

**National Stock Exchange Of India Limited****Department: COMPLIANCE**

Download Ref No: NSE/COMP/49213

Date: August 06, 2021

Circular Ref. No: 71/2021

To All Members,

**Sub: Uniform norms for change in shareholding / control**

This has reference to Exchange circulars NSE/MEM/13964 dated January 22, 2010, and NSE/MEM/18010 dated June 08, 2011, which required all Members to seek prior approval of the Exchange in case of any change in shareholding, with or without change in control. Member's attention is also drawn to Exchange circulars NSE/MEM/38837 dated September 07, 2018, and NSE/MEM/39726 dated December 20, 2018, regarding the norms on dominant promoter group (DPG).

In order to simplify the application process and ensure uniformity across the Exchanges, the formats for submitting the application for change in shareholding/sharing pattern (with and without change in control) have been revised, under the guidance of SEBI and in consultation with other Exchanges. Further, in supersession of the aforementioned circulars NSE/MEM/38837 dated September 07, 2018, and NSE/MEM/39726 dated December 20, 2018, revised norms for identification of Member's promoter/promoter group and change in control has also been put in place. Accordingly, the concept of dominant promoter group (DPG) is replaced with "Promoter / Promoter Group".

In view of the above, Members are advised to identify the promoters/non-promoters as per the said revised norms. Prior approval of the Exchange/ SEBI is required for any changes in the future.

The revised norms are enclosed herewith as **Annexure A**. The revised application formats for change in shareholding pattern, with/without change in control, are available on NSE website at below mentioned link, under the section "Change in Member Details": -

<https://www.nseindia.com/trade/membership-formats>

The provisions of this circular shall come into force with immediate effect. Members are required to comply with these norms, in letter and spirit, on a continuous basis.

**For and on behalf of  
National Stock Exchange of India Limited**

**Srijith Menon  
Associate Vice President**

Telephone No	Email id
1800 266 0050	compliance_mem@nse.co.in

**Annexure-A**
**Uniform norms for change in shareholding / control**

In terms of Rules, Bye-Laws of the Exchange and various circulars issued by SEBI / Exchange from time to time, members are required to submit the details of the shareholding / sharing pattern on an annual basis along with annual returns and at the time of seeking prior approval of the Exchange for change in shareholding with / or without change in control. The revised norms for identification of promoter / non-promoter group at the time of submission of shareholding / sharing pattern to the Exchange as and when required and upon change in shareholding / control / sharing pattern, are as under:

**1. Submission of list of Promoters, Non-Promoters/Partners:**

- I. Members will be required to submit shareholding/ sharing pattern and list of promoters, non-promoters, partners through periodical /ongoing compliances.
- II. Members will provide a list of promoters, non-promoters, partners along with their interest, if any (shareholding/ partnership share) in the stock broking entity. The promoters can be identified as under:

Constitution	Details
<b>Corporate (Listed entity)</b>	<p>The definition of promoter shall be as per <b>SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018</b>.</p> <p>Regulation 2(oo) “promoter” shall include a person:</p> <p>i) who has been named as such in a draft offer document or offer document or is identified by the issuer in the annual return referred to in section 92 of the Companies Act, 2013; or</p> <p>ii) who has control <sup>1</sup> over the affairs of the issuer, directly or indirectly whether as a shareholder, director or otherwise; or</p> <p>iii) in accordance with whose advice, directions or instructions the board of directors of the issuer is accustomed to act:</p> <p>Provided that nothing in sub-clause (iii) shall apply to a person who is acting merely in a professional capacity;</p> <p>Provided further that a financial institution, scheduled commercial bank, foreign portfolio investor other than Category III foreign portfolio investor, mutual fund, venture capital fund, alternative investment fund, foreign venture capital investor, insurance company registered with the Insurance Regulatory and Development Authority of India or any other category as specified by the Board from time to time, shall not be deemed to be a promoter merely by virtue of the fact that twenty per cent or more of the equity share capital of the issuer is held by such person unless such person satisfy other requirements prescribed under these regulations;</p> <p><sup>1</sup> Control as defined under SEBI (Substantial Acquisition of Shares &amp; Takeovers) Regulations, 2011</p>

Constitution	Details
	Further, persons having controlling interest in the entity in terms of SEBI (Stock Broker) Regulations 1992 shall also be treated as promoters.
<b>Corporate (Unlisted)</b>	<p>The definition of promoter shall be as per <b>Section 2(69) of the Companies Act, 2013</b></p> <p>“promoter” means a person—</p> <ul style="list-style-type: none"> <li>a) who has been named as such in a prospectus or is identified by the company in the annual return referred to in section 92; or</li> <li>b) who has control over the affairs of the company, directly or indirectly whether as a shareholder, director or otherwise; or</li> <li>c) in accordance with whose advice, directions or instructions the Board of Directors of the company is accustomed to act</li> </ul> <p>Provided that nothing in clause (c) shall apply to a person who is acting merely in a professional capacity;</p> <p><sup>1</sup> Control as defined under SEBI (Substantial Acquisition of Shares &amp; Takeovers) Regulations, 2011</p> <p>Further, persons having controlling interest in the entity in terms of SEBI (Stock Broker) Regulations 1992 shall also be treated as promoters.</p>
<b>Partnership Firms/LLP</b>	All partners
<b>Individual/Sole Proprietorship</b>	Individual /sole Proprietor

## 2. Change in Control

The following scenarios will amount to change in control:

Sr. No.	Change in Control scenarios	Whether Approval required
1	Any change in the promoters/partners resulting in change in control of the member as defined in SEBI (Stock Brokers) Regulations, 1992 <sup>2</sup> & SEBI (Substantial Acquisition of Shares & Takeovers) Regulations, 2011 (SAST) <sup>3</sup>	NOC from Exchanges & Prior Approval of SEBI

