

March 27, 2018

CIRCULAR ON PREVENTION OF UNAUTHORIZED TRADING BY STOCK BROKERS¹

- I. This master circular consolidates and updates the requirements/obligations with regard to Prevention of Unauthorized Trading by Stock Brokers prescribed by the following circulars:
- A. CIR/HO/MIRSD/MIRSD2/CIR/P/2017/108 dated September 26, 2017
 - B. CIR/HO/MIRSD/MIRSD2/CIR/P/2017/124 dated November 30, 2017
 - C. CIR/HO/MIRSD/MIRSD2/CIR/P/2018/109 dated January 11, 2018

Prevention of Unauthorized Trading by Stock Brokers

- II. SEBI in the past has taken several steps to tackle the issue of “Unauthorized Trades” viz Periodic Running Account Settlement, Post transactions SMS/email by exchanges/Depositories, Ticker on broker/DP websites etc. It was observed that in spite of measures taken, a considerable proportion of investor complaints is of the nature of “Unauthorized Trades”.
- III. To further strengthen regulatory provisions against un-authorized trades and also to harmonize the requirements across markets, it has now been decided that all brokers shall execute trades of clients only after keeping evidence of the client placing such order, which could be, inter alia, in the form of:
- a. Physical record written & signed by client,
 - b. Telephone recording,
 - c. Email from authorized email id,
 - d. Log for internet transactions,
 - e. Record of messages through mobile phones,
 - f. Any other legally verifiable record.

When a dispute arises, the broker shall produce the above mentioned records for the disputed trades. However for exceptional cases such as technical failure etc. where broker fails to produce order placing evidences, the broker shall justify with reasons for the same and depending upon merit of the same, other appropriate evidences like post trade confirmation by client, receipt/payment of funds/securities by client in respect of disputed trade, etc. shall also be considered.

- IV. Further, wherever the order instructions are received from clients through the telephone, the stock broker shall mandatorily use telephone recording system to record the instructions and maintain telephone recordings as part of its records.
- V. The Brokers are required to maintain the records specified at Para III above for a minimum period for which the arbitration accepts investors’ complaints as notified from time to time currently three years. However in cases where dispute has been raised, such records shall be kept till final resolution of the dispute.
- VI. If SEBI desires that specific records be preserved then such records shall be kept till further intimation by SEBI.

¹ Available at: https://www.sebi.gov.in/legal/master-circulars/mar-2018/master-circular-on-prevention-of-unauthorised-trading-by-stock-brokers-_38365.html

- VII. The earlier circulars on the same subject mentioned in Para 1 of this Master Circular stand rescinded.
- VIII. This master circular shall continue to be effective from April 1, 2018.
- IX. The Stock Exchanges are directed to:
- a. Bring the provisions of this circular to the notice of the Stock Brokers and also disseminate the same on their websites.
 - b. Make necessary amendments to the relevant bye-laws, rules and regulations for the implementation of the above directions in coordination with one another to achieve uniformity in approach.
 - c. Communicate to SEBI, the status of the implementation of the provisions of this circular in their Monthly Development Reports.
- X. 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 interest of investors in securities and to promote the development of and to regulate the securities market.

Team ICSI

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