CIRCULAR

SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/92

September 23, 2016

To,
The Managing Directors / Chief Executive Officers
All Commodity Derivatives Exchanges

Dear Sir / Madam,

Sub: Regulatory Framework for Commodity Derivatives Brokers

- 1. As per Section 131(B) of Finance Act, 2015 all rules, directions, guidelines, instructions, circulars, or any like instruments, made by the erstwhile Forward Markets Commission (FMC) or the Central Government applicable to recognized associations under the Forward Contracts (Regulation) Act, 1952 shall continue to remain in force for a period of one year from the date on which the FCRA is repealed (September 29, 2015), or till such time as notified by SEBI, whichever is earlier, as if the FCRA had not been repealed.
- 2. Erstwhile FMC issued various circulars/letters/ directions to exchanges dealing in commodity derivatives for compliance by their members from time to time. Consequent to merger of FMC with SEBI, it is important that regulatory provisions for brokers across equity and commodity derivatives markets be harmonized. Accordingly, regulatory provisions have been divided into three parts as described below.
 - i. Part A contains details of FMC circulars which shall stand repealed and relevant SEBI circulars which shall be applicable.
 - ii. Part B contains details of FMC circulars contents/norms of which shall continue as they are specific to commodity derivative markets.
 - iii. Part C contains details of FMC circulars which shall stand repealed.
- 3. **Part A**: Following FMC circulars shall stand repealed and relevant SEBI circulars shall be applicable to all commodity derivatives exchanges including regional commodity derivative exchanges for compliance by their members.

SrNo	Subject	FMC Circular being repealed	SEBI circulars being made applicable
i.	Segregation of	No circular issued by FMC	a) SMD/SED/CIR/93/23321
	Client and Own		dated Nov 18, 1993
	Funds and		b) MRD/DoP/SE/Cir- 11/2008
	Securities		dated Apr 17, 2008
ii.	Running Account	a) FMC/4/2012/C/14 No.	a) Clause 12 of Annexure A to
	Settlement	1/2/2012/IR-I/Client-	MIRSD/ SE /Cir-19/2009
		Protect/ dated Feb 02, 2012	dated Dec 3, 2009
		b) FMC/4/2013/C/59 No.	b) MIRSD /Cir/ 01/ 2011 dated

SrNo	Subject	FMC Circular being repealed	SEBI circulars being made applicable
		repealed 1/2/2012/IR-I/Client-	**
			May 13, 2011
		Protect dated May 20, 2013	
		c) No. 1/2/2012/IR-I/Client-	
		Protect dated Jun 25, 2013	
		d) FMC/4/2014/C/121	
		FMC/2014/04/23-Quarterly	
		Settlement dated Oct 17, 2014	
iii.	Requirements	a) No.IRD/Div/(1)FMCR/1/2	a) Clauses 1 to 11 and Clauses
	with respect to	005 dated Feb 14, 2006	14 to 19 of Annexure A to
	Financial	b) Div. III/I/(53)/06/PAN No.	MIRSD/ SE /Cir-19/2009
	Documents,	dated Nov 28, 2006	dated Dec 03, 2009
	PAN, Inactive	c) 9/3/2008-MKT-II dated Jan	b) CIR/MIRSD/01 /2013
	Clients etc.	12, 2009	dated Jan 04, 2013
		d) No. 18/1/2007/MKT-III	c) CIR/MIRSD/64/2016 dated
		dated Feb 11, 2008	Jul 12, 2016
		e) No. 9/1/2009-MKT-I dated	For new client accounts.
		Dec 07, 2009	1 01 110 W 0110110 W00 0 011100
		f) No. 9/12009-MKT-I dated	
		Aug 10, 2010	
iv.	In-Person	Part C of	a) Para 3 of MIRSD/Cir- 26
	Verification	FMC/4/2015/C/0015No.	/2011 Dec 23, 2011
		FMC/COMPL/IV/KRA-	b) Point 4 of Part
		05/11/14 dated Mar 13, 2015	'Instructions/Check List' of
			Annexure 3 of Circular
			CIR/MIRSD/16/2011 dated
			Aug 22, 2011
v.	KRA	FMC/4/2015/C/0015 No.	a) MIRSD/Cir-23/2011 dated
		FMC/COMPL/IV/KRA-	Dec 2, 2011
		05/11/14 dated Mar 13, 2015	b) Para 1 of MIRSD/Cir- 26
			/2011 dated Dec 23, 2011
vi.	Anti-Money	a) No.7/1/2008- MKT-II dated	a) CIR/ISD/AML/3/2010 dated
	Laundering and	Oct 30, 2009	Dec 31, 2010
	Maintenance of	b) No.7/1/2008-MKT-II dated	b) CIR/MIRSD/2/2013 dated
	Records	Jan 25, 2010	Jan 24, 2013
		c) No. 7/1/2008-MKT-II dated	c) CIR/MIRSD/1/2014 dated
		Aug 25, 2010	Mar 12, 2014
		d) FMC/4/2013/C/163; Div.	
		III / I/ 89 / 07 dated Dec	
		18, 2013	
		e) No. 7/1/2013-MKT-1(A)	
		dated Feb 04, 2015	
vii.	Dealing in Cash	FMC/2/2014/C/23 No.	MRD/SE/Cir- 33/2003/27/08
		9/1/2014 -MKT-I dated Mar	dated Aug 27, 2003
		12, 2014	
/iii.	Guidelines on	FMC/4/2011/G/0010FMC/Co	CIR/MIRSD/03/2011 dated Jun
	Pre-funded	mplt/Circular	9, 2011

