

**THE SECURITIES AND EXCHANGE BOARD OF INDIA**

**EXIT ORDER IN RESPECT OF**

**INDIA PEPPER AND SPICE TRADE ASSOCIATION, KOCHI**

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1. India Pepper and Spice Trade Association (hereinafter referred to as “IPSTA/Exchange”) was first granted recognition as a Commodity Derivative Exchange under Section 6 of the Forward Contracts (Regulation) Act (hereinafter referred to as “FCRA”), 1952 vide notification no. 05 dated December 08, 1961 on a permanent basis in respect of futures trading in Pepper, by the Government of India. The said recognition was granted subject to the condition that the Exchange shall comply with such directions as may be issued from time to time by erstwhile Forward Markets Commission (hereinafter referred to as “FMC”).
2. The annual turnover at IPSTA during the periods 2014-15 and 2015-16 was ₹12.58 crore and ₹63.13 crore respectively, in Pepper futures, which was the only commodity traded on the Exchange platform. However, there is no trading on its platform since April 2016. Thereafter, the Exchange has made no attempts for revival of trading and has not formulated any revival plan for the purpose of resumption of trading. Thus, for more than one year, there has been no trading in the Exchange. Apparently, the Exchange has no plan to revive trading on its platform.
3. As per Section 28A (1) of the Finance Act, 2015, pursuant to the merger of FMC with the Securities and Exchange Board of India (hereinafter referred to as “SEBI”), all recognised associations under FCRA are deemed to be recognised stock exchanges under the Securities Contracts (Regulation) Act, 1956 (hereinafter referred to as “SCRA”) and hence IPSTA is deemed to be a recognised stock exchange under SCRA.
4. SEBI has issued a Circular No. CIR/CDMRD/DEA/01/2016 dated January 11, 2016 (hereinafter referred to as “Exit Policy/Exit Circular”) laying out the mandatory requirements/ exit policy for all the commodity derivatives exchanges. In terms of paragraph 4 of the Exit Circular, if there is no trading operation on the platform of any commodity derivatives exchange for more than twelve months, then such exchange shall be liable to exit.

5. Subsequently, the Exchange, vide letter dated June 23, 2017, submitted the following:
- i. There has been no trading activity at the exchange platform for more than twelve months.*
  - ii. The market of Pepper is also not conducive as there will be limited capacity left post export that can be traded at the Exchange.*
  - iii. The Exchange will not be able to attain the Net Worth requirement of ₹ 100 crore as stipulated by SEBI with respect to the demutualisation.*
  - iv. The Governing Board of IPSTA at its meeting held on June 6, 2017 resolved to take a formal voluntary exit as a recognised commodity exchange in terms of the Exit Policy. The same has been ratified by the member of the Exchange at the Extraordinary General Meeting held on June 23, 2017.*

Thus, IPSTA is liable to exit as a recognised commodity derivative exchange in terms of Paragraph 5 of the Exit Circular, 2016.

6. In terms of the clause 7 of the Exit Circular 2016, the following conditions are, *inter –alia*, required to be complied with by any non-functional commodity derivative exchange before it is granted an exit:

- (a) Distribution of its assets subject to certain conditions as laid down in the Exit Circular as well as other guidelines that may be issued by SEBI, Government or any other statutory authority from time to time.
- (b) For the purpose of valuation of the assets of the commodity derivative exchange, a valuation agency shall be appointed by SEBI. All the valuation charges shall be paid by the exchange.
- (c) Quantum of assets for distribution will be available after payment of the following by the exchange:
  - (i) Statutory dues including Income Tax;
  - (ii) Transfer of Investor Protection Fund, or any such fund available with the exchange to SEBI Investor Protection and Education Fund (hereinafter referred to as the 'IPEF');
  - (iii) Payment of following dues to SEBI by the concerned exchange :-
    - Dues outstanding to SEBI and the annual regulatory fee;
    - The outstanding registration fees of brokers/trading members of such de-recognised exchanges as specified in the SEBI (Stock Brokers and Sub Brokers) Regulations, 1992, till the date of such de-recognition;
    - In case of any shortfall in collection of dues of the brokers to SEBI, the exchange will make good the shortfall;
  - (iv) Refund of deposit (refundable) to the stock brokers including their initial

contribution/deposit to Settlement Guarantee Fund/Trade Guarantee Fund (SGF/TGF).

