

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.

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- 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.					

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

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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 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 Reporting of 'Client Level Cash & Cash Equivalent Balances' by Trading Members to Clearing Members -

The Trading Members are required to report details of 'Client Level Cash & Cash Equivalent Balances' to their Clearing Members and Clearing Members are required to take note of the same and incorporate required changes in their monitoring and risk management framework.

2.4 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 download reference 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"*.

2.5 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.

2.6 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

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, Download Ref 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, Download Ref. No. 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, Download Ref No: NCL/CMPT/51658 dated March 17, 2022, SEBI circular SEBI/HO/MIRSD/MIRSD_DPIEA/P/CIR/2022/83 dated June 20, 2022, Download Ref No: NCL/CMPT/55098 dated January 02, 2023.
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	Reporting of 'Client Level Cash & Cash Equivalent Balances' by Trading Members to Clearing Members	NCL circular No. NCL/CMPL/48236 dated May 10, 2021.
4	Modifications in the STP messaging formats on account of implementation of the Stamp Duty	NSE/INSP/52257 dated May 10, 2022.
5	Peak Margin Collection & Reporting	SEBI circular No. SEBI/HO/MRD2/DCAP/CIR/P/2020/127 dated July 20, 2020

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	Download Ref. No.: NSE/INSP/38322 dated July 13, 2018; SEBI/HO/MIRSD/DOP/CIR/P/2018/113 dated July 12, 2018

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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, Download reference no. NSE/INSP/6938 Dated December 09, 2005, Download Ref No: NSE/INSP/47278 dated February 09, 2021
4	Naming/Tagging of Demat accounts maintained by members	SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated 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; Download Refn.: 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; Download Refn.: 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), Download Ref. No.: NSE/INSP/6991, Dated: 26th December 2005 and SEBI circular MRD/Dop/SE/CIR-21/2009 dated December 09, 2009, Exchange Download Ref. No: 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.

In order to standardise reporting format of collateral data across Exchange / Clearing Corporations, based on the discussions with SEBI, Exchanges and Clearing corporations, members are hereby notified of the additional details required to be reported to NCL as part of daily collateral submissions. The revised format for daily collateral segregation data is given as Annexure 1 of NCL circular no. NCL/CMPL/54214 dated October 27, 2022.

Members are advised to make necessary software changes in their systems in order to comply with the aforesaid guidelines.

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 has been extended from 1 PM to 5 PM on T+1 day.

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: Delayed submission / Modification of data

Any delayed submission post the cut off time / modification of data successfully submitted by clearing members can be done up to T+3 working days. The penalty for delay /modification of data shall be as follows:-

Period	Delayed submission / Modification of data successfully submitted for CM Prop/TM Prop/ CP/Clients with outstanding margin requirements
From December 16, 2021 till March 31, 2022	Rs. 250 per entity per instance
From April 1, 2022 onwards	Rs. 500 per entity per instance

No delayed submissions / modifications shall be permitted beyond T+3 working days EOD.

Violation 3: 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.

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:

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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

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- 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 (download reference no. 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 Daily submissions of bank balances by Clearing Members

This has reference to NCL/CMPL/47241 dated February 4, 2021, requiring clearing members to upload day-wise bank balances (as per the bank statement) of all bank accounts on a weekly basis for all the calendar days of that week except Sunday (i.e. Monday to Saturday) on or before the next four trading days of subsequent week.

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We further refer to NSE circular NSE/INSP/55039 dated December 28, 2022, which states that with a view to enhance monitoring of client assets on continuous basis, trading members shall be required to revise the frequency of submission of bank balances to Exchanges from weekly to daily. In line with the circular issued by NSE, NCL shall require the clearing members to submit the bank balances to the Clearing Corporation from weekly to daily basis.

Accordingly, members shall make the submission of bank balances for each day of the week (except Sunday) daily from January 30, 2023, due date of which shall be January 31, 2023, and each day thereafter.

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.

