

National Bank for Financing Infrastructure and Development

RELATED PARTY TRANSACTIONS POLICY

1. BACKGROUND:

Section 19 of the National Bank for Financing Infrastructure and Development Act, 2021 (NaBFID Act) and its underlying Rules and Regulations provides compliance and approval requirements regarding the related party transactions.

This policy aims to regulate transactions between National Bank for Financing Infrastructure and Development (NaBFID/Institution) and its related parties based on the applicable provisions of the NaBFID Act and its underlying Rules. It intends to define a framework for proper approval and reporting of transactions between NaBFID and its related parties.

Accordingly, the following policy with regard to related party transactions has been framed. The Audit Committee of NaBFID will review this policy from time to time and propose any modifications to the Board for approval.

2. DEFINITIONS:

“Related Party” - As per Rule 2(e) of the National Bank for Financing Infrastructure and Development General Rules, 2022, “related party” with reference to the Institution, shall have the same meaning as is assigned to the term in clause (76) of section 2 of the Companies Act, 2013 (18 of 2013) with reference to a company.

As per sub-clause (76) of sections 2 of the Companies Act 2013, Related Party 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 and holds is a director or 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-
 - a. a holding, subsidiary or an associate company of such company;
 - b. a subsidiary of a holding company to which it is also a subsidiary; or
 - c. an investing company or the venturer of the company;

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) a director other than an independent director or key managerial personnel of the holding company or his relative with reference to a company

“Relative” – The term ‘relatives’ shall have the meaning given to it under clause (77) of section 2 of the Companies Act, 2013:

‘Relative’ with reference to any person, means any one who is related to another, if—

- i. they are members of a Hindu Undivided Family;
- ii. they are husband and wife; or
- iii. A person shall be deemed to be the relative of another, if he or she is related to another in the following manner, namely:
 - (a) Father (includes step-father)
 - (b) Mother (includes step-mother)
 - (c) Son (includes step-son)
 - (d) Son’s wife
 - (e) Daughter
 - (f) Daughter’s husband
 - (g) Brother (includes step-brother)
 - (h) Sister (includes step-sister)

“Related Party Transaction” - Related Party Transactions means any contract or arrangement as specified under Section 19 of the NaBFID Act with a related party with respect to -

- (a) sale, purchase or supply of any goods or materials;
- (b) selling or otherwise disposing of, or buying, property of any kind;
- (c) leasing of property of any kind;
- (d) availing or rendering of any services;
- (e) appointment of any agent for purchase or sale of goods, materials, services or property;
- (f) such related party's appointment to any office or place of profit in the Institution,
- (g) its subsidiaries or joint ventures or associate companies;
- (h) underwriting the subscription of any securities, or derivatives thereof, of the Institution:

“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 (as per Section 19 of NaBFID Act).

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.

“Office or place of profit” - As per Section 19 of NaBFID Act means any office or place -

- (i) where such office or place is held by a director, if the director holding it receives from the Institution anything by way of remuneration over and above the remuneration to which he

is entitled as director, by way of salary, fee, commission, perquisites, any rent-free accommodation, or otherwise;

- (ii) where such office or place is held by an individual other than a director or by any firm, private company or other body corporate, if the individual, firm, private company or body corporate holding it receives from the Institution anything by way of remuneration, salary, fee, commission, perquisites, any rent-free accommodation, or otherwise;

“Ordinary course of business” - Ordinary Course of Business includes but 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 the Institution may not have done it in the past.

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

“Material Related Party Transaction” - “Material Related Party Transactions” would mean related party transactions as specified Regulation 8 of the National Bank for Financing Infrastructure and Development General Regulations, 2022 requiring Board/Shareholders’ approval as the case may be.

Note: The above terms may have different connotations for other purposes like disclosures in the financial statements, which are governed by applicable regulations, accounting standards, regulatory guidelines etc.

3. AMOUNT FOR TRANSACTIONS WITH RELATED PARTY

As per Regulation 8 of NaBFID General Regulations, the Institution shall not enter into a transaction without approval of the Board/Shareholders as the case may be, where the transaction to be entered into,—

- (a) as contracts or arrangements relating to matters referred to in clauses (a) to (e) of subsection (1) of section 19 involving—
 - (i) sale, purchase or supply of any goods or material, directly or through appointment of agent, amounting to ten per cent. or more of the turnover of the Institution;
 - (ii) selling or otherwise disposing of or buying property of any kind, directly or through appointment of agent, amounting to ten per cent. or more of net worth of the Institution;
 - (iii) leasing of property any kind amounting to ten per cent. or more of the turnover of the Institution;
 - (iv) availing or rendering of any services, directly or through appointment of agent, amounting to ten per cent. or more of the turnover of the Institution;

- (b) is for appointment to any office or place of profit in the Institution, its subsidiaries or associate companies at a monthly remuneration exceeding two and a half lakh rupees;
- (c) is for remuneration for underwriting the subscription of any securities, or derivatives thereof, of the Institution exceeding one per cent. of the net worth.

