

Dated: 28th August, 2020

NOTICE

Trading Members are hereby informed that the Exchange has received a Circular from SEBI Vide Ref. No. SEBI/HO/MIRSD/DOP/CIR/P/2020/158, dated August 27, 2020 regarding Execution of Power of Attorney (PoA) by the Client in favour of the Stock Broker / Stock Broker and Depository Participant. The contents of the said circular are reproduced hereunder for information of trading members.

Quote: -

CIRCULAR

SEBI/HO/MIRSD/DOP/CIR/P/2020/158

August 27, 2020

To,
All Depositories
All Recognised Stock Exchanges

Madam / Sir,

Subject: Execution of Power of Attorney (PoA) by the Client in favour of the Stock Broker / Stock Broker and Depository Participant

1. SEBI, vide circular no. CIR/MRD/DMS/13/2010 dated April 23, 2010, issued Guidelines for execution of Power of Attorney (PoA) by the client favouring Stock Broker / Stock Broker and Depository Participant (hereinafter referred to as "Guidelines"). Certain clarifications were issued later vide circular no. CIR/MRD/DMS/28/2010 dated August 31, 2010.

2. Paragraph 5 of the circular dated April 23, 2010, specifies the following:

"Standardizing the norms for PoA must not be construed as making the PoA a condition precedent or mandatory for availing broking or depository participant services. PoA is merely an option available to the client for instructing his broker or depository participant to facilitate the delivery of shares and pay-in/pay-out of funds etc. No stock broker or depository participant shall deny services to the client if the client refuses to execute a PoA in their favour."

3. Further, paragraph 12 – 20 of the Guidelines in SEBI circular dated April 23, 2010, also specifies that the PoA shall not facilitate the stock broker to do the following: 3.1. Transfer of securities for off market trades.

3.2. Transfer of funds from the bank account(s) of the Clients for trades executed by the clients through another stock broker.

3.3. Open a broking / trading facility with any stock broker or for opening a Beneficial Owner account with any Depository Participant.

3.4. Execute trades in the name of the client(s) without the client(s) consent.

3.5. Prohibit issue of Delivery Instruction Slips (DIS) to beneficial owner (client).

3.6. Prohibit client(s) from operating the account.

3.7. Merging of balances (dues) under various accounts to nullify debit in any other account.

3.8. Open an email ID / email account on behalf of the client(s) for receiving statement of transactions, bills, contract notes etc. from stock broker / depository participant.

3.9. Renounce liability for any loss or claim that may arise due to any blocking of funds that may be erroneously instructed by the stock broker to the designated bank.

4. However, it has been observed that PoA is invariably obtained from the investors as part of the KYC and account opening process. Such PoA executed by clients has further found to have been misused by the stock brokers by taking authorization even for activities as specified in paragraph 3 above. In this regard, it is reiterated that:

4.1. PoA is optional and should not be insisted upon by the stock broker / stock broker depository participant for opening of the client account.

4.2. PoA executed in favour of stock broker / stock broker depository participant by the client shall be utilized

4.2.1. For transfer of securities held in the beneficial owner accounts of the client towards Stock Exchange related deliveries / settlement obligations arising out of trades executed by clients on the Stock Exchange through the same stock broker.

4.2.2. For pledging / re-pledging of securities in favour of trading member (TM) / clearing member (CM) for the purpose of meeting margin requirements of the clients in connection with the trades executed by the clients on the Stock Exchange.

4.2.3. For the limited purposes as specified in paragraph 1(iii) and 2 of the Guidelines.

4.3. Paragraph 1(i) and 1(ii) of the Guidelines stands modified in accordance with paragraph 4.2.1 and 4.2.2 above. Stock Exchanges and Depositories shall ensure that PoA is not used by TM/CM/DPs for any purpose other than as specified above and in SEBI circulars dated April 23, 2010 read with SEBI circular dated August 31, 2010.

5. It has also been decided that all off-market transfer of securities shall be permitted by the Depositories only by execution of Physical Delivery Instruction Slip (DIS) duly signed by the client himself or by way of electronic DIS. The Depositories shall also put in place a system of obtaining client's consent through One Time Password (OTP) for such off market transfer of securities from client's demat account.

6. All other provisions specified in SEBI circular dated April 23, 2010 read with SEBI circular dated August 31, 2010 shall continue to remain applicable. The circular shall be applicable with effect from November 01, 2020.

7. Stock Exchanges and Depositories are directed to

7.1. make necessary amendments to the relevant Bye-laws, Rules and Regulations for the implementation of the above decision;

7.2. bring the provisions of this circular to the notice of their members / participants and also disseminate the same on their websites; and

7.3. communicate to SEBI, the status of implementation of the provisions of this circular in their monthly report.

8. This circular is issued in exercise of powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992 and Section 19 of the Depositories Act, 1996, to protect the interests of investors in securities and to promote the development of, and to regulate the securities markets.

Yours faithfully

Narendra Rawat
General Manager
Market Intermediaries Regulation and Supervision Department

Unquote: -

Trading Members are requested to take note of the aforesaid guidelines of SEBI and act accordingly.

Dhiraj Chakraborty
Compliance Officer