

# Info Capsule

August 2, 2019



THE INSTITUTE OF  
Company Secretaries of India

भारतीय कम्पनी सचिव संस्थान

IN PURSUIT OF PROFESSIONAL EXCELLENCE

Statutory body under an Act of Parliament

(Under the jurisdiction of Ministry of Corporate Affairs)

## **1. Rationalization of imposition of fines for false/incorrect reporting of margins or non-reporting of margins by Trading Member/Clearing Member in all segments (Circular No. CIR/HO/MIRSD/DOP/CIR/P/2019/88; Dated- August 01, 2019)**

SEBI realising the need to harmonise the penalties specified in the circulars w.r.t. 'Mechanism for regular monitoring of and penalty for short-collection/ non-collection of margins' from clients, has issued this circular.

Accordingly, to rationalize and bring uniformity in the manner of imposition of fine for 'false/incorrect' reporting of margin vis-à-vis 'non-reporting' of margin, following guidelines have been issued:

- a. The Stock Exchanges and Clearing Corporations, in all segments, in consultation with one another, shall devise a standard framework for imposition of fine on the Trading Member/ Clearing Member for incorrect/false reporting and non-reporting of margin collected from the clients.
- b. Considering the principle of 'proportionality', the fine shall be charged to the member based on the materiality of non-compliance done by the member which may include factors such as number of instances, repeated violations, etc. The amount of fine to be charged upon the member may extend to 100% of such false/incorrectly/non reported amount of margin and/or suspension of trading for appropriate number of days.

The draft regulations are available at: [https://www.sebi.gov.in/legal/circulars/aug-2019/rationalization-of-imposition-of-fines-for-false-incorrect-reporting-of-margins-or-non-reporting-of-margins-by-trading-member-clearing-member-in-all-segments\\_43775.htmlg=1](https://www.sebi.gov.in/legal/circulars/aug-2019/rationalization-of-imposition-of-fines-for-false-incorrect-reporting-of-margins-or-non-reporting-of-margins-by-trading-member-clearing-member-in-all-segments_43775.htmlg=1)

## **2. Database for Distinctive Number (DN) of Shares-Action against non-compliant companies (Circular No. SEBI/HO/MRD/DOP2DSA2/CIR/P/2019/87; Dated- August 01, 2019)**

Regulation 75 of the SEBI (Depositories and Participants) Regulations, 2018 mandates issuer or its agent to daily reconcile the records of dematerialized securities with all securities issued by them.

While emphasizing the responsibility of issuers to reconcile the records, as mentioned above, in order to enable Depositories to maintain a complete reconciled record of equity shares, including both physical and dematerialized shares, issued by the company, SEBI circular no. CIR/MRD/DP/10/2015 dated June 05, 2015, inter alia directed Issuers/RTAs to:

- a. Update Distinctive Number (DN) information in respect of all physical share capital and overall DN range for dematerialized share capital for all listed companies.

- b. Take all necessary steps to update the DN database. If there is mismatch in the DN information with the data provided / updated by the Stock Exchanges in the DN database, the Issuer/RTA shall take steps to match the records and update the same latest by December 31, 2015.

The aforesaid circular dated June 05, 2015 also stipulated that failure by the Issuers/RTAs to ensure reconciliation of the records in terms of the said circular shall attract appropriate actions under the extant laws.

It has been noted that, despite follow-ups by Depositories, certain companies are yet to comply with aforementioned circular no. CIR/MRD/DP/10/2015 dated June 05, 2015. Hence, in order to protect the interest of investors:-

- a. Depositories are hereby directed that, with effect from August 01, 2019 :-
  - i. They shall freeze all the securities held by the promoters and directors of the listed companies that are not in compliance with the provisions of SEBI circular no. CIR/MRD/DP/10/2015 dated June 05, 2015 [i.e. Beneficiary Owner a/c level freezing].
  - ii. They shall not effect any transfer, by way of sale, pledge, etc., of any of the securities, held by the promoters and directors of such non-compliant companies.
  - iii. They shall freeze related corporate benefits on the Beneficiary Owner a/c frozen as above.
  - iv. They shall retain the freeze on the securities held by promoters and directors of non-compliant companies till such time the company complies with the directions provided in SEBI circular dated June 05, 2015.

Depositories are advised to keep in abeyance the action mentioned above in specific cases where moratorium on enforcement proceedings has been provided for under any Act, Court/ Tribunal Orders, etc.

- b. The names of companies that are not in compliance with aforementioned circular shall be prominently disseminated on the website of the exchanges / depositories, indicating that the concerned companies have not complied with SEBI circular no. CIR/MRD/DP/10/2015 dated June 05, 2015.
- c. Prior to revocation of suspension of trading of shares of any company, exchanges should ensure compliance by the company with SEBI circular no. CIR/MRD/DP/10/2015, dated June 05, 2015 and ensure availability of updated details of company's promoters (especially their PAN) and directors (especially their PAN and DIN), apart from ensuring compliance with other applicable regulatory norms.

SEBI may also take any other appropriate action(s) against the concerned listed companies and its promoters/directors for non-compliance with SEBI circular no. CIR/MRD/DP/10/2015 dated June 05, 2015.

The detailed circular is available at: [https://www.sebi.gov.in/legal/circulars/aug-2019/database-for-distinctive-number-dn-of-shares-action-against-non-compliant-companies\\_43776.html](https://www.sebi.gov.in/legal/circulars/aug-2019/database-for-distinctive-number-dn-of-shares-action-against-non-compliant-companies_43776.html)