

Crisis Management

FTIL Extended All Support to NSEL to Resolve the Crisis

NSEL has taken every measure, as warranted, to extend cooperation and complete support to the regulatory and investigative authorities, has taken legal recourse to effect quick recovery of dues, extended immediate compensation to small trading clients and is sincerely working towards an early resolution of the crisis.

A FEW OTHER MEASURES TAKEN BY NSEL

ACTIONS	DETAILS
Amount paid by NSEL, utilizing a without prejudice loan taken from FTIL, for paying 50% dues of 6445 small trading clients with exposure from Rs 2 lakh to Rs 10 lakh and full dues of 608 trading clients with exposure upto Rs 2 lakh	Rs 179 cr
NSEL started contacting defaulters to settle their liability. No. of settlement agreements signed, which now they are not complying	3
No. of assets of the defaulters traced and identified by NSEL and given to police	380
Balance sheet analysis of all defaulters and their related companies has been undertaken to do asset tracing for recovery	235
No. of meetings at NSEL with MAC, constituted by the FMC, to review recovery proceeding	23
No. of Arbitration petitions filed in Bombay High Court against defaulters	5
No. of applications in MPID court in relation to defaulters	42
No. of complaints with the Magistrate court for bouncing of cheques of defaulters	47
No. of complaints filed in EOW, Mumbai Police, which has not yet been registered as FIR, therefore also filed 10 Section 156(3) applications with the Magistrate for FIR against the defaulters	20

FACT SHEET



NSEL swung into immediate action, to take a series of measures, once it came into a crisis. In addition to extending complete support and cooperation to the Government, regulatory institutions and other investigating agencies, NSEL has been making efforts to speed up recovery of outstanding from the defaulters. A few of the measures taken by NSEL, with full support from FTIL in terms of financial personnel and other resources, following the crisis include:

CRISIS MANAGEMENT

- NSEL has recovered Rs 541 cr from defaulters and the same has been distributed among the buyers
- No trail of the trading client's money has been traced either to NSEL or its promoters or FTIL management
- EOW has attached assets worth Rs 5000 crore of the defaulting members. Substantial recovery is expected from this
- NSEL has taken legal action against the defaulters
- Full recovery done from 2 defaulters

- NSEL has provided personnel and IT support to both EOW and the Competent Authority constituted under MPID Act to speed up the recovery process
- Voluminous data has been shared with all agencies involved (EOW, CBI, ED, FMC, etc.)

- NSEL closed liability of 33,000 clients by successfully closing almost the entire e-Series settlement
- NSEL has so far distributed Rs 541 crore to the trading clients including Rs. 179 cr. to pay 50% dues of Trading clients having exposure of upto Rs.10 lacs.

IMMEDIATE RELIEF TO SMALL TRADING CLIENTS

RECONSTITUTIONS OF THE BOARD AND CHANGES IN MANAGEMENT

COMPLETE COOPERATION EXTENDED TO INVESTIGATION AGENCIES

PERIODIC BRIEFING TO GOVERNMENT AND REGULATORY AUTHORITIES

RECOVERY EFFORTS & PURSUING DEFAULTERS

- The senior management of NSEL met with MAC, appointed by the FMC, on a fortnightly basis
- NSEL compiles and sends a detailed weekly report to the FMC

- The NSEL Board has been reconstituted along with a new senior management team
- NSEL has adequate staff strength and expert human resources to assist in recovery
- To date recovery is on going
- After the crisis broke out, FTIL has provided concessional rates for certain services to NSEL

Contrary to the wrong impression created in the public mind that NSEL and FTIL have walked away from the crisis leaving the trading clients in the lurch, every effort is being made to recover the money of the trading clients from the defaulters and NSEL is proactively pursuing every judicial and non-judicial agency, which is working towards the recovery of money from the defaulters. A few instances that could be cited:

The affidavit of EOW in the MPID case No.1 of 2014 (March 7, 2014) at para 2 has recorded the assistance given by NSEL to EOW Mumbai and therefore it is incorrect to say that NSEL is not doing anything for recovery (ANX-47).

The minutes of the meeting of the NSEL Board with the FMC on July 22, 2014 has indicated the efforts put in by NSEL towards recovery and FMC has not raised any concern with regard to their dissatisfaction on the effort of NSEL in recovery **(ANX-48)**. Subsequently, the FMC has recommended merger, which is inappropriate.