2	Change in legal formation or ownership w r t Partnership/ LLP/ individual members	NOC from Exchanges & Prior Approval of SEBI
---	---	---

**<sup>2</sup>SEBI (Stock Brokers) Regulations, 1992 defines “change in control” as under:**

2(1)(ac) “change in control” –

(i) in case of a body corporate –

(A) if its shares are listed on any recognised stock exchange, shall be construed with reference to the definition of control in terms of regulations framed under clause (h) of sub-section (2) of section 11 of the Act;

(B) in any other case, shall be construed as change in the controlling interest in the body corporate;

Explanation:

For the purpose of para (B) of this sub-clause, the expression “controlling interest” means an interest, whether direct or indirect, to the extent of at least fifty-one percent of voting rights in the body corporate;

(ii) in a case other than that of a body corporate, shall be construed as any change in its legal formation or ownership.

**<sup>3</sup>SEBI (Substantial Acquisition of Shares & Takeovers) Regulations, 2011 (SAST) defines “control” as under:**

2(1)(e) “Control” includes the right to appoint majority of the directors or to control the management or policy decisions exercisable by a person or persons acting individually **or in concert**<sup>4</sup>, directly or indirectly, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements or in any other manner

<sup>4</sup>Persons Acting in concert shall have the same meaning as defined under 2 (q) of Chapter I of SEBI (Substantial Acquisition of Shares & Takeovers) Regulations, 2011.

**Exception to the aforementioned rule for change in control**

Sr. No.	Exception
1	<p>In view of the SEBI circular Ref No. SEBI/HO/MIRSD/DOR/CIR/P/2021/42 dated March 25, 2021, in the following scenarios, change in shareholding will not be construed as change in control and hence SEBI prior approval shall not be required:</p> <ul style="list-style-type: none"> <li>-In case of unlisted body corporate <ul style="list-style-type: none"> <li>• Transfer of shareholding among immediate relatives (as defined under Regulation 2(l) of SEBI (Substantial Acquisition of Shares &amp; Takeovers) Regulations, 2011</li> <li>• Transfer of shareholding by way of transmission</li> </ul> </li> <li>-In case of partnership firm <ul style="list-style-type: none"> <li>• Transfer of interest amongst the partners</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>• Transfer of interest by way of transmission to a legal heir of a deceased partner provided the same is mentioned in partnership deed</li> </ul>
--	--

### **3. Ultimate Beneficial Owner (UBO) Identification**

In accordance with the provisions of Prevention of Money Laundering Act (PMLA) and SEBI circular CIR/MIRSD/2/2013 dated January 24, 2013, beneficial owner shall be identified as per below criteria:

- i. more than 25% of shares or capital or profits of the juridical person, where the juridical person is a company;
- ii. more than 15% of the capital or profits of the juridical person, where the juridical person is a partnership; or
- iii. more than 15% of the property or capital or profits of the juridical person, where the juridical person is an unincorporated association or body of individuals.
- iv. In case of a trust, the identity of the settler of the trust, the trustee, the protector, the beneficiaries with 15% or more interest in the trust and any other natural person exercising ultimate effective control over the trust.

In case of non-individuals except listed entities, the immediate promoter / partner and the Ultimate Beneficial Owner should be provided.

#### **Exceptions where UBO is/are not to be identified:**

- i. Where the client or the owner of the controlling interest is a company listed on a stock exchange or is a majority-owned subsidiary of such a company.
- ii. In case the identification of promoters/promoter group is not practically possible in terms of the aforesaid norms, then the Exchange, at its sole discretion, reserves the right on deciding on identification of promoters/promoter group by adding certain conditions, if required.
- iii. Where promoters are a Scheduled Bank or any Financial Institution registered with or regulated by any regulatory authority such as RBI, SEBI, IRDA, PFRDA or as decided by the Exchange from time to time.
- iv. Where all the promoters are central/state government owned financial institutions.

### **4. Important Notes:**

1. Promoters shall meet the condition of fit and proper person similar to the criteria envisaged in the SEBI (Intermediaries) Regulations, 2008 and being applied to intermediaries seeking registration from SEBI.
2. Members shall provide reasons for any change in shareholding of promoter (member entity, holding company, corporate promoter etc); whether or not constituting change in control.

3. Promoters who are foreign investors' viz., Foreign Institutional Investors, Sub Accounts and Qualified Foreign Investors, may be guided by the clarifications issued vide SEBI circular CIR/MIRSD/11/2012 dated September 5, 2012, for the purpose of identification of beneficial ownership of the client.
4. The nominated list of promoters may or may not be holding any shareholding/ partnership interest in entity.
5. Members are required to obtain prior approval of the Exchange for any change in shareholding pattern and change in composition of Promoter Group of Member entity:
  - i) In case of change in ultimate beneficial owner of Corporate Promoter / Holding Company / Ultimate Holding Company the same needs to be intimated to the Exchange, if such changes do not lead to change in control. In case such changes results in change in control of the member entity (directly or indirectly), the same would require prior approval from Exchange & SEBI.
  - ii) In case of unlisted entity, if there is a change in less than 2% shareholding in promoter/ non- promoter group, then only intimation will be required to be done to Exchanges.
  - iii) In case of Member being a listed company, or corporate shareholder being listed, it is not required to take prior approval for any changes in non-promoter holdings or for changes in holdings of promoter group, if it does not lead to change in control. However, Members are required to inform about such changes to the Exchange on quarterly basis to the membership department. In any case, any change leading to change in control would require prior approval from the Exchange & SEBI.

In case of any difference and / or dispute as to the interpretation, meaning or effect of the policy, the decision of the Exchange shall be binding and final.