



RELATED PARTY TRANSACTION POLICY
NPCI/NQMS/BOARD SECRETARIAT/PO-05

Document History

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1.1	24/07/2018	Priyanka Agrawal	Audit Committee of Board	Board of Directors	Recommendations to be made to the Board where Audit Committee does not approve the such transactions referred to in Section 188

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Background

As per the sections 177 and 188 of the Companies Act, 2013 ('Companies Act' or 'the Act'), which contain provisions regarding related party transactions. These sections, along with the relevant Rules framed under the Companies Act, have highlighted certain compliances and approval requirements regarding the related party transactions.

To ensure compliance with above provisions, this framework encompasses, *inter alia*, various aspects related to

- Identification of related parties
- determination of related party transaction and process of taking approvals as per Companies Act, 2013
- inter departmental process flows viz. Functional departments, Board Secretariat & Finance

Purpose

The objective of this policy is to ensure identification, approval, disclosure and reporting of related party transactions in the best interest of NPCI and its stakeholders.

Scope of the Policy

This policy applies to NPCI as an organisation extending to all the employees, business, departments and all functions within NPCI. This policy also applies to all the directors and Key Managerial Personnel of NPCI.

Acronyms and Definitions

Acronym/ Term	Description
KMP	Key Managerial Personnel

Definitions:

a. Related Party

As per section 2(76) of the Act, related party, with reference to a Company, means

- I. a director or his relative;
- II. a key managerial personnel or his relative;
- III. a firm, in which a director, manager or his relative is a partner;
- IV. a private company in which a director or manager or his relative is a member or director;

- V. A public company in which a director or manager is a director and holds along with his relatives, more than two per cent. of its paid-up share capital;
- VI. any body corporate whose Board of Directors, managing director or manager is accustomed to act in accordance with the advice, directions or instructions of a director or manager;
- VII. any person on whose advice, directions or instructions a director or manager is accustomed to act:

Provided that nothing in sub-clauses (vi) and (vii) shall apply to the advice, directions or instructions given in a professional capacity;

- VIII. any body corporate which is—
 - i. a holding, subsidiary or an associate company of such company;
 - ii. a subsidiary of a holding company to which it is also a subsidiary; or
 - iii. an investing company or the venturer of the company

Explanation.—For the purpose of this clause, “the investing company or the venturer of a company” means a body corporate whose investment in the company would result in the company becoming an associate company of the body corporate.

IX. such other person as may be prescribed;

A director other than an Independent Director or key managerial personnel of the holding company or his relative with reference to a company, shall be deemed to be a related party.

b. Key managerial personnel

As per section 2(51) of the Act, in relation to a Company, means

- I. Chief Executive Officer or the Managing Director or the Manager;
- II. Company Secretary;
- III. the whole-time director;
- IV. Chief Financial Officer; and
- V. such other officer as may be prescribed;

c. Relative

As per section 2(77) of the Act and, with reference to any person, means anyone who is related to another, if—

- I. they are members of a Hindu Undivided Family;
- II. they are husband and wife; or
- III. one person is related to the other in such manner as may be prescribed;

As per Rule 4 of Companies (Specification of definitions details) Rules, 2014, A person shall be deemed to be the relative of another, if he or she is related to another in the following manner, namely: -

- 1. Father (includes step-father)
- 2. Mother (includes step-mother)
- 3. Son (includes step-son)
- 4. Son’s Wife.
- 5. Daughter.
- 6. Daughter’s husband.
- 7. Brother (includes step-brother)
- 8. Sister (includes step-sister)

d. Ordinary course of business:

Ordinary Course of Business includes but is not limited to a term for activities that are necessary, normal, and incidental to the business. These are common practices and customs of commercial transactions. The ordinary course of business covers the usual transactions, customs and practices related to the business.

The following factors are indicative of a transaction being in the ordinary course of business:

- i. The transaction is normal or otherwise unremarkable for the business.
- ii. The transaction is frequent/regular
- iii. The transaction is a source of income for the business
- iv. Transactions that are part of the standard industry practice, even though NPCI may not have done it in the past.

These are not exhaustive criteria and NPCI will have to assess each transaction considering its specific nature and circumstances.

e. Arm's length basis:

In terms of the Companies Act, 2013 the expression 'arm's length transaction' means a transaction between two related parties that is conducted as if they were unrelated, so that there is no conflict of interest. A transaction with a related party will be considered to be on arm's length basis if the key terms, including pricing of the transaction, taken as a whole, are comparable with those of similar transactions if they would have been undertaken with unrelated parties.

