

Ref: 07-08/ISS/1854/KS
September 6, 2007

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All Registered Intermediaries of ISS
President/Executive Director of Participating Exchanges, Co-ordination Officers at
Participating Exchanges/Regional Administrative Offices

Dear Sir,

Sub: Inspection of Sub-brokers for the period 2005 to 2007.

During the inspections conducted by ISS officials in recent times (2005-06 and 2006-2007) on the books of accounts of Registered Intermediaries for operations in the Capital Market segment of NSE it has been found that the operations of some Registered Intermediaries are at variance with the SEBI (Stock Brokers and Sub-brokers) Regulations, NSE Regulations and NSE directives and circulars.

Following are some of the common violations and instances of non-compliance observed during the inspection

BEFORE D2BM MODELS (PERIOD 2005-06)

Client dealings:

- Non-maintenance of duly filled Know-Your-Client forms in the prescribed format along with the valid supporting documents.
- Non-execution of the Sub-broker client Agreement in the prescribed format .
- Non issuance of Purchase / Sale notes in the NSE prescribed format to clients on the day of trade.
- Non-maintenance of acknowledged copies of the Purchase/ Sale notes issued to clients
- Non collection of 10% upfront margins from clients
- Delay in releasing payout of funds and securities

Maintenance of Registers and Books of accounts

- Non maintenance of prescribed registers and books of accounts
- Non-segregation of client funds and Own funds. Usage of the Clients' account for purposes other than those prescribed.
- Submission of upfront margin certificates without collecting margins

Other violations

- Dealing with unregistered intermediaries
- Transfer of trades from PRO account to client account and from one client to another client.
- Non-display of Notice Board and SEBI Registration certificate.

AFTER D2BM MODELS (2006-07)

1. Non-maintenance of copies of Income Tax returns filed by clients with Income Tax Department.
2. Non-maintenance of contract Notes issued to all the clients within 24 hours of the execution of the contract
3. Non-maintenance of duplicate acknowledged copies of physical contract notes issued to the clients wherever physical contract notes were issued
4. Non-maintenance of complaint register containing details of the complaints received from clients / investors.
5. Details of Terminals have not been provided as per the norms prescribed by NSE.
6. Trading Terminals for executing trades on NSE are operated by us and have not been given to any unauthorized persons.
7. Non display of Name board of the trading member i.e. ISE Securities & Services Ltd. at a suitable place at the entrance of office premises.
8. Non appointment of Principal Officer as envisaged under the Anti Money Laundering Act, 2002 and the same has not been intimated to ISE Securities & Services Ltd.

Registered Intermediaries are cautioned against continuing with such violations. They are advised to immediately set right their books of accounts or effect changes in their systems and procedures to ensure compliance with the circulars and directives issued by SEBI, NSE, BSE and ISS. Strict disciplinary action including referring the case to the Disciplinary Action Committee, levying monetary fines and penalties and suspension of trading rights can be imposed on the errant Registered Intermediaries. Reference is drawn to an earlier circular Ref. 03-04/ISS/15639/MR dated January 19, 2004 dated issued in this regard, a copy of which is attached herewith.

Thanking you,

Yours faithfully,

For **ISE SECURITIES & SERVICES LTD.,**

KEVIN M. N. SUNDER
MANAGER – INSPECTION & CRD

Encl.: 03-04/ISS/15639/MR dated January 19, 2004

Ref: 03-04/ISS/15639/MR

January 19, 2004

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All Registered Intermediaries of ISS

President/Executive Director of Participating Exchanges, Co-ordination Officers at Participating Exchanges/Regional Administrative Offices

Dear Sir / Madam,

Based on the violations observed during the inspections conducted by ISS and NSE of the Registered Intermediaries during the past one year, and with a view to informing the Registered Intermediaries about the fines and penalties that would be levied by NSE, as per the Capital Market Regulations of the NSCCL, it may be noted that ISS shall recover the fines and penalties in the case of violations noticed during the ISS inspection.

A sample list of violations along with indicative fines in respect thereof is attached as Annexure. The same shall be applied for the violations observed during the course of inspection for cases in the financial year 2003-04 onwards.

It is also clarified that the actions including fines for the violations as per the list are only indicative and that, in case of a large number of instances of a serious violation involving large amount of funds / large quantity of securities or of repetitive nature, the Disciplinary Action Committee of Inter-connected Stock Exchange of India Ltd. may take such strict action as it may deem fit, including levy of higher fines / suspension / expulsion.

