



भारतीय प्रतिभूति और विनिमय बोर्ड
Securities and Exchange Board of India

MASTER CIRCULAR

CIR/MRD/DMS/40/2010

December 31, 2010

To,

All Stock Exchanges and Depositories

Dear Sir / Madam,

Sub: Master Circular for Stock Exchanges and Depositories

Securities and Exchange Board of India (SEBI) has been issuing various circulars from time to time. In order to enable the users to have an access to all the applicable circulars at one place, Master Circular for Stock Exchanges and Depositories has been prepared.

This Master Circular is a compilation of the circulars issued by Market Regulation Department –Division of Market Supervision of SEBI up to December 31, 2010 and shall come into force from the issuance date.

Yours faithfully,

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SECTION - 1: ANNUAL SYSTEMS AUDIT

1.1 Annual System Audit for Stock Exchanges¹

1. Considering the importance of systems audit in a highly technology driven securities market, it has been decided that exchanges shall conduct audit of their systems by a reputed independent auditor on an annual basis. The systems audit should be comprehensive encompassing audit of systems and processes related to examination of Trading Systems, Clearing and Settlement Systems (Clearing Corporation/Clearing House), Risk Management, Databases, Disaster Recovery Sites, Business Continuity Planning, Security, Capacity Management and Information Security Audit.
2. Accordingly, Stock Exchanges are advised to get the above systems audit conducted on an annual basis and such Systems Audit Report and Compliance Status be placed before the Governing Board of the exchange. The systems audit report / findings along with comments of Stock Exchanges should be communicated to SEBI.

1.2 Annual System Audit for Depositories²

1. Regulation 35 of the SEBI (Depositories and Participant) Regulations, 1996 requires that “Every depository shall cause an inspection of its controls, systems, procedures and safeguards to be carried out annually and forward a copy of the report to the Board”.
2. In this context, it is advised that the Systems Audit of the depository should be carried out once every year and such Systems Audit Report along with the compliance status should be placed before the Governing Board of the depository. Such report should include security audit as well. The systems audit report / findings along with comments of Depositories should be communicated to SEBI.

SECTION -II: POWER OF ATTORNEY

¹ Circular No. MIRSD/DPS-III/Cir-22/2008, Dated: July 23, 2008

² Letter No. MIRSD/DPS-III/132833/2008, Dated: July 23, 2008

2.1 Execution of Power of Attorney (PoA) by the Client in favour of the Stock Broker/ Stock Broker and Depository Participant³

1. A Power of Attorney is executed by the client in favour of the stock broker /stock broker and depository participant to authorize the broker to operate the client's demat account and bank account to facilitate the delivery of shares and pay-in/ pay-out of funds.
2. Generally, the PoA is taken from the clients who want to avail internet based trading services. For offering internet based trading services, a stock broker requires necessary authorizations for seamless trading, collection of margins as well as settlement of funds and securities. Further, some of the stock brokers also obtain authorizations from their clients to offer non-internet based services.
3. It has come to SEBI's notice that the clients are compelled to give irrevocable power of attorney to manage clients' demat account(s) and bank account(s) so that the clients are able to pay funds or deliver shares to their brokers on time. In some cases, the PoA even allows a broker to open and close accounts on behalf of the client and to trade on client's account without the consent of the client.
4. In order to standardize the norms to be followed by stock brokers / stock broker and depository participants while obtaining PoA from the clients, guidelines have been finalized based on discussions in Secondary Market Advisory Committee of SEBI (SMAC) and feedback from market participants, investor associations, major stock exchanges and depositories on discussion paper on the captioned subject put on SEBI website. It has been decided that the guidelines as set out in para 7, 8 and 9 shall be made applicable to stock brokers / stock broker and depository participants.
5. Standardizing the norms for PoA must not be construed as making the PoA a condition precedent or mandatory for availing broking or depository participant services. PoA is merely an option available to the client for instructing his broker or depository participant to facilitate the delivery of shares and pay-in/pay-out of funds, etc. No stock broker or depository participant shall deny services to the client if the client refuses to execute a PoA in their favour.

