

NSE IFSC CLEARING CORPORATION LIMITED

BYE LAWS

ARRANGEMENT OF CHAPTERS

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## **CHAPTER I: DEFINITIONS**

### **1. BOARD**

“Board” means Board of Directors of the Clearing Corporation

### **2. BYELAWS**

Unless the context indicates otherwise, Byelaws means the Byelaws of the Clearing Corporation for the time being in force.

### **3. CLEARING AND SETTLEMENT**

"Clearing and Settlement" means clearing or settlement or clearing and settlement of deals in such manner and subject to such conditions as may be specified by the Relevant Authority from time to time, unless the context indicates otherwise.

### **4. CLEARING BANK(S)**

Clearing Bank(s) is/are such bank(s) as the Clearing Corporation may appoint to act as a funds settling agency, for the collection of margin money for all deals cleared through Clearing Corporation and any other funds movement between clearing members and the Clearing Corporation and between clearing members as may be directed by the Clearing Corporation from time to time.

### **5. CLEARING CORPORATION**

Clearing Corporation means NSE IFSC Clearing Corporation Limited.

### **6. CLEARING MEMBER**

"Clearing Member" means a member of the Clearing Corporation and includes all categories of clearing members as may be admitted as such by the Clearing Corporation but does not denote the shareholders of the Clearing Corporation.

### **7. CONSTITUENT/ CLIENT**

A client/Constituent means a person, on whose instructions and on whose account the Clearing Member clears and settles deals. For this purpose, the term “Client” shall include all registered constituents of trading members of Specified Exchange.

Explanation 1: The terms ‘Constituent’ and ‘Client’ are used interchangeably in the Byelaws, Rules & Regulations and shall have the same meaning assigned herein.

Explanation 2: The term ‘Constituent’ in relation to trades shall also include a trading member where such trades done

on the Specified Exchange are cleared and settled on his behalf by a Clearing Member.

8. DEAL

"Deal" means, unless the context indicates otherwise, trades executed on a Specified Exchange which are admitted to be cleared and settled through the Clearing Corporation.

9. DELIVERING MEMBER

"Delivering Member" means a clearing member who has to or has delivered documents including original share/bond/other securities certificates, transfer documents etc. as required for delivery in fulfillment of contract to which these Rules, Bye Laws and Regulations apply unless the context indicates otherwise.

10. RECEIVING MEMBER

"Receiving Member" means a clearing member who has to receive or has received documents including original share/bond/other securities certificates, transfer documents etc. as required for delivery in fulfillment of contracts to which these Rules, Bye Laws and Regulations apply unless the context indicates otherwise.

11. IFSC

IFSC means International Financial Services Centre as defined by SEBI under the Securities and Exchange Board of India (International Financial Services Centres) Guidelines, 2015.

12. NETTING

"Netting" means the determination by Clearing Corporation of net payment or delivery obligations of the clearing members by setting off or adjustment of the inter se obligations or claims arising out of buying and selling of securities including the claims and obligations arising out of the termination by the Clearing Corporation, in such circumstances as the Clearing Corporation may specify in Byelaws, of the deals admitted for settlement at a future date, so that only a net claim be demanded, or a net obligation be owed.

13. NOVATION

"Novation" means the act of a clearing corporation interposing itself between both parties of every trade, being the legal counterparty to both.

14. REGULATIONS

"Regulations" means Regulations of the Clearing Corporation for the time being in force and includes business rules, code

of conduct and such other procedures and regulations, circulars, directives and orders as issued by the relevant authority from time to time.

#### 15. RELEVANT AUTHORITY

"Relevant Authority" means the Board or such other authority as specified by the Board from time to time as relevant for a specified purpose.

#### 16. RULES

Unless the context indicates otherwise, "Rules" means the Rules of the Clearing Corporation for the time being in force.

#### 17. SEBI

"SEBI" means the Securities and Exchange Board of India.

#### 18. SECURITIES

"Securities" shall mean securities as permitted by SEBI from time to time to be traded on a stock exchange in IFSC.

#### 19. SETTLEMENT GUARANTEE FUND

Settlement Guarantee Fund means a fund established and maintained in accordance with the relevant provisions of the Bye Laws.

#### 20. SPECIFIED EXCHANGE

"Specified Exchange" or "specified exchange" means a recognised stock exchange in IFSC under the Securities Contracts (Regulation) Act, 1956 dealings on which may be admitted to be cleared and settled by the Clearing Corporation subject to such terms and conditions as may be specified from time to time by the relevant authority.

#### 21. TRADING MEMBER

22.

"Trading Member" means any person admitted as a member in any Specified Exchange in accordance with the Rules, Bye Laws and Regulations of that Exchange.

The terms defined above shall mean the same when used in lower case in the Rules, Bye Laws and Regulations, unless the context indicates otherwise.

## **CHAPTER II: REGULATIONS**

1. The Board may prescribe Regulations from time to time for the functioning and operations of the Clearing Corporation and to regulate the functioning and operations of the clearing members.
2. Without prejudice to the generality of the above, the Board may prescribe regulations from time to time, inter alia, with respect to :
  - (1) norms, procedures, terms and conditions for admission of Exchanges;
  - (2) norms, procedures, terms and conditions to be complied with for admission of deals for clearing and settlement by the Clearing Corporation; norms, procedures, terms and conditions for clearing and settlement of deals forms and conditions of deals to be entered into, and the time, mode and manner for performance of deals between clearing members inter se or between clearing members and their constituents; norms, procedures, terms and conditions for guaranteed settlement prescription, from time to time, and administration of penalties, fines and other consequences, including suspension/expulsion of clearing members for defaults;
  - (3) norms, procedures, terms and conditions for imposition and administration of different types of margins and other charges and restrictions that may be imposed from time to time.
  - (4) determination from time to time, of fees, system usage charges, deposits, margins and other monies payable to the Clearing Corporation by clearing members and the scale of clearing and other charges that may be collected by such clearing members;
  - (5) supervision of the clearing operations and promulgation of such Business Rules and Codes of Conduct as it may deem fit;
  - (6) inspection and audit of records and books of accounts;
  - (7) settlement of disputes, complaints, claims arising between clearing members interse as well as between clearing members and persons who are not clearing members relating to any deal in securities cleared and settled through Clearing Corporation including settlement by arbitration;
  - (8) norms, procedures, terms and conditions for arbitration;

(9) administration, maintenance and investment of the corpus of the Fund(s) set up by the Clearing Corporation

(10) establishment, norms, terms and conditions, functioning and procedures of clearing house, clearing through depository or other arrangements including custodial services for clearing and settlement;

(11) norms, procedures, terms and conditions in respect of, incidental to or consequential to closing out of deals;

(12) dissemination of information and announcements;

(13) any other matter as maybe decided by the Board.