For any clarifications, Registered Intermediaries may contact the following officials:

Mr. H B Mohanty, Mr Sandeep Ghag, Mr. Kevin Sunder

Phone nos.: 27812056/58 . Extn. nos. 254

Your faithfully

For ISE Securities & Services Limited

M.RAMALINGAM

CHIEF EXECUTIVE OFFICER (OFFICIATING)

Annexure

Indicative list of actions for sample list of violations observed during the course of inspection (Capital Market segment)

Rule / Byelaw / Regulation / Circular No.	Violations Observed	One or a few instance(s)	Multiple instances	
	<u>Books of Accounts</u>			
Reg 6.1	<ul style="list-style-type: none"> Not maintained Not maintained properly Not made available for verification Not maintained for branch Not maintained properly for branch Not made available for branch 	Rs.10,500/- Rs 5,500/- Rs. 500/- Rs.10,500/- per office Rs.5,500/- per office Rs.500/-	N.A N.A N.A N.A N.A	* * *
Reg 6.1.5 (e)	Segregation of Exchange wise client ledgers not maintained Non-maintenance of vouchers (entries being directly posted to ledgers) Non-maintenance of upto date bank reconciliation statements	Rs.10,500/- per office Reprimand Reprimand	N.A Rs.500/- Rs.500/-	
	<u>Registers and Documents</u>			
Reg 6.1	Non-maintenance of registers (Register of Securities / Register of Transactions / Register of Complaints / Dividend ledger / Margin Deposit Book) Non-availability of prescribed information in Registers	Rs.5,500/- per register per office Rs.500/-	Rs.5,500/- per register per office Rs.500/-	
Reg 4.3.1	Non-execution of sub-broker – constituent agreements	500/-	Rs.10,500/-	*

Rule / Byelaw / Regulation / Circular No.	Violations Observed	One or a few instance(s)	Multiple instances	
NSE/MEMB/245 dated May 2, 1997	Non-execution of sub-broker – constituent agreement in the prescribed format	Reprimand	Rs.5,500/-	*
	Both non-execution of sub-broker – constituent agreements and non-execution of sub-broker–constituent agreement in the prescribed format in multiple instances	N.A	Rs.10,500/-	
	Not obtaining Client registration forms	Rs.500/-	Rs.10,500/-	
	Client registration forms not completed or not supported by documents	Reprimand	Rs.5,500/-	
	Both non-obtainment of client registration forms and client registration forms not completed or not supported by documents, in multiple instances	N.A	Rs.10,500/-	
	<u>Banking Operations</u>			
Reg 6.1.5 (b)	Non maintenance of Client a/c	Rs.26,000	N.A	
Reg 6.1.5 (b)	Non-segregation of own and client transactions in separate bank accounts	Rs. 500/-	Rs.10,500/-	
Reg 6.1.5 (c)	Use of Client bank account for purposes other than specified	Rs. 500/-	Rs.10,500/-	
	<u>Dealings with Clients</u>			
Reg 6.1.5 (b), Reg 4.5.3 (e) and Circular no NSE/ARBN/1354/1999 dated 27/12/1999	Use of clients' funds for own purposes / Misuse of clients' funds / Unauthorised transfer of funds from one client's account to another client's account	Rs.51,000/-	Rs.1,02,000/-	*
NSE/CMT/005 dated 12/12/1994	Delay in payment of funds to constituents	Reprimand	5,500/- (In case of inordinate delays of more than 1 week, double the fine amount be levied)	*

Rule / Byelaw / Regulation / Circular No.	Violations Observed	One or a few instance(s)	Multiple instances	
Reg 4.5.3 (e) and NSE/CMT/005 dated 12/12/1994	Non-payment or delay in payment of dividend amounts to constituents / non-reconciliation of dividend account	Reprimand	Rs.5,500/-	
Reg 4.5.3 (e)	Securities due to constituents transferred to Own beneficiary account	Rs. 500/-	Rs.5,500/-	
Reg 4.5.3 (e)	Securities due to one client transferred to other clients OR Securities due to constituents used for meeting Own payin obligation/ other constituents	Rs.51,000/-	Rs.1,02,000/-	*
Circular no NSE/CMT/005 dated 12/12/1994	Delay in delivery of securities to the clients	Reprimand	Rs.5,500/- (In case of inordinate delays of more than 1 week, double the fine amount be levied)	*
NSE circular no NSE/CMT/001 dated 28/10/1994	Brokerage charged at a rate higher than the permissible maximum of 2.5%	The Sub-broker to be advised to refund the excess brokerage charged to the constituents and a fine of an equivalent amount or Rs 5500/-, whichever is higher, be levied on the Sub-broker		
NSE/CMO / 22 / 2001 dated 24/07/2001	Non-maintenance of Unique client code / Non maintenance of mapping of the trading codes to unique client codes	Rs. 5,500/-	Rs.10,500/-	*
Reg 6.1.5 (d)	Half yearly statement of accounts for funds /securities not sent to the clients	Rs.5,500/-	Rs.10,500/-	
	<u>Dealings with intermediaries</u>			
Byelaw 33 of Chapter IX of the Byelaws of the Exchange	Sharing of brokerage with -another sub-broker	Rs.5 ,500/-	Rs.10,500/-	
	-an employee of another sub-broker or a person for or with whom sub-brokers are forbidden to do business	Rs.10,500/-	Rs.21,000/-	
Circular no 60 ref no	Dealing with unregistered intermediaries	Rs.26,000/- per intermediary	Rs.26,000/- per intermediary	*

