP/CIR/P/2019/95 dated August 29, 2019 and Exchange circular NSE/INSP/41359 dated June 20, 2019 on Handling of Clients' Securities by Trading Members/Clearing Members.

Based on representations received from Members, Exchange is pleased to issue clarifications on the subject in the form of frequently asked questions (FAQs). The FAQs are enclosed as Annexure-A for your reference.

Members are requested to take note and comply with the same.

For and on behalf of**National Stock Exchange of India Limited****Srijith Menon****Chief Manager-Inspection**

Enclosed: Annexure A

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

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CLARIFICATION ON HANDLING OF CLIENT SECURITIES

1. How many type of beneficiary accounts are required to be maintained after October 1, 2019?

There will be primarily 7 types of DEMAT accounts that shall be maintained by Members post October 1, 2019:

1. Pool account (Stock Broker - Pool account)
2. Own Beneficiary Account (Stock Broker-Proprietary Account)
3. Client Unpaid Securities Account
4. Client Margin Trading Securities account (In case of Margin trading)
5. Early Pay-in Account (In case of CDSL)
6. Client collateral account (for holding client securities for margin purpose and onward transfer to Collateral Account for pledging with Clearing Corporations ("CC") or transfer to Clearing Member ("CM")
Collateral account (for pledging own & client securities with CCs)

2. Whether client securities can be kept in the client collateral account without pledging to Clearing Corporation?

In addition to the existing "Collateral Account", Members shall open a separate "Client Collateral Account" for the purpose of holding client securities for margin purpose or for transferring to Clearing Members. Such securities shall be transferred to the "Collateral Account" for pledging with the Clearing Corporation.

Excess client securities can be kept in the "Client collateral account" without pledging to CC. It should however be ensured that collateral of one client is not utilised for meeting the obligation of any other client or for proprietary obligation. It should also be ensured that securities are not transferred to "Client collateral account" directly from "Stock Broker-pool account" or "Client unpaid securities account".

It shall be ensured that securities, so held in "Client Collateral/Collateral" account are released to clients along with their funds' settlement (i.e. once in every 30/90 days) after making necessary retention in accordance with NSE circular NSE/INSP/36889 dated 02-Feb-2018.

3. Can Member transfer the securities to the client in the event of non-payment?

Member may transfer the unpaid client securities from pool/unpaid securities demat account to client's demat account in accordance with its Risk Management (RMS) Policy.

Such policy shall be duly approved by its Board (in case of corporate trading member), Partners (in case of partnership firms) or Proprietor (in case of sole proprietorship firm) as the case may be and informed to the clients.

In case the RMS policy does not permit transfer of securities to clients in the event of non-payment, then such securities shall be disposed-off within 5 trading days from the date of pay-out., in proportion to the amount not received and after taking into account any amount lying to the credit of the client. The balance securities shall be transferred to the respective client's demat account.

4. In case of partial payment, can a Member retain full value of securities?

In case of partial payment, a Member can retain full value of securities till the 5th day from the pay-out date. Member shall however, within such 5 days and based in its RMS policy, transfer the unpaid client securities to client's demat account or dispose-off the securities in proportion to the amount not received.

In case the RMS policy does not permit transfer of securities to clients in the event of non-payment, Member shall, on a demand made by the client, be required to release the securities to the client to the extent of the amount received.

5. As per the circular the existing client securities accounts (Stock Broker-Client Accounts) have been wound up on or before Sep 30, 2019?

- **What is to be done in case the Member is unable to transfer the securities to the client by Sep 30, 2019 due to any legitimate reasons?**
- **Can the securities be transferred directly to the Client collateral /collateral Account from existing client beneficiary account?**

All securities lying in the existing Stock Broker-Client Accounts shall be either returned to the clients upon fulfilment of pay-in obligation or disposed-off after giving notice of 5 days to the client, on or before Sep 30, 2019.

In case, Member is unable to transfer the securities to client's BO account due to any legitimate reasons, Member shall proceed to liquidate the securities lying in all demat accounts, and transfer the funds to the bank account of the client. In case Member is unable to transfer the funds due to client's bank account becoming dormant & client is not contactable, Member shall set aside such funds till the client is contactable and correct bank account details are obtained. Member shall keep adequate trail to sufficiently prove that the clients were untraceable and sufficient follow ups have been made.

