

Ministry of Finance
Department of Economic Affairs
(Financial Markets Division)

Update on review meetings held on payment crisis in NSEL

Review Meetings by Government of India on payment crisis at NSEL

The Government of India, through regular review meetings, has been monitoring the action taken by investigating and enforcement agencies and regulatory authorities for violations of law, criminal offences and default in payments to investors arising from the payment crisis at National Spot Exchange Ltd. (NSEL). Investigations and other enforcement measures are being taken by the Economic Offences Wing (EOW), Mumbai Police, Enforcement Directorate (ED), Securities and Exchange Board of India (SEBI), Financial Intelligence Unit. India (FIU-IND), Income Tax Department (ITD / CBDT), Ministry of Corporate Affairs (MCA) and Central Bureau of Investigations (CBI). These organizations are represented in the review meeting held under the Chairmanship of Secretary, Department of Economic Affairs (DEA).

So far, twenty one such review meetings have taken place. The last such review meeting was held on 13.11.2018 under the Chairmanship of Shri Subhash Chandra Garg, Secretary (Economic Affairs).

Minutes of the Review Meetings

It is hereby clarified under Section 4 (1)(b) of the RTI Act that meetings of this committee are not open to the public. The minutes of such meetings cannot be made available to the public for the reasons mentioned below;

- a. Most of the information/action recorded in the minutes is protected under Sec.8 of the RTI Act for the reason that the matter is under investigation by various agencies like CBI, FIU-India, Enforcement Directorate, SEBI, EOW Mumbai Police, CBDT, MCA and SFIO and also under litigation in various courts of law. The relevant files are also in the custody of these investigation agencies. Decision on non-disclosure of this information has been arrived at in consultations with the investigation agencies involved in the matter.
- b. The minutes of the NSEL review meetings contain deliberations of the representatives of these organizations/Departments many of which are otherwise also exempted from the purview of RTI Act, 2005. The review meeting held by Secretary DEA is akin to a meeting of these investigation agencies.
- c. The minutes of these meetings generally consist of sensitive information relating to the progress of investigations being carried out by various investigative agencies or hindrances faced by them and various decisions to proceed further. Once revealed, the same is bound to hamper the path of investigation and leak out the investigation strategy.

- d. Disclosure of information while investigations are still under way, jeopardizes the course of investigation and thereby could help the offenders to find escape routes, create hurdles and forestall the moves of investigative agencies, thus hampering the very public interest.

Status of investigation and Disgorgement

We are, however, proactively placing information relating to non-protected matters. The status with regard to some of such important aspects of the matter are as under:

- In this case, 65 payouts were made by NSEL to investors through their respective brokers under the supervision of erstwhile Forward Markets Commission. A total of Rs.527.19 crore was distributed in 2013-14.
- The entire outstanding amount was paid to 608 investors whose investment was less than Rs.2 lakhs. Further, 50% of the outstanding amount was paid to 6445 investors whose investment was between Rs.2 lakhs and 10 lakhs. Furthermore, 5682 investors whose outstanding was more than Rs.10 lakhs were paid 6.5% of outstanding amount.
- Provisions of Maharashtra Protection of Interest of Depositors (MPID) Act, 1999 were applied to the case in October 2013. The Hon'ble Bombay High Court, vide its order dated October 01, 2015 in Writ Petition No. 1403 of 2015, prima facie, held that provision of the MPID Act was applicable to the scheme run by NSEL and the same has further been upheld by the Hon'ble Supreme Court of India in October 2016.
- Vide order dated 2nd September 2014, Hon'ble High Court constituted a three member Committee headed by a retired judge in the recovery suite No. 173/2014 in M/s Modern India Ltd. Vs FTIL & Others for effecting recovery from FTIL and NSEL.
- Pursuant to the verdict, Government, vide Notification dated 19th September 2014 rescinded the Exemption Notification dated 5th June 2007 vide which NSEL /spot exchange was brought into existence.
- The Government of Maharashtra has constituted exclusive court for NSEL case and the Designated MPID Court is hearing this case on priority basis.
- The Government of Maharashtra has constituted a Special Task Force for dealing with the task of monitoring the progress of the case and preparation of action plan for the repayment of investors.
- The Government of Maharashtra has appointed an exclusive Competent Authority for the case of NSEL on full time basis on 4.7.2017 for effecting repayments to the investors by selling the attached properties of defaulters after the attachments are made absolute by the Designated MPID Court. Efforts are afoot to make the attachment of properties absolute and realize money on fast-track basis.
- Government of Maharashtra has been advised to take appropriate action with regard to money lying in different accounts so that it will be consolidated at one place and thereafter distributed to the affected investors quickly, in accordance with the procedure laid down for the purpose. Similarly other investigating agencies have been advised to prioritize interest of affected investors so that the properties/proceeds seized by them may be transferred to the account wherefrom disbursement should be effected.
- Consequent upon MPID court order dated 16/10/18, another pay out of Rs.35 crores was made by the Competent Authority on proportionate basis to the affected investors through brokers after obtaining the requisite undertaking from them that they would make repayments to the investors and report compliance.
- Besides, all other agencies viz. Serious Fraud Investigation Office (SFIO), Central Bureau of Investigation (CBI), Securities and Exchange Board of India (SEBI), Ministry of

Corporate Affairs (MCA) and Financial Intelligence Unit-Ind (FIU) are probing the matter within their respective domains for taking action against the guilty.

Matter uploaded with reference to the CIC's Order No.CIC/DOEAF/A/2018/164195-BJ-INTERIM dated 26.12.2018 passed with reference to the appeal made by Shri Nithyaesh Natraj on his RTIs.

As on 16th January 2019