Rule / Byelaw / Regulation / Circular No.	Violations Observed	One or a few instance(s)	Multiple instances	
NSE / MEM / 275 dated 12/06/1997 and NSE circular no 185 ref no NSE/MEM/2284 dated 31/01/2001				
Purchase / Sale notes in the case of sub-brokers				
Reg 3.5.1	Non-issue of Purchase/ Sale notes	Rs.5,500/-	Rs.10,500/-	*
Reg 3.5.1	Issue of Purchase/Sale notes otherwise than in the prescribed format / Issue of purchase/ sale notes without the signature of authorized signatory or which do not bear a running serial number or bear a serial number which is not initiated at the beginning of each financial year	Reprimand	Rs.5,500/-	
Circular no NSE/CMT/005 dated 12/12/1994	Issue of Purchase/Sale Notes involving delays	Reprimand	Rs.10,500/-	
Reg 3.5.1	Issue of NSE Purchase/ Sale notes for transactions not executed on the exchange / for fictitious transactions	Rs.1,02,000/-	Rs.2,02,000/-	*
Reg 3.5.1	Difference in trade rate as per the NEAT system and the rate charged	Excess amount to be returned to the client and fine equal to twice the excess amount charged or Rs 26,000/- , whichever is higher, to be levied on the sub-broker		

Rule / Byelaw / Regulation / Circular No.	Violations Observed	One or a few instance(s)	Multiple instances	
Reg 3.5.1 and NSCCL circular no. NSCC/CM/C &S/207 dated 31st August, 2001	Transfer of trades executed for one client to another client	Reprimand	5,500/-	
	Transfer of trades from PRO account to client account or vice-versa	Rs.5,500/-	Rs.10,500/-	
Rule 4a of Chapter IV of the Rules of the Exchange	Use of fictitious client codes during order placement	Rs.10,500/-	Rs.21,000/	*
NSE/CMO/2 2/99 dated 08/10/99	Off-market transactions	0.01% of trade value or Rs 5,500/- whichever is higher	0.01% of trade value or Rs 15,500/- whichever is higher	
Reg 3.5.1	Off-market transactions executed partly on the Exchange	0.05% of trade value or Rs 10,500/- whichever is higher	0.05% of trade value or Rs 21,000/- whichever is higher	*
	<u>Margin Requirements</u>			
Circular no NSCC/M&S/ 1811 dated 24/08/2001 & NSCC/CM/C &S/229 dated 01/08/2002	Non-collection / short collection of upfront margins from constituents	Reprimand	Rs.500/-	
	Non-collection / short collection of daily margin from constituents	For short collection of daily margin upto 20%, the Registered Intermediary be fined Rs. 500/- and in other cases, a fine of 0.1% of amount of short collection be levied		
Byelaw 25 of chapter IX of the Byelaws of the Exchange	Adopting a procedure (like use of PRO code for clients' trades) to evade margin	0.1 % of the margin evaded or Rs 26,000/- whichever is higher		*
	<u>Membership Requirements</u>			
NSE/MEMB/ 261 dated	Fund Based activities	Reprimand	Rs.21,000/-	

