
NATIONAL COMMODITY CLEARING LIMITED

Circular to all Members of the Clearing Corporation

Circular No. : NCCL/COMPLIANCE-002/2020

Date : February 26, 2020

Subject : Margin obligations to be given by way of Pledge / Re-pledge in the
Depository System

The Securities and Exchange Board of India (SEBI) has issued a circular on “Margin obligations to be given by way of Pledge/ Re-pledge in the Depository System”.

A copy of the circular No. SEBI/HO/MIRSD/DOP/CIR/P/2020/28 dated February 25, 2020 issued by SEBI is attached as Annexure.

Members and their constituents are requested to take note of the same.

For and on behalf of
National Commodity Clearing Limited

Hemalatha S.
Chief Compliance Officer

For further information / clarifications, please contact

1. Customer Service Group on toll free number: 1800 266 6007
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CIRCULAR

SEBI/HO/MIRSD/DOP/CIR/P/2020/28

February 25, 2020

To,

**All Recognised Stock Exchanges
All Recognised Clearing Corporations
All Depositories**

Dear Sir / Madam,

Subject: Margin obligations to be given by way of Pledge/ Re-pledge in the Depository System

1. SEBI had extensive consultations with Stock Exchanges, Clearing Corporation and Depositories and industry representatives of Trading Members (the “**TM**”) / Clearing Members (the “**CM**”) / Depository Participants (the “**DP**”), to devise a framework that mitigates the risk of misappropriation or misuse of client’s securities available with the TM / CM / DP. The misappropriation or misuse would include use of one client’s securities to meet the exposure, margin or settlement obligations of another client or of the TM / CM. The matter was also discussed in the Secondary Market Advisory Committee meeting.
2. With effect from June 01, 2020, TM / CM shall, *inter alia*, accept collateral from clients in the form of securities, only by way of ‘margin pledge’, created in the Depository system in accordance with Section 12 of the Depositories Act, 1996 read with Regulation 79 of the SEBI (Depositories and Participants) Regulations, 2018 and the relevant Bye Laws of the Depositories.
3. Section 12 of the Depositories Act, 1996 read with Regulation 79 of the SEBI (Depositories and Participants) Regulations, 2018 and the relevant Bye Laws of the Depositories clearly enumerate the manner of creating pledge of the dematerialised securities. Any procedure followed other than as specified under the aforesaid provisions of law for creating pledge of the dematerialised securities is prohibited. It is clarified that an off-market transfer of securities leads to change in ownership and shall not be treated as pledge.
4. Transfer of securities to the demat account of the TM / CM for margin purposes (*i.e. title transfer collateral arrangements*) shall be prohibited. In case, a client has given a power of attorney in favour of a TM / CM, such holding of power of attorney shall not be considered as equivalent to the collection of margin by the TM / CM in respect of securities held in the demat account of the client.



5. Depositories shall provide a separate pledge type viz. 'margin pledge', for pledging client's securities as margin to the TM / CM. The TM / CM shall open a separate demat account for accepting such margin pledge, which shall be tagged as 'Client Securities Margin Pledge Account'.
6. For the purpose of providing collateral in form of securities as margin, a client shall pledge securities with TM, and TM shall re-pledge the same with CM, and CM in turn shall re-pledge the same to Clearing Corporation (CC). The complete trail of such re-pledge shall be reflected in the de-mat account of the pledgor.
7. The TM shall re-pledge securities to the CM's 'Client Securities Margin Pledge Account' only from the TM's 'Client Securities Margin Pledge Account'. The CM shall create a re-pledge of securities on the approved list to CC only out of 'Client Securities Margin Pledge Account'.
8. In this context, re-pledge would mean endorsement of pledge by TM / CM in favour of CM/CC, as per procedure laid down by the Depositories.
9. The TM and CM shall ensure that the client's securities re-pledged to the CC shall be available to give exposure limit to that client only. Dispute, if any, between the client, TM / CM with respect to pledge, re-pledge, invocation and release of pledge shall be settled *inter-se* amongst client and TM / CM through arbitration as per the bye-laws of the Depository. CC and Depositories shall not be held liable for the same.
10. Securities that are not on the approved list of a CC may be pledged in favour of the TM / CM. Each TM / CM may have their own list of acceptable securities that may be accepted as collateral from client.
11. Funded stocks held by the TM / CM under the margin trading facility shall be held by the TM / CM only by way of pledge. For this purpose, the TM / CM shall be required to open a separate demat account tagged 'Client Securities under Margin Funding Account' in which only funded stocks in respect of margin funding shall be kept/ transferred, and no other transactions shall be permitted. The securities lying in 'Client Securities under Margin Funding Account' shall not be available for pledge with any other Bank/ NBFC.
12. The TM / CM shall be required to close all existing demat accounts tagged as 'Client Margin/ Collateral' by June 30, 2020. The TM / CM shall be required to transfer all client's securities lying in such accounts to the respective clients' demat accounts. Thereafter, TM / CM are prohibited from holding any client securities in any beneficial owner accounts of TM/CM, other than specifically tagged accounts



as indicated above, and in pool account(s), unpaid securities account, as provided in SEBI Circular CIR/HO/MIRSD/DOP/CIR/P/2019/75 dated June 20, 2019.

