



भारतीयप्रतिभूतीऔरविनिमयबोर्ड

Securities and Exchange Board of India

CIRCULAR

CIR/HO/MIRSD/MIRSD2/CIR/P/2017/124

November 30, 2017

To

All Recognized Stock Exchanges

Dear Sir / Madam,

Sub: Clarification to Circular on Prevention of Unauthorised Trading by Stock Brokers

1. SEBI vide circular no. CIR/HO/MIRSD/MIRSD2/CIR/P/2017/108 dated September 26, 2017 has inter-alia specified that brokers shall execute trades of clients only after keeping evidence of the client placing such order. Further, SEBI has made it mandatory to use telephone recording system to record client instructions and maintain telephone recordings wherever the order instructions are received from clients through the telephone.
2. Subsequently, SEBI has received representations from stock brokers and their associations expressing operational difficulties caused to stock brokers. Accordingly, in view of operational difficulties faced by stock brokers, it has been decided as under.
 - i. Brokers are required to maintain the records specified at para III of aforementioned circular for a minimum period for which the arbitration accepts investor 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.
 - ii. If SEBI desires that specific records be preserved then such records shall be kept till further intimation by SEBI.
 - iii. The above mentioned SEBI circular also prescribes that 'when dispute arises, the burden of proof will be on the broker to produce the above 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.

3. 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.
- c. Communicate to SEBI, the status of the implementation of the provisions of this circular in their Monthly Development Reports.

4. 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.

Yours faithfully,

Debashis Bandyopadhyay
General Manager