### **CHAPTER III : CLEARING MEMBERS**

1. The relevant authority is empowered to admit Clearing Members in accordance with Rules and Regulations subject to the minimum financial requirements prescribed by SEBI. Such Clearing Members shall pay such fees, security deposits and other monies as may be specified by the relevant authority from time to time, on admission as Clearing Members and for continued admission.
2. The fees, security deposits, other monies and any additional deposits paid, whether in the form of cash, bank guarantee, securities or otherwise, with the Clearing Corporation, by a Clearing Member from time to time, shall be subject to a first and paramount lien for any sum due to the Clearing Corporation and all other claims against the Clearing Member for due fulfilment of engagements, obligations and liabilities of Clearing Members arising out of or incidental to any dealings made subject to the Byelaws, Rules and Regulations of the Clearing Corporation. The Clearing Corporation shall be entitled to adjust or appropriate such fees, deposits and other monies for such dues and claims, to the exclusion of the other claims against the Clearing Member, without any reference to the Clearing Member.
3. Clearing Members may clear and settle deals either on their own account or on behalf of their constituents unless otherwise specified by the relevant authority and subject to such terms and conditions which the relevant authority may prescribe from time to time.

## **CHAPTER IV : CLEARING AND SETTLEMENT OF DEALS**

### **A. DEALS FOR CLEARING AND SETTLEMENT**

#### **1. CLEARING AND SETTLEMENT OF DEALS**

(1)The Clearing Corporation shall clear and settle such deals as provided in the Bye Laws and Regulations and save as so provided, no other deals shall be cleared and settled.

(2)Without prejudice to the generality of the above, the relevant authority may in its discretion and subject to such conditions as it may deem fit admit any other deals.

#### **2. ADMISSION OF DEALS**

(1)Clearing and settlement shall be permitted on the Clearing Corporation in deals which are from time to time admitted by the relevant authority in accordance with the provisions of the Bye Laws and Regulations.

(2)The relevant authority may specify securities from time to time dealings on which may be admitted in accordance with the provisions of the Bye Laws and Regulations in that regard.

(3)The relevant authority may specify stock exchanges from time to time dealings on which may be admitted for clearing and settlement in accordance with the provisions of the Bye Laws and Regulations.

#### **3. CONDITIONS AND REQUIREMENTS OF CLEARING AND SETTLEMENT**

The relevant authority may grant admission of deals dealt in the Exchange provided all the conditions and requirements specified in the Bye Laws and Regulations and such other conditions and requirements as the relevant authority may prescribe from time to time are complied with.

#### **4. REFUSAL OF ADMISSION OF DEALS**

The relevant authority may, in its discretion, approve admission of deals or reject admission of deals for clearing and settlement, subject to such terms as it deems fit.

#### **5. SPECIFIC DEALS**

The relevant authority may permit in appropriate cases as it may at its discretion decide from time to time specific deals to be cleared and settled through the Clearing Corporation in case of securities which are not admitted or are for the time being prohibited or suspended.

#### **6. SUSPENSION OF ADMISSION OF DEALS**

The relevant authority may suspend at any time the admission of deals including of any security or of specified exchange on Clearing Corporation for such

period as it may determine and reinstate such deals subject to such conditions as it may deem fit.

#### 7. WITHDRAWAL OF ADMISSION OF DEALS

The relevant authority may where it deems necessary withdraw the admission to dealings of a specified exchange either for breach of or non-compliance with any of the conditions or requirements of admission of dealings or for any other reason whatsoever

#### 8. READMISSION OF DEALS

The relevant authority in its discretion may readmit deals of a specified exchange which has been previously withdrawn.

### B. CLEARING AND SETTLEMENT OF DEALS

#### 9. CLEARING AND SETTLEMENT

Settlement shall be effected by clearing members giving and receiving delivery and paying and receiving funds as may be specified by the relevant authority from time to time in the Bye Laws and Regulations.

##### 9(A). Settlement Finality

- i. The payment and settlement in respect of a deal shall be determined in accordance with the netting or gross procedure as specified by the relevant authority with the prior approval of SEBI in the circulars issued from time to time.
- ii. Payment and settlement in respect of a deal shall be final, irrevocable and binding on the Clearing Members.
- iii. When a settlement has become final and irrevocable, the right of the Clearing Corporation to appropriate any collaterals or deposits or margins contributed by the clearing member towards its settlement or other obligations in accordance with these Byelaws shall take priority over any other liability of or claim against the said clearing member.
- iv. For removal of doubts, it is hereby declared that the settlement, whether gross or net, referred to in Clause (1) above is final and irrevocable as soon as the money, securities or other transactions payable as a result of such settlement is determined, whether or not such money, securities or other transactions is actually paid.
- v. For the purpose of Clause (1) above, "netting" means the determination by Clearing Corporation of net payment or delivery obligations of the clearing members by setting off or adjustment of the inter se obligations or claims arising out of buying and selling of securities including the claims and obligations arising out of the termination by the Clearing Corporation, in such circumstances as the Clearing



Corporation may specify in Byelaws, of the deals admitted for settlement at a future date, so that only a net claim be demanded, or a net obligation be owed.