- (d) Contribution of up to 20% of its assets (after tax) towards IPEF taking into account, *inter alia*, the governance standards of the exchange and estimation of future liabilities.
- (e) The concerned commodity derivative exchange to set aside sufficient funds in order to provide for settlement of any claims, pertaining to pending arbitration cases, arbitration awards, not implemented, if any, liabilities/claims of contingent nature, if any, and unresolved investor complaints/grievances lying with it.
7. The condition mentioned in *paragraph 6(a)* above, is general clause for necessary compliance by the Exchange.
8. In terms of condition mentioned in *paragraph 6(b)* above, SEBI in consultation with the Exchange, has on August 23, 2017 appointed BSJ & Associates, as the valuation agency for verification and valuation of assets and liabilities of the Exchange. The valuation report dated November 30, 2017 was received by SEBI on December 11, 2017, which has been examined. In this regard, a written undertaking dated November 30, 2017 submitted by the Exchange has also been perused.
9. With respect to the compliance of different conditions specified in the Exit Circular and the condition with respect to settlement of liabilities by the Exchange, from the findings in the report submitted by the valuation agency BSJ & Associates and also from the undertaking dated November 30, 2017 (hereinafter referred to as the “Undertaking”) submitted by the Exchange, it is noted as follows:
- (a) *With respect to 6(c)(i) above, the Exchange has undertaken that statutory dues will be paid as and when applicable.*
- (b) *With respect to condition mentioned in para 6(c)(ii) above, the Exchange did not have the Investor Protection Fund or any such fund.*
- (c) *With respect to para 6(c)(iii) above, it is observed that the Exchange has paid the outstanding annual regulatory fees amounting to ₹ 50,000 for the financial year 2017-18, vide NEFT dated December 06, 2017 through Union Bank of India, Kochi. Further, there is no outstanding registration fees due of brokers/sub-brokers.*

- (d) *With respect to condition mentioned in para 6(c)(iv) above, the Exchange has undertaken to refund deposit to the stock brokers and members including their initial contribution amounting to ₹ 1,12,500.*
- (e) *With respect to condition mentioned in para 6(d) above, the Exchange has contributed towards SEBI IPEF an amount of ₹ 1,50,000 vide NEFT dated December 06, 2017 through Union Bank of India, Kochi.*
- (f) *With respect to condition mentioned in para 6(e) above, the Exchange has submitted in its Undertaking that there are no arbitration disputes/investor complaints pending with respect to futures trading and that it will clear all the liabilities before distribution of assets of the Exchange.*
- (g) *With respect to its other liabilities, the Exchange in its Undertaking has stated that it does not have any third party liabilities or undisclosed liabilities in respect of futures trading in pepper other than available in the balance sheet and other financial records submitted to SEBI.*
- (h) *The Exchange has stated in its Undertaking that there are no claims lodged against the Exchange in respect of futures trading and the Exchange undertakes to assume complete responsibility for financial implications of any such claims against the Exchange that at any future date may arise.*
- (i) *The Exchange in its Undertaking has declared that to the best of their information and knowledge there are no cases pending before various legal forum in connection with futures trading.*

10. I have considered the afore stated facts pertaining to IPSTA and the relevant documents, valuation report, submissions by the Exchange placed on record for the purpose of considering grant of exit to IPSTA in terms of the Exit Circular dated January 11, 2016. It is observed that all the known liabilities as on date have been brought out in the valuation report. I note that the Exchange has substantially complied with the conditions contained in the Exit Circular and has further submitted a written Undertaking that it does not have any third party liabilities or undisclosed liabilities in respect of futures trading and that it undertakes to assume complete responsibility for financial implications of any such claims against the Exchange that at any future date may arise. Therefore, I am of the view that it is a fit case to allow exit to the Exchange in terms of clause 7 of the Exit Circular.

11. I, therefore, in exercise of the powers conferred upon me by virtue of Section 19 read with provisions of Section 11(1), 11(2) (j) of the Securities and Exchange Board of India Act, 1992 and Sections 4, 5 and 12A of the SCRA, allow the exit of the India Pepper and Spice trade Association as a stock exchange and consequent withdrawal of recognition granted to the

Exchange. I hereby direct it to:-

- (a) comply with its tax obligations under Income Tax Act, 1961;
- (b) comply with the Undertaking given by it to SEBI;
- (c) comply with other consequential conditions of Exit Circular; and
- (d) not use the expression “Exchange” or any variant of this expression in its name and to avoid any representation of present or past affiliation with the stock exchange, in all media.

12. This order shall come into force with immediate effect. A copy of this order shall also be forwarded to the Income Tax Authorities, the Ministry of Finance, the Ministry of Corporate Affairs and the State Government of Kerala intimating the exit of the India Pepper and Spice Trade Association, Kochi and for appropriate action at their end as per applicable laws.

**Sd/-**

**DATE: January 10, 2018**

**PLACE: MUMBAI**

**MADHABI PURI BUCH  
WHOLE TIME MEMBER  
SECURITIES AND EXCHANGE BOARD OF INDIA**