

## NSE Clearing Limited

### Circular

**DEPARTMENT: COMPLIANCE**

Download Ref No: NCL/CMPL/62058

Date: May 16, 2024

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All Members

**Sub: Operational guidelines and SOP on Upstreaming of clients' funds by Stock Brokers (SBs) / Clearing Members (CMs) to Clearing Corporations (CCs)**

This is with reference to SEBI Circular No. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/187 dated December 12, 2023, on the subject "Upstreaming of clients' funds by Stock Brokers (SBs) / Clearing Members (CMs) to Clearing Corporations (CCs)".

In accordance with aforesaid SEBI circular, Operational guidelines and SOP for monitoring the implementation of provisions of aforesaid circular (including determination of cut-off times) framed by Broker's Industry Standards Forum (ISF) and relevant stakeholders in consultation with SEBI are enclosed herewith as **Annexure 1**.

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

**For and on behalf of  
NSE Clearing Limited**

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### Annexure 1

#### Operational Guidelines with respect to Upstreaming of Clients funds

- (1) Clause 15.3.2.1 of SEBI's "Master Circular on Stock Brokers" dated May 17, 2023, mandates the stock brokers (SBs) to maintain designated client bank account(s) ("Name of SB/CM - Client Account") to receive/pay funds from/to their constituents. The nomenclature of all such accounts changed to either of the following two categories of the bank accounts:
  - Up Streaming Client Nodal Bank Account (USCNBA): The SB/CM shall receive the clients' funds related to stock broking transactions in USCNBA. The nomenclature for such accounts shall be "Name of the SB/CM – USCNB account".
  - Down Streaming Client Nodal Bank Account (DSCNBA): Payment to the clients related to stock broking transactions shall be done only from DSCNBA account. The nomenclature for such accounts shall be "Name of the SB/CM – DSCNB account".
  - CMs, who clear trades for other SBs, shall only use the designated bank account(s) maintained with the nomenclature "Name of the CM – TM prop account" to receive/pay proprietary funds from/to the stock brokers.
- (2) The SBs/CMs may maintain multiple Own, USCNBA, DSCNBA, Settlement and CM – TM prop bank accounts however total number of USCNBA and DSCNBA accounts shall not exceed 30. Further, one common USCNBA account and one common DSCNBA account can be maintained across segments/across Exchanges.
- (3) The SBs/CMs shall ensure that clear credit balances of all the clients in the book of account of the SBs/CMs at the end of a given day are placed with the CC in form of either cash, lien on Fixed Deposit Receipts (FDRs) created out of the clients' funds, or pledge of units of Mutual Fund Overnight Schemes (MFOS) created out of the clients' funds. Further, FDRs created by the SBs/ CMs out of the clients' funds shall be allowed only under the following conditions:
  - The SBs/ CMs may create FDRs out of the clients' funds only with those banks which satisfy the CC's exposure norms as specified by the CCs or SEBI from time to time.
  - Such FDRs shall be created only from USCNBA.
  - Every FDR created out of the clients' funds shall always be lien-marked to one of the CCs at all times. Therefore, FDR out of the clients' funds cannot be created by the SB in favour of CM including bank CM.
  - Through this lien, the CCs shall have explicit precedence on the FDR funds over every other stakeholder, including over the bank providing the FDR.
  - The tenor of such FDRs shall not be more than one year and one day.
  - Such FDRs should be pre-terminable on demand.

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- The SBs/CMs shall not avail any funded or non-funded banking facilities based on the FDRs created out of the clients' funds.
  - The principal amount of the FDR shall remain protected throughout the tenure, even after accounting for all possible pre- termination costs. Existing FDR not meeting this requirement (with monthly / quarterly / any periodicity interest payout) shall be permissible to continue till June 30, 2024 only. Such FDRs at the time of renewal shall meet the conditions specified hereinabove.
  - Existing FDRs (created out of clients' funds and having tenor of more than one-year) created prior to June 30, 2023 shall be allowed to be grandfathered till maturity. Such FDRs at the time of renewal shall meet the conditions specified hereinabove.
- (4) The bank instruments provided by the clients as collateral (i.e. client FDRs and client BGs) cannot be upstreamed to the CCs, and they shall be ineligible to be accepted as collateral in any segment of securities market. Hence it is clarified that all such bank instruments provided by the clients shall not be considered for the purpose of margin collection from the clients by the TMs/CMs/Bank CMs/Custodians. Further, only non-individual clients are allowed to give BGs as margins, for commodities derivatives segment subject to compliance of point number 8 and other terms and conditions mentioned in the Annexure A of SEBI circular SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/187 dated December 12, 2023.
- (5) The SBs/CMs shall maintain a dedicated demat account "Client Nodal MFOS Account" for subscription/ redemption of MFOS units. The SBs/CMs shall ensure that the client funds are invested only in such MFOS that deploy funds into risk-free government bond overnight repo markets and overnight Tri-party Repo Dealing and Settlement (TREPS). Such MFOS units should be in dematerialized (demat) form and must necessarily be pledged in favour of a CC at all times. List of such MFOS shall be notified by SEBI/AMFI from time to time. From "Client Nodal MFOS Account", the SBs/CMs shall provide MFOS units as collateral to the CC. While providing the units as collateral, the SBs/CMs shall identify the end clients. The CCs will make necessary changes in segregation reporting file to report MFOS at the client level in due course.
- (6) To implement the same, a pledge shall be created from the Client Nodal MFOS account to the SB/CM margin pledge account of the SB/CM. The SB/CM shall further repledge the same to the CC using the existing pledge re-pledge mechanism.
- (7) It may be noted that funds received from the clients cannot be used for the creation of Bank Guarantees (BG).
- (8) In case any clients' clear credit balances which are not placed by the SBs/CMs with the CC on account of justifiable reasons as enumerated below and the said clear credit balances are reported in the segregation file as "Retained with TM" or "Retained with

