
NATIONAL COMMODITY & DERIVATIVES EXCHANGE LIMITED

Circular to all trading and clearing members of the Exchange

Circular No. : NCDEX/MEMBERSHIP-007/2018/139

Date : June 01, 2018

Subject : Revised norms for identification of Dominant Promoter Group & guidelines for change in shareholding pattern

In terms of Exchange Rule 5.1, Exchange has laid down criteria with regard to identification of Dominant Promoter Group (DPG) and change in the Shareholding Pattern (SHP) of Member entity and also issued a circular no. NCDEX/MEMBERSHIP-002/2014/130 dated April 23, 2014 in this regard.

The members of the Exchange are hereby informed that the Exchange has revised the norms for identification of DPG & guidelines with regard to change in shareholding /DPG pattern of the member entity, as given below:

A) Identification of Dominant Promoter Group

Member, whether Corporate or a Partnership firm/Limited Liability Partnership (LLP), is required to identify a Dominant Promoter Group. In case of a partnership firm/LLP, the term dominant promoter may be substituted with 'Dominant Partner'

DPG would consist of individuals who jointly and/or severally hold at least 51% of the paid up equity capital of the member entity, directly or indirectly with the support of corporate(s) /permitted relatives at the time of admission as well as subsequently at all points of time.

The identified DPGs of the member entity shall, at all times, meet the criteria of fit and proper person as specified in Schedule II of Securities and Exchange Board of India (SEBI) (Intermediaries) Regulations, 2008 and applicable eligibility criteria laid down by the Exchange / SEBI from time to time.

With regard to the above, the DPG identification norms are given below:

1. Unlisted Corporate Trading Member/Partnership Firm/LLP

i) Any person or persons holding 51% on his/ their own or together with the entities as specified below will be identified as Dominant Promoter Group

- a) their relatives as defined under Companies Act and/or
- b) the indirect support of corporate investors

The persons who are extending support to the dominant promoter as stated above shall execute an unqualified and irrevocable support in writing to the concerned individual DPG in respect of such holding.

ii) Identification of DPG of in case of Corporate Shareholders

In case of applicant /member entity who is a subsidiary of another entity, or if the shareholder of the member / applicant is a corporate entity, then it is required to identify the DPG from such holding/ corporate entity. The guidelines for such identification will remain same as mentioned in point no (i) above. This process of identification of DPG will be extended up to second layer of wholly owned entities in terms of Companies (Restriction on number of Layers) Rules, 2017.

2. Listed Corporate Trading Member or listed holding company of member entity

Any person or persons in control identified as promoters in the shareholding pattern disclosed by the corporate trading member under the provisions of the Listing Agreement, will constitute the DPG.

3. Banks, central or state government owned Finance and/or Development Institutions.

The following entities are allowed to be identified as dominant shareholder(s) provided they have a net worth of at least Rs.50 Crores:

- (i) Scheduled Banks;
- (ii) Central or State Government owned Finance and/or Development Institutions;
- (iii) Any financial institution registered and regulated by any regulatory authority such as RBI, SEBI, IRDA; etc.
- (iv) Any other entity that is fit to be identified as dominant shareholder in the opinion of relevant authority.

4. Foreign Entities

For foreign entities taking membership of the Exchange through their Indian subsidiary under the automatic approval route permitted by the Government, subject to compliance with the guidelines of the RBI in this regard:

- (i) The promoting foreign entity or its subsidiary should be either a bank or insurance organization regulated by the Central Bank or such other appropriate regulatory authority of that country

Or

The promoting foreign entity or its subsidiary should be broking house/ participant in the securities market that is registered or regulated by the relevant regulatory authority of that country and that the relevant authority should be a member of International Organization of Securities Commission (IOSCO). The entity should have a sound track record.

Or

The promoting foreign entity is one whose domestic arm or subsidiary is registered with SEBI for participation in any domestic venture for custodial or Asset Management services.

- (ii) The promoting foreign entity shall hold, directly or indirectly not less than 51 % of the controlling stake in the applicant company proposing to take the trading membership of the Exchange.
- (iii) The net worth of the entity having controlling stake in the applicant company or the promoting foreign entity should be at least Rs.50 Crores

A foreign entity may be allowed to become part of the dominant promoter group of an existing member corporate provided it meets the dominant promoter group norms as applicable to Indian entities/ RBI norms and any other requirements of the Exchange / SEBI as may be applicable from time to time.

