



Central Depository Services (India) Limited

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COMMUNIQUÉ TO DEPOSITORY PARTICIPANTS

CDSL/OPS/DP/POLCY/2022/686

November 30, 2022

AMENDMENTS TO CDSL's DP OPERATING INSTRUCTIONS

Depository Participants (DPs) are advised to refer Communique CDSL/OPS/DP/SYSTM/2021/309 and CDSL/OPS/DP/SYSTM/2021/369 dated July 15, 2022 and August 23, 2022 respectively regarding Surveillance Obligation for DPs.

In the aforesaid Communique DPs were advised to put in place a surveillance framework and obligation has been casted on DPs with respect to various parameters such as framing surveillance policy, generating and processing surveillance alerts, Quarterly reporting on status of alerts to Depository etc. The aforesaid Communique also provides for disciplinary action against the DP for non-fulfillment of Surveillance Obligation.

DPs are informed that amendments have been carried out in DP Operating Instructions Chapter 11, Annexure 11.1 with the addition in penalty head under existing penalty structure for DPs with respect to Surveillance Obligation [**refer Annexure 11.1**].

Queries regarding this communiqué may be addressed to CDSL – Audit, Inspection & Compliance Department on telephone nos. (022) 2305-8678, 2305-8679, 2305-8515.

sd/-

Ajit Prabhu
Sr. Manager – Audit, Inspection & Compliance

Operating Instructions - Annexure 11.1			
PENALTY STRUCTURE FOR DPs			
Sr. No.	Nature of non-compliance	Penal Action (in ₹) (Existing)	Penal Action in (in ₹) (Amended)
I	Operational deviation		
1	<p>a) Accounts operated with an unsigned agreement/ without acknowledgement of Rights and Obligations document.</p> <p>b) Account opened without obtaining adequate proof of identity or any other document prescribed under guidelines of CDSL / SEBI / PMLA</p> <p>c) Account opened without obtaining adequate proof of address as prescribed under guidelines of CDSL / SEBI / PMLA</p> <p>d) Adequate proof of address not collected for change of address as prescribed under guidelines of CDSL / SEBI / PMLA</p> <p>e) Record of in-person verification not maintained as prescribed under guidelines of CDSL / SEBI / PMLA</p>	<p>₹5,000/- per account.</p> <p>If such deviation is observed in two consecutive inspections, penalty would be ₹10,000/- per account.</p> <p>If such deviation is observed in three consecutive inspections, matter would be referred to Member Committee.</p> <p>Depository to refer the matter to Member Committee if total penalty imposed in one inspection under this head exceeds ₹1,00,000/-.</p>	No change
2	Supplementary agreement executed or undertaking / letter obtained, or any modification made in any document which has clauses contradictory to CDSL prescribed agreement or Rights and Obligations document or Power of attorney executed in favour of DP in contradiction to CDSL prescribed guidelines.	₹2,000/- per occasion	No change
3	Accounts opened in the name of Partnership firms / proprietary concern / such other entities not entitled to hold securities in its name as prescribed under guidelines of CDSL / SEBI / PMLA	₹2,000/- per account	No change

4	Nomination not done as per prescribed procedure	₹500/- per account	No change
5	Any type of transaction not executed as per the procedure prescribed by Depository such as change in bank details, change in signature, transmission, account closure, freeze/unfreeze, pledge, remat etc. as prescribed under guidelines of CDSL / SEBI /PMLA	₹1,000/- per account	No change
6	Data entry errors / omission which may cause inconvenience and/or loss to the BO/ system /Depository	₹100/- per account	No change
7	Correct PAN details are not obtained from the BOs and the account is not frozen for debit as prescribed under guidelines of CDSL / SEBI /PMLA	₹1,000/- per account	No change
8	Incorrect entry of PAN details in CDAS as prescribed under guidelines of CDSL / SEBI /PMLA	₹100/- per account	No change
9	Invalid/ factually incorrect/ meaningless data entered in demographic details.	₹1,000/- per account	No change
10	Delay in dispatch of demat requests beyond 7 working day after receipt of Demat Request Form and certificates from the BO.	₹500/- per occasion	No change
11	Sending securities for dematerialization to Registrar & Transfer Agents / Issuers without defacing and mutilating certificates	₹200/- per occasion	No change
12	No/inadequate control over issuance and/or acceptance of instruction slips.	₹5,000/- per occasion. If such deviation is observed in two consecutive inspections, penalty would be ₹10,000/-. If such deviation is observed in three consecutive inspections, matter would be referred to Member Committee.	No change