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CM” as per the requirement of SEBI circular no. SEBI/HO/MRD2\_DCAP/CIR/2021/0598 dated July 20, 2021, the SBs/CMs shall report such justifiable reasons to the CC by next settlement day. However, such clients’ balances reported as retained with the SBs/CMs should be either available in USCNBA/DSCNBA/Settlement account of the SBs/CMs and/or in transit to the CC.

- (9) List of permissible justifications for the clients’ clear credit balances retained by the SBs/CMs is provided in point no. 3 of Annexure 1 of NCL/CMPL/61186 dated March 18, 2024.
- (10) System to report justifications listed out in point number 9 above by the SB/CM on daily basis has been made available vide NCL circular NCL/CMPL/61186 dated March 18, 2024.
- (11) Any credit balance of the clients retained by the TM / CM for the reason code listed above in point no. 9 should remain in the USCNBA or same can be returned back to the same client to whom it belongs through DSCNB account.
- (12) The cut-off times under Point 9 of SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/187 dated December 12, 2023 for upstreaming of the clear credit balances of the clients have been determined by the CCs in consultation with ISF as 5 pm.
- (13) For availability of the clients’ funds under Enhanced Supervision guidelines, the clients’ funds lying in USCNBA/DSCNBA/Settlement account only to the extent permissible as per point number 9 mentioned above can be considered.
- (14) Permissible transfer of funds:
  - Funds shall be received from the clients by SBs/CMs only into the USCNBA(s).
  - Funds to be transferred to the clients shall be only from the DSCNBA(s).
  - Funds from USCNBA(s) can be transferred into the Settlement/ Clearing Member USCNBA account(s) and for investing in FDR and MFOS only.
  - Funds can be transferred into the DSCNBA(s) only from the Settlement/ Clearing Member account DSCNBA account(s).
  - Funds from DSCNBA(s) can be transferred only to the clients or to the USCNBA account(s).
  - All own/ proprietary funds of the SB/ CM can be transferred from/to its settlement account(s) to/from Own/Prop account only.
  - “Name of the CM –TM prop account” Bank account of CM shall be used for receiving/paying proprietary funds from/to the SBs.
  - Between accounts of same category (i.e. from one USCNBA to another USCNBA, from one DSCNBA to another DSCNBA, from one own bank account to another

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own bank account, from one CM –TM prop account to another CM – TM prop account)

- (15) A schematic representation of flow of funds is enclosed as Annexure-A.
- (16) The provisions of upstreaming framework shall not be applicable to
- Bank-CMs (including Custodians that are banks)
  - Proprietary funds of SBs/CMs in any segment
  - The SB's proprietary funds deposited with CM in the capacity of a client.

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### Standard Operating Procedures with respect to Upstreaming of Clients funds

- (1) For the purpose of monitoring of upstreaming of clients' funds, CCs shall share justifications as per NCL/CMPL/61186 dated March 18, 2024 provided by members with Exchanges for non-upstreaming of client funds by member to CCs.
- (2) The cut-off times under Point 9 of SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/187 dated December 12, 2023 for upstreaming of the clear credit balances of the clients have been determined by the CCs in consultation with ISF as 5 pm.
- (3) CCs shall share the details of funds credited back by CCs to settlement account of member post upstreaming cut off time with Exchanges.
- (4) In order to monitor the availability of client's funds at aggregated level with member by Exchanges, CCs shall share details of collateral of members deposited with them to Exchanges. Similarly, Depositories shall share member wise client wise details of pledged MFOS with Exchanges and CCs.
- (5) Depository shall monitor that all the time MFOS are pledged/repledged client wise/member wise to CCs and such MFOS should not be transferred through off market.
- (6) Compliance with respect to provisions of upstreaming of Clients funds as stipulated by SEBI/Exchanges/CCs shall also be part of internal audit checklist, which shall be verified by auditors every half year.