

Surrender / cancellation policy for Assayers

Objective:

Pursuant to the directives issued by the SEBI Circular no. SEBI/HO/CDMRD/DMP/P/CIR/P/2021/551 dated April 16, 2021, this policy lays down the broad guidelines for cancellation/surrender of services of Assayer.

Applicability:

This Policy shall apply to all the existing empaneled/approved Assayer of NCL and those that would be empaneled/approved henceforth.

NCL may consider cancellation of services of an Assayer in case of any material breach in the terms and conditions prescribed/ stipulated by the NCL for providing assaying service, in case such material breach is not remedied by an Assayer who has been issued a notice by the NCL and has been advised to remedy the breach within a prescribed timeline. In such a case, in order to protect the interest of the market participant and to keep up with the spirit of regulatory directives, NCL shall take necessary steps to cancel the services of an Assayer.

Explanation: Material breach for the purpose of this policy shall mean and include but not limited to the conditions as stipulated below:

With respect to the surrender of Assayer, the Assayer may apply for surrender of its accreditation by submitting the Application for surrender to NCL for evaluation and approval.

Conditions under which the NCL may consider issuance notice to an Assayer

NSE Clearing Ltd (NCL) may cancel the empanelment of an assayer/assaying agency or firm for the following reasons, but not limited to:

1. The assayer/assaying agency or firm fails to comply with any of the process subject to which the empanelment was granted to it.
2. The agency or firm has indulged in fraudulent and malpractice.
3. In any manner, an agency becomes incompetent in conducting the business of weighing, sampling and grading.
4. If it has failed to comply with any of the conditions of license or any other provision of the Act or Rules and Regulations.
5. Non-adherence to the Rules, Regulations and Bye-laws of the NCL including circulars and directives issued by the NCL.
6. Upon any regulatory directive from the State/Central Government or by an order or direction of any court of law or a tribunal.

7. Non-adherence to the provisions of the various central and state laws applicable and in force from time to time.
8. Repeated violation observed in following the Code of Conduct prescribed by the NCL.
9. If the assayer/assaying agency or firm fails to respond to a communication issued to him.
10. Upon indication of financial weaknesses or information on significant default by assayer/assaying agency or firm to other vendors / creditors.

Procedure before Surrender/Cancellation:

1. NCL shall serve a notice to the Assayer notifying the Assayer of the violations and breaches observed and seek explanation from the Assayer within such period as may be specified in the notices.
2. The Assayer shall reply to the notice and remedy the deficiencies as directed by the NCL within such time as may be allowed by NCL.
3. NCL shall offer the concerned an opportunity of being heard and take a decision on cancellation after considering the explanation.
4. NCL may also require Assayer to conduct an external due diligence audit or any other investigation as may be considered appropriate by NCL.
5. In case of failure of the Assayer to remedy the non-compliance(s) and deficiencies within the stipulated time or in case NCL finds the conduct of the Assayer as unsatisfactory or activities of the Assayer is prejudicial to the interest of Commodity Derivatives Market, NCL may cancel services of the Assayer.
6. Approving the surrender/cancellation of Assayer will be through Member Committee (MC) of NCL
7. NCL shall inform the market participants about the surrender/cancellation of the service of an Assayer.
8. There shall be no client/customer complaints pending for redressal.
9. NCL shall provide adequate notice intimation to general public / clients through widely published newspapers and website etc. before accepting the surrender of Assayer or cancellation of the Assayer.