



EMPANELMENT OF EXTERNAL AGENCIES POLICY AND CONFLICT OF INTEREST POLICY OF ITSLS

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EMPANELMENT OF EXTERNAL AGENCIES POLICY AND CONFLICT OF INTEREST POLICY OF ITSL

I. BACKGROUND

IDBI Trusteeship Services Limited (hereinafter referred to as ITSL/the Company) is a SEBI Registered Intermediary renders high standards of services and exercise due diligence and ensure proper care in its operations. Although the core trustee activities are undertaken by the Company, ITSL needs to take onboard external agencies/third parties to carry out activities in the nature of due diligence, valuation, certifications, etc. ancillary to the functions to be performed by the Company in terms of Chapter II and VI of SEBI Master Circular Ref. No. SEBI/HO/DDHS-PoD3/P/CIR/2024/46 dated May 16, 2024 for continuous monitoring of security created or assets on which charge is created.

SEBI vide its Circular No. SEBI/HO/DDHS/DDHS-Div1/CIR/2022/106 dated 4th August, 2022 now superseded by SEBI Master Circular Ref. No. SEBI/HO/DDHS-PoD3/P/CIR/2024/46 dated May 16, 2024 has mandated that, Debenture Trustee shall:-

- a. Adopt an empanelment criterion/policy as approved by their board of Directors and shall disclose the same on their website.
- b. Formulate a policy on mitigating conflict of interest and shall disclose the same on their website, the policy shall, inter-alia include a requirement that the empanelment agency would have no pecuniary relationship with the issuer company 3 years prior to the issue.

A detailed procedure was laid down for empanelment of consultants and outsourcing of work through them on April 01, 2021 duly approved by the MD & CEO. This policy not only covers the procedure set out on April 01, 2021 but also provides a brief framework for empanelment of external agencies to carry out activities as per various SEBI Circulars and mitigation of conflict of interest that may arise out of such empanelment.

II. PURPOSE

This policy has been framed for the purpose of empanelment of external agencies for carrying out due diligence in terms of SEBI Circular dated November 03, 2020, continuous monitoring in terms of SEBI Circular dated November 12, 2020 and to comply with the provisions of SEBI Circular dated August 04, 2022. Empanelment of external agency will be governed by two policies namely empanelment of external agencies policy and conflict of interest policy as laid in Para IV and V respectively and the same shall be displayed on the website of ITSL.

A detailed operational procedure for empanelment of External Agencies is given at annexure I.

III. DEFINITIONS

1. **External Agencies-** External Agencies shall mean any third party/professionals/advisors/experts such as Practicing Chartered Accountants, Practicing Company Secretaries, Registered Valuers, Practicing Advocates, etc. empanelled with ITSL to perform activities in accordance with SEBI circular no. SEBI/HO/MIRSD/CRADT/CIR/P/2020/218 dated Nov 03, 2020, continuous monitoring in terms of SEBI Circular dated November 12, 2020 and SEBI/HO/DDHS/DDHS-Div1/CIR/2022/106 dated August 04, 2022 now superseded by SEBI Master Circular Ref. No. SEBI/HO/DDHS-PoD3/P/CIR/2024/46 dated May 16, 2024.

2. **Conflict of Interest** – Conflict of Interest shall mean the External Agencies, external experts and advisors engaged for carrying out due diligence in accordance with this policy and Conflict of Interest policy of ITSL do not have pecuniary relationship with the issuer company 3 years prior to the issue.

3. **Risk Management Committee** – Risk Management Committee shall mean the committee headed by the head of the Legal & Compliance Department and comprising of senior officials from different departments of ITSL that evaluates significant risk exposures of the Company and takes necessary steps to mitigate the risk exposures in a timely manner.

IV. EMPANELMENT OF EXTERNAL AGENCIES POLICY

A. ACTIVITIES THAT CAN BE CARRIED OUT BY THE EXTERNAL AGENCIES

Activities which are not a core part of trusteeship business may be carried out by an external agency and these include but are not limited to activities like due diligence, valuation of the properties, title search, verification of the asset cover, security cover, ROC Search Report etc. as required under the SEBI Circular Ref. No. SEBI/HO/MIRSD/CRADT/CIR/P/2020/218 dated Nov 03, 2020 now superseded by SEBI Master Circular Ref. No. SEBI/HO/DDHS-PoD3/P/CIR/2024/46 dated May 16, 2024. The circular enable the debenture trustee to carry out the due diligence by itself or through its advisors or expert as per para 6 of the circular. Activities that would impair ITSL's right to assess, or its ability to carry out supervisory activities cannot be carried out by the external agencies.