³ Circular No. CIR/MRD/DMS/13/2010 Dated April 23, 2010

6. The stock brokers were required to take necessary steps to implement this circular latest by May 31, 2010 for the new clients and ensure to take necessary steps latest by September 01, 2010 to revoke those authorizations given by the existing clients to the stock brokers / stock broker and depository participants through PoA that are inconsistent with the present guidelines.
7. Guidelines for execution of Power of Attorney by clients favouring stock brokers / stock broker and depository participants:-

7.1 PoA favouring Stock Brokers

PoA executed in favour of a stock broker by the client should be limited to the following:

A. Securities

- (i) Transfer of securities held in the beneficial owner account(s) of the client(s) towards stock exchange related margin / delivery obligations arising out of trades executed by the client(s) on the stock exchange through the same stock broker.
- (ii) Pledge the securities in favour of Stock Broker for the limited purpose of meeting the margin requirements of the client(s) in connection with the trades executed by the client(s) on the stock exchange through the same stock broker. Necessary audit trail should be available with the stock broker for such transactions.
- (iii) To apply for various products like Mutual Funds, Public Issues (shares as well as debentures), rights, offer of shares, tendering shares in open offers etc. pursuant to the instructions of the client(s). However, a proper audit trail should be maintained by the stock broker to prove that the necessary application / act was made / done pursuant to receipt of instructions from client(s).

B. Funds

Transfer of funds from the bank account(s) of the client(s) for the following:

- a) For meeting the settlement obligations of the client(s) / margin requirements of the client(s) in connection with the trades

executed by the clients on the stock exchange through the same stock broker.

- b) For recovering any outstanding amount due from the client(s) arising out of clients trading activities on the stock exchanges through the same stock broker.
- c) For meeting obligations arising out of the client subscribing to such other products/facilities/services through the stock broker like Mutual Funds, Public Issues (shares as well as debentures), rights, offer of shares, tendering of shares in open offers, etc.
- d) Towards monies/fees/charges, etc. due to the stock broker /depository participant /principal payable by virtue of the client using /subscribing to any of the facilities /services availed by the client at his /her instance.
- e) Necessary audit trail should be available with the stock broker for such transactions.

7.2 POA favouring Stock Brokers and Depository Participants

PoA executed in favour of a stock broker and depository participant by the client should:

- (i) identify /provide the particulars of the beneficial owner account(s) and the bank account(s) of the client(s) that the stock broker is entitled to operate.
- (ii) provide the list of clients' & brokers' bank accounts & demat accounts where funds and securities can be moved. Such bank & demat accounts should be accounts of related party only.
- (iii) be executed in the name of the concerned SEBI registered entity only and not in the name of any employee or representative of the stock broker/depository participant.
- (iv) not provide the authority to transfer the rights in favour of any assignees of the stock broker /depository participant.
- (v) be executed and stamped as per the rules / law prevailing in the place where the PoA is executed or the place where the PoA is kept as a record, as applicable.



- (vi) contain a clause by which the stock broker would return to the client(s), the securities or funds that may have been received by it erroneously or those securities or funds that it was not entitled to receive from the client(s).
- (vii) be revocable at any time, without notice.
- (viii) be executed by all the joint holders (in case of a demat account held jointly). If the constitution of the account is changed for whatever reason, a new PoA should be executed.
- (ix) authorize the stock broker/depository participant to send consolidated summary of client's scrip-wise buy and sell positions taken with average rates to the client by way of SMS / email on a daily basis, notwithstanding any other document to be disseminated as specified by SEBI from time to time.

8. General Guidelines

The POA shall not facilitate the stock broker to do the following:

- (i) Transfer of securities for off market trades.
- (ii) Transfer of funds from the bank account(s) of the clients for trades executed by the clients through another stock broker.
- (iii) Open a broking / trading facility with any stock broker or for opening a beneficial owner account with any depository participant.
- (iv) Execute trades in the name of the client(s) without the client(s) consent.
- (v) Prohibit issue of Delivery Instruction Slips (DIS) to beneficial owner (client).
- (vi) Prohibit client(s) from operating the account.
- (vii) Merging of balances (dues) under various accounts to nullify debit in any other account.

- (viii) Open an email ID/ email account on behalf of the client(s) for receiving statement of transactions, bills, contract notes etc. from stock broker / depository participant.
- (ix) Renounce liability for any loss or claim that may arise due to any blocking of funds that may be erroneously instructed by the stock broker to the designated bank.