Explanation-

- (a) the percentage referred to in sub-clauses (i) to (iv) of clause (a) shall be reckoned for the transaction to be entered into taken together with previous transactions during a financial year;
- (b) turnover and net worth shall be computed on the basis of the audited financial statement of the preceding financial year;
- (c) explanatory statement to be annexed to the notice of a general meeting of shareholders shall contain the following particulars, namely:—
 - (i) name of the related party;
 - (ii) name of the director or key managerial personnel who is related, if any;
 - (iii) nature of relationship;
 - (iv) nature, material terms, monetary value and particulars of the contract or arrangements;
 - (v) any other information relevant or important for the members to take a decision on the proposed resolution.

4. APPROVAL PROCESS FOR RELATED PARTY TRANSACTIONS

(i) Approval of the Audit Committee

- All the related party transactions must be reported to the Audit Committee for its approval in accordance with this Policy.

Any Director having a potential interest in any related party transactions will not participate in discussions and voting on the approval of the related party transactions. (As per Rule 7 of NaBFID General Rules).

- The Audit Committee may grant omnibus approval for related party transactions proposed to be entered into by NaBFID subject to the following conditions as specified under Regulation 4(2) of the NaBFID General Regulations, namely :-
 - a. the Audit Committee shall formulate the criteria for granting omnibus approval, including those transactions which are repetitive in nature;
 - b. the Audit Committee shall satisfy itself that such approval is in the interest of the Institution;
 - c. the omnibus approval shall specify the following conditions, namely:—

- (i) the details regarding the name of the related party, the nature, period and maximum amount of the transactions that shall be entered into;
- (ii) the details regarding indicative base price or current contracted price, along with the formula, if any, for variation in the price;
- (iii) such other conditions as the Audit Committee may deem fit:

Provided that where the need for related party transaction cannot be foreseen and the said details are not available, the Audit Committee may grant omnibus approval for such transactions subject to their value not exceeding one crore rupees per transaction;

- d. the Audit Committee shall review on a quarterly basis, the details of related party transactions entered into by the Institution pursuant to every omnibus approval given;
- e. the omnibus approval shall be valid for a period not exceeding one year and shall require fresh approval after the expiry of one year.

(ii) Approval of the Board of Directors

Upon approval by the Audit Committee, Related Party Transactions which are either not in the Ordinary Course of Business or not at the Arms' Length, require prior approval of the Board.

The approval of the Board of Directors is not required for transactions entered into between the Institution and its wholly owned subsidiary, if any, whose financial statements are consolidated with the Institution and placed before the shareholders at the general meeting for adoption.

Any Director having a potential interest in any related party transactions will not participate in discussions and voting on the approval of the related party transactions.

(iii) Information to be reviewed by the Audit Committee or Board for approval of Related Party Transactions

As per Rule 7 of NaBFID General Rule, the Institution shall provide the following information, for review of the Audit Committee or Board for approval of a proposed Related Party Transaction:

- (a) the name of the related party and nature of relationship;
- (b) the nature, duration and particulars of the contract or arrangement;
- (c) the material terms of the contract or arrangement, including the value thereof, if any;
- (d) advance paid or received, if any, for the contract or arrangement;
- (e) the manner of determining the pricing and other commercial terms, irrespective of whether or not the same are included in the contract;
- (f) whether all factors relevant to the contract have been considered and, if not, the details of the factors not considered, along with the rationale for not considering the same; and
- (g) any other information relevant for the Audit Committee or the Board, as the case may be, to take decision in the matter.

(iv) Approval of the Shareholders

Upon approval by the Audit Committee and Board, if the transaction is a Material Related Party Transaction, the same should be placed before the general meeting of the shareholders for their approval by way of a resolution.

However, the requirement of shareholders' approval shall not be applicable for transactions between the Institution and its wholly owned subsidiary, if any, whose financial statements are consolidated with the Institution and placed before the general meeting of the shareholders at the general meeting for adoption.

No shareholder shall vote in such general meeting to approve any contract or arrangement which may be entered into by the Institution, if such shareholder is a related party.

5. TREATMENT OF RELATED PARTY TRANSACTIONS WHICH DID NOT TAKE PRIOR APPROVAL UNDER THIS POLICY

- Where any contract or arrangement is entered into by a Director or any employee, without obtaining the consent of the Board or approval by a resolution in the general meeting of the shareholders under Section 19 (1) of the NaBFID Act and if it is not ratified by the Board or, as the case may be, by the shareholders at a meeting within three months from the date on which such contract or arrangement was entered into, such contract or arrangement shall be voidable at the option of the Board or, as the case may be, of the shareholders and if the contract or arrangement is with a related party to any director, or is authorised by any other director, the directors concerned shall indemnify the Institution against any loss incurred by it.
- Without prejudice to anything contained in Section 19 (3) of NaBFID Act, it shall be open to the Institution to proceed against a director or any other employee who had entered into such contract or arrangement in contravention of the provisions of this section for recovery of any loss sustained by it as a result of such contract or arrangement.
- As per Section 19 (5) of the NaBFID Act, any director or employee of the Institution who had entered into or authorised a contract or arrangement in violation of the provisions of this section, shall be liable to pay penalty of a sum of up to twenty-five lakh rupees.

6. 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 (as per Section 19 of NaBFID Act).

7. POLICY REVIEW

This Policy shall be reviewed by the Board as and when any changes are to be incorporated in the Policy due to change in applicable law or at least once in every three years and updated accordingly.