Identification of Related Party and Related Party Transactions

A Related party will be brought to the attention of the Management / Functional teams and Board / Audit committee at least on an annual basis by the Board Secretariat Department and the Related Party shall be updated whenever necessary and reviewed on a timely basis and would be communicated to the functional departments.

Each Director and Key Managerial Personnel is responsible for providing declaration to Board Secretariat department about the related party involving him/her or his/her Relative.

The functional departments shall submit to Finance and Accounts and the Board Secretariat, the details of proposed transactions (except those for which omnibus approval has been granted by the Audit Committee) with draft agreement or other supporting documents justifying that the transactions are on arm's length basis at prevailing market rate. Based on such information, Board Secretariat department will facilitate for necessary approvals from the Audit Committee.

Approval for Related Party Transactions

a. Audit Committee

All the transactions which are identified as related party transactions should be pre-approved by the Audit Committee before entering into such transaction. The Audit

Committee shall consider all relevant factors while deliberating the related party transactions for its approval.

Any member of the Committee who has a potential interest in any related party transaction will recuse himself and abstain from discussion and voting on the approval of the related party transaction.

A related party transaction which is

- (i) not in the ordinary course of business, or
- (ii) Not at arm's length price, would require approval of the Board of Directors or of shareholders as discussed subsequently.

The Audit Committee shall make its recommendation to the Board:

- Where it does not approve a transaction or
- in case of a transaction other than a related party transaction under Section 188

The Audit Committee may grant omnibus approval for related party transactions which are repetitive in nature and subject to certain criteria/conditions as required under and Companies (Meeting of Board and its Powers) Rules, 2014. Such omnibus approval shall be valid for one financial year.

Audit Committee shall review, on a quarterly basis, the details of related party transactions entered into by NPCI pursuant to the omnibus approval.

A related party transaction entered into by NPCI, which is not under the omnibus approval or otherwise pre-approved by the Audit Committee, will be placed before the Audit Committee for ratification.

b. Board of Directors

In case any related party transactions are referred to the Board for its approval due to the transaction being

- (i) not in the ordinary course of business, or
- (ii) not at an arm's length price,

The Board will consider such factors as, nature of the transaction, material terms, the manner of determining the pricing and the business rationale for entering into such transaction. On such consideration, the Board may approve the transaction or may require such modifications to transaction terms as it deems appropriate under the circumstances.

Any member of the Board who has any interest in any related party transaction will rescue himself/herself and abstain from discussion and voting on the approval of the related party transaction.

c. Shareholders

If the related party transaction is not in the ordinary course of business, or not at Arm's length price and exceeds certain thresholds prescribed under the Companies (Meeting of Board and its Powers) Rules, 2014 (Annexure I), it shall require shareholders' approval by a resolution.

In such a case, any member who is a related party having interest in the transaction for which resolution being proposed, shall not vote on such resolution passed for approving related party transaction.

Omnibus approval by Audit Committee for related party transactions

- a. The Audit Committee shall, after obtaining approval of the Board of Directors, specify the criteria for making the omnibus approval which shall include the following, namely: -
 - (i) maximum value of the transactions, in aggregate, which can be allowed under the omnibus route in a year;
 - (ii) the maximum value per transaction which can be allowed;
 - (iii) extent and manner of disclosures to be made to the Audit Committee at the time of seeking omnibus approval;
 - (iv) review, at such intervals as the Audit Committee may deem fit, related company pursuant to each of the omnibus approval made;
 - (v) Transactions which cannot be subject to the omnibus approval by the Audit Committee.

- b. The Audit Committee shall consider the following factors while specifying the criteria for making omnibus approval, namely: -
 - (a) Repetitiveness of the transactions (in past or in future);
 - (b) Justification for the need of omnibus approval.

- c. the Audit Committee shall satisfy itself regarding the need for such omnibus approval and that such approval is in the interest of NPCI;

- d. the omnibus approval shall specify:
 - the name(s) of the related parties,
 - nature and duration of transaction,
 - maximum amount of transactions that can be entered into,
 - the indicative base price / current contracted price and the formula for variation in the price if any; and
 - such other conditions as the audit committee may deem fit

Provided that where the need for related party transaction cannot be foreseen and aforesaid details are not available, audit committee may grant omnibus approval for such transactions subject to their value not exceeding Rupees One crore per transaction.

- e. The Audit Committee shall review, at least on a quarterly basis, the details of related party transactions entered into by NPCI pursuant to each of the omnibus approvals given.
- f. Such omnibus approvals shall be valid for a period not exceeding one year and shall require fresh approvals after the expiry of one year.