When the NSEL Board gave advertisements against defaulters in all national and regional newspapers, the FMC appreciated the effort of the Board. NSEL spent nearly Rs 1 crore on these advertisements.

APPLICATION OF BYE-LAWS ENFORCED BY NSEL

HANDLING OF DEFAULT AS PER BYE-LAWS	WHAT NSEL HAS DONE
Declaration of defaulter by the Exchange	NSEL has declared 22 members as defaulters
Recovery of dues from defaulters	NSEL has lodged police complaint against all defaulters Recovery proceedings have started against all defaulters in High Court and now a high powered Committee has been established Recovery proceeds and selling of attached assets is happening under MPID court, which has passed 4 orders for selling commodities or assets

IMMEDIATE RELIEF TO TRADING CLIENTS

- NSEL has so far distributed Rs. 541 crore to the trading clients. This includes an amount of Rs 179.25 crore received from FTIL as a without prejudice loan, which was utilized towards repayment to 7,053 small trading clients **(ANX-49)**. Substantial recovery is expected as the assets of defaulting members worth approximately Rs 5,000 crore have been attached by the EOW
- NSEL has taken strong and effective steps to contest the opposition to redeem e-Series metals (precious as well as base) contracts traded on NSEL platform by approximately 33,000 traders. After obtaining Court orders supporting redemption of such e-Series contracts, NSEL has taken steps towards re-materialization and financial closure of all the e-Series contracts. The financial proceeds were directly remitted to the traders' accounts in a transparent and systematic manner
- On June 26, 2014, the Exchange completed financial closure of e-Gold when total payment of Rs 154.77 crore was made to the unit holders **(ANX-50)**.
- On August 27, 2014, NSEL declared closure of e-Silver with final payouts to eligible unit holders **(ANX-51)**.



RECONSTITUTION OF BOARD AND CHANGES IN MANAGEMENT OF NSEL

- The NSEL Board has been reconstituted and this Board along with new senior management team has been effectively guiding and executing the entire recovery process against the defaulters. The Board of NSEL now comprises two former Chief General Managers of RBI and a past President of the Institute of Chartered Accountants of India. In a span of 10 months, NSEL has conducted 15 Board meetings with a total of 154 agenda items. The Board members had several meetings with FMC officials along with MAC members. The new Board members have also met the senior police officials of EOW, Mumbai, CBI, ED, and Minister of Agriculture, Government of India - with a view to provide all support in resolving the current payment and settlement crisis at NSEL by ensuring speedy recovery from the 22 defaulting members.
- NSEL has adequate staff strength and expert human resources to assist in the recovery.

OTHER EFFORTS TOWARDS RECOVERY

- To date, recovery is ongoing.
- Since the breakout of NSEL settlement crisis in July 2013, FTIL has constantly provided financial support to NSEL for administrative expenses, including cost for recovery measures such as advertisements, legal cases, technology support to all investigative agencies and has also provided human resources to NSEL. At present, NSEL has 57 employees, including those employed on contractual basis, as consultants and on deputation. Considering the fact that the trading operations of NSEL are suspended and NSEL is not carrying out any business | operational activities, and that the entire focus of NSEL is on legal efforts for recovery against the 22 defaulters, the staff strength of NSEL is adequate. All these facts would have been readily made available to the FMC, had it discussed the issue with the Board | senior management of NSEL before arriving at pre-determined conclusions.
- Since July 2013, NSEL has already spent substantial amount towards legal expenses for speedy recovery from its 22 defaulting members.
- In addition to the formation of Honorable High Court committee for recovery of the dues from the defaulters, the interests of the trading clients are protected as their dues have been secured by the Courts and authorities in the following manner:
- Assets of the 22 defaulters worth approximately Rs 5000 crore have reportedly been secured by the EOW for attachment and liquidation under the MPID Act, 1999.
- Two members, M/s. Topworth Steels and Power Private Limited and M/s. Shankya Investments have settled their dues.
- NSEL is opposing every bail | anticipatory bail application of the defaulters. Bail application of Mr. Surendra Gupta, P.D. Agroprocessors Pvt. Ltd. was rejected by MPID Court wherein NSEL had intervened. The NSEL also intervened in the bail application of the charge-sheeted employees.
- Arbitration petition under Section 9 of Arbitration Conciliation Act for interim relief were filed for a few defaulters in September and October 2013. However, after the EOW attachment of assets, interim relief is not required anymore
- 47 complaints have been filed for dishonour of cheque u/s 138 N.I. Act in various Courts. Warrants have been issued in two matters.
- After declaration of the members as defaulters, NSEL started contacting defaulters to settle their liability even with a reasonable discount and accordingly the first agreement with the defaulter was signed on October 30, 2013 with Mohan India Pvt. Ltd. Also, agreements have been signed with NCS and Swastik Overseas
- Mohan India's original outstanding was Rs 933.09 crore, out of which Rs 52 crore is received and the present outstanding is Rs 881.09 crore. A settlement agreement was signed for Rs 771 crore. However, as the member is now again defaulting, the case has been referred to the MPID court for selling the land and imposing other penalties as per the agreement. Misc. Application 33 of 2014 filed seeking relief for Sale of its assets. Order has been passed for sale of assets of Mohan India as collaterals under the settlement agreement. The EOW has attached properties worth Rs 494.6 crore. The ED has attached their property worth Rs 150 crore
- 25 MPID matters are also going on for issues related to selling of stocks, upholding of settlement agreements and sale of assets

