

Ref: 08-09/ISS/ 498 /KS
May 21, 2008

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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: Observations during 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

1. All changes in the Directors or Shareholding carried out by the sub-brokers have not been intimated to the Exchange, as and when they were carried out.
2. Few of the sub-brokers have maintained deposits as per the norms prescribed by SEBI.
3. Few of the sub-brokers have provided any terminal to unauthorized entity and that the details of all the trading terminals have not been furnished in the manner as have been prescribed by the Exchange from time to time.
4. Non-maintenance of copies of Income Tax returns filed by clients with Income Tax Department.
5. Non-maintenance of contract Notes issued to all the clients within 24 hours of the execution of the contract
6. Non-maintenance of duplicate acknowledged copies of physical contract notes issued to the clients wherever physical contract notes were issued.
7. Non-maintenance of complaint register containing details of the complaints received from clients / investors.
8. 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.
9. 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. NSE/INSP/2007/9971 dated 27TH December, 2007 issued in this regard, a copy of which is attached herewith.

Thanking you,

Yours faithfully,

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

KEVIN M. N. SUNDER
HEAD - SURVEILLANCE & INSPECTION

Encl.: NSE CIRCULAR No. NSE/INSP/2007/9971 DATED 27TH DECEMBER, 2007

**NATIONAL STOCK EXCHANGE OF INDIA LIMITED
INSPECTION DEPARTMENT
CIRCULAR**

DOWNLOAD REF.NO: NSE/INSP/64

Circular No. NSE/INSP/2007/9971

Dated : 27th December 2007

To
All Members

**Sub : List of common violations and applicable penalties (Capital Market,
Wholesale Debt Market and Futures & Options segments)**

**Ref : Exchange's circular no. NSE/INSP/2007/57 (download ref no
NSE/INSP/8692) dated 16th March 2007**

Based on the findings during inspections conducted in the past, the Exchange has drawn up a list of commonly observed violations. Upon review of the same, the grouping of violations and the penalties thereof have been revised and presented in the annexure for your ready reference.

It may be noted that these penalties are indicative in nature and could undergo change in specific cases depending on frequency and gravity of the violations. Further, if a violation is observed in both the previous annual inspection of a member, conducted during the last three financial years and the current inspection, the penalty amount will be escalated by 50% (excluding cases involving ad valorem fines). It may also be noted that the list contains commonly observed violations only and that action in respect of uncommon or abnormal violations would be dealt on a case to case basis depending on the seriousness and the impact of such violations.

Members are hereby urged to take preventive steps to avoid the violations and to put systems and procedures in place so as to ensure compliance with the applicable requirements. For any clarifications and queries on compliance, members may contact the following officials:

Mr. Ankit Badalia, Ms Sania Surve

Phone nos.: 2659 8100 – 8114 Extn. nos. 5127, 5128

For National Stock Exchange of India Limited

**A. Sebastin
Asst. Vice President
Inspection Department**

Annexure to circular no. NSE/INSP/2007/9971 dated 27th December 2007

List of indicative penalty in respect of violations observed during inspections or otherwise in Capital Market, F & O and Wholesale Debt Market segments

No	Details of contravention	Penalty (Fine in rupees)
I - Dealings with clients		
1	Client registration documents	
	(a) not executed	10000/- per client
	(b) inclusion of contravening clauses / omission of material details	10000/-
	(c) otherwise not in the prescribed format	Advice
2	Client-wise accounts for funds / securities not maintained	50000/-
3	Bank and demat account operations	
	(a) Separate clients bank or demat account not maintained	10000/-
	(b) Payin / payout not received from / delivered to respective clients	In excess of 2% of number of instances, fine of Rs 10000/- Otherwise, advice
	(c) Non-segregation of own and clients' funds or securities	In excess of 2% of number of instances, fine of Rs 10000/- Otherwise, advice
	(d) Delay in release of payout of funds / securities	In excess of 2% of number of instances, fine of Rs 10000/- Otherwise, advice
	(e) Delayed / non-payment of dividend (delay in excess of 90 days)	0.5 % of the amount (Rs 10000/- if amount not known)
4	Excess brokerage charged	TM to be advised to refund the excess brokerage charged to the constituents and fine of the excess brokerage or Rs 5000/- whichever is higher
5	Use of multiple codes for a client or own trades	Advice
6	Contract notes related contraventions	
	(a) Issued with material discrepancies / Duplicates or copies or proof of despatch of contract notes not maintained	10000/-
	(b) otherwise not as prescribed	Advice
7	Quarterly statement of accounts for funds or securities not sent	In excess of 2% of number of clients, fine of Rs10000/- Other discrepancies - Advice
8	Cash dealings with clients	0.1% of the value in excess of Rs 10 lakhs Otherwise - Advice
9	Non-disclosure of trading on own account to clients / Exclusive e-mail id for investors' complaints not created or not displayed	Advice