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, Download Ref No: NCL/CMPT/51658 dated March 17, 2022, Download Ref No: NCL/CMPL/54214 dated October 27, 2022
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	Reporting of Bank 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
6	Undertaking/Authorisation to Stock Exchanges and NSE Clearing	NCL/CMPL/47228 dated February 04, 2021

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	Limited to access the information/statements pertaining to all bank accounts (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, Download Ref No: NSE/INSP/52445 dated May 27, 2022.
8	Guidelines on Compliance Officers	NSE/COMP/54600 dated November 25, 2022

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	Applicable Penalty/disciplinary action
1	Use of TM/ CP funds / securities for other than specified purposes/Use of TM/CP funds/ securities for own purpose/for other clients	Rs. 1,00,000/- or 1% of the amount involved whichever is higher
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)
3	Cash dealings with TM/CP	10 % of the amount of cash dealing or Rs.1000/- whichever is higher For repetitive instances – penalty shall be escalated by 50 %
4	Non maintenance of segregated accounts for proprietary and clients/TM funds & Securities/Commodities	Rs. 1 Lakh and direction to open separate account within 1 month
5	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
6	Client/TM ledger not maintained properly (i.e. incomplete/ erroneous/ delay in entries)	Rs.25,000/-
7	Register of Securities not in the prescribed format (as applicable)	Rs.25,000/-
8	Discrepancies / Incorrect details in Register of Securities, non-reconciliation of balances between client beneficiary accounts and register of securities (as applicable)	Rs.25,000/-

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9	Non segregation of transactions between Custodial Participant/TM and own bank accounts (money deposited in own account or expenses routed through CP/TM Bank Account or own money deposited in CP/TM account) Non segregation of CP/TM and own money	a) If cumulative value of non-segregated transactions is less than Rs 1 crore – 0.5% of the cumulative value 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 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
10	Facilitating financing through NBFC in contravention of SEBI Circular	Rs. 5 Lakhs
11	Delay in release of pay-out of funds or securities (beyond one working day) or commodities	a) up to 5% of no. of instances – Rs. 15,000/- b) In excess of 5% and up to 10% of no. of instances - Rs 45,000/- c) In excess of 10% and up to 20% of no. of instances - Rs 75,000/- d) In excess of 20% of no. of instances – Rs. 1,00,000/-
12	Non-appointment of compliance officer	Rs. 50,000/-
13	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) b) 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 Rs. 10,000/- per book
14	Incomplete / Non- display of details by member viz: Notice Board/name, its logo, registration no, address with telephone no,	Rs. 10,000/-

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	compliance officer name, telephone no, email id, SEBI Registration certificate/ other prescribed details	
15	Daily Margin statement not sent to affiliated Trading Member & Custodial Participants	a) In excess of 2% and up to 5% of no. of instances - Rs 15,000/- b) In excess of 5% and up to 10% of no. of instances - Rs 45,000/- c) In excess of 10% of no. of instances - Rs 75,000/- d) Otherwise – Advice
16	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
17	Non-payment of statutory dues/duties/fees etc.	Advice
18	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
	b. Non Appointment of Principal Officer /Designated Director/ Non Intimation of Designated Director or change of Principal officer to FIU Delhi	Rs. 25,000
	c. Non-Implementation of systems in place to monitor, identify suspicious transaction and procedures for reporting the same	Rs. 25,000
	d. Non Adoption of customer due diligence	Rs. 25000 per client
	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. 25000 per client
	f. Non Maintenance of records regarding ongoing training to staff relating to PMLA	Advice
	g. Disproportionate Exposure	Upto Rs.2,00,000/-
	h. Any other observation /violation which is required as per PMLA and not covered above	Advice
19	Non adoption / Maintenance of prescribed policies	1. Non adoption / Maintenance of policies - Rs. 25,000/- 2. Per line item not followed – Rs. 2500/- subject to maximum of 25000/-
20	Client/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 1% of the Value of securities involved, whichever is higher. Direction to be given to un-pledge the securities within 10 calendar days. Failure to

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		adhere the directions shall attract additional penalty at 100% of the original penalty for every 10 days or part thereof till such non-compliance continues.
21	Non-closure of existing client beneficiary accounts	Rs. 50,000/- per account (where Members are unable to provide reasonable explanation). Member to be disabled in case account is not closed within one month of levy of penalty.

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

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
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