Rule / Byelaw / Regulation / Circular No.	Violations Observed	One or a few instance(s)	Multiple instances	
27/05/1997				
NSE/MEM/3 10 dated 23/07/1997	Shareholding pattern not verifiable due to incomplete / absence of records	A fine of Rs 10,500/-		
Circular no 68 (Reference no NSE/MEM/3 10) dated 23/07/1997	Change in the shareholding pattern without the approval of the Exchange which has resulted in the dilution of the shareholding / profit sharing ratio of the dominant group below 51% (40% in the case of listed trading member)	Rs.1,02,000/-	Rs.1,52,000/-	*
		Withdrawal of trading facility of the Registered Intermediary till the changes are approved by the Exchange.		
NSE/MEM/3 10 dated 23/07/1997	<p>Any change in the shareholding pattern / profit sharing ratio without the prior approval of the Exchange involving dilution not below the minimum prescribed shareholding of the dominant promoter group</p> <p>OR</p> <p>Any change in the non-dominant category of unlisted corporate Registered Intermediaries involving induction of new shareholders</p> <p>Any other change in the shareholding pattern / profit sharing ratio of the Registered Intermediaries without the approval of the Exchange</p>	<p>A fine of Rs 5,500</p> <p>Reprimand</p>		
Rule 4 (4a) of Securities Contracts (Regulation) Rules, 1957	Non appointment of minimum 2 experienced directors and at least one whole-time director	If experienced director(s) is (are) not available the Registered Intermediary be advised to appoint within three months and confirm the same to the Exchange. In case of non compliance to the Exchange directive, a fine of Rs 26,000/- be levied per experienced director not appointed		
Rule (5) (h) of Chapter IV of the Rules of the Exchange	Violation of the Advertisement Code of the Exchange	Rs.5,500/-	Rs.10,500/-	
Bye Law (7) chapter VII	Registered Intermediary acting through or on behalf of another Registered	Rs.10,500/-	Rs.26,000/-	

Rule / Byelaw / Regulation / Circular No.	Violations Observed	One or a few instance(s)	Multiple instances	
of the bye laws of the Exchange	Intermediary for trading on the Exchange without the prior approval of the Exchange in writing			
	<u>Office Management</u>			
Circular no.163 Ref. No. NSE/MEM/1 591 dated April 20, 2000	Usage and operation of a trading terminal by a person (an employee of the Registered Intermediary) other than an approved user	Reprimand	Rs.10,500/-	
Circular no.203, Ref no NSE/MEM/2 689 dated July 6, 2001 and Circular no 309, Ref no NSE/MEM3 740 dated November 13, 2002	Allotment of terminals to persons without NCFM certification	Rs.5.500/-	Rs.10.500/-	
Circular no 282, Ref no NSE/MEM/3 574 dated Aug 29, 2002 and Circular no.163 Ref. No. NSE/MEM/1 591 dated April 20, 2000	Trading (NEAT/CTCL) terminals provided to unregistered intermediaries / unauthorised extension of trading network / non submission of required details of CTCL terminals to the Exchange	Rs.21,000/- per instance	Rs.26,000/- per instance	
Circular no.163 Ref. No. NSE/MEM/1 591 dated April 20, 2000	Non-display of Notice board	Rs.10,500/-	Rs.21,000/-	
Circular no.163 Ref. No. NSE/MEM/1 591 dated	Non-display of SEBI Registration Certificate	Rs.10,500/-	Rs.21,000/-	

Rule / Byelaw / Regulation / Circular No.	Violations Observed	One or a few instance(s)	Multiple instances	
April 20, 2000				
	<u>Other Violations</u>			
Circular no NSCC/M&S/1832 dated 31/08/2001	Wrong reporting of trades as NCIT	Rs.5,500/-	Rs.10,500/-	
NSCC/CM/C&S/175 dated January 15, 2001	Wrong reporting of settlement of BT trades	Rs.5,500/-	Rs.10,500/-	
Circular No. NSE/CM/67 68 and Circular No. NSE/CMT/0 55 dated February 15, 1996	Non submission of information as required in the prescribed format to the Exchange for underwriting	Rs.500/-	Rs.10,500/-	
NSE/CMO/0 02/2000(ref no NSE/CMT/1 424 dated 31/01/2000	Commencement of Internet Trading without prior approval from the Exchange	Rs.10,500/-	NA	

Notes:-

- (1) In respect of repeat violations, action may be restructured to cases where multiple instances of a violation have been observed in both the last annual inspection of a Registered Intermediary and the current inspection and 50% of the fine applicable for multiple instances of the violation be levied additionally. In all other circumstances of repeat violation, the fine structure in respect of initial violations to be followed.
- (2) The above actions including fines are only indicative. In case of a large number of instances of a violation involving large amount of funds / large quantity of securities or of repetitive nature, in respect of the items with “*” (asterisk) mark which are of serious nature, the Disciplinary Action Committee of ISE/ Disciplinary Action Bench of NSE may take such strict action as it may deem fit including levy of higher fines / suspension / expulsion.