- vi. For removal of doubts, it is hereby declared that claims and obligations arising out of the termination by the Clearing Corporation referred to in clause (5) above shall mean claims and obligations arising out of deals closed out in accordance with these Byelaws.

#### 9 (B). Right of Clearing Corporation

The right of clearing corporation to recover the dues from its clearing members, arising from the discharge of their clearing and settlement functions, from the collaterals, deposits and the assets of the clearing members, shall have priority over any other liability of or claim against the clearing members.

#### 10. PRIVACY OF CONTRACT

- i. Except as provided herein, clearing members giving and receiving delivery as provided in the Bye Laws and Regulations shall be deemed, notwithstanding that no direct contract may exist between them, to have made a contract with each other as sellers and buyers. However the rights and liabilities of delivering and receiving member in relation to their immediate contracting party shall not be deemed to be affected thereby except that the selling member (unless he be himself the delivering member) shall be released from all responsibility in regard to the title, ownership, genuineness, regularity and validity of the documents received by the receiving member and in regard to the loss and damages arising therefrom, which shall be dealt with in accordance with the provisions of Bye Laws and Regulations thereof.
- ii. In cases where the Clearing Corporation may specify either generally or specifically, clearing members giving and receiving delivery and paying and receiving funds as provided in the Bye Laws and Regulations shall be deemed, notwithstanding that no direct contract exists between them, to have made a contract with the Clearing Corporation through full novation as sellers and buyers and between themselves as delivering and receiving members; provided further however that in such event the rights and liabilities of delivering and receiving member shall not be deemed to be affected thereby except that the Clearing Corporation shall not be responsible in respect of the title, ownership, genuineness, regularity and validity of the documents delivered or received and in regard to the loss and damages arising therefrom, which shall be

dealt with in accordance with the provisions of Bye Laws and Regulations.

- iii. Notwithstanding anything contained above, the Clearing Corporation may specify either generally or specifically, where Clearing Members clearing and settling deals as provided in the Bye laws and Regulations shall be deemed, notwithstanding that no direct contract exists between them, to have made a contract between themselves as buyers and sellers and where such contract shall be submitted with the Clearing Corporation as the buyer to the seller and as the seller to the buyer.

#### 11. ARRANGEMENT FOR CLEARING AND SETTLEMENT

- i. Clearing and settlement of deals shall be effected by clearing members by adopting and using such arrangements, systems, agencies or procedures as may be specified by the relevant authority from time to time. Without prejudice to the generality of the above, the relevant authority may prescribe or specify from time to time such custodial, depository and other services for adoption and use by clearing members and their constituents to facilitate smooth operation of the clearing and settlement arrangement or system.
- ii. The clearing and settlement function may be performed by the Clearing Corporation or it may take assistance of any agency identified by the relevant authority for the purpose.

#### 12. OPERATIONAL PARAMETERS FOR CLEARING

- i. The relevant authority may determine and announce from time to time operational parameters regarding clearing of deals through the Clearing Corporation which the clearing members shall adhere to.
- ii. The operational parameters may, inter alia, include:
  - A. clearing/exposure limits allowed which may include clearing/exposure limits with reference to net worth and capital adequacy norms;
  - B. clearing volumes and limits at which it will be incumbent for clearing members to intimate the Clearing Corporation ;
  - C. fixation of delivery lots for different settlement types;
  - D. other matters which may affect smooth operation of clearing of deals keeping in view larger interest of the public;
  - E. determining types of deals permitted for a clearing member and for a security;
  - F. determining functional details of the clearing and settlement system including the system design, user infrastructure and system operation.

### 13. CLEARING HOURS

- i. The hours for clearing and settling of the Clearing Corporation shall be during such time as may be decided by the relevant authority from time to time. The relevant authority may, from time to time, specify clearing hours for different types of deals.
- ii. The relevant authority may declare a list of holidays in a calendar year. The relevant authority may from time to time alter or cancel any of the holidays fixed in accordance with these provisions. It may, for reasons to be recorded, suspend clearing and settlement operations on days other than or in addition to holidays.

### 14. DELIVERY OF SECURITIES

- i. Delivery and settlement of all securities, documents and papers and payment in respect of all deals be in such manner and such place(s) as may be specified by the relevant authority from time to time.
- ii. The relevant authority shall specify from time to time, the securities, documents and papers which, when delivered in specified manner, shall constitute good delivery. Where circumstances so warrant, the relevant authority may determine, for reasons to be recorded, whether or not a delivery constitutes a good delivery, and such findings shall be binding on parties concerned. Where the relevant authority determines that a delivery does not constitute a good delivery, the delivering party shall be required to substitute good delivery instead within such time as may be specified.
- iii. The norms and procedures for delivery with respect to market lot, odd lot, minimum lot, part delivery, delivery of partly paid securities etc., shall be as specified by the relevant authority from time to time.
- iv. The requirements and procedures for determining disputed deliveries or defective deliveries, and measures, procedures and system of resolving the dispute or defect in deliveries or of consequences of such deliveries or their resolution shall, subject to these Bye Laws, be as specified by the relevant authority from time to time.

