



CIRCULAR

CIR/CDMRD/DEA/03/2015

November 26, 2015

**To,
The Managing Directors / Chief Executive Officers
of all Commodity Derivatives Exchanges**

Dear Sir / Madam,

Sub: Timelines for Compliance with various provisions of Securities Laws by Commodity Derivatives Exchanges

1. Pursuant to Section 131 of the Finance Act, 2015 and Central Government Notification S.O. 2362 (E) dated August 28, 2015, all recognized associations (commodity derivatives exchanges) under the Forward Contracts (Regulation) Act, 1952 ('FCRA') are deemed to be recognized stock exchanges under the Securities Contracts (Regulation) Act, 1956 ('SCRA') with effect from September 28, 2015.
2. Section 131 of the Finance Act, 2015 also stipulates that SEBI may provide such deemed exchanges, adequate time to comply with the provisions of SCRA and any regulations, rules, guidelines or like instruments made under SCRA. Accordingly, commodity derivatives exchanges shall comply with the provisions of SCRA, applicable provisions of Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012, ('SECC Regulations') and SEBI circular CIR/MRD/DSA/33/2012 dated December 13, 2012, on procedural norms on recognition, ownership and Governance for Stock Exchanges and Clearing Corporation ('SECC Circular').
3. The timelines provided in this circular shall be reckoned from the date of recognized associations under FCRA having been deemed to be recognized stock exchanges under SCRA, i.e. September 28, 2015.

Corporatization and Demutualization:

4. Regional commodity derivatives exchanges shall corporatize and demutualize within a period of three years in accordance with the provisions contained in section 4B of SCRA. In this regard, regional commodity derivatives exchanges shall submit a scheme for corporatization and demutualization for SEBI approval within a period of two years, as per the procedure laid down in section 4B of SCRA.

Clearing and Settlement:

5. Commodity derivatives exchanges shall transfer the functions of clearing and settlement of trade to a separate clearing corporation within three years. Till then, the exchanges may continue with the existing arrangement for clearing and settlement of trades.



Validity of recognition of Commodity Derivative Exchanges:

6. Validity of recognition of commodity derivatives exchanges under SCRA shall be taken to be the same as the validity of their recognition under FCRA. Further, the renewal of recognition, if any, will be as per SCRA and SECC Regulations.
7. The conditions required to be continuously complied with by recognized stock exchanges as given in Regulation 7(3) of SECC Regulations shall be complied with by national commodity derivative exchanges within one year and by regional commodity derivatives exchanges within three years.

However, commodity derivatives exchanges shall immediately put in place adequate surveillance system to monitor positions, prices and volumes etc. so as to ensure market integrity till online real-time surveillance systems are set up and operationalized.

8. Conditions required to be continuously complied with by recognized clearing corporations given in Regulation 7(4) of SECC Regulations, to the extent applicable, shall be complied with by national commodity derivatives exchanges within one year and by regional commodity derivatives exchanges within three years.

Regulatory Fee:

9. Commodity derivatives exchanges shall pay the regulatory fee in terms of Securities and Exchange Board of India (Regulatory Fee on Stock Exchanges) Regulations, 2006.

Networth Requirements:

10. Commodity derivatives exchanges shall comply with Regulation 14(1) of SECC Regulations as specified below:
 - a) Any national commodity derivatives exchange having a networth of less than INR 100 crore, shall achieve a minimum networth of INR 100 crores by May 5, 2017. Further, it shall submit a plan duly approved by its shareholders to SEBI for achieving the networth in terms of Regulation 14 of SECC Regulations, within six months.
 - b) Any regional commodity derivatives exchange having networth of less than INR 100 crore, shall achieve a minimum networth of INR 100 crores within three years. Further, it shall submit a plan duly approved by its shareholders to SEBI for achieving the networth in terms of regulation 14 of SECC Regulations, within six months.
11. It may be stated that commodity derivative exchanges shall not distribute profits in any manner to its shareholders until the requisite networth of INR 100 crores is achieved in terms of Regulation 14(4) of SECC Regulations.
12. It may also be stated that commodity derivatives exchanges shall submit audited networth certificate from the statutory auditor on an yearly basis by the thirtieth day of September every year for the preceding financial year in terms of Regulation 14(5) of SECC Regulations. The networth certificate for the financial year ended on 31st March, 2015 shall be submitted by 31st December, 2015.



Ownership:

13. National commodity derivatives exchanges shall comply with the shareholdings limits specified under SECC Regulations, 2012 by May 5, 2019. As per clause 5 of SECC Circular, they shall put in place a monitoring mechanism to ensure compliance with the shareholding restrictions specified in SECC Regulations.
14. Shareholdings of existing shareholders of national commodity derivatives exchanges, whose shareholdings were approved by Forward Markets Commission (FMC), shall not require fresh approval from SEBI. However, any fresh holdings will be governed by the provisions of Regulation 19 of SECC Regulations and SECC Circular.
15. Regulations 20 to 22 of SECC Regulations shall be applicable to national commodity derivative exchange with immediate effect. The format for submitting shareholding pattern to SEBI is annexed to this circular.
16. Regional Commodity Derivatives Exchanges shall comply with the provisions specified in Chapter IV of SECC Regulations within three years.