SrNo	Subject		SEBI circulars being made applicable
	-	· · · · · · · · · · · · · · · · · · ·	
	Instruments	dated Sep 27, 2011	
ix.	SMS and Email alerts facility to clients	 a) FMC/4/2012/C/13 No. FMC/IR-I/Client protection/2012 dated Feb 02, 2012 b) FMC/Complt/Circular dated Jun 04, 2012 c) No:IR (2)/5/2012/SMS-Email dated Dec 07,2012 d) No.IR(2)/5/2012/SMS-Email dated Jan 21, 2013 e) No.IR(2)/5/2012/SMS/Email dated Mar 01, 2013 f) No.IR(2)/5/2012/SMS/Email dated Mar 06, 2013 g) No.IR(2)/5/2012/SMS/Email dated May 15, 2013 h) No.IR(2)/5/2012/SMS/E- 	CIR/MIRSD/15/2011 dated Aug 02, 2011
		mail dated Jun 21, 2013	
X.	Contract Note	 a) No. 07/2008/COMP/LAD-ENF/AD(SN)/6609 dated Oct 27, 2009 b) FMC/COMPL/IV/2010/03/05/00011 dated Apr 19, 2011 c) Div.III/I/89/07 dated Mar 13, 2014 d) Div.III/I/89/07 dated Dec 24, 2014 	 a) SMDRP/Policy/Cir-56/2000 dated Dec 15, 2000 b) SMD/SE/15/2003/29/04 dated Apr 29, 2003 c) MRD/DoP/SE/Cir-20/2005 dated Sep 8, 2005 d) Clause 13 of Annexure A to MIRSD/SE/Cir-19/2009 dated Dec 3, 2009
xi.	Exclusive e-mail ID for redressel of Investor Complaints	No circular issued by FMC	MRD/DoP/Dep/SE/Cir-22/06 dated Dec 18, 2006
xii.	Display of information such as logo, registration number on notice board and contract note and investor grievance redressal mechanism on notice board	No circular issued by FMC	a) Cir/MIRSD/ 9 /2010 dated Nov 4, 2010 b) CIR/MIRSD/3/2014 dated Aug 28, 2014

SrNo	Subject	FMC Circular being repealed	SEBI circulars being made applicable
kiii.	Internal Audit	No circular issued by FMC	Para 7 to 11 of circular MIRSD/Master Cir-04/2010 dated Mar 17, 2010
xiv.	Inspection o brokers	a) No. Div./III/I/301/2011- 12/Audit dated Dec 23, 2011 b) No. Div./III/I/104/2008- 09/Audit dated Feb 02, 2012 c) FMC/1/2014/C/50No.Div.I II/I/300/2011-12/Audit dated Apr 23, 2014 d) FMC/1/2014/C/47 No. FMC/1/2014/Audit/C Dated Apr 23, 2014	a) Para 2 to 6 of circular MIRSD/Master Cir-04/2010 dated Mar 17, 2010 b) CIR/MIRSD/13/2012 dated Dec 07, 2012
XV.	Change in control/constitution	-	a) MIRSD/MSS/Cir- 30/ 13289/03 dated Jul 09, 2003 b) CIR/MIRSD/2/2011 dated Jun 3, 2011 c) CIR/MIRSD/14/2011 dated Aug 02, 2011
xvi.	Procedure fo surrender o membership	a) FMC/6/2011/C/0018 No.	MIRSD/MSS/Cir- 30/ 13289/03 dated Jul 09, 2003
xvii.	Guidelines or Outsourcing of Activities by Intermediaries		CIR/MIRSD/24/2011 dated Dec 15, 2011
xviii.	BPO/KPO services	No. S/1/2009/MD-I dated Mar - 28, 2011	a) Rule 8(1)(f) and 8(3)(f) of SCRR, 1957