10	Transfer of trades / Errors at the time of order entry	In excess of 2% of number of orders executed, fine of 0.1% of value of trades transferred
11	Margin trading related contraventions	
	(a) Agreement not executed with clients	5000/- per client
	(b) Margin trading facility in scrips other than permitted	10000/-
	(c) Short collection of margin in excess of 20%	10000/-
	(d) Other procedural contraventions	10000/-
II - Dealings with intermediaries		
1	Dealing with unregistered intermediaries in CM segment / intermediaries in F & O segment	100000/- per unregistered intermediary TM to be advised to ensure that the entities stopped dealing as unregistered intermediaries and directed to withdraw the terminal(s), if any, allotted to such entities, immediately. In addition to monetary fine, suspension of the trading membership may also be considered depending upon the gravity of the violation, in cases where dealings with more than 5 unregistered intermediaries (in the CM segment) and / or intermediaries (in the F&O segment) are observed
2	Doing business for / through other TMs or sub-brokers of other TMs without prior approval of the Exchange	10000/- With brokers / sub-brokers of other exchanges - Advice
3	Inspection of active sub-brokers / branches not done	Advice
III - Trading system & office management		
1	Operation of terminals by persons other than an approved user / person	Advice
2	Allowing trading terminals to be operated by persons without NCFM certification	CM - Advice F&O - Rs 1000/- per terminal
3	(a) Unauthorised extension of NEAT terminal / Non-upload of CTCL details to the Exchange / Upload of CTCL details with incorrect terminal location	50000/- per terminal In cases where non-upload of details of more than five CTCL terminals are observed and such CTCL terminals are also observed to be operated by entities acting as unregistered intermediaries in the CM segment or as intermediaries in the F&O segment and / or such terminals are observed to be used for carrying out illegal trading activity, suspension of the trading membership may also be considered depending upon the gravity of the violation
	(b) Errors in upload of CTCL details	In excess of 5 terminals, Rs 5000/- per terminal
4	Non-display of notice board or SEBI registration certificate	10000/-
5	Non-appointment of compliance officer	10000/-
6	Execution of trades on own account from locations other than those permitted by the Exchange	10000/-

7	Evasion of margin	0.3% of the value of trades s.t. a minimum of Rs 25000/-
8	Not following the advertisement code of the Exchange	5000/-
9	Non-compliance with PMLA requirements	10000/-
10	Books of accounts, registers, records & documents not in prescribed format / not maintained properly	Advice
IV - Margin reporting requirement (F & O segment)		
	(a) % of factual wrong reporting of margin collection from constituents to total margin reported as collected is :	
	Upto 5%	Warning
	> 5% and upto 10%	0.5% of wrongly reported amount
	> 10% and upto 25%	2% of the wrongly reported amount
	> 25% and upto 50%	2% of the wrongly reported amount and suspension from trading for 1 day
	> 50%	2% of the wrongly reported amount and suspension from trading for 5 days
	(b) % of (margin available but not properly accounted for / received from third parties) to total margin reported as collected is :	
	Upto 5%	Advice
	> 5% and upto 10%	0.5% of the wrongly reported amount, s.t. a maximum of Rs 25,000/-
	> 10% and upto 25%	0.75% of the wrongly reported amount, s.t. a maximum of Rs 50,000
	> 25% and upto 50%	1% of the wrongly reported amount, s.t. a maximum of Rs 75,000/-
	> 50%	1.25% of the wrongly reported amount, s.t. a maximum of Rs 1,00,000/-