
NATIONAL COMMODITY & DERIVATIVES EXCHANGE LIMITED

Circular to all trading and clearing members of the Exchange

Circular No : NCDEX/MEMBERSHIP-002/2014/130

Date : April 23, 2014

Subject : Revised Guidelines/Schedule of Charges - Change in the Shareholding Pattern (SHP) of Member entity/Dominant Promoter Group (DPG)

Attention of Members is drawn to the Exchange's circular nos. NCDEX/MEMBERSHIP-001/2006/044 dated February 21, 2006 & NCDEX/MEMBERSHIP-001/2010/217 dated August 23, 2010.

2. In terms of the criteria laid down for membership of the Exchange, a Member is required to comply with, inter alia, the following requirements so far as Shareholding Pattern (SHP) / Dominant Promoter Group (DPG) are concerned:

"Where the Applicant is an unlisted company (other than subsidiary/ joint venture of listed companies) or a partnership firm, the applicant shall identify a Dominant Promoter Group (DPG) at the time of making the application. The Dominant Promoter Group shall consist only of resident individuals, not more than four in number who collectively shall hold at least 51% of the paid up equity capital of the applicant company or the partnership firm, directly or indirectly. Any change in the shareholding pattern of the company / partnership firm including that of the said Dominant Promoter Group or their shareholding interest shall be effected only with the prior written approval of the Exchange."

3. The Exchange has been granting permission to the members for change in Member entity's / Dominant Promoter Group's shareholding pattern, on a case to case basis, broadly ensuring that the change does not result in dilution of the shareholding of the DPG constituents below 51 % in the member entity. We have reviewed the existing provisions and revised the guidelines for such cases including those involving dilution of the shareholding of the DPG constituents below 51 %. Details and applicable fixed fee structure for the same are listed in the Annexure I. It may kindly be noted that Exchange has decided not to charge any processing fee for changes in SHP/DPG which was being charged earlier. However, Exchange will continue to charge the applicable Fixed fee which is payable upfront at the time of submission of requests by members, by way of Debit Authorization letter/demand draft/bankers pay order or cheque payable at par in Mumbai/or an interbank transfer.

4. To bring about clarity, it may kindly be noted:

- a) Any change in the shareholding pattern (SHP) of the member entity / or its holding company /partnership firm including that of the said Dominant Promoter Group (DPG) or their shareholding interest shall be effected only with the prior written approval of the Exchange.
- b) In case of corporate Members (other than subsidiary/joint venture of listed companies)/ a partnership firm, the Member shall identify a Dominant Promoter

Group (DPG). The Dominant Promoter Group shall consist only of resident individuals, not more than four in number who collectively shall hold at least 51% of the paid up equity capital of the Member entity or the partnership firm, directly or indirectly. **Henceforth Exchange will not grant membership unless DPG is properly identified.**

- c) In case, where the Applicant/Member entity is an unlisted company and is 100% subsidiary of another unlisted entity, DPG will be identified in holding company or in ultimate holding company. This identification of DPG in holding company will be restricted up to second layer. Any changes in SHP/DPG in holding company as described in this para will also require Exchange's prior approval.
- d) Any of the promoters or dominant shareholders of the Applicant/Member entity shall not singly or jointly hold at any time, an equity holding of 10% or more and/or any share in his/their own name and/or jointly with any of his/their close relatives in any other membership of NCDEX.
- e) Close relatives for the purpose this circular will be as defined u/s 6 of Companies Act (1956).
- f) Any entity holding more than 10% in member entity is required to submit pan card copy.
- g) In case where none of the dominant promoters is on the Board of Directors of the Applicant / Member entity , at least two directors, each of whom holding a minimum of 5% of the paid up equity capital of the company, should be on the Board of Directors
- h) In case of direct/indirect foreign share holdings in Applicant/Member entity (Including holding companies), Applicant/Member is required to provide approval from Foreign Investment Promotion Board (FIPB) for the foreign holdings.
- i) Transfer of membership is generally not permitted by the Exchange except in special cases like merger, takeover, change in constitution etc. In other words, transfer of membership is permitted, if the existing membership entity or firm itself is taken over by another company or firm or the existing entity or firm gets merged with another company/firm or changes its constitution. However conversion of individual/sole proprietorship to Partnership Firm/ Corporate and conversion from partnership Firms to corporate will continue to be allowed.

5. Attention is also drawn to Exchange circular no NCDEX/COMPLIANCE-001/2010/089 of April 1, 2010 (Page 5) which lists violations in respect of membership requirements. It is reiterated that penalties as listed therein would apply in cases, where members have not taken prior approval from the Exchange before undertaking changes in their or their holding company's shareholding pattern / Dominant Promoter Group (DPG) etc. The applicable penalties will be also recovered as soon as such violations are noticed from the Annual Return/Annual Compliance Report/or any other form submitted by the members/or detected during Member's inspection or through Media Reports. However recovery of penalty should not be construed as NOC/approval from

the Exchange, for the changes carried out by them. Recovery of penalty will be apart from any other action which Exchange considers appropriate (including putting trading terminals to square off mode), till such time the new SHP/DPG is approved by the Exchange.

