

# National Stock Exchange of India Limited

## Circular

Department: INSPECTION	
Download Ref No: NSE/INSP/53530	Date: September 2, 2022
Circular Ref. No: 61/2022	

### To All Trading Members

#### Sub: Enforcement actions against the Trading Members

The Exchange conducts onsite/offsite inspections of the Trading Members in accordance with the provisions of Chapter 7 of NSEIL Regulations (CM, F&O, CD and COM Segments) read with Byelaw 2 (h) of Chapter V of NSE Byelaws

Pursuant to - onsite/offsite inspection, in cases where discrepancies are noted, enforcement actions are undertaken by issuing an Action Letter inter-alia levying the prescribed penalty in terms of Exchange circulars as mentioned in the Table-1 below:

**Table -1**

Sr. No.	Particulars	Circular reference and date
1	Penalty structures for late/non-submission of data towards undertaking to freeze the bank account	NSE/INSP/46686 dated December 16, 2020
2	List of violations and applicable penalties (CM, F&O, CD and CO segments)	NSE/INSP/47457 dated February 25, 2021
3	Penalty structure for non-issuance of 'statement of accounts' for funds, securities and commodities on a weekly basis to clients	NSE/INSP/48431 dated May 28, 2021
4	Penalty structure for incorrect submission of client level holding statement, cash & cash equivalent balances, and bank account balances by members	NSE/INSP/48655 dated June 18, 2021, NSE/INSP/48661 dated June 21, 2021, and NSE/INSP/49432 dated August 27, 2021
5	Penalty structure related to an internal audit of Trading Members	NSE/INSP/51110 dated January 24, 2022

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At present, as part of the regular/limited purpose Inspection, a Preliminary Observation Sheet ("POS") is issued to the Trading Members upon completion of Inspection. Further, in case of clarifications/submission of additional documents, if any, is received from the Trading Member, the same is considered and a letter of observation ("LO") is issued by the Exchange. LO is also issued in case of offsite inspections.

Similarly, in SEBI joint inspection cases referred to the Exchange for post-inspection enforcement actions, further clarifications/submission of additional documents are received from the Trading Members.

This results in multiple submissions and duplication in the process thereby delaying the post Inspection actions. In view of the aforesaid, it has been decided to revise the existing process to streamline and expedite the post-Inspection actions. Therefore, with effect from September 8, 2022, no POS will be issued to the Trading Members and directly a LO/Show Cause Notice (as may be applicable) will be issued.

Kindly take note that with effect from September 8, 2022, the LO shall indicate the prescribed penalties as per Schedule I. Trading Members must take note of the observations and ensure that the responses to the LO along with complete documentary evidence to substantiate their response, are submitted to the Enforcement Department within the timelines as specified in the LO.

It is, therefore, emphasized that it is in the interest of the Trading Members to submit complete, accurate and correct information in response to Pre – Inspection Questionnaire/Exchange communications during the inspection process.

The Exchange also imposes penalties for the breach of the provisions of various circulars issued by the other Regulatory departments namely Surveillance and Membership Compliance as specified in Table 2 below for various non-compliance viz. delay or non-submission of various periodic submissions, non-adherence to membership/compliance requirements, non-compliances by the Market Maker in SME Segment and abnormal/non-genuine transaction observed by the Surveillance department of the Exchange.

**Table -2**

<b>Sr. No.</b>	<b>Particulars</b>	<b>Circular reference and date</b>
1	Abnormal/Non-Genuine Transactions	NSE/INVG/46662 dated December 19, 2020
2	Penalties/ disciplinary action(s) for non-adherence to the compliance requirements/ submissions by the Trading Members/ Market Makers	NSE/INSP/52085 dated April 22, 2022
3	Penalty for Delay in reporting of Technical Glitch Incidents.	NSE/COMP/50610 dated December 15, 2021
4	Disciplinary action in case of Net worth shortfall and non-submission of Net worth	NSE/COMP/47735 dated March 24, 2021

