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**NATIONAL COMMODITY CLEARING LIMITED**

Circular to all Members of the Clearing Corporation

Circular No. : NCCL/INSPECTION-001/2024

Date : August 22, 2024

Subject : Penalty Structure related to provisions of Upstreaming of clients' funds by Stock Brokers (SBs) / Clearing Members (CMs) to Clearing Corporations (CCs) and Bank Guarantees (BGs) created out of client's funds.

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Reference is drawn to NCCL circular NCCL/CLEARING-038/2023 dated June 9, 2023 NCCL/CLEARING-047/2023 dated June 30, 2023 on Upstreaming of clients' funds by Stock-Brokers (SBs) / Clearing Members (CMs) to Clearing Corporations (CCs), NCDEX/COMPLIANCE-093/2023 dated August 31, 2023 on Penalty Structure related to provisions of Upstreaming of clients' funds by Stock Brokers (SBs) / Clearing Members (CMs) to Clearing Corporations (CCs) and Bank Guarantees (BGs) created out of clients' funds, NCCL/Compliance- 013/2023 dated December 28, 2023 on Uniform Penalty Structure for Clearing Members and NCCL/CLEARING-026/2023 dated April 26, 2023 on Bank Guarantees (BGs) created out of clients' funds and NCCL circular no. NCCL/Compliance- 013/2023 dated December 28, 2023 on Uniform Penalty Structure for Clearing Members with respect to the penalty that is applicable in case of any Incorrect data reporting by CM towards SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/84 related to Upstreaming of clients funds by TMs/CMs to CCs.

NCCL circular no. NCCL/Compliance- 013/2023 dated December 28, 2023 on Uniform Penalty Structure for Clearing Members vide point no.27 has mentioned the penalty that is applicable in case of any Incorrect data reporting by CM towards SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/84 related to Upstreaming of clients funds by TMs/CMs to CCs shall be as per Annexure II to be updated from time to time.

In this context, it is clarified that the penalty shall be applicable as per the penalty structure which was already notified through the Exchange circular no. NCDEX/COMPLIANCE-093/2023 dated August 31, 2023 may be read as Annexure II, and the same is enclosed herewith.

Members are requested to take note of the above.

For and on behalf of

**National Commodity Clearing Limited**

Ketan Jadhav  
Assistance Vice President - Regulatory

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For further information /clarifications, please contact

1. Customer Service Group on toll free number: 1800 266 6007
2. Customer Service Group by e-mail to : [contactus@nccl.co.in](mailto:contactus@nccl.co.in)

**Annexure II to the NCCL circular no. NCCL/Compliance- 013/2023 dated December 28, 2023**
**(A). Clients' funds/liquid overnight funds/FDR made out of clients' funds are not upstreamed / pledged/ lien marked by member or creation of BG out of clients' funds:**

| Details of contravention   | Disciplinary Action/Charges |                | Repeat violation   |
|--|-----------------------------|----------------|--|
| <ul style="list-style-type: none"> <li>Clients' funds received before cut-off are not upstreamed to Clearing Corporation and lying with member in any of its bank account*</li> <li>Unit of Mutual fund overnight schemes/ FDR made out of clients' funds are not pledged/ lien marked as case may be to Clearing Corporation*</li> <li>Non-compliance with respect to tenure of FDR made out of clients' funds*</li> <li>Non-compliance with respect to debit freeze of funds received after upstreaming cut off time</li> <li>Transfer of funds to client from other than DSCNB account</li> <li>Receipt of funds from client in other than USCNB account</li> <li>Non permissible transfer of funds between USCNB, DSCNB and any other bank account of member</li> <li>BG created out of clients' funds on or after May 01,2023 or Existing BG created out of clients'</li> </ul> |                             |                | 2nd time in the same month<br>50% escalation<br><br>3rd time in the same month -<br>100% escalation. In addition to penalty, the relevant authority may decide to disable / suspend the clearing rights of the member in all segments for 1 day in case of 3rd time repeat violation on case-to-case basis and based on the gravity of the violation |
|  | <b>Value of Violation</b>   | <b>Penalty</b> |  |
|  | Up to 5 Lakh                | Rs.5000        |  |
|  | > 5 to 10 Lakhs             | Rs.10000       |  |
|  | > 10 to 50 Lakhs            | Rs. 15000      |  |
|  | > 50 Lakhs to 1 Crore       | Rs. 25000      |  |
|  | > 1 Crore to 2 Crore        | Rs. 50000      |  |
|  | > 2 Crore to 5 Crore        | Rs. 1 Lakh     |  |
|  | > 5 Crore to 10 Crore       | Rs. 2 lakhs    |  |
|  | > 10 Crore                  | Rs. 5 lakhs    |  |

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| funds is not wound down by September 30,2023* |  |  |
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\* Along with penalty, direction to take corrective actions and report the same within 7 days shall be issued.

