

## **GUIDELINES ON DISCRETIONARY TRADE FACILITY**

### **Objective for providing discretionary trade guidelines and risk disclosure:-**

The Exchange being front line regulator has anticipated that some market participants while dealing with discretionary trade option available under Standardized Account Opening are assuming certain risks without understanding its containments on investment/trade decision. In this respect, it is imperative that full comprehension should be developed in the market so that discretionary trade option may not jeopardize the interest of the parties (Brokers and clients) thus reasonable care is warranted while dealing with such matter.

In order to mitigate potential risks associated with discretionary trade option, following guidelines may help the parties to take informed decision. Reiterate, the parties should adopt cogitative approach while dealing with discretionary trade facility option.

### **Discretionary Trade Facility Option available under Standardized Account Opening Form:**

Vide clause 27 of standardized account opening form which deals with authorization to trade on discretionary basis. The said clauses state as under:-

“The account holder shall operate the account and execute transactions himself/herself/themselves unless the Account holder authorize Mr./M/s. \_\_\_\_\_ I.D.No. \_\_\_\_\_ (authorized person) to transact in the account in which event the transactions shall be executed by the Authorized Person on behalf of the Account Holder(s). All transactions executed by the Authorized person shall be binding upon the Account Holder(s) and shall not be questioned by the Account Holder (s) under any circumstances. The Broker shall upon receipt of instructions from the Account Holder(s) or Authorized person is entitled to purchase and sell, the commodities and deal in and engage in transactions in commodities at the risk and cost of the Account Holder(s) upon the instructions of the Account Holder(s) and/or his/her/their Authorized Persons, as provided in Clause 17 herein above”.

Vide draft standard power of attorney for discretionary trade account facility **“Annexure A”**.

### **Discretionary Trade Guidelines:-**

Any Trader/Client who is willing to authorize either broker or any other person as his/her authorized attorney to execute transactions on his/her behalf in Commodity Futures Contracts registered with PMEX is required to consider inter-alia the following risk factors while authorizing anyone. Similarly, brokers and other persons who are taking power of attorney from client for discretionary trade are also required to observe these guidelines so that potential dispute factors may be averted.

### **General Risk Factors related to Discretionary Trade Facility:-**

1. Please note that you are authorizing someone to take investment decision on your behalf. Your positions are subject to market and other risks as well as risk management regime of the Exchange under General Regulations 2007 and conditions imposed by the broker while entering into an agreement and other enactments, orders, direction passed from time to time by the Exchange and SECP.
2. Against the market risk the clients may lose all or part of their investment and in some cases, the trade losses may not only wipe out whole investment instead he/she may further liable to pay extra amount for clearance and settlement of contractual obligation towards the broker.

3. Once you have allowed anyone to trade on your behalf, all decisions to be taken by said person under the authority given shall be considered as your decisions.
4. Since, your investment decision is subject to market risk so no one can give you guarantee of fixed income return or reasonable return on your investment. If someone is alluring you in this respect, please immediately intimate the same to the Exchange. Presenting yearly progress/performance report (if any) on various commodities registered with the Exchange is not considered as alluring for investment however, there is no guarantee that the commodities may follow the same pattern in future.
5. Trading in Commodity Futures contracts carries high level of risk. Once you have signed the risk disclosure agreement and allowed someone to trade on your behalf, the presumption is that you are fully aware of all risks associated with such trades hence, you are not allowed to take subsequent plea that someone had misguided you by stating that they will enhance money or provide opportunity to earn reasonable capital gain benefits by relying on their investment decisions etc.
6. Your authorized person may prefer to watch/protect his personal interests instead of giving preference to protect your rights;
7. Your authorized person may trade on your behalf without understanding niche business knowledge, sentiments of the market and knowledge about how market should behave on data releases from time to time internationally.
8. Authorized person may not give you complete disclosure of interest.

**Being trader/client you are assuming following Risks by choosing option to authorize someone to act on your behalf:-**

Once you have authorized someone to trade on your behalf you are expressly and impliedly taking various risks which includes but not limited to following:-

1. Your claim that someone acted on your behalf recklessly and did not bother to consider your investment as his own while taking decision.
2. Your right to complain against your authorized person may be infringed.
3. That your authorized person did not take wise decision and made intentional or unintentional loss as better options were available.
4. In case you have given absolute authority and no conditions attached thereto, you may be wrong to claim that your authorized person had not taken your prior consent to execute trades on your behalf or that you were not aware of losses suffered by you on your trades as your authorized person had not disclosed the same to you;
5. Your legal right to claim or to recover the losses from your authorized person either on account of cheating, fraud or misrepresentation etc. may be limited once you have authorized him/her to execute transactions on your behalf unless otherwise cogent reasons are available with you to prove something in your support,
6. In case of taking an attempt to disrepute market by adopting unfair market practices by your authorized person, you may be accountable for the same.