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Trading Members are requested to note that all the circulars as mentioned in the Table 1 and 2 above have been reviewed and consolidated into a common penalty structure and is enclosed to this circular as Schedule I. This circular is not applicable to any non-compliances/actions related to surveillance /investigation except to the extent covered in Table 2 above. Revisions in penalty as mentioned in Schedule I including penalties prescribed for repeat violations as mentioned shall be effective for all LOs issued with effect from September 8, 2022. Further, it may also be noted that where the discretion for levy of monetary penalty was available in the above circulars the same stands modified to the extent that all such discretion stands withdrawn. The Schedule I additionally covers penalties which are as under:

- The Penalties /disciplinary action(s)/charges for delay or non-submission of various periodic submissions as per Annexure 1.
- The Penalties /disciplinary action(s) for non-adherence to membership/ compliance requirements are per Annexure 2.
- The Penalties /disciplinary action(s) for non-compliances by the Market Maker in SME Segment and penalty for abnormal and non-genuine trade are as per Annexure 3.
- Disciplinary action in case of Net worth shortfall and non-submission of Net worth are as per Annexure 4.
- Penalties for non-adherence to the Guidelines on Technical Glitches to prevent business disruptions as per Annexure 5.

It is also to be noted that prescribed penalty as mentioned in the above said circulars stand revised as provided in Schedule I.

Upon receipt of Trading Members' response to Exchange Communications, including the LO, the Exchange shall consider the same as final, and complete the enforcement actions by issuing an Action Letter.

Failure to submit a response to the LO within the prescribed timelines would be construed as "No additional information is available", and the Exchange shall proceed to complete the enforcement action based on the available documents.

It is brought to the notice of the Trading Members that any failure to adhere to the timelines unless extended by the Exchange as specified in the Exchange Communications, including the LO, shall be treated as non-cooperation, and appropriate disciplinary proceedings shall be initiated under Chapter IV of NSEIL Rules.

Attention in this regard is also drawn to Rule 17 under Chapter IV of NSEIL Rules which clearly stipulates that Reconsideration/Review of any order passed by the Exchange is only at the *suo-moto* discretion of the Committee.

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The existing process of placing the matters before Member and Core Settlement Guarantee Fund Committee ("MCSGFC") will continue to be followed for observations involving disciplinary action like the prohibition of onboarding of new clients, restriction on the onboarding of Authorized Persons or any action like disablement, suspension, expulsion, and declaration of default. In such cases, the Exchange shall issue a show cause notice and provide an opportunity of personal hearing before MCSGFC. However, the disablement of terminals shall continue to be applicable as per existing provisions/process for the following:

- Violations mentioned in Annexure 1 & 4 of Schedule I.
- Under SEBI SOP Circular SEBI/HO/MIRSD/DPIEA/CIR/P/2020/115 dated July 01, 2020 regarding Trading Member / Clearing Member leading to default.

This circular shall come into effect from **September 8, 2022**.

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

**For and on behalf of  
National Stock Exchange of India Limited**

**Suresh Nair  
Vice President**

**Encl: Schedule I along with Annexures.**

In case of any clarifications, Members may contact our below offices:

<b>Regional Office</b>	<b>CONTACT NO.</b>	<b>E MAIL ID</b>
Ahmedabad (ARO)	079-49008632	inspectionahm@nse.co.in
Chennai (CRO)	044- 66309915/17	inspection_cro@nse.co.in
Delhi (DRO)	011-23459127 / 38 / 46	delhi_inspection@nse.co.in
Kolkata (KRO)	033-40400412 / 59	inspection_kolkata@nse.co.in
Mumbai (WRO)	Board Line : 022-25045000 / 022-61928200 Direct Line : 022 2504 5138/022 25045144 Extn: 28144/28138	compliance_wro@nse.co.in
Central Help Desk	compliance_assistance@nse.co.in	