13	BO account debited without receiving proper authorization as prescribed under guidelines of CDSL / SEBI.	10% of value of the debit transaction executed with a maximum cap ₹10,000/- per account. Depository to refer the matter to Member Committee. The penalty levied above will be in addition to restoration of securities in case of BOs' dispute	No change
14	Instruction of the BO not executed or erroneously entered by DP.	₹500/- per account	No change
15	Fax indemnity not executed with the BOs for the instructions accepted on fax and/or original instruction not collected within three working days from the date of receipt of the fax.	₹1,000/- per account	No change
16	Transaction statement not being sent to BOs as per requirements or discrepancy observed in the transaction statement sent to BOs.	₹4,000/- per occasion	No change
17	Change in office address and / or investor relations officers / compliance officers not intimated to Depository.	₹500/- per occasion	No change
18	Forms used are not in conformity with the prescribed format.	₹200/- per occasion	No change
19	Termination / closing of franchisee / branch services contrary to CDSL instructions.	₹1,000/- per occasion	No change
20	Registration of BOs to easi/easiest without obtaining registration forms/Registration of Trusted accounts at easiest without obtaining letter in the given format from trusted account holders	₹1,000/- per account	No change

21	Internal Audit Report & / Concurrent Audit Report not submitted in the prescribed format within stipulated time period.	<p>₹2,000/- per occasion plus additional ₹1000/- for any delay per fortnight.</p> <p>₹4,000/- per occasion plus additional ₹2,000/- for any delay per fortnight if repeated delay found in consecutive period.</p> <p>If same deviation is observed for three consecutive periods, matter would be referred to Member Committee.</p>	No change
22	Internal audit report/ concurrent audit report submitted without inclusion of management comments for deviations noted by auditors or not providing compliance duly certified by auditors on the observations made by the Depository	<p>₹2,000/- per occasion plus additional ₹1,000/- for any delay per fortnight till the submission of revised report</p>	No change
23	Non-submission of net worth certificate based on the audited annual accounts by the DPs (as specified in the Bye-Laws) in the prescribed format for 31st March within prescribed time limit	<p>₹5,000/- per occasion plus additional ₹2,000/- for any delay per fortnight.</p> <p>₹10,000/-per occasion plus additional ₹4,000/- for any delay per fortnight if repeated delay found in consecutive period.</p> <p>If same deviation is observed for three consecutive periods, matter would be referred to Member Committee.</p>	No change
24	Non-submission of annual financial statement within the prescribed time limit.	<p>₹2,000/- per occasion plus additional ₹1,000/- for any delay per fortnight</p> <p>₹4,000/- per occasion plus additional ₹2,000/- for any delay per fortnight if repeated delay found in consecutive period.</p> <p>If same deviation is observed for three consecutive periods, matter would be referred to Member Committee.</p>	No change
25	Non filing of information sought by depository either periodically or specifically through communiqués / letters etc.	₹500/- per occasion	No change

26	BO Grievances (except disputes /court cases) not redressed within 30 days	₹500/- per grievance plus additional ₹200/- for any further delay per month. Delay beyond six months will be reported to the Member Committee.	No change
27	Non-submission of monthly report of BOs' Complaints (BOG report) as required under Bye Law 5.3.5.4 (latest by 10th of the following month).	₹ 1,000/- per month ₹2,000/- per month if repeated delay found in consecutive month. If same deviation is observed for three consecutive periods, matter would be referred to Member Committee.	No change
28	Compliance not reported by DP within 60 days from the date of communication by depository with respect to deviations observed during the inspections.	Matter to be referred to Member Committee.	No change
29	a) In-person verification carried out by any person other than as permitted by SEBI / Depositories. b) Carrying out function of verification of delivery instruction slips through franchisees. c) Dispatch of periodic transaction statements by Participants through its service centre (branch as well as franchisees) other than one which is directly connected to the Depository or through its centralised processing unit under the supervision of its head office	Matter to be referred to Member Committee.	No change
30	Depository services are offered through service centres without the approval of the Depository.	₹5,000/- per occasion	No change
31	Anti-Money Laundering (AML) policy not framed as required under PMLA and not intimated to FIU-IND	₹5,000/- per occasion	No change

