

Surrender/Cancellation Policy for Warehouse Service Providers (WSP)

1. Objective:

In pursuance to the directives as contained in the directives of SEBI as notified vide 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 of services of Warehouse Service Provider(s) (WSP).

This policy shall come into effect immediately and shall remain in force unless modified or rescinded by NCL or the SEBI, as the case may be.

2. Applicability:

This Policy shall apply to all the existing empaneled/approved Warehouse Service Providers (WSP) of NCL and those that would be empaneled/approved henceforth.

NCL may consider cancellation of services of a Warehouse Service Provider in case of any material breach in the terms and conditions prescribed/ stipulated by the NCL for providing warehousing service, in case such material breach is not remedied by a WSP 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 a WSP.

The Clearing Corporation may also direct the WSPs to indemnify an entity aggrieved by the delivery process of its warehouse or, in serious cases of misconduct/malfeasance, revoke the accreditation of the concerned warehouse or/and hold the WSP accountable for any legal liabilities.

Explanation: Material breach for the purpose of this policy shall mean and include but not limited to the conditions as stipulated in para: 3 below

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

3. Conditions under which the NCL may consider issuance notice to a WSP:

NCL may issue notice to an empanelled WSP of the NCL for cancellation of the services in the following conditions, but not limited to:

1. Non-Compliance or violation of the provisions of Warehousing Norms for Agricultural/ Agri processed goods and non-agricultural goods (only base/industrial metals) underlying a Commodities Derivatives contract having feature of physical delivery Traded on the National Stock Exchange of India Ltd issued by SEBI from time to time.
2. Non-Compliance or violation of the provisions of Warehousing Norms and Additional Norms/Guidelines above SEBI norms issued by the NCL from time to time.
3. Upon any material breach committed by WSP under the Warehousing Agreement executed with the NCL.
4. Non-adherence to the Rules, Regulations and Bye-laws of the NCL including circulars and directives issued by the NCL.
5. Upon any regulatory directive from the State/Central Government or by an order or direction of any court of law or a tribunal.

6. Non-adherence to the provisions of the various central and state laws applicable and in force from time to time.
7. Fraudulent and unlawful activities done by the WSP.
8. Repeated violation observed in following the Code of Conduct prescribed by the NCL.
9. Upon indication of financial weaknesses of WSP or information on significant default by WSP to other vendors / creditors.

Procedure before Surrender/Cancellation:

1. NCL shall serve a notice to the WSP notifying the WSP of the violations and breaches observed and seek explanation from the WSP within such period as may be specified in the notices.
2. The WSP 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 may also require WSP to conduct an external due diligence audit or any other investigation as may be considered appropriate by NCL.
4. In case of failure of the WSP to remedy the non-compliance(s) and deficiencies within the stipulated time or in case NCL finds the conduct of the WSP as unsatisfactory or activities of the WSP is prejudicial to the interest of Commodity Derivatives Market, NCL may cancel services of the WSP.
5. Approving the surrender/cancellation of WSP will be through Member Committee (MC) of NCL.
6. NCL shall inform the market participants about the surrender/cancellation of the service of a WSP.
7. NCL shall also invite claims from depositors/holders/ market participants to ensure that any pending dispute is redressed and interest of investors of the Commodity Derivatives Market is protected.
8. The WSP shall continue to remain liable and responsible for settlement of all the claims received from the depositors/ holders/market participants and also redressal of all complaints/disputes which may be pending for redressal or has arisen on account of cancellation of the services.
9. All commodities for delivery towards settlement of derivatives contract shall be dispatched out of the warehouse by WSP.
10. The WSP shall settle all liabilities and debts vis-à-vis the Clearing Corporation Member and Clients.
11. The WSP should not have any obligation on its part to deliver goods to the clients pertaining to their trades on the exchange platform.
12. There shall be no client/customer complaints pertaining to any of its registered warehouses pending for redressal.
13. Security deposit (SD) collected from the WSP shall not be released until six months after approval of cancellation or surrender of the accreditation of the WSP or until satisfaction of every claim against the deposit, whichever is later.
14. Financial Security Deposit (FSD) collected shall be returned, keeping aside 10% of such deposits with the Clearing Corporation, which shall not be released until six months after cancellation or surrender of accreditation of the WSP or until satisfaction of all claims against the deposits made in its warehouses, whichever is later.
15. NCL shall not take services for 3 years from WSP who has surrendered its accreditation with NCL from the date of such surrender.
16. NCL shall not take service from those WSP whose accreditation has been cancelled by other clearing corporation for three years from the date of cancellation.
17. NCL shall provide adequate notice intimation to general public / clients through widely published newspapers and website etc. before accepting the surrender of WSP or cancellation of the WSP.