13. Clients having arrangements with custodians registered with SEBI for clearing and settlement of trades shall continue to operate as per the extant guidelines.
14. The operational mechanism for margin pledge is provided in **Annexure A**. The framework for utilisation of pledged clients' securities for exposure and margin is provided in **Annexure B**.
15. This circular is applicable for all securities in dematerialised form and which are given as collateral / margin by the client to TM / CM / CC by way of pledge and re-pledge.
16. The Stock Exchanges, Clearing Corporations and Depositories are directed to:
 - 16.1. bring the provisions of this circular to the notice of their TM / CM and Depository Participants, as the case may be, and also disseminate the same on their websites;
 - 16.2. make amendments to the relevant bye-laws, rules and regulations for the implementation of the above decision in co-ordination with one another, as considered necessary;
 - 16.3. communicate to SEBI, the status of the implementation of the provisions of this circular in their monthly development report and
 - 16.4. monitor the compliance of this circular through half-yearly internal audits, inspections and other appropriate monitoring mechanisms to be put in place by Stock Exchanges / Clearing Corporation / Depository.
17. This circular is being 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.
18. This circular is available on SEBI website at www.sebi.gov.in.

Yours faithfully,

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Annexure A

Operational mechanism for margin pledge

INITIATION OF MARGIN PLEDGE

1. For the purpose of providing collateral in form of dematerialised securities as margin, a client shall initiate the margin pledge only in favour of the TM / CM's separate client securities margin account tagged as 'Client Securities Margin Pledge Account' through physical instruction or electronic instruction mechanism provided by the Depositories. Such instructions shall have details of client UCC, TM, CM and Default Segment.
2. In cases where a client has given a Power of Attorney (the "**POA**") to the TM / CM, the TM / CM may be allowed to execute the margin pledge on behalf of such client to the demat account of the TM / CM tagged as 'Client Securities Margin Pledge Account'.
3. The 'pledge request form' shall have a clause regarding express consent by the client for re-pledge of the securities by the TM to CM and further by the CM to CC.
4. On receipt of the margin pledge instruction either from the client or by TM / CM as per the POA, DP of a client shall initiate a margin pledge in the client's account and the status of instruction will remain pending till confirmation is received from client / pledgor. The client will submit acceptance by way of One Time Password (the "**OTP**") confirmation on mobile number / registered e-mail id of the client or other verifiable mechanism. Such OTP confirmation from client shall also be required, if securities of such client are being re-pledged. The Depositories shall develop a verifiable mechanism for confirmation of the pledge by the client.
5. In client account, margin pledge or re-pledge shall be reflected against each security, if it is pledged / re-pledged and in whose favour i.e. TM / CM / CC.
6. The TM can re-pledge only in favour of CM's demat account tagged as 'Client Securities Margin Pledge Account'. The CM shall create a re-pledge of securities on the approved list only to the CC out of 'Client Securities Margin Pledge Account'. While re-pledging the securities to the CC, CM/TM shall fully disclose the details of the client wise pledge to the CC/CM. CM would need to have visibility of client level position and client collateral so that CM shall allow exposure and / or margin credit in respect of such securities to that client to whom such securities belong.



RELEASE OF MARGIN PLEDGE

7. In case of a client creating pledge of the securities in favour of the TM / CM against margin, the TM / CM may release the 'margin pledge' after their internal exposure and risk management checks. The request for release of pledge can be made by the client to its DP or to the TM / CM, who shall release the pledge in the Depository system.
8. For release of client securities given to TM/CM as margin pledge and which are re-pledged in favour of the CC, the CM shall make a request to the CC. The client through TM, or the TM on his own, may request the CM to make an application to the CC for the release of margin pledge. CC shall do margin utilisation check at the CM level before releasing the re-pledge of securities to the CM. The CC will release the re-pledged client securities to CM after blocking other available free collateral of CM. The CM /TM in turn after doing their risk management shall release the securities to TM / client, as the case may be.

