

**THE GAZETTE OF INDIA  
EXTRAORDINARY  
PART II SECTION 3 - SUB-SECTION (ii)  
PUBLISHED BY AUTHORITY  
SECURITIES AND EXCHANGE BOARD OF INDIA  
NOTIFICATION  
Mumbai, the 15th July 2004**

**SECURITIES AND EXCHANGE BOARD OF INDIA (INTEREST LIABILITY  
REGULARISATION) SCHEME, 2004.**

S.O. No. 818 (E). In exercise of powers conferred by sub-section (1) and clause (k) of sub-section (2) of section 11 read with section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) the Board hereby makes the following scheme for regularization of interest liability in respect of registration fees payable by stock brokers in the cash segments of Stock Exchanges under the SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992, namely:-

**“SEBI (Interest Liability Regularisation) Scheme, 2004”**

**Part – I**

1.0 Under section 11 of the Securities and Exchange Board of India Act, 1992 (the Act) it is the duty of the Securities and Exchange Board of India (the Board) to protect the interests of investors and to promote the development of, and to regulate the securities market by such measures as it thinks fit. The measures may provide, inter alia, for registering and regulating the working of stock brokers, sub-brokers etc. and levying fees. Thus, the Act empowers the Board to collect fees for registering and regulating the stock brokers. Further, in terms of section 12 of the Act, no stock broker shall buy, sell or deal in securities except under, and in accordance with the conditions of a certificate of registration obtained from the Board in accordance with the regulations made under the Act. Section 12 (2) provides that every application for registration shall be in such manner and on payment of such fees as may be determined by regulations. The fees received by the Board under the Act are credited to the Securities and Exchange Board of India General Fund. In terms of section 30 of the Act, the Board may, by notification, make regulations to carry out the purposes of the Act. Such regulations may provide, inter alia, for the amount of fees to be paid for certificate of registration granted to a stock broker.

1.1 The SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 (the Regulations) were notified on October 23, 1992. Regulation 10 read with Schedule III of the Regulations specifies the registration fees payable by the stock brokers. The Regulations provide that such fees shall be payable for first five years based on the annual turnover relating to the preceding financial year. After expiry of five financial years from the date of registration, Rs. 5,000 is payable for every block of five years. The brokers, however, had been representing to the Board that the demand was excessive and the collection of same based on turnover was unreasonable and arbitrary. Therefore, the Board appointed an Expert Committee under the Chairmanship of Shri R. S. Bhatt to look into the interpretation of ‘turnover’ in the context of fees payable by brokers. The Bhatt Committee submitted its report on December 18, 1992. It observed that the turnover was a fair basis for determination of registration fees and the incidence of fees prescribed by Board was not unreasonable. It, however, recommended concessional rates of fees for certain types of transactions. The Central Government and the

Board accepted the recommendations of the Committee in principle. The Board advised the brokers on January 7, 1993 to pay fees in the manner recommended by the Bhatt Committee.

1.2 The stock brokers had been contesting the fees liability before various High Courts. Finally the Hon'ble Supreme Court of India, vide its judgement dated February 01, 2001 in the matter of BSE Brokers Forum vs. SEBI, (as reported in [2001] 30 SCL 31), upheld the Regulations and the power of SEBI to levy fees for carrying out the purposes of the Act. It also held that turnover can be the measure for levy of fees. It, however, directed SEBI to incorporate the recommendations of the R. S. Bhatt Committee in the Regulations. In compliance with the directions of the Hon'ble Supreme Court, the Regulations were amended on February 20, 2002 by incorporating the recommendations of the R. S. Bhatt Committee.

1.3 In the mean time, in order to enforce payment of fees by the stock brokers, the Board, on December 16, 1998, amended the SEBI (Broker and Sub Broker) Regulations, 1992. By this amendment it was provided that if a stock broker fails to remit fees in accordance with paragraph 1 and 2 of Schedule III of the Regulations, he shall be liable to pay interest at the rate of 15% per annum for each month of delay or part thereof.

