भारतीय प्रतिभूति और विनिमय बोर्ड
Securities and Exchange Board of India

CIRCULAR

SEBI/HO/CDMRD/DRMP/CIR/P/2021/35 **March 23, 2021**

To
The Managing Directors / Chief Executive Officers
All Clearing Corporations having Commodity Derivatives Segment

Sir / Madam,

Sub: Review of delivery default norms

1. SEBI vide Circular SEBI/HO/CDMRD/DRMP/CIR/P/2016/90 dated September 21, 2016 had prescribed, inter-alia, provisions for the levy of penalty in the event of delivery default.

2. SEBI had received representations from market participants in the commodity derivatives segment for standardization of delivery default norms, strengthening the deterrent mechanism and ensuring adequate compensation to the non-defaulting counterparty.

3. In view of the above, the extant delivery default norms were examined in consultation with Clearing Corporations and the following has been decided:

   3.1. In agricultural commodities, the penalty for delivery default by seller shall now be 4% of the settlement price plus replacement cost.
   3.2. In non-agricultural commodities, the penalty for delivery default by seller shall remain at 3 % of settlement price plus replacement cost.
   3.3. In agricultural as well as non-agricultural commodities, the provisions for levy of penalty on delivery default by buyer, as mentioned under para 4.2 of the circular, shall be put in place by the Clearing Corporations.

4. In light of decisions at para 3 above, clause 3(d) of circular No. SEBI/HO/CDMRD/DRMP/CIR /P/2016/90 dated September 21, 2016, shall stand modified as follows:

   4.1 Penalty on seller in case of delivery default (default in delivery against open position at expiry in case of compulsory delivery contracts, default in delivery after giving intention for delivery) shall be as follows:

   4.1.1 ***Futures contracts on agri-commodities:*** *4% of Settlement Price + replacement cost (difference between settlement price and average of three highest of the last spot prices of 5* *succeeding days after the commodity pay-out date, if the average price so determined is higher than Settlement Price, else this component will be zero.)*

4.1.2 ***Futures contracts on non-agri commodities:*** *3% of Settlement Price + replacement cost (difference between settlement price and higher of the last spot prices on the commodity pay-out date and the following day, if the spot price so arrived is higher than Settlement Price, else this component will be zero.)*

4.1.3 *Clearing Corporations / Exchanges shall have the flexibility to increase/decrease penalty for specific commodities depending on situation, in consultation with SEBI.*

4.1.4 *Norms for apportionment of penalty –*

4.1.4.1 *At least 1.75% of Settlement Price shall be deposited in the Settlement Guarantee Fund (SGF) of the Clearing Corporation*

4.1.4.2 *Up to 0.25% of Settlement Price may be retained by the Clearing Corporation towards administration expenses*

4.1.4.3 *(1% of Settlement Price in case of non-agri goods or 2% of settlement price in case of agri goods) plus replacement cost shall go to buyer who was entitled to receive delivery*

4.1.5 *In addition, Clearing Corporation may have appropriate deterrent mechanism (including penal/disciplinary action) in place against intentional/wilful delivery default.*

4.2 *In the case of a default by a buyer in both agricultural and non-agricultural commodities, following standard procedure shall be followed by the Clearing Corporations:*

4.2.1 *The Clearing Corporation shall review the loss incurred by the non-defaulting Party, i.e. Seller, at its sole discretion, and accordingly, levy penalty on the defaulting buyer. However, such penalty shall be within the overall cap of delivery margins collected by the CCs, from such defaulting buyer.*

5. The circular shall be effective from the first trading day of the month of May, 2021.

6. This circular is issued in exercise of the powers conferred under Section 11(1) of the Securities and Exchange Board of India Act 1992, read with Section 10 of the Securities Contracts (Regulation) Act, 1956 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.

7. This circular is available on SEBI website at www.sebi.gov.in

Yours faithfully

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