9. Stock Broker / Depository Participant should ensure that:

- (i) A duplicate/ certified true copy of the PoA is provided to the client(s) after execution.
- (ii) In case of merger/ demerger of the stock broker/depository participant with another entity/ into another entity, the scheme of merger/ demerger should be approved by High Court and one month prior intimation given to the client about the corporate restructuring to facilitate investor / client to continue or discontinue with the broker / depository participant.

2.2 Execution of Power of Attorney (PoA) by the Client in favour of the Stock Broker/ Stock Broker and Depository Participant - Clarifications⁴

1. SEBI received representation from Market Participants seeking guidance and clarifications on process to be followed for implementation of the provisions of the circular no. CIR/MRD/DMS/13/2010 dated April 23, 2010.
2. Based on the examination of the issues highlighted in the representations and so as to facilitate the implementation of the provisions of the aforesaid circular, clarifications were issued for immediate implementation as follows :

S. No.	Clauses / Provisions of the PoA Circular	Clarifications
1	Standardizing the norms for PoA must not be construed as making the PoA a condition precedent or	Only internet based trading exempted.

⁴ Circular No. CIR/MRD/DMS/28/2010 Dated August 31, 2010.

S. No.	Clauses / Provisions of the PoA Circular	Clarifications
	<p>mandatory for availing broking or depository participant services. PoA is merely an option available to the client for instructing his broker or depository participant to facilitate the delivery of shares and pay-in /pay-out of funds, etc. No stock broker or depository participant shall deny services to the client if the client refuses to execute a PoA in their favour.</p>	
2	<p>The Stock Brokers shall take necessary steps to implement this circular latest by May 31, 2010 for the new clients and ensure to take necessary steps latest by September 01, 2010 to revoke those authorizations given by the existing clients to the stock brokers/ stock broker and depository participants through PoA that are inconsistent with the present guidelines.</p>	<p>Stock Broker/ DP may revoke those authorizations that are inconsistent with the present guidelines by communicating the inconsistent clauses to the existing clients. In the event, the deleted / modified clauses are not accepted by the client, Stock Broker / DP may be required to either obtain fresh PoA or close the account. In case of any addition to the existing PoA, Stock Broker / DP shall be required to obtain a new PoA from clients.</p>
3	<p>PoA executed in favour of a stock broker by the client should be limited to the following:</p> <p>“(i) Transfer of securities held in the beneficial owner account(s) of the client(s) towards stock exchange related margin / delivery obligations arising out of trades executed by the client(s) on the stock exchange through the same stock broker.”</p>	<p>Margin / Delivery obligations shall also include settlement obligations, if any.</p>
4	<p>PoA executed in favour of a stock broker by the client should be</p>	<p>Redemptions are also included in PoA pursuant to client’s</p>



S. No.	Clauses / Provisions of the PoA Circular	Clarifications
	limited to the following: “(iii) To apply for various products like Mutual Funds, Public Issues (shares as well as debentures), rights, offer of shares, tendering shares in open offers etc. pursuant to the instructions of the client(s). However, a proper audit trail should be maintained by the stock broker to prove that the necessary application /act was made /done pursuant to receipt of instruction from client.”	instructions.
5	PoA executed in favour of a stock broker and depository participant by the client should provide the list of clients' & brokers' bank accounts & demat accounts where funds and securities can be moved. Such bank & demat accounts should be accounts of related party only.	The list of clients' & brokers' bank accounts & demat accounts may be updated / amended by proper communication without executing a new PoA every time. Copies of such communications may be preserved as annexure to the PoA.
6	PoA executed in favour of a stock broker and depository participant by the client should be revocable at any time, without notice.	PoA executed in favour of a stock broker / stock broker and depository participant by the client should be revocable at any time. However, such revocation shall not be applicable for any outstanding settlement obligation arising out of the trades carried out prior to receiving request for revocation of PoA. Further, the PoA revocation requests should be dated and time stamped by the brokers for ensuring proper audit trail.



S. No.	Clauses / Provisions of the PoA Circular	Clarifications
7	The POA shall not facilitate the stock broker to do the following: "12. Transfer of securities for off market trades"	The PoA shall not facilitate off-market trades between parties other than the related parties as mentioned in the PoA.