2.0 It has been observed that defaults have occurred in payment of registration fees. Given the background of defaults, the Board has decided to introduce a scheme, namely, SEBI (Interest Liability Regularisation) Scheme, 2004 (the Scheme) to provide a one time opportunity to enable the stock brokers in the Cash segments of stock exchanges to regularize their defaults. Therefore, in exercise of the powers under Section 11 of the Act read with Regulation 10 and Schedule III of the SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992, the Board hereby introduces the Scheme viz. SEBI (Interest Liability Regularisation) Scheme, 2004. Under the Scheme, if the defaulting broker pays the entire outstanding principal amount of fee, if any, and 20% of the outstanding interest during the regularization period, he will not be required to pay the balance 80% of outstanding interest.

2.1 It is clarified that after the expiry of the scheme, a broker having outstanding registration fee liabilities towards the Board shall be liable to pay entire outstanding amount, including interest, as per the Regulations and shall also be liable for appropriate enforcement action as permissible under the Act and the Regulations framed thereunder. It is further clarified that in terms of regulation 27 of the Regulations, a stock broker, who fails to pay fees as per schedule III of the Regulations, is liable for action as specified in the SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002, including the suspension or cancellation of certificate of registration. Besides, such persons may also be liable for prosecution under section 24 of the Act.

3. 0. The details of the Scheme are as under:

3.1. **Interest Liability Regularisation:** Under the Scheme, the stock brokers who have outstanding fee liabilities (principal and / or interest) as on 1<sup>st</sup> October 2004, as per the Regulations, may pay the entire outstanding amount of principal, if any, together with 20% of the outstanding interest as on that date. On payment of the aforesaid amounts during the "Regularisation Period" specified under the Scheme, the stock brokers shall not be liable for payment of the balance 80% of the outstanding interest on that date.

3. 2 **Regularisation Period:** The regularization period shall commence on 15<sup>th</sup> October 2004 and end on 15<sup>th</sup> November 2004 (both days inclusive).

3. 3 **Mode of Payment:** The amount payable under this Scheme shall be paid by way of a Banker's Cheque or Demand Draft drawn in favour of "Securities and Exchange Board of

India” payable at Mumbai. The Banker’s Cheque or Demand Draft must reach between 15<sup>th</sup> October 2004 and 15<sup>th</sup> November 2004 at the address given below:

*“Securities and Exchange Board of India*

*Fee Cell, Market Intermediaries Registration and Supervision Department*

*29<sup>th</sup> Floor, World Trade Centre*

*Cuffe Parade, Mumbai- 400005.”*

While making payment, the stock broker shall:

6. quote his registration number or the registration number(s) of the erstwhile broker(s) for whom the payment is made;
- (ii) quote his name or the name(s) of erstwhile broker(s) for whom the payment is made; and
- (iii) indicate the break up of the payment towards principal and interest and towards its own liabilities or the liabilities of erstwhile broker(s).

3.4 The fee liability shall be computed in the manner specified in the Regulations, based on the turnover data, as provided by the Exchanges to the Board in the prescribed format (Annexure ‘C’ of the SEBI Circular 30<sup>th</sup> September 2002). The manner of taking on record the turnover data in respect of stock brokers required for determination of outstanding fee liability is provided in Part – II of this Scheme.

3.5 The details of the Scheme are available on the website of SEBI at [www.sebi.gov.in](http://www.sebi.gov.in) and also with the stock Exchanges.

3.6 For clarifications, if any, the stock broker may contact Ms. Anita Kenkare, Deputy General Manager / Mr. U. Venugopal, Assistant General Manager, Fee Cell, Market Intermediaries Registration and Supervision Department, Securities and Exchange Board of India, 29<sup>th</sup> Floor, World Trade Centre, Cuffe Parade, Mumbai- 400005, Tel: 22164428/29/38/49.

## Part – II

### Manner of taking Turnover Data on Record

1. Following the Hon'ble Supreme Court judgement in February 2001, the Board has amended the Regulations and from time to time clarified several issues relating to determination of registration fees through issue of circulars. The Board has also specified the Exchange certification of the data in specified format (Annexure 'C' of the SEBI Circular dated September 30, 2002) in order to ensure integrity of the data.