SrNo	9		SEBI circulars being made applicable
	Segregation thereof from Commodity Derivatives Market		b) SMD/POLICY/CIR-6//97 dated May 07, 1997
xix.	Authorized Persons	No.6/3/2008-MKT – II ; FMC/2/2012/G/3 dated Jan 11, 2012	a) MIRSD/ DR-1/ Cir- 16 /09 dated Nov 06, 2009 b) Cir/MIRSD/AP/8/2010 dated Jul 23, 2010

4. **Part B**: Following FMC circulars are specific to commodity derivatives market. It has been decided that contents/norms specified in following circulars shall continue to be in force beyond September 28, 2016. Provisions of these circulars shall be applicable to all commodity derivatives exchanges including regional commodity derivatives exchanges for compliance by their members.

SrNo	Subject	FMC Circular No. and Date
i.	Account Opening Process	a) NoFMC/4/2011/G/30 Ref. No.: Div.
		III/I/89/07 dated Dec 16, 2011*
		b) Div.III/I/89/07 dated Aug 23, 2013
		c) F.No.FMC/COMPL/2013/10/30-
		FSLRC/FSDC dated Mar 28, 2014
		d) Div.III/2/89/VOL IV dated Apr 23, 2014
		e) No. FMC/COMPL/IV/KRA-05/11/14 dated
		Feb 26, 2015
ii.	Customer Protection such as	No.FMC/Comp/VI/2009/04/06/114/5787 dated
	keeping evidence of client	Sep 16, 2009
	placing order	
iii.	Nomenclature of Stock brokers	a) 4/5/2005- M&S/MCX/Unit-II dated Apr 25,
		2006
		b) No.IRD-DIV-III/I/FCR-I/2009 dated Dec 21,
		2009
		c) No. DIV-III/I/122/10/MR dated Jun 25, 2010
		d) 6/3/2008-MKT – II dated Feb 18, 2011
iv.	Surrender of membership	F.No.1/4/2009/MD-I dated Jul 20, 2009

^{*}All clauses to remain except to the extent as modified as described below. Annexure - 3 (Rights And Obligations Of Members, Authorized Persons And Clients) of Circular No.-FMC/4/2011/G/30 Ref. No.: Div. III/I/89/07 dated Dec 16, 2011 is hereby modified as follows:

i. in Clause 30, for the words "in the Statement immediately but not later than 30 calendar days of receipt thereof, to the Member. A detailed statement of accounts must be sent every month to all the clients in physical form. The proof of delivery of the same should be preserved by the Member" the words "in the Statement within such time as may be prescribed by the relevant Exchange from time to time where the trade was executed, from the receipt thereof to the Stock broker" shall be substituted.

ii. in Clause 31, for the words "monthly" the words "daily" shall be substituted.

5. **Part C**: Following FMC circulars shall stand repealed.

SrNo	Subject	FMC Circular No. and Date
i.	Segregation of Client Accounts	FMC/2/2011/C/0008; No.9/1/2011-MKT/I dated
	in Commodity Futures	Sep 26, 2011
	Exchange and Spot Exchanges	
ii.	Member to obtain FMC	No. IRD/Div./III/(1)/FMCR/1/2005 dated Oct 28,
	Unique Code	2005
iii.	Submission of networth	No. Div-III/I/122/10/MR dated Nov 22, 2010
	certificate from the members	

- 6. All commodity derivatives exchanges shall continue to levy penalties they are currently levying and any revision thereof shall be decided in consultation with SEBI. Accordingly, FMC circulars dealing with penalties including Uniform Penalty Circular dated Mar 05, 2010 shall stand repealed.
- 7. The Stock Exchanges, who regulate and control buying, selling and dealing in commodity derivatives are directed to:
 - a. Bring the provisions of this circular to the notice of the said stock brokers and also disseminate thesame on their websites:
 - b. Make amendments to the relevant bye-laws, rules and regulations for the implementation of the above as considered necessary;
 - c. Monitor the compliance of this circular through half-yearly internal audit and inspections of stock brokers:
 - d. Communicate the implementation thereof to SEBI by Oct 15, 2016.
- 8. 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

Market Intermediaries Regulation and Supervision Department