INVOCATION OF MARGIN PLEDGE

9. In case of default by a client of TM where the clients securities are re-pledged with the CM/ CC, the invocation request shall be made by the TM to CM and CM in turn will make request to CC as per the procedure laid down by the Depositories under their bye-laws.
10. In case of default by a client of TM who has pledged securities with TM, The TM shall invoke the pledge.
11. In case of default by a client of TM whose securities are re-pledged by TM with CM, the invocation request shall be made by TM to the CM. The CM, after doing its internal exposure and risk management, shall release the re-pledged securities to the 'Client Securities Margin Pledge Account' of the TM. The TM in turn will invoke the pledge of client's securities.
12. In the event of default by a client of a TM, whose securities are re-pledged by TM with CM and CM in turn has re-pledged with CC, the TM shall make a request for invocation of pledge with CM and CM in turn shall file a request with CC to release the re-pledged securities for invocation. The CC shall block equivalent available free collateral provided by CM and shall release the re-pledged securities of that defaulting client of TM to CM in "Client Securities Margin Pledge Account" of CM. The CM shall do his own risk assessment of TM and would release re-pledged securities of the defaulting client of TM in "Client Securities Margin Pledge Account" of TM and TM shall invoke the pledge in Demat account of the client.



13. In case of default by a client/ TM of CM whose securities are re-pledged with CC, CM shall file a request with CC for invocation of the pledged/ re-pledged securities of that client/TM. CC shall block the equivalent available free collateral provided by CM and shall release the re-pledged securities of that defaulting client/TM in “Client Securities Margin Pledge Account” of CM and the CM shall invoke the pledge in Demat account of the client/ TM.
14. In case of default by TM or client of TM, CM shall be entitled to invoke pledged/ re-pledged securities of the TM. CM shall also be entitled to invoke directly the re-pledged securities of client of TM having open position with CM to close out such positions.
15. In case of default by the CM, CC shall invoke securities pledged by the CM. After exhausting the CM own collateral, CC may also invoke re-pledge securities of that client who has open position and their re-pledged securities are blocked by CC to close out their open positions. The re-pledge securities of other clients who did not have any open position with CC, their securities shall not be available to CC for invocation to meet settlement default of the CM.



Annexure B

Framework for utilisation of client's pledged securities for exposure and margin

1. At present, the margin requirement is computed in real time at client level by the CC and is aggregated at the level of CMs to arrive at the total margin requirement. The CC maintains and monitor the collateral at the level of CM. The CM is required to provide the collateral in various acceptable forms such as Cash, Bank Guarantee, Govt. Securities, pledge of acceptable shares, etc.
2. The day to day real time risk management with respect to client / TM exposure, and the margin requirement shall continue to be the responsibility of the CM, and CC shall not monitor the client level exposure against the available client level collateral in real time.
3. In order to provide exposure to CM and/or to the clients / TM of a CM, CC shall aggregate margin requirement at CM level that shall be compared against the available collateral in real time as aggregate of;
 - a. cash and cash equivalent deposited by CM,
 - b. own securities pledged by CM with CC,
 - c. CC requires minimum 50% of the collateral to be deposited in cash and cash equivalent, if the total securities pledged by CM with CC exceed the total cash and cash equivalent, the value of securities will be restricted to amount of cash and cash equivalent.
 - d. The TM's proprietary margin requirement will be treated as a client of CM and aggregated along with other clients.
4. CM shall be allowed to re-pledge acceptable/approved client securities with the CC by furnishing the UCC wise client details. CC shall not allow any exposure to the CM on re-pledged securities of the client / TM. In case of a trade by a client / TM whose securities are re-pledged with CC, the CC shall first block the available collateral provided by CM as mentioned in point 3 above. However, at periodical interval (latest by end of day), CC shall release the blocked securities collateral of CM to the extent of re-pledged securities collateral of that client / TM available with the CC.
5. In the event of default by a client of TM, the TM shall make good the default to CM. In the event of default by a client or TM on its proprietary position, the CM shall make good the default to CC. However in the event of default by client/s leading to default of TM and also the CM, the following process shall be applied by TM/CM/CC for invocation of pledged and re-pledged securities of client/TM/CM:
 - a. In case of default by a client of TM/CM or default of TM leading to the default of CM, CC shall:



- i. encash the available collateral including cash, cash equivalent collateral, CM's own pledged securities.
 - ii. After encashing the available collateral of CM, also be entitled to directly invoke the re-pledged securities of client / TM who has any open position so as to close out the open positions of that client.
 - iii. not be entitled to invoke re-pledged securities of those clients who did not have any open position to meet settlement obligation of the defaulting CM
- b. In case of default by a client of TM or default of TM, CM Shall:
- i. be entitled to liquidate available cash, cash equivalent collateral and TM's own pledged /or re-pledged securities with CM/ CC to meet settlement/margin obligations of defaulting TM or client(s) of that TM.
 - ii. After encashing the available collateral of TM, be entitled to directly invoke re-pledged securities of the client of defaulting TM who has open position through CM so as to close out his position.
 - iii. not be entitled to invoke re-pledged securities of those clients of defaulting TM who did not have any open position,
 - iv. ensure that the client securities of TM/ CM re-pledged with the CC are not utilized for meeting the margin requirement/ settlement obligation of a TM's/CM's own proprietary position or margin requirement/ settlement obligation of any other client of TM / CM.