Related party transactions not approved under this policy

In the event NPCI becomes aware of a transaction with a related party that has not been approved in accordance with this Policy prior to its consummation, the matter shall be reviewed by the Audit Committee. The Audit Committee shall consider all of the relevant facts and circumstances regarding the related party transaction, and shall evaluate all options available to NPCI, including ratification, revision or termination of the related party transaction.

In case prior approval from the Audit Committee is not taken, such a transaction shall not be deemed to violate this Policy, or be invalid or unenforceable, so long as the transaction is brought to the Audit Committee as promptly as reasonably practical after it is entered into or after it becomes reasonably apparent that the transaction is covered by this policy.

In any case, where the Audit Committee determines not to ratify a related party transaction that has been commenced without approval, the Audit Committee, as appropriate, may direct additional actions including, but not limited to, discontinuation of the transaction or seeking the approval of the shareholders, payment of compensation for the loss suffered by the related party etc.

In connection with any review/approval of a related party transaction, the Audit Committee has authority to modify or waive any procedural requirements of this Policy.

Reporting of related party transactions

Every contract or arrangement, which is required to be approved by the Board/shareholders under this Policy, shall be referred to in the Board's report to the shareholders along with the justification for entering into such contract or arrangement.

Annexure I

Rule 15 of Companies (Meeting of Board and its Powers) Rules, 2014

Contract or arrangement with a related party.-A company shall enter into any contract or arrangement with a related party subject to the following conditions, namely:-

- 1) The agenda of the Board meeting at which the resolution is proposed to be moved shall disclose-
 - a. the name of the related party and nature of relationship;
 - b. the nature, duration of the contract and particulars of the contract or arrangement;
 - c. the material terms of the contract or arrangement including the value, if any;
 - d. any advance paid or received for the contract or arrangement, if any;
 - e. the manner of determining the pricing and other commercial terms, both included as part of contract and not considered as part of the contract;
 - f. whether all factors relevant to the contract have been considered, if not, the details of factors not considered with the rationale for not considering those factors; and
 - g. any other information relevant or important for the Board to take a decision on the proposed transaction.

- 2) Where any director is interested in any contract or arrangement with a related party, such director shall not be present at the meeting during discussions on the subject matter of the resolution relating to such contract or arrangement-

- 3) For the purposes of first proviso to sub-section (1) of section 188, except with the prior approval of the company by a resolution

a) as contracts or arrangements with respect to clauses (a) to (e) of sub-section (1) of section 188, with criteria as mention below-

(i) sale, purchase or supply of any goods or material, directly or through appointment of agent, 3[amounting to ten percent or more] of the turnover of the company or rupees one hundred crore, whichever is lower, as mentioned in clause (a) and clause (e) respectively of sub-section (1) of section 188;

(ii) selling or otherwise disposing of or buying property of any kind, directly or through appointment of agent, 3[amounting to ten percent or more] of net worth of the company or rupees one hundred crore, whichever is lower, as mentioned in clause (b) and clause (e) respectively of sub-section (1) of section 188;

(iii) leasing of property any kind 4[amounting to ten percent or more] of the net worth of company or 3[ten per cent or more of turnover] of the company or rupees one hundred crore, whichever is lower, as mentioned in clause (c) of sub-section (1) of section 188;

(iv) availing or rendering of any services, directly or through appointment of agent, 3[amounting to ten percent or more] of the turnover of the company or rupees fifty crore, whichever is lower as mentioned in clause (d) and clause (e) respectively of sub-section (1) of section 188:

Explanation. - It is hereby clarified that the limits specified in sub-clause (i) to (iv) shall apply for transaction or transactions to be entered into either individually or taken together with the previous transactions during a financial year.

(b) is for appointment to any office or place of profit in the company, its subsidiary company or associate company at a monthly remuneration exceeding two and a half lakh rupees as mentioned in clause (f) of sub-section (1) of section 188.

(c) is for remuneration for underwriting the subscription of any securities or derivatives thereof, of the company exceeding one percent of the net worth as mentioned in clause (g) of sub-section (1) of section 188.

Explanation.- (1) The turnover or net worth referred in the above sub-rules shall be computed on the basis of the audited financial statement of the preceding financial year.

(2) In case of wholly owned subsidiary, the 2[resolution] is passed by the holding company shall be sufficient for the purpose of entering into the transaction between the wholly owned subsidiary and the holding company.

(3) The explanatory statement to be annexed to the notice of a general meeting convened pursuant to section 101 shall contain the following particulars, namely:-

- (a) name of the related party;
- (b) name of the director or key managerial personnel who is related, if any;
- (c) nature of relationship;
- (d) nature, material terms, monetary value and particulars of the contract or arrangements;
- (e) any other information relevant or important for the members to take a decision on the proposed resolution.]