

TOGETHER WE CAN

Hon'ble Bombay HC passes injunction order against Mohan India Group in the suit for recovery of Rs. 922 crore

NSEL RECOVERY EFFORTS

Following are the results of relentless efforts by NSEL recovery team over past 18 months

- Hon'ble Bombay HC in its order 02 December 2014 has directed Mohan India to furnish its property details and also passed an injunction order against it for recovery of Rs. 922 crore. This has been achieved due to the relentless efforts of NSEL Recovery team against all odds, including lack of interest among so called Trading Clients' forums and Action groups to chase Defaulting Members and recover default money
- NSEL had earlier obtained injunction against PD Agro Group defendants, including their clients and such injunction is continuing. The PD Agro Group has been summoned by the Hon'ble Bombay HC Committee on 4th December 2014. The Group has a total outstanding of 674.07 crore as on December 2, 2014
- EOW has seized assets of 22 Defaulting Members worth around Rs. 5,000 crore, which needs to be liquidated & paid to trading clients
 - Defaulting members have admitted to liabilities of approximately Rs. 2,000 crore through settlement agreements or otherwise before the Bombay High Court, and Authorities & concerned Departments / forums and/or the EOW
- ED has attached multiple assets of Defaulting Members worth over Rs. 200 crore under PMLA. This act is expected to be amended so that the proceeds of liquidation are paid directly to the trading clients instead of going to the Public Exchequer
- NSEL has filed multiple cases against Defaulting Members, including 38 cases for dishonouring of cheques by Defaulting Members, 17 applications in the MPID Court (Mumbai) and 5 arbitration petitions and recovery suits in the Hon'ble Bombay High Court to recover outstanding amounts
- NSEL filed Third Party notices against 15 Defaulting Members and their clients in a Representative Suit filed by Modern India. In the said suit, at NSEL's initiative, the Hon'ble Bombay High Court constituted a three-member High Court monitored Committee under the chairmanship of a retired High Court Judge
- NSEL has 57 staffers dedicated directly or indirectly for recovery, in addition to external consultants and advisors
- NSEL has recovered and paid Rs. 545.29 crore to trading clients, including a without-prejudice loan worth Rs. 179 crore from FTIL to clear up to 50% settlement liability of 7,000 trading clients
- NSEL has utilized its own funds amounting to Rs. 158 crore in making payouts to affected member brokers
- Out of the original 24 Defaulting Members, two owing a total of Rs. 196 crore have almost cleared their dues
- 33,000 clients of e-Series have redeemed up to 99% of their holdings through a transparent mechanism. NSEL has completed financial closure of e-Gold, e-Silver and e-Copper with total payments of Rs. 297.44 crore. Financial closure for Platinum, Lead and Nickel are expected soon

All efforts permissible under the law of the land have been made by NSEL to recover dues of the Trading Clients from the Defaulting Members

NSEL RECOVERY GROUP

NSEL is committed to expedite recovery from the 22 Defaulting Members. The Exchange firmly believes that a combined effort by NSEL along with its Member Brokers and Trading Clients would expedite recovery.

NSEL Recovery Group has been setup to unite all interest groups, to emphasize its collective attention and resources, on recovery through peaceful and legal means. NSEL Member Brokers and their Trading Clients can join the NSEL Recovery Group and it does not constraint their right to be associated with any other forum/s or to pursue legal course.

The NSEL Recovery Group being formed post FMC's revoking its MAC Committee

- To oversee the recovery efforts being made by NSEL
- To suggest additional measures for expediting recovery
- To ensure transparent dissemination of most authenticated information related to NSEL recovery to Members and Trading Clients

Broker Members and Trading Clients of NSEL are invited to join the "NSEL Recovery Group" as "Members of the Advisory Board" or as "Volunteers", please register by mailing your Broker Code and Client Code (with broker) and Amount Due, to Recovery Team at recovery@nationalspotexchange.com

Participation of Advisory Board Members will be on a professional assignment basis. The Board of NSEL will select the members of Advisory Board from amongst those who apply in response to this advertisement.

Participation of Volunteers in NSEL Recovery Group will be on an all India basis and they will be assigned responsibility on need basis and will be compensated suitably for the assigned task.

NSEL Recovery Group meeting will be convened shortly in Mumbai. Registered Members (Advisory Board Members and Volunteers) will be invited to attend the meeting and will be given updates

NSEL: PROPOSED SOLUTION

- The focus needs to be on the recovery from Defaulting Members as NIF has confirmed in its letter dated March 11, 2014 and MPID Courts have also observed that all Trading Clients money has gone to the 22 Defaulting Members of NSEL and also Hon'ble Bombay High Court in its order dated 22.08.2014 has observed that no money has gone to NSEL or its promoters
- The settlement defaults at NSEL are a 'commercial dispute' wherein 781 Trading Clients (6% of total trading clients with dues payable) represented by about 79 brokers, are claiming about 69% of the total outstanding dues and top 7 Defaulting Members account for around 85% of the total outstanding dues of the Trading Clients. Courts are more than capable of adjudicating such commercial disputes
- The Prevention of Money Laundering Act should be amended to enable the proceeds, of the liquidation of the Defaulting Member's assets attached by the ED, to go to the Trading Clients instead of the public exchequer
- Government agencies should support the High Court appointed Committee for expediting liquidation of the Top 7 Defaulting Members and other Defaulting Members' assets. The proceeds thereof should be used to pay the Trading Clients
- Government of India (GOI) should declare the Defaulting Members at NSEL as 'Wilful De-faulters' and bar them from availing credit from banks and financial institutions
- SARFAESI Act should be amended to enable Exchanges such as NSEL to take control of the assets of Defaulting Members, liquidate them and distribute the sale proceeds among the Trading Clients
- GOI can have FMC Act in similar fashion as other Regulators have in previous financial crisis for arriving at settlement for E.g. The IPO scam case of 2007 at a depository and the currency derivative dispute of 2012 involving 22 banks
- GOI can appoint a committee of 3 to 5 members from SEBI, MCA and MOF to work jointly with all stakeholders of NSEL including Brokers/Members, concerned Ministries and Regulator, on expeditious basis to reach an amicable solution for NSEL crisis within the legal and corporate framework, that is fair, equitable and just to all its stakeholders



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