### 15. TRANSFER OF POSITION

A deal admitted for clearing and settlement may be transferred to another non defaulting clearing member with his consent on the failure of a clearing member to comply with any of the provisions relating to delivery, payment and settlement of deals or on any failure to fulfil the terms and conditions subject to which the deal has been made, or such other circumstances as the relevant authority may specify from time to time. The deal may be transferred to another non defaulting

clearing member by the Clearing Corporation in such manner, within such time frame, and subject to such conditions and procedures as the relevant authority may prescribe from time to time

#### 16. CLOSE OUT

- i. A deal admitted for clearing and settlement may be closed out on failure of a clearing member to comply with any of the provisions relating to delivery, payment and settlement of deals or on any failure to fulfil the terms and conditions subject to which the deal has been made, or such other circumstances as the relevant authority may specify from time to time. The deal may be closed out by the Clearing Corporation in such manner, within such time frame and subject to such conditions and procedures as the relevant authority may prescribe from time to time.
- ii. Without prejudice to the generality of the foregoing, the relevant authority may close out deals, inter alia, by buying in or selling out against a clearing member as follows:-
  - A. in case of the selling clearing members, on failure to complete delivery on the due date; and
  - B. in case of the buying clearing members, on failure to pay the amount due on the due date,
  - C. and any loss, damage or shortfall sustained or suffered as result of such closing out shall be payable by the clearing members who failed to give due delivery or to pay amount due.
- iii. In case of default by a clearing member to the Clearing Corporation arising out of the positions the relevant authority shall be entitled to close-out the positions of a clearing member.
- iv. The Clearing Corporation shall be entitled to hold the positions in its own name, either fully or part thereof in the above clause till expiry at its discretion subject to such terms and conditions as it may deem fit.

#### 17. FAILURE TO MEET OBLIGATIONS

In the event a clearing member fails to meet obligations to the Clearing Corporation arising out of clearing and settlement operations of admitted deals, the relevant authority may charge such interest, impose such penalties and fines and take such disciplinary action against the clearing member as it may determine from time to time. Any disciplinary action which the relevant authority takes pursuant to the above shall not affect the obligations of the clearing member to the Clearing Corporation or any remedy to which the Clearing Corporation may be entitled under applicable law.

## **CHAPTER V : DEALINGS BY CLEARING MEMBERS**

### **1. JURISDICTION**

- (1) All deals admitted by the Clearing Corporation for clearing and settlement shall be deemed to have been entered into in IFSC unless provided otherwise expressly by the relevant authority.
- (2) The relevant authority may, from time to time, specify deals as subject to a particular jurisdiction, having regard to the type or nature of the deal, the exchange on which the deal was struck and other relevant factors.

### **2. RECORD FOR EVIDENCE**

The record as maintained by a central processing unit or a cluster of processing units or computer processing units, whether maintained in any other manner shall constitute the agreed and authentic record in relation to any deals cleared and settled through the Clearing Corporation. For the purposes of any disputes regarding clearing and settlement of deals, the records as maintained by the Clearing Corporation shall constitute valid evidence in any dispute or claim between the constituents and the clearing member or between the clearing members inter-se or between the clearing members and the Clearing Corporation.

### **3. CLEARING MEMBER ONLY PARTIES TO DEALS**

The Clearing Corporation does not recognise as parties to deals any persons other than its own clearing members, and every clearing member is directly and wholly liable in accordance with whom such clearing member has any deal for due fulfilment of the deal or as may be specified by the relevant authority, whether such deal be for account of the clearing member effecting it or for account of a constituent.

### **4. ALL DEALS SUBJECT TO RULES, BYE LAWS AND REGULATIONS**

All deals shall be made subject to the Rules, Bye Laws and Regulations and this shall be a part of the terms and conditions of all such deals and the deals shall be subject to the exercise by the relevant authority of the powers with respect thereto vested in it by the Bye Laws, Rules and Regulations.

### **5. INVIOABILITY OF ADMITTED DEALS**

All the dealings in securities made subject to the Byelaws, Rules and Regulations shall be in- violable and shall be cleared and settled in accordance with the Byelaws, Rules and Regulations. However, the Clearing Corporation may act on the annulment of a deal by any Specified Exchange and in such an event,

the Clearing Member shall be entitled to cancel the relevant deal(s) with its constituents.

6. DEALS BY REPRESENTATIVE CLEARING MEMBERS

A clearing member may authorise another clearing member to act as his representative for a specified period with the prior permission of the relevant authority.

7. EXCLUSION OF LIABILITY OF CLEARING CORPORATION

The Clearing Corporation shall not be liable for any activity of Clearing member or any person acting in the name of the clearing member whether authorized or unauthorized including deals cleared and settled through the Clearing Corporation save and except as and to the extent provided in the Bye-laws and Regulations.

**CHAPTER VI : MARGINS**

1. MARGIN REQUIREMENTS

- (1) The relevant authority may from time to time prescribe requirements of margins for deals cleared and settled through the Clearing Corporation and the clearing member shall furnish such margin as a condition precedent.
- (2) Without prejudice to clause (1) above, the relevant authority may provide cross margin benefit for deals cleared and settled through the Clearing Corporation for such positions subject to such terms and conditions as may be prescribed from time to time.
- (3) Every Clearing Member has a continuing obligation to maintain margins at such levels and during such periods as may be stipulated by the Clearing Corporation from time to time.

2. FORM OF MARGIN

The margins to be provided by a clearing member under the Bye Laws and Regulations shall be in cash and cash equivalents. The relevant authority may at its discretion accept deposit receipts, guarantee of a bank(s) approved by the relevant authority or securities approved by it or such other mode as may be approved and subject to such terms and conditions as the relevant authority may impose from time to time. Any such substitute like deposit receipt, securities approved by it or any other mode duly approved shall be deemed to have been pledged and/or hypothecated as the case may be in favour of the Clearing Corporation.

3. QUANTUM OF MARGIN

The Clearing Member depositing margins, in the form of securities by way of pledge or otherwise or in such other mode as may be specified by the relevant authority from time to time, shall always maintain the value thereof at not less than the quantum of margin required for the time being covered by them by providing further security to the satisfaction of the relevant authority which shall determine the said value and whose valuation shall conclusively fix the amount of any deficiency to be made up from time to time.

4. MARGIN TO BE HELD BY THE CLEARING CORPORATION

The margins shall be held by the Clearing Corporation and when they are in the form of bank deposit receipts and securities, such receipts and securities may be transferred to such persons or to the name of a custodian or such other entity approved by the Clearing Corporation. All margin deposits shall be held by the Clearing Corporation and/or by the approved persons and/or by the approved custodian in such form and on such account as the Clearing Corporation may deem fit without any right whatsoever on the part of the depositing clearing member or those in its right to call in question the exercise of such discretion.