6. Any approval conveyed by the Exchange for change in SHP/DPG /reconstitution/change in constitution/transfer of membership will now be valid only for 6 months from the date of approval letter. In case Members do not complete the proposed changes within this time limit, they shall be required to obtain fresh approval(s)

7. The prescribed application format for change in shareholding/Dominant Promoter Group is available on Exchange website - www.ncdex.com under the link "[Membership/Ongoing Compliance/Change in shareholding pattern](#)"

8. It may please be noted that in case of differences/disputes arising as to the interpretation, meanings or effect of the revised guidelines, the decision of the Exchange shall be final and binding on the members. Also, the Exchange reserves the right to decline any request from member seeking change in Shareholding pattern (SHP) /Dominant Promoter Group (DPG), without assigning any reason whatsoever.

The provisions of this circular in regard to Share Holding Pattern (SHP)/Dominant Promoter Group (DPG) come into force with immediate effect and will be applicable to new memberships also.

For and on behalf of

National Commodity & Derivatives Exchange Limited

M. K. Ananda Kumar
Chief - Corporate Services

For further information / clarifications, please contact

1. Customer Service Group on phone: 022 6640 6613 -15, 011 2334 4795
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Annexure I – Revised schedule of charges

Sr. No.	Type of Change	Processing Fee per occasion	Fixed Fee per occasion	Remarks
1.	Change in Shareholding pattern of Member entity or their holding companies			
1a)	Where the change does not result in dilution of DPG holding below 51 %	Nil	Nil (*)	<p>No Interview</p> <p>Existing guidelines explained earlier in this circular allows any member to identify DPG – of Not more than 4 individuals.</p> <p>In case member at the time of applying for membership opts for less than 4 Individuals in DPG, and later on decides to add further individuals in DPG, charges applicable in 1(b) will be applicable.</p> <p>(*) Whenever new DPG constituent is added/replaced etc., Exchange will charge fixed fee of Rs 200,000 even though remaining existing DPG continue to hold more than 51%.</p> <p>If new DPG constituent is close relative of existing DPG constituents, Fixed fee will not be applicable.</p>
1b)	Where Shareholding of its existing DPG constituents goes below 51%	Nil	Rs 200,000	<p>New DPG constituents to be interviewed before approval.</p> <p>When new DPG formed consists of close relatives of existing DPG constituents, Fixed Fee will not be applicable</p>

2.	Reconstitution of the member entity			
2a)	Where Shareholding of its existing DPG Constituents remains at least 51%	Nil	Nil	No Interview. Additional /Fresh documentation as applicable
2b)	Where the change results in reduction of the Shareholding of existing DPG constituents below 51 %	Nil	Rs 200,000	New DPG constituents to be interviewed before approval. Additional/Fresh documentation as applicable When such dilution in DPG below 51%, is due to retirement/exit of existing DPG constituents and thereafter close relatives are inducted, Fixed Fee will not be applicable.
3.	As stated earlier in Para no 4, transfer is permitted only in special cases like merger, takeover, change in constitution etc. In other words, transfer of membership is permitted, if the existing membership company or firm itself is taken over by another company or firm or the existing company or firm gets merged with another company/firm change in constitution			
3.a	Where even after transfer of membership, Shareholding of its existing DPG constituents remains at 51%	Nil	Nil	No interview. Additional /Fresh Documentation as applicable
3.b	Where the transfer of membership results in dilution of DPG holding below 51 %	Nil	Rs 200,000	New DPG constituents to be interviewed before approval. Additional / Fresh documentation as applicable
3.c.	For All other cases of Transfer	Nil	Rs 300,000	New DPG constituents to be interviewed before approval. Additional / Fresh documentation as applicable

Notes:

- 1. Attention is also drawn towards our circular no NCDEX/COMPLIANCE-001/2010/089 of April 01, 2010 (Page 5) which lists violations in respect of membership requirements. It is reiterated that penalties as listed therein would apply in cases where members have not taken prior approval from the Exchange before undertaking changes in their or their holding company's shareholding pattern/Dominant Promoter Group (DPG) etc. Recovery of penalty will be apart from any other action which Exchange considers appropriate (including putting trading terminals into square off mode), till such time the new DPG/shareholding pattern is approved by the Exchange.**
- 2. Close relatives for the purpose this circular will be as defined u/s 6 of Companies Act (1956).**
- 3. Service Tax as applicable from time to time**