- In class action suit of Modern India with the leave of the Bombay High Court, NSEL has issued third party notices to 15 defaulters as the amount has to be recovered from the defaulters and not from the Exchange
- Recovery suit against P.D Agro has been filed in the Bombay High Court. Recovery suits against other defaulters are also in the process of being filed

FINANCIAL SUPPORT FROM FTIL TO NSEL

Since inception net funds outflow from FTIL to NSEL is Rs 350.35 crore.

	PARTICULARS	RS CR
1	Equity	45.00
2	Loan (Rs 179.4+31.43+9.5)	220.33
3	Amount payable to FTIL towards various services including interest on loan	34.87
4	Retained Earnings of NSEL till March 2013 (As per audited)*	140.84
		441.04
5	Less: paid to FTIL by way of charges for HW/SW, interest and other services	90.69
	Net fund outflow from FTIL to NSEL since inception	350.35

**This amount may change as the amended financials of March 2013*

Post the NSEL settlement crisis, FTIL has cancelled certain services to the NSEL so as to support NSEL in terms of cost savings. Moreover, certain essential services were continued at substantially reduced rates to benefit NSEL.

FTIL cancelled the following services to NSEL to support the latter		Cancelled w.e.f.
1	Dome & CNS software license and maintenance	01.07.2013
2	Exchange client services	01.08.2013
3	Business support services and shared services	01.10.2013
4	Web, graphics & IT system services & corporate & market communication services	01.10.2013
5	Managed services agreement	01.10.2013

FTIL continued the following services to NSEL to support the latter	
1	Office rent of 4th floor FT Tower was reduced from Rs 21.18 lakh p.m. to Rs 7.40 lakh p.m. w.e.f. 01.10.2013 and further reduced to Rs 2.00 lakh p.m. w.e.f. 01.04.2014
2	Sharing of hardware and software cost

FTIL has received no dividend or bonus from NSEL. For all the services rendered to NSEL by FTIL, money has always been pumped in by FTIL. Neither FTIL nor its promoters or directors have benefitted to even a single paisa from NSEL. Dividends declared by FTIL are on its own standing.

COMPLETE COOPERATION TO INVESTIGATING AGENCIES

- NSEL has provided personnel and IT support to both the EOW and the Competent Authority constituted under the MPID Act in order to speed up the recovery process and assist in the ongoing investigation. Voluminous data has been shared with both agencies | entities and four draft proposals have been submitted to the Competent Authority in consultation with the MAC for submission to Court for the sale of commodities and properties of four defaulter members.
- The Exchange has deputed staff at the EOW to assist recovery meetings with defaulters.
- The MAC constituted by the FMC met every week/fortnight at the exchange with active participation from NSEL to review recovery proceeding. However, the same has been recently wound up by the FMC in light of the high powered Committee constituted by the Bombay High Court.
- Interaction with client groups and member groups for information, clarifications or recovery are held periodically.
- Coordination with RBI, CIBIL, banks and various government agencies to get more information and data on defaulters to make recovery case stronger is an ongoing process.