5. LIEN ON MARGINS

The monies paid by way of margin or bank deposit receipts or other securities or assets pledged or hypothecated by a clearing member in lieu of margin under the provisions of the Bye Laws and Regulations shall be subject to a first and paramount lien for all sums due to the Clearing Corporation. Margin shall be available in preference to all other claims against the clearing member for the due fulfilment of his obligations and liabilities arising out of or incidental to any deals made subject to the Bye Laws, Rules and Regulations or anything done in pursuance thereof.

6. UTILISATION FOR FAILURE TO MEET OBLIGATIONS

(1) In the event a clearing member fails to meet obligations to the Clearing Corporation arising out of clearing and settlement operations of such deals as provided in the Bye Laws and Regulations, the relevant authority shall be entitled to utilise any amount paid by the said clearing member in the form of margin or any other payment retained by the Clearing Corporation for the purpose of clearing and settlement.

(2) In case of default by a clearing member to the Clearing Corporation arising out of the positions, the relevant authority shall be entitled to utilise the margins or any other monies of such a clearing

member in order to meet the obligations arising out of such positions.

7. EVASION OF MARGIN REQUIRMENTS FORBIDDEN

A clearing member shall not directly or indirectly enter into any arrangement or adopt any procedure for the purpose of evading or assisting in the evasion of the margin requirements specified under the Bye Laws and Regulations.

8. SUSPENSION ON FAILURE TO PAY MARGIN

If a clearing member fails to pay margin as required in the Bye Laws and Regulations, the relevant authority may take such action as it may deem fit and specify from time to time including suspension.

9. INTEREST, DIVIDEND AND CALLS

(1) The receiving member shall be entitled to receive all vouchers, coupons, dividends, cash bonus, bonus issues, rights and other privileges which may relate to securities bought cum voucher, cum coupons, cum dividends, cum cash bonus, cum bonus issues, cum rights, etc. The delivering member shall be entitled to receive all vouchers, coupons, dividends, cash bonus, bonus issues, rights and other privileges which may relate to securities sold ex voucher, ex coupons, ex dividends, ex cash bonus, ex-bonus issues, ex rights, etc.

(2) The manner, mode, information requirements, alterations, date and timing etc., of adjustment with respect to vouchers, coupons, dividends, cash bonus, bonus issues, rights and other privileges between the receiving and delivering member shall be as specified by the relevant authority from time to time. Save as otherwise provided in the Bye Laws and Regulations, the clearing members shall be responsible between themselves and to their constituents for effecting such adjustments.

(3) In respect of a deal in securities which shall become or are exchangeable for new or other securities under a scheme of reconstruction or reorganisation, the delivering member shall deliver to the receiving member, as the relevant authority directs, either the securities contracted for or the equivalent in securities and/or cash and/or other property receivable under such scheme of reconstruction or reorganisation.

10. FEES & CHARGES

The relevant authority may prescribe from time to time fees and charges to be levied on the clearing members in respect of clearing and settlement of deals.



## **CHAPTER VII: ARBITRATION**

1. All claims, disputes, differences, arising between Clearing Members and Constituents or between Clearing Members inter se or between such other parties as specified by the relevant authority from time to time, arising out of or related to deals admitted for clearing and settlement by the Clearing Corporation or with reference to anything done in respect thereto or in pursuance of such deals shall be referred to and decided by arbitration, mediation and other dispute resolution mechanisms offered by such International Arbitration Centres in IFSC as specified by the relevant authority from time to time.

## **CHAPTER VIII : SETTLEMENT GUARANTEE FUND**

### **1. CLEARING CORPORATION TO MAINTAIN SETTLEMENT GUARANTEE FUND**

- (1) The Clearing Corporation shall maintain Settlement Guarantee Fund for such purposes as may be specified by the relevant authority from time to time. The Clearing Corporation shall have such a fund to guarantee the settlement of trades executed on the Specified Stock Exchange. In the event a Clearing Member fails to fulfil the settlement obligations, the Settlement Guarantee Fund shall be used to fulfil the settlement obligations of the Clearing Member.
- (2) The relevant authority may prescribe from time to time the norms, procedures, terms and conditions governing Settlement Guarantee Fund which may inter-alia specify the amount of deposit or contribution to be made by each clearing member to the fund, the terms, manner and mode of deposit or contributions, conditions of repayment of deposit or withdrawal of contribution from the fund, charges for utilisation, penalties and disciplinary actions for non-performance thereof.

### **2. CONTRIBUTION TOWARDS SETTLEMENT GUARANTEE FUND**

- (1) The contributions of various contributors including specified Exchange to Settlement Guarantee Fund shall be subject to circulars/directions issued by SEBI from time to time and as specified by Clearing Corporation. Clearing Corporation shall have the flexibility to collect Clearing Member primary contribution either upfront or staggered over a period of time. In case of staggered contribution, the remaining balance shall be met by Clearing Corporation to ensure adequacy of Settlement Guarantee Fund corpus at all times. Such Clearing Corporation contribution shall be available to Clearing Corporation for withdrawal as and when further contributions from Clearing Members are received;

- (2) Any penalties levied by Clearing Corporation shall be credited to Settlement Guarantee Fund;
- (3) Interest on cash contribution to Settlement Guarantee Fund shall also accrue to the Settlement Guarantee Fund and pro-rata attributed to the respective contributors in proportion to their cash contribution;
- (4) Clearing Corporation shall ordinarily accept cash collateral for Settlement Guarantee Fund contribution. However, Clearing Corporation may accept Clearing Member contribution in the form of bank FDs. Clearing Corporation shall adhere to specific guidance which may be issued by SEBI from time to time in this regard.