B. PROHIBITED ACTIVITIES

No external agency shall be empanelled to perform the core business activity [i.e. providing trusteeship services] and the Compliance function of ITSL. Risk Management Committee to monitor the activities that are being carried out by the external agencies on recommendations of Legal and Compliance Department.

C. SELECTION CRITERIA FOR EMPANELMENT OF EXTERNAL AGENCIES

Empanelment of External Agency on the panel of ITSL:

While empanelling any external agency on its panel, ITSL shall perform due diligence to assess the competency of external agency to comply with the obligations in the empanelment

agreement to be entered with them. The external agencies is to be evaluated on the parameters of 4Cs viz. Capability, Compatibility, Consistency and Compliance.

Selection of agencies from the agencies empanelled on the panel of ITSL for the listed issuances of Clients:

While selecting agencies from the agencies empanelled on the panel of ITSL for the listed issuances of Clients additional parameters such as Conflict of Interest and Concentration is to be evaluated.

In both the above categories, the following factors is to be considered before empanelment of external agencies:

- a. **Capability:** Capability in terms of Experience and Expertise of the external agency in the relevant field and eligibility in accordance with the applicable law to perform the assignment. Additionally such external agency should have minimum 2 years' experience in full time practice.
- b. **Compatibility:** Compatibility of the practices and systems of the External Agencies with the Company's requirements and objectives and maintenance of confidentiality
- c. **Consistency:** Consistency with the terms of this policy and the agreement to be entered with ITSL
- d. **Compliance:** Compliance with privacy laws and applicable SEBI regulations and SEBI circulars issued from time to time and confirmation that the agency has no pecuniary relationship with the issuer company 3 years prior to the issue.
- e. **Conflict of Interest:** No pecuniary relationship with the issuer company 3 years prior to the issue.
- f. **Concentration:** Level of concentration of the assignments with a single External Agency. Prior to assigning any transaction to an external agency it is required to be checked the number of consecutive transactions assigned to such agency to avoid over reliance on specific external agencies. Further, more than one professional belonging to the same category such as CA, CS, Advocate, Valuer etc. is to be empanelled as part of back up plan and for continuity of services if any empanelled professional becomes unavailable.
- g. **Performance Review:** performance of the empaneled professional shall, on quarterly basis, be evaluated based on the following parameters:
 - (i) Accuracy of the certificates issued.
 - (ii) adherence to the format prescribed by SEBI from time to time.
 - (iii) adherence to requisite timelines etc.

ITSL has a huge panel of professionals empanelled all over India and further professionals can be empanelled from time to time in case of requirement.

D. RESPONSIBILITY FOR EMPANELMENT OF EXTERNAL AGENCIES

The Risk Management Committee shall have overall responsibility for ensuring that all ongoing empanelment decisions taken by the ITSL and the activities undertaken by the External Agencies, are in line with this Policy as approved by the Board. All the proposal for empanelment of any external agency shall be placed before the MD & CEO for its approval, through Risk Management Committee of ITSL.

E. ENTERING INTO WRITTEN CONTRACTS

ITSL's empanelment shall be governed by written contracts / agreements / terms and conditions / email confirmations (as deemed appropriate) {hereinafter referred to as "contract"} that clearly describe all material aspects of the empanelment including the rights, responsibilities and expectations of the parties to the contract, client confidentiality issues, termination procedures, etc. ITSL and empanelled External Agencies shall execute the engagement letters before assigning and entrusting any assignment/work.

F. RISK ASSESSMENT AND RISK MITIGATION

Empanelment of external agencies may include operational risk, reputational risk, information risk, counter party risk, concentration risk etc. Following are few key risks that may arise upon empanelment of external agencies:

- a. Failure of External Agencies to not adequately perform the activity, poor Services, non-maintenance of confidentiality, technology error, fraud, misconduct etc.
- b. Conflict of Interest
- c. Regulatory status of the External Agencies, including its fitness and probity status;
- d. Over-reliance on one external agencies resulting into concentration risks

ITSL shall assess these risks, depending on factors like the scope and materiality of the activity carried out by the external agency and shall have a risk management programme to enable sound and responsive risk management practices for effective oversight, due diligence and management of risks arising from the empanelment.

G. CONFIDENTIALITY

- a. ITSL shall take appropriate steps to cause the external agencies to protect the confidential information of both ITSL and its Clients from intentional or inadvertent disclosure to unauthorised persons and ensure that it is not misused or misappropriated.
- b. ITSL shall prevail upon the External Agencies to ensure that the employees of the External Agencies have limited access to the data handled and only on a "need to know" basis and the External Agencies shall have adequate checks and balances to ensure the same.
- c. In cases where the External Agencies is providing similar services to multiple entities, the intermediary shall ensure that adequate care is taken by the External Agencies to build safeguards for data security and confidentiality.