Governance:

17. Provisions of Regulations 23 to 26 shall be applicable to national commodity derivatives exchanges, subject to the following:
 - a) Existing Independent Directors on the boards of national commodity derivatives exchanges shall be deemed to be Public Interest Directors (PIDs) under SECC Regulations,
 - b) All existing directors on the governing boards of national commodity derivatives exchanges who are not in compliance with SECC Regulations may be allowed to continue for one year or till completion of their term, whichever is earlier,
 - c) All new appointments on the governing boards of national commodity derivatives exchanges shall be governed by the provisions of SECC Regulations and SECC Circular.
18. National Commodity Derivatives Exchanges shall comply with the provisions of Regulation 27 of SECC Regulations within one year.
19. Regional Commodity Derivatives Exchanges shall comply with the provisions of Regulations 23 to 27 of SECC Regulations within three years.

Segregation of Regulatory Departments:

20. Commodity derivatives exchanges shall segregate their regulatory departments (as indicated in SECC Circular) from other departments in the manner specified in Part C of Schedule II of SECC Regulations within six months.

Oversight Committees:

21. Commodity derivative exchanges shall comply with the requirements of Regulation 29 read with Regulation 44D (1) (b) of SECC Regulations within three months. National commodity derivatives exchanges shall constitute an oversight committee for 'Product design', chaired by a Public Interest Director, within three months.



Advisory Committee and other Statutory Committees:

22. National commodity derivatives exchanges shall constitute Advisory committees in line with Regulation 30 of SECC Regulations, 2012 and statutory committees as specified in SECC Circular within one year.
23. Regional commodity derivatives exchanges shall constitute Advisory committees in line with Regulation 30 of SECC Regulations, 2012 and statutory committees as pre specified scribed in SECC Circular within three years.

Risk Management Committee:

24. Till the functions of clearing and settlement are transferred to a separate clearing corporation, commodity derivatives exchanges shall comply with provisions of Regulation 31 of SECC Regulations relating to risk management committee. This committee shall be constituted.

Appointment of Compliance Officer:

25. All commodity derivative exchanges shall appoint a compliance officer in terms of Regulation 32 of SECC Regulations.

Transfer of Penalties:

26. National commodity derivative exchanges shall credit all settlement related penalties to their settlement guarantee fund (SGF) and other penalties to Investor Protection Fund (IPF).
27. Regional Commodity Derivatives Exchanges shall credit all penalties to their SGF. On creation of IPF, regional commodity derivatives exchanges shall credit penalties other than settlement related to their IPF.

Disclosure and Corporate Governance Norms:

28. Regulation 35 of SECC Regulations shall be applicable to national commodity derivative exchanges immediately. Regional commodity derivatives exchanges shall comply with this Regulation within three years.

General Obligations:

29. Till the functions of clearing and settlement are transferred to a separate clearing corporation, commodity derivative exchanges shall comply with the provisions of Regulation 39 of SECC Regulations on Fund to guarantee settlement of trades.
30. The provisions of Regulations 41, 42, 43, 44 and 44A of SECC Regulations to a recognized stock exchange shall be applicable to commodity derivatives exchanges. Additionally, the provisions of Regulations 41, 42, 43, 44 and 44A of SECC Regulations in so far as they pertain to a recognized clearing corporation shall be applicable to commodity derivatives exchanges till the functions of clearing and settlement are transferred to a separate clearing corporation



भारतीय प्रतिभूति और विनियम बोर्ड
Securities and Exchange Board of India

31. Till the functions of clearing and settlement are transferred to a separate clearing corporation, commodity derivative exchanges shall have right to recover dues from its trading/clearing members arising from the discharge of their clearing and settlement functions from the collaterals, deposits and the assets of the trading/clearing members in line with Regulation 44B of SECC Regulations.
32. Regulation 44C and 44D of SECC Regulations shall be applicable to commodity derivatives exchanges.

Listing:

33. Regulation 45 of SECC Regulations shall be applicable to commodity derivatives exchanges.

Dematerialization of Securities:

34. National commodity derivative exchanges shall comply with Regulation 46 of SECC Regulations with respect to holding securities in dematerialized form within six months, and regional commodity derivatives exchanges shall comply with the same within three years.
35. Commodity derivative exchanges are advised to:-
- a) Make necessary amendments to the relevant rules/ bye-laws/ regulations for the implementation of the above decision;
 - b) Bring the provisions of this circular to the notice of their members and also to disseminate the same through their website; and,
 - c) Communicate to SEBI, the status of implementation of the provisions of this circular in the Monthly / Quarterly Development Reports to SEBI.
36. This circular is issued in exercise of the powers conferred under Regulation 44D (1) and 51 of SECC Regulations read with Section 11 (1) of the Securities and Exchange Board of India Act, 1992 with a view to protect the interests of investors in securities and to promote the development of, and to regulate the securities market and shall come into with immediate effect.
37. This circular is also available on SEBI website at www.sebi.gov.in

Yours faithfully,

Vishal Nair
Deputy General Manager
Division of Exchange Administration
Commodity Derivatives Market Regulation Department
vishaln@sebi.gov.in