

BEFORE THE APPELLATE AUTHORITY
(Under the Right to Information Act, 2005)
SECURITIES AND EXCHANGE BOARD OF INDIA

Appeal No. 6507 of 2025

Suba : Appellant
Vs

CPIO, SEBI, Mumbai : Respondent

ORDER

1. The appellant had filed an application dated July 04, 2025 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated August 01, 2025, responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/25/00198) dated August 02, 2025. I have carefully considered the application, the response and the appeal and find that the matter can be decided based on the material available on record.

2. **Ground of appeal** – On perusal of the appeal, it appear that the appellant is not satisfied with the response of the respondent.

3. **Query no. 1 in the application** - The appellant, vide query no.1 in her application dated July 04, 2025, sought the following information:

“ Please provide certified copies of all SEBI circulars notifications guidelines instructions internal communications and amendments issued since January 2020 related to

Margin shortfall calculation penalty imposition and squareoff policies for positions in the equity derivatives segment FO during expiry week especially for options contracts that become In The Money ITM ”

4. **Reply of the Respondent** –The respondent, in response to query no. 1 in the application, informed that all the circulars issued regarding margin shortfall calculation, penalty imposition and square off policies for positions in the equity derivatives segment are part of Master circular of Stock Exchanges and Clearing Corporations. The respondent also informed that the aforementioned Circular is available on SEBI website

and provided the links for accessing the same. The respondent also informed that all notifications, guidelines issued by SEBI are available on SEBI website.

With respect to the internal communications sought by the appellant vide query no. 1, the respondent informed that the same is strategic in nature and pertaining to the policy making decisions of SEBI. The respondent stated that the disclosure of the information would result in revealing the mind of the regulator and hence, hamper the decision making by SEBI in its supervisory and regulatory role. The disclosure of such strategic and confidential information would also affect and compromise the interest of the securities market in specific and may impact the economic interests of the country. Further, the respondent stated that the information available to SEBI includes commercial confidential information held in fiduciary capacity. In view of the same, respondent that the information sought is exempt u/s 8(1)(a), 8(1) (d) and 8(1)(e) of the RTI Act.

5. I have perused the above mentioned query and the response provided thereto. I note that the respondent has informed that relevant SEBI circular and all notifications and guidelines issued by SEBI are available on SEBI website and hence, are in the public domain. In this context, I note that the Hon'ble Delhi High Court, in the matter of *Registrar of Companies & Ors. Vs. Dharmendra Kumar Garg & Anr.* and the Hon'ble Central Information Commission (CIC), in the matter of *Shri K Lall vs. Shri M K Bagri* (CIC/AT/A/2007/00112, order dated April 12, 2007), *inter alia*, observed that if the relevant information is available in the public domain, the same cannot be said to be information held by the public authority and consequently, there is no obligation to provide such information to an applicant under the RTI Act. In view of these observations, I find that the respondent cannot be obliged to research and compile the information which is already available in the public domain and then provide the same to the appellant.
6. Additionally, I also noted that respondent had invoked the provisions of Section 8(1)(a) of the RTI Act to deny internal communications sought by the appellant. In this regard, I note that the aforementioned information appears to be strategic in nature and relates to the internal functioning of SEBI. I note that such strategic information, if disclosed, may hamper SEBI's supervisory and regulatory role. In this context, I note that in *ICAI v. Shaunak H. Satya*, [(2011) 8 SCC 781], the Hon'ble Supreme Court held that: "*We however agree that it is necessary to make a distinction in regard to information intended to bring transparency, to improve accountability and to reduce corruption, falling under Sections 4(1)(b) and (c) and other information which may not have a bearing on accountability or reducing corruption. The competent authorities under the RTI Act will have to maintain a proper balance so that while achieving transparency, the demand for information does not reach unmanageable proportions affecting other public interests, which include efficient operation of public authorities and the Government, preservation of*

confidentiality of sensitive information and optimum use of limited fiscal resources." In view of these observations, I concur with the response of the respondent that the requested information is exempt from disclosure under section 8(1)(a) of the RTI Act. Further, I also find that such internal communications may also contain commercial confidence received in 'fiduciary relationship' from intermediaries/ other entities and is exempt from disclosure under section 8(1)(d) and 8(1)(e) of the RTI Act. Accordingly, I do not find any deficiency in the response of the respondent.

7. **Query nos. 2, 5, 6, 7 and 8 in the application** - The appellant, vide query nos. 2, 5, 6, 7 and 8 in the application, sought the following information:

".....

The treatment of positions where a client has only taken a directional option buy that is buying calls or puts without any futures or option writing and whether such trades are eligible to be marked under margin shortfall even when full premium is paid and no margin was blocked at entry

Why such trades are not differentiated from marginrisk trades like futures or short options and why brokers are allowed to take similar margin actions on fundamentally different risk profiles

In case SEBI and exchanges claim that margin is required or assumed during expiry week even for directional options which have gone ITM kindly clarify

Why is option trading not barred or restricted in the last week of expiry for retail clients if SEBI or exchanges believe that such positions can still cause risk to the system or require margin

If risk exists only when ITM movement occurs during expiry week why are clients not clearly warned or blocked by the system at the time of order placement Please provide the above information in digital format scanned or PDF copies via email if possible"