32	Non appointment of Principal officer/Non intimation of change of Principal Officer details to FIU-IND	₹5,000/- per occasion	No change
33	Suspicious Transaction Register not being maintained as prescribed by CDSL.	₹5,000/- per occasion	No change
34	System of maintaining documents pertaining to depository operations not satisfactory.	₹2,000/- per occasion	No change
35	Non- Submission of data for risk-based supervision in Risk Assessment Template (RAT) for half year ending March 31st by April 30th and half year ending September 30th by October 31st	₹2,000/- per occasion ₹4,000/- per occasion if repeated delay found in consecutive period. If same deviation is observed for three consecutive periods, matter would be referred to Member Committee.	No change
36	Failure to co-operate with the Depository for conducting inspection by not submitting all the information/records sought within 45 days from the due date specified in the letter of intimation.	Would be referred to Member Committee	No change
37	Data submitted in Internal Audit Report, Concurrent Audit report, Risk Assessment Template (RAT) for Risk based supervision, Networth certificate, Annual Financial Statements, Half year Compliance Certificate of Investor Grievance Report is found to be false/ incorrect.	₹1,000/- per occasion. ₹2,000/- per occasion, if same deviation is observed for consecutive period. If same deviation is observed for three consecutive periods, matter would be referred to Member Committee.	No change
38	Failure to furnish half yearly compliance certificate/report to Depository for half year ending June 30th by July 30th and half year ending December 31st by January 31st.	Restraint on new account opening if 30 days have elapsed after stipulated time period for submission of the compliance certificate. Matter to be referred to Member Committee if the delay is beyond 60 days from stipulated time period.	No change

39	Delivery Instruction Slip (DIS) not scanned and uploaded in system provided by Depositories.	<p>a) If the deviation is observed in the first month - penalty of ₹200/- per DIS to be imposed with a maximum cap of ₹20,000/-</p> <p>b) If the deviation is observed in the Second consecutive month, a penalty of ₹300/- per DIS to be imposed with a maximum cap of ₹30,000/-.</p> <p>c) If total monetary penalty imposed under this head is more or equal to ₹1,00,000/- during one financial year, matter would be referred to Member Committee.</p>	No change
40	Surveillance policy is not framed or not reviewed periodically.	--	<p>₹2,500/- per occasion.</p> <p>If repeated non-compliance found in consecutive period. ₹5,000 per occasion.</p> <p>If same deviation is observed for three consecutive periods, matter would be referred to Member Committee.</p>
41	Report on status of the alerts not provided to the Depository on quarterly basis within 15 days from the end of the quarter	--	<p>₹1,000/- per occasion</p> <p>₹1,000/- per occasion plus additional ₹500/- for any delay per fortnight</p> <p>₹2,000/- per occasion plus additional ₹1,000/- for any delay per fortnight if repeated delay found in consecutive period.</p> <p>If same deviation is observed for three consecutive periods, matter would be referred to Member Committee.</p>
II	System related deviations		

42	Using the CDAS for any other purpose or loading any other software or alteration of parameters / configuration/ software other than prescribed system software found loaded in the system.	₹10,000/- per occasion	No change
43	Not upgrading the software and/or hardware within the prescribed time limit / not complying with pre- requisite or post-requisite of upgradation.	₹10,000/- per occasion plus actual cost of travel of CDSL official/s and/or other person/s on behalf of CDSL, if any, for this purpose.	No change
44	Configuration of CDAS not as per CDSL requirements.	₹10,000/- per occasion	No change
45	CDAS is connected to WAN without permission of relevant authorities.	₹10,000/- per occasion	No change
46	Anti-Virus Software not loaded/enabled/upgraded on server and/or client machine(s).	₹1,000/- per occasion	No change
47	Not taking back up daily and / or deviation in procedure of taking back up	₹200/- per occasion	No change
48	'Variable access rights' scheme suggested by Depository not implemented / not implemented properly.	₹500/- per occasion	No change
49	Erroneously uploading data files into CDSL system for processing of any type of transaction.	₹1,000/- per account	No change
50	Erroneous declaration of EOD by DP	₹1,000/- per account	No change
51	Physical access to client machine and server is easily available to unauthorised persons	₹200/- per occasion	No change