
NATIONAL COMMODITY & DERIVATIVES EXCHANGE LIMITED

Circular to all members of the Exchange

Circular No. : NCDEX/COMPLIANCE-123/2023

Date : November 08, 2023

Subject : Bank Guarantees (BGs) created out of client's funds

This is with reference to SEBI Circular no. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/061 dated April 25, 2023 and Exchange Circular no. NCDEX/COMPLIANCE-047/2023 dated April 26, 2023 wherein creation of BG out of clients' funds has been prohibited as under:

- a. Beginning May 01, 2023, no new BGs to be created out of clients' funds by SBs/CMs.
- b. Existing BGs created out of clients' funds to be wound down by September 30, 2023.

In view of the aforesaid circulars, members cannot create BG out of clients' funds and accordingly, value of any BG including BG created out of members' own funds cannot be considered for the computation of availability of client payables effective from October 01, 2023.

However, it has been observed by the Exchange that certain members are still considering the funded value of BG while reporting data towards the weekly monitoring of client funds (Enhanced Supervision of Stock Brokers) under data point numbered as 2, "Aggregate value of collateral deposited with Clearing Corporations in form of Cash and Cash Equivalents (Rs.)" and data point numbered as 3, "Aggregate value of collateral deposited with clearing member in form of Cash and Cash Equivalents (Rs.)" of Annexure A of the Exchange circular no. NCDEX/COMPLIANCE-047/2021 dated October 21, 2021.

In view of the same, members are advised not to consider BG for the computation of availability of client payables and accordingly, member should not include the value of BG while reporting data towards the weekly monitoring of client funds (Enhanced Supervision of Stock Brokers) under aforesaid data points of Annexure A of the Exchange circular no. NCDEX/COMPLIANCE-047/2021 dated October 21, 2021.

Further, based on representations received from Members, clarifications/guidelines on the subject in the form of frequently asked questions (FAQs) are attached as **Annexure A**.

Members are requested to take note of the contents of the circular and comply.

For and on behalf of
National Commodity & Derivatives Exchange Limited

Pranesh Shetty
Vice President – Inspection & Enforcement

For further information / clarifications, please contact

1. Customer Service Group on toll free number: 1800 26 62339
2. Customer Service Group by e-mail to : askus@ncdex.com

Annexure A**FAQ on Bank Guarantees (BGs) created out of clients' funds****1) Can Bank Guarantees (BGs) be created out of clients' funds?**

No, SEBI vide circular no. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/061 dated April 25, 2023 has prohibited creation of BG out of clients' funds as under:

- a) Beginning May 01, 2023, no new BGs to be created out of clients' funds by SBs/CMs.
- b) Existing BGs created out of clients' funds to be wound down by September 30, 2023.

2) Can Bank Guarantees (BGs) be created out of own funds of member?

Yes, Bank Guarantees can be created from own funds of member.

3) Since Bank Guarantees (BGs) cannot be created out of clients' funds, can BG created out of own funds of member be considered towards availability of clients' funds as per Enhanced Supervision Guidelines?

In light of SEBI circular dated April 25, 2023 and Exchange circular dated April 26, 2023 issued on prohibition of creation of BG from clients' funds effective from October 01, 2023, member cannot consider the value of any BG including BG created from own funds of member for the purpose of availability of clients' funds.

4) What is the impact on reporting of BG value by member under weekly submission of data towards monitoring of client funds (Enhanced Supervision of Stock Brokers) and weekly cash & cash equivalent submission by member to Exchange?

As member cannot consider the value of any BG including BG created from own funds for the purpose of availability of clients' funds, member should not include value of any BG including BG created from own funds while reporting values under data point numbered as 2, "Aggregate value of collateral deposited with Clearing Corporations in form of Cash and Cash Equivalents (Rs.)" and data point numbered as 3, "Aggregate value of collateral deposited with clearing member in form of Cash and Cash Equivalents (Rs.)" of Annexure A of the Exchange circular no. NCDEX/COMPLIANCE-047/2021 dated October 21, 2021.

Further, full value of BG should be reported under data point numbered as 8 of Enhanced Supervision guidelines.

It may also be noted that point no 25 and 26 (ES Information Type) of weekly submission of Client Level Cash & Cash Equivalent Balances as prescribed by Exchange circular NCDEX/COMPLIANCE-063/2021 dated December 17, 2021 should also be reported in accordance with aforesaid guidelines i.e. full value of BG to be reported under row item "NON FUNDED BG".