CIRCULAR

SEBI/HO/CDMRD/DRMP/CIR/P/2016/90 September 21, 2016

To,

The Managing Directors/Chief Executve Officers,
National Commodity Derivatives Exchanges

Sir/Madam,

Sub: Staggered delivery, early delivery system, early pay-in facility, penalty on delivery default, fixation of FSP and changes in expiry dates

1. As per Section 131[B]of the Finance Act, 2015 all rules, directions, guidelines, instructions, circulars, or any like instruments, made by the erstwhile Forward Markets Commission (FMC) or the Central Government applicable to recognised associations under the Forward Contracts Regulation Act, 1952 (FCRA) would continue to remain in force for a period of one year from the date on which FCRA was repealed (September 29, 2015), or till such time as notified by SEBI, whichever is earlier.

2. Erstwhile FMC, from time to time, had prescribed various norms for National Commodity Derivatives Exchanges related to staggered delivery, early delivery system, early pay-in facility, penalty on delivery default, fixation of Final Settlement Price (FSP) and changes in expiry dates. This circular is beingissued to consolidate and update such norms prescribed for National Commodity Derivatives Exchanges by the erstwhile FMC.

3. Accordingly, the following are prescribed:

a. Staggered delivery

In all futures contracts for which staggered delivery is mandated, the framework shall be as given below:

- The tender period shall start with onset of the applicable staggered delivery period. In case the day happens to be a Saturday, Sunday or exchange holiday, the tender period shall start from the next working day.
- Seller/buyer shall have an option of marking an intention of giving/taking delivery on any day from start of the tender period up to expiry of the contract.
- Exchange shall allocate delivery to buyers having open long position as per random allocation methodology to ensure that all buyers have an

equal opportunity of being selected to receive delivery irrespective of the size or

value of the position. However, preference may be given to buyers who have marked an intention of taking delivery.

- If the tender date is T, then pay-in and pay-out shall happen latest by T+2th working day.
- Open position on expiry of the contract would result in compulsory delivery and would be settled at Final Settlement Price (FSP) of the respective contracts and pay-in and pay-out shall happen latest by the 2nd working day after expiry.

b. Early delivery system

In all futures contracts for which early delivery system is mandated, the framework shall be as given below:

a. An early delivery period may be provided during E-14 to E-1 days (where E stands for expiry day) of the contract during which buyers/sellers can give intention to take/give delivery. If the intentions of the buyers/sellers match, then the respective positions will be closed out by physical deliveries. The process of pay in and pay-out will be completed on T + 2 basis, where 'T' stands for the day on which matching has been done.
b. If there is no intention matching for delivery between sellers and buyers, then such delivery intention will get automatically extinguished at the close of E-1 day. The intentions can be withdrawn during the course of E-14 to E-1 day if they remained unmatched
c. In respect of delivery defaults after the matching of delivery intentions, penalty provisions as applicable in the case of delivery defaults in compulsory delivery contracts will be applied.
d. On the expiry of the contract, all outstanding positions would be settled by delivery and all the penalty provisions for delivery default applicable in the compulsory delivery contracts shall apply.

c. Early pay-in facility

Exchanges shall provide early pay-in facility to market participants permitting market participants to deposit certified goods to the Exchange accredited warehouse against relevant futures contracts sold. For such short positions against which early pay-in has been made, based on risk perception, exchanges may exempt imposition of all types of margins. However, Exchanges shall continue to collect mark to market margins from such market participants against such positions.

In case of compulsory delivery and seller's option contracts, delivery to the extent of open position at the expiry of the contract shall be mandatory after claiming early pay-in facility on the position. The exchanges should provide for extremely strict penalties including disciplinary actions against such members who fail to do so.

d. Penalty on delivery default

Penalty on seller in case of delivery default (default in delivery against open position at expiry in case of compulsory delivery contracts, default in delivery after giving intention for delivery) shall be as follows:

Futures contracts on agri-commodities: 3% of Settlement Price + replacement cost (difference between settlement price and average of three highest of the last spot prices of 5 succeeding days after the commodity pay-out date, if the average price so determined is higher than Settlement Price, else this component will be zero.)

Futures contracts on non-agri commodities: 3% of Settlement Price + replacement cost (difference between settlement price and higher of the last spot prices on the commodity pay-out date and the following day, if the spot price so arrived is higher than Settlement Price, else this component will be zero.)

Exchanges shall have the flexibility to increase/decrease penalty for specific commodities depending on situation, in consultation with SEBI.

Norms for apportionment of penalty –

- At least 1.75% of Settlement Price shall be deposited in the IPF of the exchange
- Up to 0.25% of Settlement Price may be retained by the Exchange towards administration expenses
- 1% of Settlement Price + replacement cost shall go to buyer who was entitled to receive delivery

Exchange shall have appropriate deterrent mechanism (including penal/disciplinary action) in place against intentional/wilful delivery default.

Buyer default shall not be permitted.

e. **Fixation of Final Settlement Price (FSP)**

For contracts where Final Settlement Price (FSP) is determined by polling, unless specifically approved otherwise, the FSP shall be arrived at by taking the simple average of the last polled spot prices of the last three trading days viz., E0 (expiry day), E-1 and E-2. In the event the spot price for any one or both of E-1 and E-2 is not available; the simple average of the last polled spot price of E0, E-1, E-2 and E-3, whichever available, shall be taken as FSP. Thus, the FSP under various scenarios of non-availability of polled spot prices shall be as under:

Scenario	Polled spot price availability on				FSP shall be simple average of last polled spot prices on:
	E0	E-1	E-2	E-3	
1	Yes	Yes	Yes	Yes/No	E0, E-1, E-2
2	Yes	Yes	No	Yes	E0, E-1, E-3
3	Yes	No	Yes	Yes	E0, E-2, E-3
4	Yes	No	No	Yes	E0, E-3

5	**Yes**	**Yes**	**No**	**No**	**E0, E-1**
6	**Yes**	**No**	**Yes**	**No**	**E0, E-2**
7	**Yes**	**No**	**No**	**No**	**E0**

In case of non-availability of polled spot price on expiry day (E0) due to sudden closure of physical market under any emergency situations noticed at the basis centre, Exchanges shall decide further course of action for determining FSP in consultation with SEBI.

f. <u>Change in expiry date</u>

Exchange may advance expiry date of running contractin case physical market is closed in the notified basis centre on the expiry day of the contract, due to festivals, strikes, erratic weather conditions, etc.

Decision about advancing expiry of running contractshall be intimated to the trade participants at least 10 days before the revised expiry date. The delivery period may be advanced accordingly for contract having staggered delivery. The FSP of such contractshall be fixed as per the above procedure (para 3e above as per modified expiry date).

4. The provisions of this circular shall come into effect immediately.

5. Exchanges are advised to bring the provisions of this circular to the notice of their members and also to disseminate the same on their website.

6. This circular is issued in exercise of the powers conferred under Section 11(1) of the Securities and Exchange Board of India Act 1992, read with Section 10 of the Securities Contracts (Regulation) Act, 1956 to protect the interest of investors in securities and to promote the development of, and regulate the securities market.

7. This circular is available on SEBI website at www.sebi.gov.in.

Yours faithfully,

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