### 3. FORM OF CONTRIBUTION

The relevant authority shall prescribe from time to time the form of contribution to the Settlement Guarantee Fund. The relevant authority in its discretion, may permit a clearing member to contribute either in the form of cash, fixed deposit, or by such other method and subject to such terms and conditions as may be specified from time to time.

### 4. ADMINISTRATION AND UTILISATION OF THE SETTLEMENT GUARANTEE FUND

- (1) The Settlement Guarantee Fund shall be utilised for such purposes as may be provided in the Bye Laws and Regulations and subject to such conditions as the relevant authority may prescribe from time to time which shall include:
  - (a) to defray the expenses of creation, maintenance and repayment of the Default Fund;
  - (b) investment in such approved securities and other avenues subject to such terms and conditions as may be decided by the relevant authority from time to time;
  - (c) the application of Settlement Guarantee Fund to meet premium on insurance cover(s) which the relevant authority may take from time to time;
  - (d) the application of Settlement Guarantee Fund to meet shortfalls and deficiencies arising out of the clearing and settlement of such deals as provided in the Bye Laws and Regulations;
  - (e) the application of the Settlement Guarantee Fund to satisfy any loss or liability arising out of clearing and settlement operations of such deals as provided in these Bye Laws and Regulations;
  - (f) repayment of the balance after meeting all obligations under these Rules, Bye Laws and Regulations to the clearing member when he ceases to be a member pursuant to the provisions regarding the repayment of deposit;
  - (g) any other purpose as may be specified by the Board from time to time.

(2) The Clearing Corporation shall have full power and authority to pledge, re-pledge, hypothecate, transfer, create a security interest in, or assign any or all of the (i) Settlement Guarantee Fund cash or other instruments in which Settlement Guarantee Fund cash is invested by a clearing member any other instrument issued on behalf of a clearing member in favour of the Clearing Corporation towards deposit to the Settlement Guarantee Fund.

5. UTILISATION FOR FAILURE TO MEET OBLIGATIONS

In the event a clearing member fails to meet obligations to the Clearing Corporation arising out of clearing and settlement operations of such deals as provided in these Bye Laws and Regulations, the relevant authority may utilise the Settlement Guarantee Fund and other monies to the extent necessary to fulfil the obligation under such terms and conditions as the relevant authority may specify from time to time.

6. UTILISATION IN CASE OF DEFAULT

The default waterfall of Clearing Corporation shall generally follow the following order:

1. Monies of defaulting member (including defaulting member's primary contribution to Settlement Guarantee Fund).
2. Insurance, if any.
3. Clearing Corporation resources (equal to 5% of the MRC\*).
4. Settlement Guarantee Fund in the following order:
  - i. Penalties
  - ii. Clearing Corporation contribution to the extent of at least 25% of the MRC
  - iii. Remaining Settlement Guarantee Fund: Clearing Corporation contribution, Specified Stock Exchange contribution and non-defaulting members' primary contribution to Settlement Guarantee Fund on pro-rata basis.
5. Remaining Clearing Corporation resources (excluding an amount equivalent to INR 100 Crore)
6. Capped additional contribution by non-defaulting members.
7. Any remaining loss to be covered by way of pro-rata haircut to payouts.

\* The Relevant Authority shall specify from time to time the Minimum Required Corpus (MRC) of the Settlement Guarantee Fund of the Clearing Corporation in accordance with the norms prescribed by SEBI from time to time.

7. REFUND OF SETTLEMENT GUARANTEE FUND CONTRIBUTION

A clearing member shall be entitled to the refund of contribution repayment of deposit made by him to the Settlement Guarantee Fund after –

- (a) the clearing member ceases to be a member, and
- (b) all pending deals at the time the clearing member ceases to be a clearing member which could result in a charge to the Settlement Guarantee Fund have been closed and settled, and
- (c) all obligations for which the clearing member was responsible while he was a member have been satisfied or, at the discretion of the relevant authority, have been deducted by the Clearing Corporation from the clearing member's actual contribution ;
- (d) a suitable amount as may be determined by the relevant authority at its discretion towards such other obligations as may be perceived to exist or may be perceived to arise in future.

## **CHAPTER IX: DEFAULT**

### 1. DECLARATION OF DEFAULT

A clearing member may be declared a defaulter by direction/circular/notification of the relevant authority if:

- 1) he is unable to fulfil his clearing or settlement obligations; or
- 2) he admits or discloses his inability to fulfil or discharge his duties, obligations and liabilities; or
- 3) he fails or is unable to pay within the specified time the damages and the money difference due on a closing-out effected against him under the Rules, Bye Laws and Regulations; or
- 4) he fails to pay any sum due to the Clearing Corporation as the relevant authority may from time to time prescribe; or
- 5) if he fails to pay or deliver all moneys, securities and other assets due to a clearing member who has been declared a defaulter within such time of declaration of default of such clearing member in such manner and to such person as the relevant authority may direct; or
- 6) if he fails to abide by the arbitration award as laid down under the Rules, Bye Laws and Regulations; or
- 7) if he has been adjudicated as an insolvent by a court of competent jurisdiction in the petition filed by any of his creditors, he shall ipso facto be declared a defaulter though he may not have at the same time defaulted on any of his obligations on the Clearing Corporation; or
- 8) if he files a petition before a court of competent jurisdiction for adjudication of himself as an insolvent; or
- 9) under any other circumstances as may be decided by the relevant authority from time to time.

1A. Without prejudice to the foregoing provisions contained in Byelaw (1) of this chapter, where a clearing member, who is also a member/ trading member of any of the recognised Stock Exchanges, is declared a defaulter by such Stock Exchange, the said clearing member shall ipso facto stand declared a defaulter by the Relevant Authority.

1B. Notwithstanding anything contained in the Byelaws and Rules of Clearing Corporation, if a clearing member is an Associate of a member/ trading member declared a defaulter by any recognised stock exchange, the said clearing member shall render itself liable to be declared a defaulter by the Relevant Authority.

