



CIRCULAR

SEBI/HO/ISD/ISD-PoD-1/P/CIR/2024/73

June 6, 2024

To,

**All Recognized Stock Exchanges,
All Clearing Corporations,
All Depositories,**

Madam/Sir,

**Sub.: Framework of “Financial Disincentives for Surveillance Related Lapses”
at Market Infrastructure Institutions.**

1. Market infrastructure Institutions (i.e. Stock Exchanges, Clearing Corporations and Depositories) are systemically important institutions for the development of the securities market. The role of surveillance at Market Infrastructure Institutions (“**MIIs**”) has become crucial in ensuring the safety and integrity of securities market in view of the significant increase in trading activity during the past few years, increased participation by retail individual investors, increased trading activity in the derivatives segment and deployment of new trading techniques and strategies by market participants.
2. MIIs, being the first-level regulators, are expected to be in the know of the ground realities of the securities market and their constituents and updations thereof. The MIIs, supervise their members in terms of the respective bye-laws framed under the Securities Contracts (Regulation) Act, 1956 (“**SCRA**”) / Depositories Act, 1996. They need to be well equipped to detect market abuse, including new modus-

operandi that could be adopted by unscrupulous elements and take suitable, prompt, effective and preventive action against such activities.

3. The Securities and Exchange Board of India Act, 1992 (“**SEBI Act, 1992**”) *inter alia* requires the Securities and Exchange Board of India (“**SEBI**”) to protect the interest of investors in securities and to regulate the market through measures that may provide for regulating the business in the stock exchanges and the working of the depositories.
4. Regulation 49 (2) of the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2018 (“**SECC Regulations, 2018**”) empowers SEBI to take action against a recognised stock exchange or recognised clearing corporation for any contravention of the SCRA, the SEBI Act, 1992, any rules or regulations framed thereunder and any circulars or directions issued by SEBI. Similarly, Regulation 91A (2) of the Securities and Exchange Board of India (Depositories and Participants) Regulations, 2018 (“**DP Regulations, 2018**”) empowers SEBI to take action against a depository for any contravention of the SEBI Act, 1992, the Depositories Act, 1996, any rules or regulations framed thereunder and any circulars or directions issued by SEBI.
5. As per Regulation 28 (2) read with Part–C of Schedule II of the SECC Regulations, 2018, the surveillance function of a Stock Exchange is considered as a core function. Similarly, Regulation 2 (k) (iii) read with Fourth Schedule of the DP Regulations, 2018 classifies surveillance as part of the core functions of the Depository.

6. The general objective of surveillance by MIs is thus to monitor the market to detect and deter manipulation or abusive trading that affects the integrity of the market, and to provide information that supports the Regulator's enforcement actions. In this backdrop, market surveillance by MIs may be said to include, but not limited to the following broad activities as may be applicable from time to time:
 - 6.1. Monitoring the day-to-day activities in the markets including trading / margining / settlement / demat transactions / holdings;
 - 6.2. Monitoring the conduct of market intermediaries through generation and processing of alerts, seeking trading rationale, carrying out snap analysis / preliminary examination and if required, detailed analysis / examination and timely submission of Report to SEBI.
 - 6.3. Reporting of abnormal / suspicious activities as per the framework that is to be communicated by SEBI.
 - 6.4. Promptly implementing the decisions taken in the surveillance meetings.
 - 6.5. Endeavouring to take pre-emptive surveillance measures as per any framework that may be communicated by SEBI.
7. Since any lapse in monitoring to detect and deter manipulative or abusive trading would show lacking adequate actions for surveillance related activity on the part of MIs that may have an adverse effect on the investors' trust and confidence in the securities market, it has been decided by SEBI, after consultation with MIs, for MIs to implement a framework for Surveillance Related Lapses at MIs as stated at para 8.1 below that shall be applicable to Surveillance Related Lapses emanating from non-adherence to the requisite surveillance activities / decisions

taken in the surveillance meetings, which does not involve any subjective discretionary deviations or discretionary value judgments.

