

Department: Inspection	Segment: All
Circular No: MSE/INSP/14067/2023	Date : September 01, 2023

Subject: 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

To All Members,

This is with reference to Exchange Circulars No. MSE/INSP/13613/2023 dated June 12, 2023, MSE/INSP/13746/2023 dated July 03, 2023, MSE/INSP/13967/2023 dated August 14, 2023, MSE/INSP/14048/2023 dated August 30, 2023 on Upstreaming of clients' funds by Stock Brokers (SBs) / Clearing Members (CMs) to Clearing Corporations (CCs) and Exchange circular MSE/INSP/13383/2023 dated April 26, 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 contents of the circular and comply.

For and on behalf of
Metropolitan Stock Exchange of India Limited

Mahendra Choudhari
AVP – Inspection and Membership Department

In case of any query kindly contact Inspection Department on (022) 6112 9000 or mail on compliancemsx@msei.in

Metropolitan Stock Exchange of India Limited

(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">• 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 01,2023 or Existing BG created out of clients’ funds is not wound down by September 30,2023*	<table><tr><th>Value of Violation</th><th>Penalty</th></tr><tr><td>Up to 5 Lakh</td><td>Rs.5000</td></tr><tr><td>> 5 to 10 Lakhs</td><td>Rs.10000</td></tr><tr><td>> 10 to 50 Lakhs</td><td>Rs. 15000</td></tr><tr><td>> 50 Lakhs to 1 Crore</td><td>Rs. 25000</td></tr><tr><td>> 1 Crore to 2 Crore</td><td>Rs. 50000</td></tr><tr><td>> 2 Crore to 5 Crore</td><td>Rs. 1 Lakh</td></tr><tr><td>> 5 Crore to 10 Crore</td><td>Rs. 2 lakhs</td></tr><tr><td>> 10 Crore</td><td>Rs. 5 lakhs</td></tr></table>	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	<ul style="list-style-type: none">• 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.
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> 10 Crore	Rs. 5 lakhs																			

* 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										
	Rs. 50000 per day if violation is observed after 120 days from the effective date of circular	<ul style="list-style-type: none">• 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.										

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