2. The Board has followed up vigorously to obtain turnover data in respect of all brokers, past and present, for the relevant years in order to enable it to assess registration fee liability of the stock brokers. Exchanges were also advised by the Board to submit the stock broker wise turnover data within a time frame based on their own records and/ or the auditors' certificate submitted by the stock brokers to the Exchange. The Exchanges were advised to submit gross turnover data based on their own records, if the stock brokers do not submit turnover data, after giving sufficient notice and intimating the stock brokers concerned that they would not be eligible for concessional rates of fee and that fee at a flat rate of 0.01% would be levied on the gross turnover reported by the Exchanges to the Board. Therefore, those stock brokers, who did not report turnover with break up to Exchanges and the Exchange submitted the turnover data based on its own records, will not be entitled to any concessional rates of fees.

3. In accordance with the above policy, the Board has been receiving turnover data from the Exchanges and taking them on record. No further data revisions would, therefore, be permitted – even if a stock broker wishes to submit an auditor certificate at this late stage, or, if the Exchange desires to revise its own data. This measure is absolutely necessary to ensure that the process of data revision does not remain open ended for ever. As sufficient advance notices and reminders have been sent to the Exchanges / stock brokers and the Board is taking on record the latest turnover data duly certified by the Exchange, no representations/ complaints would be entertained by the Board.

4. After taking the data received so far on record, the Board would identify the missing data and advise the same to the Exchanges. The Exchanges, in turn, would be required to report the missing data as available in their records within a specified time frame, without making any reference to the stock brokers to submit the break-up at this stage. Such data, if received, would be taken on record. Thereafter, the Board would determine the exact fee liability of the stock brokers and advise the same to the Exchanges. The time schedule for the above activities shall be as follows:

Sl. No.	Activity	Time Frame
1	The Board to forward the data gaps for the relevant turnover years up to 2003-04 to the Exchanges	19.07.2004
2	Exchanges to submit the turnover data in respect of data gaps as per their own records	02.08.2004
3	The Board to take on record the turnover data forwarded by the Exchanges as at (2) above	18.08.2004
4	The Board to forward the fee liability statements in respect of stock brokers to the Exchanges	03.09.2004
5	Exchanges to report back discrepancies noted, if any,	17.09.2004

	from the turnover reported by the Exchange or in the fees liability computation, to the Board	
6	The Board to make corrections, if any, based on reports of the Exchanges as at 5 above	01.10.2004
7	The Board to forward outstanding fee liability statements to Exchanges, after correction as at 6 above	08.10.2004
8	Regularisation Period	15 <sup>th</sup> October 2004 to 15 <sup>th</sup> November 2004

## 5. Specified Transactions

As per SEBI circular dated September 30, 2002, the specified transactions (compulsory carry forward, reversal badla, reverse 6A/7A transactions) are not to be included in the turnover of the broker for the purpose of levy of registration fees if such transactions form a part of the broker-wise total turnover figures maintained by the Exchanges. This circular stands modified to the extent that such specified transaction can be excluded based on either Exchange's records or auditors' certificate provided by the broker, or the audit already done by the Exchange, as the case may be.

## 6. Registration Fees Payable by Subsidiaries

6.1 As per the regulations, the subsidiaries of the Exchanges floated for the purpose of seeking membership of major stock Exchanges are required to pay registration fees to SEBI. However, they are not required to pay fees on the turnover effected by the sub-brokers who have paid fees for first five years and a block of five years as stock brokers on the parent Exchange. Under this approach, it is difficult to determine the turnover liable to fees. In order to resolve the difficulties and to simplify the process of determination of fee liability of subsidiaries, a simple and equitable approach is being offered. Under this equitable approach, the subsidiary broking company would be liable to pay fees at normal rate on 20% of its gross turnover from 2<sup>nd</sup> year to 5<sup>th</sup> year. The subsidiaries would have an option to pay fees in the manner prescribed in the regulations or as per the equitable approach.

6.2 This alternative approach is being offered to all such subsidiaries except the subsidiary floated by Inter Connected Stock Exchange (ISE), which was registered on November 18, 1998 and its subsidiary was registered on February 24, 2000. Hence, none of the traders/dealers of ISE had completed the five year period at the time of becoming sub-brokers. ISE Securities & Services Ltd. (ISSL), the subsidiary of ISE, would be required to pay fees on full turnover of the subsidiary subject to jobbing concessions claimed by the sub-brokers."

Sd/-  
**G.N.BAJPAI**  
**CHAIRMAN**  
**SECURITIES AND EXCHANGE BOARD OF INDIA**

[F. No. SEBI/MIRSD/DOR-I/ 15292 /2004]