**(B). Funds received after upstreaming cut off time and lying in bank account are not for legitimate purpose:**

| Details of contravention   | Disciplinary Action/Charges  | Repeat violation |   |                       |               |      |                 |       |                 |       |                  |       |
|--|--|------------------|---|-----------------------|---------------|------|-----------------|-------|-----------------|-------|------------------|-------|
| Funds received after upstreaming cut off time and lying-in bank account are not for legitimate purpose | Penalty shall be as under  | -                |   |                       |               |      |                 |       |                 |       |                  |       |
|  | <table border="1" style="width: 100%;"> <thead> <tr> <th data-bbox="488 1062 862 1220">Violation observed during the period from the effective date of circular i.e. September 01,2023</th> <th data-bbox="862 1062 1092 1220">Penalty Per day (Rs.)</th> </tr> </thead> <tbody> <tr> <td data-bbox="488 1220 862 1272">First 30 days</td> <td data-bbox="862 1220 1092 1272">5000</td> </tr> <tr> <td data-bbox="488 1272 862 1325">Next 31-60 days</td> <td data-bbox="862 1272 1092 1325">10000</td> </tr> <tr> <td data-bbox="488 1325 862 1377">Next 61-90 days</td> <td data-bbox="862 1325 1092 1377">15000</td> </tr> <tr> <td data-bbox="488 1377 862 1430">Next 91-120 days</td> <td data-bbox="862 1377 1092 1430">20000</td> </tr> </tbody> </table> |                  | Violation observed during the period from the effective date of circular i.e. September 01,2023 | Penalty Per day (Rs.) | First 30 days | 5000 | Next 31-60 days | 10000 | Next 61-90 days | 15000 | Next 91-120 days | 20000 |
|  | Violation observed during the period from the effective date of circular i.e. September 01,2023  |                  | Penalty Per day (Rs.)   |                       |               |      |                 |       |                 |       |                  |       |
|  | First 30 days  |                  | 5000  |                       |               |      |                 |       |                 |       |                  |       |
|  | Next 31-60 days  |                  | 10000   |                       |               |      |                 |       |                 |       |                  |       |
|  | Next 61-90 days  |                  | 15000   |                       |               |      |                 |       |                 |       |                  |       |
| Next 91-120 days   | 20000  |                  |   |                       |               |      |                 |       |                 |       |                  |       |
| First 30 days  | 5000   |                  |   |                       |               |      |                 |       |                 |       |                  |       |
| Next 31-60 days  | 10000  |                  |   |                       |               |      |                 |       |                 |       |                  |       |
| Next 61-90 days  | 15000  |                  |   |                       |               |      |                 |       |                 |       |                  |       |
| Next 91-120 days   | 20000  |                  |   |                       |               |      |                 |       |                 |       |                  |       |

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|  | Rs. 50000 per day if violation is observed after 120 days from the effective date of circular | 2nd time in the same month- 50% escalation<br><br>3rd time in the same month 100% escalation. In addition to penalty, the relevant authority may decide to disable / suspend the clearing rights of the member in all segments for 1 day in case of 3rd time repeat violation on case-to-case basis and based on the gravity of the violation. |
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Penalty prescribed in point number (B) mentioned above shall be applicable if value of such funds (i.e. received after upstreaming cut off time and lying-in bank account are not for legitimate purpose) exceeds below mentioned threshold:

| Value of Total Creditors (i.e. client payables)                         | Thresholds   |
|---|--|
| Member with total creditors value up to 100 crores                      | Higher of 1% of total creditors and 10 Lakhs                           |
| Member with total creditors value more than 100 crores up to 500 crores | 1 crore plus 0.5% of incremental value of creditors above 100 crores   |
| Member with total creditors value more than 500 crores                  | 3 crores plus 0.25% of incremental value of creditors above 500 crores |