



**CIRCULAR**

SEBI/HO/CDMRD/DEICE/CIR/P/2016/94

September 26, 2016

To,

**The Managing Directors / Chief Executive Officers  
All National Commodity Derivatives Exchanges**

Sir / Madam,

**Sub.: Investor Protection Fund (IPF) and its related matters**

1. As per Section 131(B) of Finance Act, 2015 all rules, directions, guidelines, instructions, circulars, or any like instruments, made by the erstwhile FMC or the Central Government applicable to recognised associations under the FCRA would continue to remain in force for a period of one year from the date on which FCRA was repealed (September 29, 2015), or till such time as notified by SEBI, whichever is earlier.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 and guidelines for National Commodity Derivatives Exchanges with respect to Investor Protection Fund (IPF) through various circulars. This circular is hereby issued to consolidate and update such norms and guidelines which will be applicable to all National Commodity Derivatives Exchanges (Exchanges).
3. **Constitution and Management of the IPF**
  - 3.1. The IPF shall be administered by a Trust created for this purpose.
  - 3.2. The IPF Trust shall comprise of two eminent persons and one independent Director on the Board of the Exchange (these names will be suggested by the Exchanges and approved by SEBI), and the MD/CEO of the Exchange.
  - 3.3. The sitting fee payable to the Trustees should be fixed only with the prior approval of SEBI.
  - 3.4. Exchanges shall provide the secretariat for the IPF Trust/Committee.
  - 3.5. Exchanges shall ensure that the funds in the IPF are well segregated from that of the Exchange and that the IPF is immune from any liability of the Commodity Derivatives Exchanges.
  - 3.6. Exchanges shall disclose in their financial statements, the IPF trust as a related party as well as the details of transactions between the respective exchanges and IPF trust as per Accounting Standard AS-18.



#### 4. Contributions to the IPF

The IPF will be funded as follows:

- 4.1. All the penalties levied and collected by the Exchange, except for the settlement related penalties (including penalties from delivery default), shall be part of the IPF after deducting the cost of administration (such cost of administration cannot exceed 10 percent). Thus, Clause '3.d' of SEBI Circular SEBI/HO/CDMRD/DRMP/CIR/P/2016/90 dated September 21, 2016 stands modified to that extent.
- 4.2. 1% of the turnover fee charged by the National Commodity Derivatives Exchange from the Member/Broker or Rs 25 lakh whichever is lower in a financial year shall go to IPF.

#### 5. Manner of filing/inviting claims from the Investors/Clients

- 5.1. In accordance with its bye-laws, rules or regulations, the Exchange shall publish a notice inviting the legitimate claimants to file claims against the defaulter member within a specified period of time called as the 'specified period'.
- 5.2. The specified period shall be a minimum period of 90 days.
- 5.3. Exchanges shall publish the notice in all the editions of at least one English national daily with wide circulation and in at least one regional language daily with wide circulation at the place(s) where the concerned Exchange Member(s) is/are situated.
- 5.4. The notice calling for claims shall be displayed on the website of the Exchange for the entire specified period.
- 5.5. The notice shall contain the specified period, the maximum compensation limit for a single claim of an investor/client and all other relevant information.

#### 6. Eligibility of Claims

- 6.1. The claims received against the defaulter member during the specified period shall be eligible for being considered for compensation from the IPF.
- 6.2. If any eligible claim arises within three years from the date of expiry of the specified period, such claims will be processed at the discretion of the IPF Trust. Any claim received after three years from the date of expiry of the specified period and not processed by the IPF Trust will be dealt with as civil dispute
- 6.3. Any appeal against the non-entertaining of claims by the Trust shall be referred to the Board of the Exchange for decision.



- 6.4. The claims of the retail clients alone shall be eligible for compensation from the IPF and in no case the claims of a member or authorized person of the member shall be eligible for compensation out of the IPF.

## **7. Determination of Legitimate Claims**

- 7.1. The IPF Trust may adopt the arbitration mechanism at the Commodity Derivatives Exchange to determine the legitimacy of the claims received from the claimants.
- 7.2. The IPF Trust may also seek the advice of the Defaulters Committee of the Exchange to sanction payments to be made to the investors.

## **8. Threshold limit for Claims**

- 8.1. Exchanges are free to fix suitable compensation limits in consultation with the IPF Trust. However, the maximum amount of compensation available against a single claim of an investor arising out of default of a member of a Commodity Derivatives Exchange shall be Rs 2 lakh.
- 8.2. The maximum available compensation arising out of default by a member of an Exchange shall be Rs 2 crores in those commodity derivatives exchanges whose size of corpus of IPF is Rs 15 crores or above and shall be Rs 25 lakh if the size of corpus is less than Rs 15 crores.
- 8.3. SEBI shall review the amount of compensation available against a single claim from an investor from time to time.
- 8.4. Exchanges shall disseminate the compensation limit fixed by them and any change thereof, to the public through a Press Release and through their Website.

## **9. Disbursements of claims from the IPF**

- 9.1. The IPF Trust shall disburse the amount of compensation from the IPF to the investors and such compensation shall not be more than the maximum amount fixed for a single claim of an investor.
- 9.2. Claim on the direction of any other authority on the Fund may be routed through SEBI.
- 9.3. The Board of the Exchanges may utilize only the interest earned on the Fund, subject to approval of the Trust, for investors' awareness and education. The National Exchanges are also permitted to utilize the interest earned on the IPF corpus for maintenance of all price ticker boards installed at the respective Exchange. Exchanges shall submit the details and expenditure of each of such programmes on a quarterly basis to SEBI. The corpus of IPF shall not be utilized for these purposes.



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**Securities and Exchange Board of India**

- 9.4. Investment of funds of IPF will be as per the relevant provision of the Indian Trust Act 1882 and Section 11 (5) of Income Tax Act, 1961. The Exchanges are requested to ensure that the investment of trust money is done with utmost caution and prudence.
- 9.5. Appeal should be referred to the Board of the Exchange on any decision of the Managing Committee of IPF regarding any claim.
- 9.6. In case the National Commodity Derivatives Exchange is wound up, then the balance in the IPF lying un-utilized with the IPF Trust, shall be transferred to SEBI. In such an event, the funds will be maintained in a separate account and SEBI shall act as trustee of these funds. The funds shall be utilized for purposes of investor/client education, awareness, research or other such programme as may be decided by SEBI.
10. The provisions of this circular shall come into effect from September 29, 2016 in supersession of all earlier directives issued by erstwhile FMC with regard to matters related to IPF.
11. The Exchanges are advised to:
- take steps to make necessary amendments to the relevant bye-laws, rules and regulations for the implementation of the same.
  - bring the provisions of this circular to the notice of the members of the Exchange and also to disseminate the same on their website.
  - communicate to SEBI, the status of the implementation of the provisions of this circular.
12. This circular is issued in exercise of powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act, 1992, to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.
13. This circular is available on SEBI website at [www.sebi.gov.in](http://www.sebi.gov.in) under the category "Circulars" and "Info for Commodity Derivatives".

Yours faithfully,

**B J DILIP**  
**General Manager**  
**Division of Exchange Inspection and Complaints against Exchanges**  
**Commodity Derivatives Market Regulation Department**  
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