No securities shall be transferred from Stock Broker –Client Accounts directly to the Client collateral /collateral account.

In case any security lying in any demat account cannot be sold or transferred, for any reason including litigation or court orders or other enforcement orders, such accounts can be frozen for debit only. After the resolution of the issue, the account shall be closed by transferring securities to the concerned clients, under the supervision of Depositories/Stock Exchanges.

6. What is to be done in case the Member is unable to sell the unpaid securities within the 5th day from the pay-out date due to reasons such as inactive/suspended shares, upper circuit, Regulatory enforcement/court directions?

In case any security is lying in the “Client unpaid securities account” beyond 7 days after the pay out, Depositories shall be levying the penalty as per the SEBI circular.

In case the securities cannot be transferred out of the Client unpaid securities account for reason that the ISIN is suspended or the unpaid securities account is frozen due to a court or regulatory order, the penalty imposed may be reversed till such restriction continues upon an application being made to the Depository. The penalty imposed cannot be reversed for any other reason.

7. Can client securities be transferred to Clearing member?

Yes. Client securities shall be received in the “Client collateral account” and can be transferred to Clearing Member.

Members shall, further, ensure that correct holding details are uploaded to Exchange weekly for the securities given to the Clearing Member. While reporting, Members shall specify Clearing Member’s demat account number and mandatorily classify such demat accounts as CM Collateral and mention “CM COLL” under ‘Member Account Type’ field. Quantity of such securities, if any shall be populated in “Pledged Balance (Qty.)” field.

8. Can securities be transferred from “Client collateral/collateral Account” to Pool account or from “Client unpaid securities account” to Pool/collateral account upon full payment?

Securities can be transferred from “Client collateral/collateral Account” to Pool account for the purpose of making pay-in for settlement of the respective client.

As per circular CIR/HO/MIRSD/DOP/CIR/P/2019/75 dated June 20, 2019 securities kept in the ‘client unpaid securities account’ shall either be transferred to the demat account of the respective client upon fulfilment of client’s funds obligation or shall be disposed-off in the market by TM/CM within five trading days after the pay-out.

Accordingly, transfer from “Client Unpaid securities account” to “Pool account” is permitted. However, securities cannot be transferred from “Client unpaid securities account” directly to the “Client Collateral account” or “Collateral account”.

9. Will the Member be required to take pre-order confirmation from clients while disposing the securities by 5th day from the date of pay-in?

As the SEBI circular mandates liquidation of securities in case of non-payment within 5 days from the pay-out date, no pre-order confirmation is required.

However, as a best practice, Members are advised to issue margin calls and reminders to clients for making payments within 5 days. Such margin calls / reminders should also inform the clients about the disposal of the securities in case of non-payment.

10. Can the securities kept in “Client unpaid securities account” be considered towards client’s margin obligation?

Securities kept in “Client unpaid securities account” cannot be considered towards client’s margin obligation.

11. What are changes to be required in existing KYC, POA?

The Running account authorisation will undergo change and clauses applicable to the settlement of securities should be deleted. The Rights and Obligations and Do's and Don'ts document will also undergo changes w.r.t compulsory liquidation in case of non-payment within 5 days from the Pay-out date.

The POA shall also undergo change as the details of the DP accounts of the Member will have to be revised. Member shall create an addendum to the existing POA for this purpose and inform the client accordingly.

Further the provisions relating to the said circular w.r.t compulsory liquidation, payment terms etc. will also have to be informed to the clients.

12. Can Member open segment-wise collateral accounts?

Yes

13. How will pay-out be undertaken in case of F&O segment under physical settlement as securities will be received by the Clearing Member?

In F&O segment under physical settlement criteria, securities shall be transferred by the CM to the pool account of the TM for onward transfer to the respective client.

In case of non-receipt of payment, the securities shall be transferred to the “Client unpaid Securities Account”.

14. As per circular CIR/HO/MIRSD/DOP/CIR/P/2019/75 dated June 20, 2019 all existing client securities accounts with the Member shall be wound on or before Sep 30, 2019. Hence, can Member change the name of such Account to 'Client's Unpaid Securities Account' instead of opening a separate account?