B) Guidelines with regard to Shareholding/Dominant Promoter Group of applicant/member entity

- a. The revised DPG norms will become applicable to the existing members of the Exchange (Listed corporates/ unlisted corporates/Corporates with foreign entities as shareholders/Partnership firms/ LLPs).
- b. Once a member/applicant nominates/determines a group of shareholders as its dominant promoter group, it is to be ensured that the dominant promoter group always maintains among itself the minimum required shareholding as specified above at all points of time.
- c. Any change in the shareholding pattern (SHP) of the member entity / or its holding company shall be effected only with the prior written approval of the Exchange. The applicable fees for change in SHP/DPG is prescribed as under:

Sr. No.	Change in SHP	Fees (Rs.)	Remarks
1.	Change in Shareholding pattern of Member entity or their holding companies or Change in Sharing Pattern due to reconstitution of member entity		
1.a.	i. Where the change does not result in dilution of existing DPG holding below 51 % (No addition to DPG)	Nil	No Interview
	ii. Where the change does not result in dilution of existing DPG holding below 51 % (involves addition to DPG and new DPG constituent is close relative of existing DPG constituents (relative as defined under Companies Act)	Nil	New DPG will be interviewed prior to approval

Sr. No.	Change in SHP	Fees (Rs.)	Remarks
	iii. Where the change does not result in dilution of existing DPG holding below 51 % (involves addition to DPG other than relatives as specified above)	2,00,000	New DPG will be interviewed prior to approval
1.b.	Where Shareholding of its existing DPG constituents goes below 51% (involves addition to DPG other than relatives as specified above)	2,00,000	New DPG constituents to be interviewed before approval.
2	Transfer of membership		
2.a.	Where even after transfer of membership, Shareholding of its existing DPG constituents remains at 51%	25,000	No interview. Additional / Fresh Documentation as applicable
2.b.	Where the transfer of membership results in dilution of DPG holding below 51 %	200,000	New DPG constituents to be interviewed before approval. Additional / Fresh documentation as applicable
2.c.	For all other cases of transfer	300,000	New DPG constituents to be interviewed before approval. Additional / Fresh documentation as applicable

d. Changes carried out in SHP without the prior approval of the Exchange

Any changes in SHP/DPG that have been carried out by the member without the prior approval of the Exchange is violation of guidelines issued by the Exchange and will attract penalties as per Circular No. NCDEX/COMPLIANCE-001/2010/089 of April 1, 2010. The below applicable penalties will be levied as soon as such violations are observed by the Exchange.

Sr. No	Particulars	Penalty Amount (Rs.)
1	Any change in the shareholding pattern / profit sharing ratio of the member without the approval of the NCDEX (No Impact on existing DPG percentage)	5,000
2	Any change in the shareholding pattern / profit sharing ratio without the prior approval of the NCDEX involving dilution not below the minimum prescribed shareholding of the dominant promoter group (Increase in DPG%) or (Decrease in DPG % but not below 51%)	10,000

Sr. No	Particulars	Penalty Amount (Rs.)
3	Change in the shareholding pattern without the approval of the NCDEX which has resulted in the dilution of the shareholding / profit sharing ratio of the dominant group below 51% (DPG goes below 51%)	1,00,000 and for multiple instances Rs. 1,50,000
4	Change in shareholding/transmission of share due to death of shareholder	NIL
5	Any change in designated directors/partners without seeking prior written approval of the NCDEX	5,000/- per instance

It may be noted that the act of the Exchange levying penalty is not be construed as approval of the changes carried out by members on their own accord.

In case of non-submission of specified documents with regard to changes carried out without prior approval, within 30 days from the date of Exchange letter, late submission charges of Rs. 5000/- will be levied without prejudice to the right of the Exchange to take any other disciplinary action that it may deem fit.

Where consequent to change in shareholding without prior approval, DPG holding goes below 51% leading to change in DPG/management, Exchange will disable the trading terminal of the member by placing it on square off mode after 30 days from the date of Exchange letter. The said action will be withdrawn only post approval of the change so carried out.

- e. Any approval conveyed by the Exchange for change in SHP/DPG /reconstitution/change in constitution/transfer of membership will be valid only for 6 months from the date of approval letter. In case, Member fails to execute the proposal during that period, they are required to obtain fresh approval from the Exchange.
- f. Any shareholders/person holding more than 2% stake in member entity, will be required to submit copies of PAN and Aadhar card. However, this may not be made applicable in case of listed entities /foreign entities.
- g. Dominant Promoter group will be required to submit Aadhar card copies. However, this may not be made applicable in case of listed entities/foreign entities.
- h. Corporate shareholder (s) who are holding more than 10% of paid up equity capital of Member Company, are required to submit their shareholding pattern.
- i. Transfer of membership will be permitted as per Rules, Regulation and Bye-laws of the Exchange.
- j. In terms of SEBI circular MIRSD/MSS/Cir-30/13289/03 dated July 09, 2003, CIR/MIRSD/2/2011 dated June 03, 2011 and CIR/MIRSD/14/2011 dated August 02, 2011,

prior approval for Change in control (as defined as per Rules, regulation of SEBI) is required from SEBI.

- k. Relatives for the purpose of this circular will be as defined in clause (77) of section 2 of Companies Act 2013.

The prescribed application format for change in shareholding/Dominant Promoter Group is available on Exchange website - <http://www.ncdex.com> under the link Membership/Ongoing Compliance/Change in shareholding pattern

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

For and on behalf of
National Commodity & Derivatives Exchange Limited

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For further information / clarifications, please contact

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