**What to do?.**

In case traders/clients are interested to authorize someone to trade on his/her behalf, they must observe the following:-

- In case you are authorizing broker or their employee(s) to trade on your behalf, you must understand that they are interested parties. Once you have authorized them to trade, presumption is that you have allowed them to trade on your behalf absolutely and they are under legal cover however, in order to protect your rights, you may consider attaching certain conditions to avert possible risks such as:-

Whether or not you wish to give absolute authority or conditional one? In case, you are interested to make it conditional it should be clearly spelled out in discretionary trade authority/power of attorney. Following are the possible conditions which trader may impose:-

- a. You may place limit on trading on single day or scrip wise Commodity Futures Contracts, this would eliminate the risk factor that the authorized person had traded beyond his powers or such trades were executed recklessly and in order to generate commission by the broker or such authorized person;
- b. Your authorized person may seek your prior consent before placing orders however, you have to make such arrangement explicitly ;
- c. You must ensure that your authorized person should send you confirmation slips of all executed transactions on your behalf; it is advisable that you ask your broker to activate your automatic trade confirmation on each execution. This option is available under trading engine of the Exchange;
- d. In case, your consent is necessary before executing transactions, please make sure your consent should be recorded via dedicated telephone recording facility of the broker or you should produce evidence to substantiate the same. In this respect, we hereby request you to follow uniform pattern like in case you are placing order via dedicated telephone line of the broker, it should not happen that you start calling on personal mobile of authorized person for execution of such orders as inconsistency in this area may be harmful for parties.
- e. Whether or not receiving confirmation slips are sufficient or you need complete ledger statement to ascertain your profit and loss position, please inform your broker about the same.

**Add on:-**

1. Please check your e-mails on daily basis in case, you have requested your broker to send daily confirmation slips in your e-mail address.
2. Please visit on regular basis the web portal access given by the Exchange/broker to check how much your funds are lying with the Exchange.
3. Please do not share your personal password given by the Exchange as sharing of the same would amount to implied authorization and you may suffer great losses.
4. In case of any discrepancy in your account, please intimate the broker in writing and in case the broker is unable to resolve the same, you have the right to report the same to the Exchange for actions under General Regulations.
5. Please note that you are the best person who can protect your wealth and your little ignorance may give chance to others to misuse your funds.
6. Please assist your broker for identification of any shortcomings in their system in case you have noticed something wrong there, this would help the broker to serve you better.

**Interpretation of Clause 28 of Standardized Account Opening form:-**

“The broker shall be responsible to append a list of his authorized traders and designated employees, who can deal with the Account Holder(s), with this Account Opening form and copy of both the opening form and the list will be provided to the Account Holder(s). Any change therein shall be intimated in writing to the Account Holder(s) with immediate effect. The Account Holder(s) shall not deal with any person at the Broker’s office, except with the Broker’s key

personnel. The Broker shall not be responsible for any dealings between the Account Holder(s) and any un-authorized person”

Please note that clause 28 has no relationship with clause 27 mentioned above. Clause 28 is self-explanatory when it states that **”The Account Holder(s) shall not deal with any person at the Broker’s office, except with the Broker’s key personnel. The Broker shall not be responsible for any dealings between the Account Holder(s) and any un-authorized person”.**

Please also note that clause 28 is generally applicable on all traders whereas, clause 27 deals with specific clients. In case being trader you have authorized someone under clause 26, then you are restricted to deal with only your authorized person and not with any other authorized person(s) of the broker under clause 28 as the other persons will have no authority to deal with you and to execute trades on your behalf.

Please also note that the word used “Authorized traders” means “Authorized persons” of the brokers as per Exchange regulatory requirements.

**Regards,**

Pakistan Mercantile Exchange Limited

Annexure "A"

**Draft Discretionary Trading Authorization/Power of Attorney**

The undersigned hereby authorizes mentioned below ("Authorized Person") as the undersigned's agent and attorney-in-fact (the "Agent"), with full power and authority to enter into Commodity Futures contracts registered with Pakistan Mercantile Exchange ("PMEX") as per General Regulations 2007 read with Commodity Exchange and Futures Contract Rules 2005 in my Account ("Account") titled \_\_\_\_\_ Account No. \_\_\_\_\_ with \_\_\_\_\_ ("Name of Broker").

The authorized person has represented that he/she will undertake all trading executions in the interest of the undersigned, with complete professionalism and to the best of his/her ability. The undersigned has comprehended and read the risk associated with such authorization and acknowledges that Trading in Commodity Futures Contracts carry high degree of risk and situations may arise where the investment or trading decision of the agent may result losses in account and in all such situations I shall remain responsible for such losses and to provide ratification to all such decisions of my agent.

Moreover, the broker has clearly identified the area of risks especially risk of conflict of interest situation upon my authority to the agent for discretionary trades at my account and in such eventuality, the undersigned will not raise the Conflict of Interest issue and agrees to hold \_\_\_\_\_ (name of broker) and Authorized Person harmless and to indemnify it as to any expense, damage or liability sustained by it with respect to any and all acts and practices of the Agent and attorney-in-fact regarding this account, including all losses arising there from and debit balance(s) due thereof however, such indemnification shall not cover the regulatory actions which the Exchange or the Commission may take against any violation of General Regulations or Rules etc.

The undersigned has authority to execute the subject power of attorney in favour of \_\_\_\_\_ (agent) and has financial resources to bear the financial risks associated with engaging in Commodity Futures Trading with PMEX, as well as the special risks attendant on conferring on another person (agent) full authority to engage in such transactions at his / her risk. The undersigned acknowledges having read carefully and understood fully the foregoing Limited Power-of-Attorney, Trading Authorization and Risk Disclosure in account opening form and guidelines issued by the Exchange.

This authorization is a continuing one and shall remain in full force and effect until revoked by the undersigned by written notice given to \_\_\_\_\_, Attention: \_\_\_\_\_ revocation shall become effective only upon the actual but shall not affect any liability in any way resulting from transactions initiated prior to its receipt.

Account Number \_\_\_\_\_ Account Holder \_\_\_\_\_

Authorized Person \_\_\_\_\_ CNIC no. \_\_\_\_\_

Account Holder Signature \_\_\_\_\_ Date. \_\_\_/\_\_\_/\_\_\_

Authorized Person signature \_\_\_\_\_ Date---/----/-----