8. **Reply of the Respondent** – The respondent, in response to query nos. 2, 5, 6, 7 and 8 informed that the queries are in the nature of seeking clarification/opinion Accordingly, the same cannot be construed as "information", as defined u/s 2(f) of the RTI Act.
9. I have perused the above mentioned queries and the response provided thereto. On consideration, I find that the query nos. 2, 5, 6, 7 and 8 are in the nature of seeking clarification/opinion from the respondent. I find that the said queries cannot be construed as seeking 'information' as defined under section 2(f) of

the RTI Act. Consequently, the respondent did not have an obligation to provide such clarification or opinion under the RTI Act. In this context, reliance is placed on matter of *Azad Singh vs. CPIO, Oriental Insurance Company Limited* (order dated March 23, 2021) wherein Hon'ble Central Information Commission(CIC) observed that “7. *The Commission, after hearing the submissions of both the parties and after perusal of records, observed that some queries of the appellant are in the nature of seeking explanation/opinion/advice/confirmation/clarification from the CPIO and he has expected that the CPIO firstly should analyze the documents and then provide information to the appellant. But the CPIO is not supposed to create information; or to interpret information; or to compile information as per the desire of the appellant under the ambit of the RTI Act. As per Section 2(f) of the RTI Act, the reasons/opinions/advice can only be provided to the applicants if it is available on record of the public authority. The CPIO cannot create information in the manner as sought by the appellant. The CPIO is only a communicator of information based on the records held in the office and hence, he cannot be expected to do research work to deduce anything from the material therein and then supply it to him.*” Accordingly, I do not find any deficiency in the response of the respondent.

10. **Query no. 3 in the application** - The appellant, vide query no. 3 in the application, sought the following information:

“ *Kindly provide copies of any SEBI directions or permissions to brokers or exchanges on*

Their right to auto squareoff client positions especially option buy positions before expiry day without client consent even when the position was created with the full premium paid and no margin warning was issued

Treating directional option buy positions as margin shortfall cases simply because they turn ITM near expiry despite no margin being due or demanded at entry”

11. **Reply of the Respondent** – The respondent, in response to query no. 3, informed that SEBI has not prescribed any pre expiry margin framework for ITM buy options.

Notwithstanding the aforesaid, the respondent informed that the margins framework prescribed by SEBI is minimal in nature. The respondent also stated that clearing corporations are responsible for overall risk management of trades and are allowed to prescribe and make margin calls over and above SEBI prescribed norms. The relevant circulars issued by Exchanges/Clearing Corporations are available in public domain and disseminated on their respective websites.

The respondent also mentioned that appellant can refer to point 18 of Annexure 9 of SEBI Master Circular for Stock Brokers dated June 17, 2025, available in public domain at SEBI website.

12. I have perused the query and the response provided thereto. On consideration, I find that the respondent has adequately addressed the query by providing the information available with him. Accordingly, I do not find any deficiency in the response of the respondent.
13. **Query no. 4 in the application** - The appellant, vide query no. 4 in her application dated July 04, 2025, sought the following information:

“ Please share any internal SEBI documents meeting records or stakeholder discussions where the following was reviewed

The fact that in directional option buying the maximum loss is limited to the premium paid and there is no obligation to pay margin unless the client is writing options or trading futures”

14. **Reply of the Respondent-** – The respondent, in response to query no. 4, informed that internal documents /meeting records or stakeholder discussions are strategic in nature and pertaining to the policy making decisions of SEBI. Disclosure of the information would result in revealing the mind of the regulator and hence, hamper the decision making by SEBI in its supervisory and regulatory role. The disclosure of such strategic and confidential information would also affect and compromise the interest of the securities market. Further, the information is available to SEBI in fiduciary capacity and are confidential in nature. In view of the same, the respondent informed that the information sought is exempt u/s 8(1)(a) and 8(1)(e) of the RTI Act.
15. I have perused the aforesaid query and the response provided thereto. On consideration, I concur with the response of the respondent that the requested information is strategic in nature and pertaining to the policy making decisions. Disclosure of meeting records or stakeholder discussions, may reveal issues which are under consideration of SEBI or actions contemplated by SEBI in future, which are strategic in nature and thus would have an impact on the decision making of SEBI in particular. I note that any breach of confidentiality through disclosure of such information, available in a fiduciary capacity with SEBI (*reliance placed on the Delhi High Court's Order dated November 30, 2009 in Writ Petition (Civil) Nos. 8396/2009, 16907/2006, 4788/2008, 9914/2009, 6085/2008, 7304/2007, 7930/2009 and 3607 of 2007*) and which may be contained in the aforementioned documents, may affect the regulator's ability to obtain necessary inputs, etc. from stakeholders in future. Further, the Hon'ble CIC in matter of *Shri Ravi Ramaiya vs. SEBI (Decision dated September 11, 2015)* accepted the contention of SEBI that information received in confidence as part

of regulatory process, which is strategic in nature and held in fiduciary capacity is exempt from disclosure under RTI Act, as the same may compromise the regulatory functions of SEBI. In view of these observations, I agree with the response of the respondent that the requested information is exempt from disclosure under section 8(1)(a) and 8(1)(e) of the RTI Act. Accordingly, I do not find any deficiency in the response of the respondent.

16. In view of the above observations, I find that there is no need to interfere with the decision of the respondent. The appeal is accordingly dismissed.

Place: Mumbai

Date: August 21, 2025

RUCHI CHOJER

**APPELLATE AUTHORITY UNDER THE RTI ACT
SECURITIES AND EXCHANGE BOARD OF INDIA**