Member will not be permitted to change the name of the existing client accounts to "Client's Unpaid Securities Account".

15. Members are currently allowed to retain 225% of T Day Margin Requirement in Derivatives segment for settlement of client accounts. Can Members retain client securities under the provisions of the SEBI circular?

Members are permitted retain the requisite securities/funds in accordance with NSE circular NSE/INSP/36889 dated 02-Feb-2018.

16. In case a Member is also a SEBI Registered Portfolio Manager, securities belonging to PMS client are held in Stock Broker-Client Accounts specifically opened for this purpose. How will such securities be held with effect from October 01, 2019 in view of the SEBI circular?

All custodian settled PMS (non-discretionary) cases will result in deliveries directly to custodian DP accounts. For discretionary TM need to open a separate DMAT account "TM-PMS account".

17. As per the SEBI circular Members have to liquidate the unpaid securities if clear funds are not received within 5 trading days from the date of pay-out. In case the pay-in of such unpaid securities, so sold, cannot be done due to settlement holiday and the securities remain for more than 7 trading days from the date of pay-out, will the Member be subject to any disciplinary action?

Currently, Depositories exclude settlement holidays for computation of CISA penalty/Pool account penalty, as the case may be, levied as per SEBI circular no. SEBI/MRD/Policy/AT/Cir-19/2004 dated April 21, 2004. The same logic will be applied for calculation of penalties on unpaid securities remaining unsold beyond 7 trading days after the pay-out.

However, it may be noted that in case of a settlement holiday, transfers from the "Client unpaid securities account" to the pool account will be possible.

18. Whether client can meet unpaid securities obligation through sale of unutilized and free securities lying in collateral account?

In case of non-payment, securities lying in "Client unpaid securities account" shall be disposed-off within 5 days from the Pay-out date or returned to the client as per the Member's RMS.

However, sale of securities lying in collateral account, based on client's instruction, can be considered towards such unpaid securities provided clear funds are received within such 5 trading days.

19. In case there are multiple securities in the "Client unpaid securities account" and the Stock Broker wishes to liquidate the same, is there any logic like First in First Out (FIFO) to be followed?

The Member should have a predefined policy of liquating the client securities and the policy should be communicated to the clients in an appropriate manner. In absence of such a policy, the FIFO (First in & First Out) policy should be followed.

However, in any case, securities shall not be kept in the "Client unpaid securities account" beyond the deadlines prescribed by the Circular.

20. The client does not pay the debit balance by 5th day and TM initiates the liquidation process. Simultaneously client takes a buy position on the same scrip and on the same day on which TM liquidates the scrip. Is this allowed?

The TM should not allow the client to initiate the buy trade as further exposure is disallowed if the old debit is not realized in full by way of receipt of clear funds in the bank account of the Trading Member or by way of realized pay out as a result of liquidation by the Trading Member.

21. In case of securities (where inter-depository transfer is not available) held in a particular Depository (i.e. SGB, G-secs) and the client does not have an account in the said Depository, what is to be done?

In such exceptional scenario, the client will have to open an account in the relevant Depository. In case the client does not open the required account, the member may transfer the relevant securities to the "Client Collateral Account", after keeping adequate audit trail. It should however be ensured that they are utilised for meeting the respective client's obligation only.

22. Can funded stock in MTF be pledged to the clearing corporation or be transferred to CM?

As securities are not fully paid by the client, the same, not being free & unencumbered, cannot be used as margin for that client in any other segment.

23. Can securities held in "Client Unpaid securities Account" be pledged with CCs/or transferred to CM for taking exposure?

Only free and unencumbered securities that have fully paid by the client can be pledged with the CC or transferred to CMs.

24. As per circular CIR/HO/MIRSD/DOP/CIR/P/2019/75 dated June 20, 2019, client securities shall be transferred from pool account to respective clients' demat account. Can the securities be transferred from CC to the client's demat account directly under the "Direct Pay-out" facility?

Yes, the securities can be transferred from CC to the client's demat account directly under the "Direct Pay-out" facility. However, the Member may, based on their RMS policy, not use the said facility in case of non-payment and transfer the security to the "Client Unpaid securities Account".