Explanation:

The expression "Associate" for the purpose of the above Byelaw shall have the meaning as maybe defined by SEBI from time to time.

2. CLEARING MEMBER'S DUTY TO INFORM

A clearing member shall be bound to notify the Clearing Corporation immediately if there be a failure by any clearing member to discharge his liabilities in full.

3. COMPROMISE FORBIDDEN

A clearing member shall not accept from any clearing member anything less than a full and bona fide money payment in settlement of a debt arising out of a deal cleared through the Clearing Corporation.

4. NOTICE OF DECLARATION OF DEFAULT

On a clearing member being declared a defaulter, a notice shall be forthwith issued to all the clearing members of the Clearing Corporation.

5. NOTICE TO THE STOCK EXCHANGE

On a clearing member being declared a defaulter, a notice shall be forthwith issued to the Exchange if the clearing member is also a trading member of that Exchange.

6. DEFAULTER'S BOOKS AND DOCUMENTS

When a clearing member has been declared a defaulter, the relevant authority shall take charge of all his books of accounts, documents, papers and vouchers to ascertain the state of his affairs and the defaulter shall hand over such books, documents, papers and vouchers to the relevant authority.

7. LIST OF DEBTORS AND CREDITORS

The defaulter shall file with the relevant authority within such time of the declaration of his default as the relevant authority may direct, a written statement

containing the complete list of his debtors and creditors and the sum owing by and to each.

8. DEFAULTER TO GIVE INFORMATION

The defaulter shall submit to the relevant authority such statement of accounts, information and particulars of his affairs as the relevant authority may from time to time require and if so desired shall appear before the relevant authority at its meetings held in connection with his default.

9. INQUIRY

The relevant authority may conduct a strict inquiry into the accounts and dealings of the defaulter in the market and shall report anything improper, un-business like or unbecoming a clearing member in connection therewith which may come to its knowledge.

10. DEFAULTER'S ASSETS

The Relevant Authority shall call in and realise the security deposits in any form, margin money, other amounts lying to the credit of and securities deposited by the defaulter and recover all moneys, securities and other assets due, payable or deliverable to the defaulter by any other Clearing Member in respect of any deal or dealing made subject to the Bye-laws, Rules and Regulations of the Clearing Corporation and such assets shall vest ipso facto, on declaration of any Clearing Member as a defaulter, in the Clearing Corporation for the benefit of and on account of the Clearing Corporation, the relevant Specified Exchange, Securities and Exchange Board of India, Constituents of the defaulter, approved banks and any other persons as may be approved by the Relevant Authority and other recognised stock exchanges / clearing corporations.

11. PAYMENT TO RELEVANT AUTHORITY

- (1) All monies, securities and other assets due, payable or deliverable to the defaulter must be paid or delivered to the relevant authority within such time of the declaration of default as the relevant authority may direct. A clearing member violating this provision may be declared a defaulter.
- (2) A clearing member who shall have received a difference on account or shall have received any consideration in any deal prior to the date fixed for settling such account or deal shall, in the event of the clearing member from whom he received such difference or consideration being declared a defaulter, refund the same to the relevant authority for the benefit and on account of the creditor members. Any clearing member who shall have paid or given such difference or consideration to

any other clearing member prior to such settlement day shall again pay or give the same to the relevant authority for the benefit and on account of the creditor member in the event of the default of such other member.

- (3) A clearing member who receives from another clearing member during any clearing a claim note or credit note representing a sum other than difference due to him or due to his constituent which amount is to be received by him on behalf and for the account of that constituent shall refund such sum if such other clearing member be declared a defaulter within such number of days as specified by the relevant authority after the settling day. Such refunds shall be made to the relevant authority for the benefit and on account of the creditor members and it shall be applied in liquidation of the claims of such creditor members whose claims are admitted in accordance with the Rules, Bye Laws and Regulations.

## 12. DISTRIBUTION

The relevant authority shall at the risk and cost of the creditor members pay all assets received in the course of realisation into such bank and/or keep them with the Clearing Corporation in such names as the relevant authority may from time to time direct and shall distribute the same in accordance with the Rules, Bye Laws and Regulations.

## 13. CLOSING-OUT

- (1) Clearing members having open deals with the defaulter shall close out such deals after declaration of default. Such closing out shall be in such manner as may be specified by the relevant authority from time to time. Subject to the regulations in this regard specified by the relevant authority, when in the opinion of the relevant authority, circumstances so warrant, such closing out shall be deemed to have taken place in such manner as may be determined by the relevant authority.
- (2) Differences arising from the above adjustments of closing out shall be claimed from the defaulter or paid to the relevant authority for the benefit of creditor clearing members of the defaulter.

## 14. CLAIMS AGAINST DEFAULTER

Within such time of the declaration of default as the relevant authority may direct every clearing member carrying on business shall, as it may be required to do, either compare with the relevant authority his accounts with the defaulter duly adjusted and made up as provided in the Rules, Bye-Laws and Regulations or furnish a statement of such accounts with the defaulter

in such form or forms as the relevant authority may prescribe or render a certificate that he has no such account.

15. DELAY IN COMPARISON OR SUBMISSION OF ACCOUNTS

Any clearing members failing to compare his accounts or send a statement or certificate relating to a defaulter within the time specified shall be called upon to compare his accounts or send such statement or certificate within such further time as may be specified.

16. PENALTY FOR FAILURE TO COMPARE OR SUBMIT ACCOUNTS

The relevant authority may take such action as it may deem fit including levying of fine and suspension on any clearing member who fails to compare his accounts or submit a statement of its account with the defaulter or a certificate that he has no such account within the specified time.

17. MISLEADING STATEMENT

The relevant authority may take such action as it may deem fit including levying of fine and suspension, if it is satisfied that any comparison statement or certificate relating to a defaulter sent by such clearing member was false or misleading.