8. Framework of Financial Disincentives for Surveillance Related Lapses at MIs:

8.1. Surveillance Related Lapses:

8.1.1. Surveillance Related Lapse (“SRL”), shall mean and include the following:

8.1.1.1. Any lapse observed in the implementation of decisions taken during the Surveillance Meetings including any non-implementation or partial implementation or delayed implementation of any decision or communication of SEBI relating to surveillance as per agreed scope and timelines;

8.1.1.2. Any lapse observed in discharge of surveillance activities as per agreed scope and timelines; and

8.1.1.3. Any inadequate reporting or non-reporting of surveillance related activity as per agreed timelines.

8.2. Amount of Financial Disincentives

8.2.1. The amount of financial disincentives as per the framework of financial disincentives for Surveillance Related Lapses (“FDSRL”) at MIs, as detailed below, shall be determined on the basis of total annual revenue of the MI, as an indicator of the size and impact of the MI on the market ecosystem, during the previous Financial Year as per the latest audited consolidated annual financial statement and the number of instances of Surveillance Related Lapses during the Financial Year.

Financial Disincentive (INR)			
Total Annual Revenue (INR) of MII No. of Instances of SRL in FY	>1000cr	1000cr – 300cr	< 300cr
FIRST instance	25 Lakhs	5 Lakhs	1 Lakh
SECOND instance	50 Lakhs	10 Lakhs	2 Lakhs
THIRD instance onwards - for each instance during the FY.	1 Crore	20 Lakhs	4 Lakhs

8.3. Procedure upon identification of SRL:

8.3.1. Upon identification of SRL at MIIs, as indicated in para 8.1 above or upon receipt of information of any such instances, SEBI shall provide an opportunity to the concerned MII to make its submissions, in respect of the SRL.

8.3.2. The submissions made by the concerned MII shall be considered by SEBI before imposing any “Financial Disincentive” on the concerned MII as per the framework.

8.3.3. The “Financial Disincentive(s)” under the framework of FDSRL, if imposed, shall be credited by the MII concerned within 15 working days, to the Investor Protection and Education Fund (“**SEBI-IPEF**”) established under the SEBI Act, 1992 and a confirmation of payment in this regard shall be forwarded to SEBI.

8.4. Disclosure:

8.4.1. MIIs shall disclose on their websites (and in their respective annual reports) the details pertaining to financial disincentive(s) if any, credited to the SEBI–

IPEF under the framework for FDSRL at MIIIs as specified in this circular.

Further, listed MIIIs make appropriate disclosures required in terms of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, regarding any financial disincentive(s) imposed by SEBI under this circular.

8.5. Applicability:

8.5.1. The framework of FDSRL at MIIIs shall not be applicable to matters / instances wherein it:

8.5.1.1. has market wide impact, or

8.5.1.2. caused losses to a large number of investors, or

8.5.1.3. affected the integrity of the market, and

any such matter shall be subject to appropriate proceedings under the SCRA/ SEBI Act, 1992/ Depositories Act, 1996.

8.5.2. The framework of FDSRL at MIIIs shall not be applicable for matters / instances that are procedural in nature, including the following:

8.5.2.1. Minor delays like 1-2 working days in providing information sought by SEBI, or

8.5.2.2. Minor errors in the information provided which is corrected in a short span of time, or

8.5.2.3. Minor errors in the submissions which are corrected on their own, or

8.5.2.4. Minor extension sought for submissions, or

8.5.2.5. Extension sought due to factors beyond the control of the MII,

and any delay/ error/ lapse that is considered as minor by SEBI may be subject to administrative proceedings like warnings etc.

- 8.5.3. This circular shall come into effect from July 1, 2024 and the framework of FDSRL at MIs shall be applicable for any surveillance related lapse occurring on or after the said date.
9. The framework for FDSRL at MIs shall be without prejudice to the right of SEBI to initiate any other action(s) as deemed appropriate under the provisions of the SCRA, the SEBI Act, 1992, the Depositories Act, 1996 and the rules and regulations framed thereunder.
10. 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.
11. This circular is available on SEBI website at www.sebi.gov.in under the category “Legal ⇒ Circulars”.

Yours faithfully,

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