PERIODIC BRIEFINGS TO GOVERNMENT AND REGULATORY AUTHORITIES

The senior management of NSEL has been meeting with the MAC appointed by the FMC on a weekly/fortnightly basis. These are very structured meetings with minutes and action taken reports. In all, 25 committee meetings took place, between October 9, 2013, and August 8, 2014, wherein 246 agenda items were dealt with. In some of these meetings, the FMC representative also participated. All meetings were hosted at NSEL's office and were provided with detailed agenda notes | and electronic display of further details.

Additionally, NSEL compiled and sent a detailed weekly report to the FMC, which summarized all recovery, settlement pay-outs, legal and court cases, e-Series updates and any important developments of the week.

Thus, despite being fully aware of the various continuous efforts made by NSEL for recovery of the dues from the 22 defaulters, the FMC's allegation of 'no progress in recovery' is surprising.

RECOVERY EFFORTS AND PURSUING DEFAULTERS

- As on November 15, 2014, NSEL had recovered Rs 541 crore from the defaulting members and the same was being distributed amongst the eligible members on a proportionate basis.
- Further, NSEL team is making relentless efforts for recovery of the outstanding dues from the defaulting members, including, filing civil suits for recovery of dues from them, initiating proceedings

under Section 138 of the Negotiable Instruments Act, 1881 for dishonor of the post-dated cheques given by them to NSEL.

- NSEL has refuted the observations made by the FMC regarding the slow pace of recovery process from the defaulters. NSEL has taken considerable recovery initiatives and has taken legal actions against the defaulters. NSEL has filed 5 Arbitration petitions in Bombay High Court, 42 applications in MPID court and 47 complaints with the Magistrate Court with regards to bouncing of cheques. The bourse has also filed 20 complaints in the EOW, Mumbai Police, which have not yet been registered as FIR; therefore the Exchange has also filed 10 Section 156(3) applications with the Magistrate Court for FIR. NSEL has also issued third party notices to 15 defaulters further to the Representative Suit filed by Modern India.
- These coordinated efforts have resulted in a historic order passed by the Bombay High Court where a Committee comprising three distinguished persons was formed to overlook the process of asset sale and recovery from Defaulters. The Committee – consisting of Justice V.C. Daga (Retired Judge of the Bombay High Court), Mr. J Solomon (practicing solicitor) and Mr. Yogesh Thar (practicing Chartered Accountant from Bansil Mehta & Company) – would determine the amount payable by defaulters | third parties, while it is also empowered to ascertain their assets. The move has come as a big relief for clients as the process of recovery will now get fast-tracked.
- Comprehensive investigation by the EOW has revealed that the entire outstanding dues of the trading clients are with the 22 defaulters. No trail of the trading clients' money (whether direct or indirect) has been traced either to NSEL or to FTIL or to FTIL's management. The same has also been observed by the Hon'ble High Court of Bombay in its Order dated August 22, 2014. In view thereof, the focus of the FMC to extinguish NSEL by the device of merger instead of proceeding against the 22 defaulters for recovery, appears to be misconceived.
- NSEL had filed an application in the MPID Court to obtain details of assets attached by the EOW. The MPID Court has passed a favourable order wherein the Court has stated that EOW provide the data to NSEL.
- NSEL recovery team took assistance of an external asset tracing agency for tracing of assets of defaulters and their group companies and most assets attached are obtained from this source of information, besides the additional effort done by the recovery team with the assistance of a CA firm that analysed balance sheets of defaulters and identified their group companies and associates.
- Further, it is understood that the EOW has identified more than 200 properties of the defaulters for attachment under the MPID Act, 1999.
- The Enforcement Directorate is also said to have attached multiple assets of the defaulters having book value of more than Rs 200 crore under the Prevention of Money Laundering Act, 2002 ("PMLA"). Press reports state that the Government of India is actively considering the proposal of the trading clients to amend the PMLA so that the proceeds of the assets attached under the PMLA can be paid to the trading clients instead of the same going to the Government.
- NSEL obtained decree from Bombay High Court against defaulters- Swastik, Yathuri, Aastha, Juggernaut.
- NSEL recovery and legal team are extending full co-operation to the High Court Committee.