18. ACCOUNTS OF RELEVANT AUTHORITY

The relevant authority shall keep a separate account in respect of all monies, securities and other assets payable to a defaulter which are received by it and shall defray therefrom from all costs, charges and expenses incurred in or about the collection of such assets or in or about any proceedings it takes in connection with the default.

19. APPLICATION OF ASSETS

The Relevant Authority shall apply the net assets remaining in its hands after defraying all such costs, charges and expenses as are allowed under the Rules, Byelaws and Regulations to be incurred by the Clearing Corporation, in satisfying the claims in the order of priority provided hereunder:-

- (a) Dues to the Clearing Corporation, the relevant Specified Exchange, Securities and Exchange Board of India.

The payment of such subscriptions, debts, fines, fees, charges and other money/ies due to Clearing Corporation, the relevant Specified Exchange and Securities and Exchange Board of India on a pro-rata basis,

- (b) Dues to Constituents of the defaulter



The payments as may be admitted by the Relevant Authority, as being due to Constituents of the defaulter for debts, liabilities, obligations and claims arising out of any contracts made by the defaulter subject to the Rules, Bye-laws and Regulations of the Clearing Corporation, provided that if the amount is insufficient then the amounts shall be distributed pro-rata amongst all the Constituents of the defaulter,

- (c) Dues to the Approved Banks and claims of any other persons as approved by the Relevant Authority

After making payments under (b) above, the amounts remaining, if any, shall be utilised to meet the claims of the approved banks and of any other person as may be admitted by the Relevant Authority. The claims of the approved banks should have arisen by virtue of Clearing Corporation or the relevant Specified Exchange invoking any bank guarantee issued by the bank concerned to the Clearing Corporation or the relevant Specified Exchange as the case may be on behalf of the defaulter to fulfil his obligation of submitting bank guarantee, guaranteeing discharge of obligations under the Byelaws, Rules and Regulations of Clearing Corporation / the relevant Specified Exchange. The claims of other persons should have arisen out of or incidental to the clearing and settlement of a deal on the Clearing Corporation or requirements laid down by the Clearing Corporation, provided that if the amount available be insufficient to pay all such claims in full, they shall be paid pro-rata,

- (d) Dues to any other recognised stock exchange/clearing Corporation

After meeting the claims under (c) above, the remaining amounts, if any, shall be disbursed to any other recognised stock exchange / clearing corporation for the purpose of meeting the obligations of the defaulter as a member of that exchange/clearing corporation. If the defaulter is a member of more than one recognised stock exchange/clearing corporation, then the remaining amounts shall be distributed amongst all such recognised stock exchanges / clearing corporations and if the remaining amount is insufficient to meet the claims of all such stock exchanges/clearing corporations, then the remaining amount shall be distributed pro-rata among all such stock exchanges/clearing corporations; and

- (e) Surplus

The surplus amounts, if any, remaining after meeting all the above claims, shall be paid to the Clearing Member.

## 20. CERTAIN CLAIMS NOT TO BE ENTERTAINED

The relevant authority shall not entertain any claim against a defaulter:

- (1) which arises out of a contract in securities, dealings in which are not permitted or which are not made subject to Bye Laws, Rules and Regulations or in which the claimant has either not paid himself or colluded with the defaulter in evasion of margin payable on bargains in any security ;
- (2) which arises out of a contract in respect of which comparison of accounts has not been made in the manner specified in the Rules, Bye Laws and Regulations or when there has been no comparison if a contract note in respect of such deals has not been rendered as provided in the Rules, Bye Laws and Regulations;
- (3) which arises from any arrangement for settlement of claims in lieu of bonafide money payment in full on the day when such claims become due;
- (4) which is in respect of a loan with or without security ;
- (5) which is not filed with the relevant authority within such time of date of declaration of default as maybe specified by the relevant authority.

## 21. ASSIGNMENT OF CLAIMS ON DEFAULTERS' ESTATE

A Clearing member being a creditor of a defaulter shall not sell, assign or pledge the claim on the estate of such defaulter without the consent of the relevant authority.

## 22. PROCEEDINGS IN THE NAME OF OR AGAINST THE DEFAULTER

The Relevant Authority shall be empowered to (a) initiate any proceedings in a court of law either in the name of the Clearing Corporation or in the name of the defaulter against any person for the purpose of recovering any amounts due to the defaulter; (b) initiate any proceedings in a court of law either in the name of Clearing Corporation or in the name of the creditors (who have become creditors of the defaulter as a result of deals cleared and settled subject to Byelaws, Rules and Regulations of the Clearing Corporation) of the defaulter against the defaulter for the purpose of recovering any amounts due from the defaulter. The defaulter as well as the creditors of the defaulter shall be deemed to have appointed the Clearing Corporation as their constituted attorney for the purpose of taking such proceedings.

### 23. PAYMENT OF RELEVANT AUTHORITY

If any clearing member takes any proceedings in a court of law against a defaulter whether during the period of its default or subsequent to its re-admission to enforce any claim against the defaulter's estate arising out of any admitted deals in the market made subject to the Bye Laws, Rules and Regulations before it was declared a defaulter and obtains a decree and recovers any sum of money thereon, it shall pay such amount or any portion thereof as may be fixed by the relevant authority for the benefit and on account of the creditor members having claims against such defaulter.

## **CHAPTER X : MISCELLANEOUS**

1. Save as otherwise specifically provided in the Bye Laws and Regulations specified by the relevant authority regarding clearing and settlement arrangement, in promoting, facilitating, assisting, regulating, managing and operating the Clearing Corporation should not be deemed to have incurred any liability, and accordingly no claim or recourse in respect of or in relation to any dealing in securities or any matter connected therewith shall lie against the any authorised person(s) acting for the Clearing Corporation.
2. No claim, suit, prosecution or other legal proceeding shall lie against any authorised person(s) acting for Clearing Corporation in respect of anything which is in good faith done or intended to be done in pursuance of any order or other binding directive issued to Clearing corporation under any law or delegated legislation for the time being in force.