V. CONFLICT OF INTEREST POLICY

Securities Exchange Board of India (SEBI) vide its various circular has advised all the Trustee Companies to have a conflict of interest policy for appointment of external experts and advisers like Practicing Chartered Accountants, practicing Company Secretaries, Government approved Registered Valuers, practicing Advocates etc. for carrying out Due Diligence by debenture trustees before creation of security. In order to comply with the aforesaid provisions and to mitigate any conflict of interest arising between ITSL and External Agencies following process is being laid down:

- a. ITSL shall ensure that empaneled agency do not have pecuniary relationship with the issuer company 3 years prior to the issue.
- b. Engagement of the external agencies has to be from the approved Panel only.
- c. A line of confirmation /email or an undertaking in support of confirmation that there is no conflict of interest be obtained from the Issuer and external agencies and placed on record.
- d. Any addition/deletion to the approved Panel should be on regular basis and routed through Risk Management Committee and with the approval of MD & CEO.

VI. REVIEW OF POLICY

This Policy shall be reviewed annually and put up to Audit Committee followed by placing the same before the Board by Compliance Department.

ANNEXURE- I
OEPRATIONAL PROCEDURE

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VII. BACKGROUND

This operational circular provides a brief framework for the empanelment of external agencies for carrying out due diligence in terms of SEBI Circular dated November 03, 2020, continuous monitoring in terms of SEBI Circular dated November 12, 2020 and to comply with the provisions of SEBI Circular dated August 04, 2022, now superseded by SEBI Circular no. SEBI/HO/DDHS-PoD3/P/CIR/2024/46 dated May 16, 2024. It also covers mitigation of risks including conflict of interest arising out of empanelment of external agencies.

This operational procedure shall come into force from the date of approval of Board and it is to be read with the Empanelment of External Agencies Policy and Conflict of Interest Policy of ITSL (“Policy”)

VIII. SELECTION CRITERIA

The selection of external agencies can be categorised as under:

- Empanelment of External Agency on the panel of ITSL
- Selection of External Agency from the agencies empanelled on the panel of ITSL for the listed NCD issuances of Clients

The external agency to be selected for the listed NCD issuances of the clients shall be amongst the agencies empanelled on the panel of ITSL.

The selection of external agencies will be based on the following criteria:

SPECIFIC FACTORS:

h. Capability:

- Minimum 2 years’ experience in full time practice and Expertise of the external agency in the relevant field
- Assessing samples or other evidence of any previous work.
- References from existing users of similar services.
- Checking membership of a professional body or bodies.
- External Agencies’s resources and capabilities, including financial soundness, to perform the work within the timelines fixed;
- Market feedback of the prospective External Agencies’s business reputation and track record of their services rendered in the past, if required;

i. Compatibility:

- Compatibility of the practices and systems of the External Agencies with the Company’s requirements and objectives and maintenance of confidentiality

j. Consistency:

- Consistency with the terms of this policy and the agreement to be entered with ITSL

k. Compliance

- Compliance with privacy laws and applicable SEBI regulations and SEBI circulars issued from time to time
- Confirmation that the agency has no pecuniary relationship with the issuer company 3 years prior to the issue.

In addition to the above, the following specific factors is to be considered for selection of External Agency from the agencies empanelled on the panel of ITSL for the listed NCD issuances of Clients

- a) Conflict of Interest:
 - No pecuniary relationship with the issuer company 3 years prior to the issue.
- b) Concentration:
 - Level of concentration of the assignments with a single External Agency. Prior to assigning any transaction to an external agency it is required to be checked the number of consecutive transactions assigned to such agency to avoid over reliance on specific external agencies. Further, more than one professional belonging to the same category such as CA, CS, Advocate, Valuer etc. is to be empanelled as part of back up plan and for continuity of services if any empanelled professional becomes unavailable.
- c) Performance Review: performance of the empaneled professional shall, on quarterly basis, be evaluated based on the following parameters:
 - (i) Accuracy of the certificates issued.
 - (ii) adherence to the format prescribed by SEBI from time to time.
 - (iii) adherence to requisite timelines etc.

The list above is indicative and is not exhaustive. Additional details may be required on a case to case basis.

GENERAL FACTORS:

Following care should be taken by ITSL before empanelment of any external agency:

- a. ITSL shall ensure that the empanelment of any external agency neither diminish its ability to fulfil its obligations towards Clients and Regulators, nor impede effective supervision by the Regulators.
- b. ITSL shall ensure that such empanelment shall not affect the rights of an investor or client against ITSL in any manner.
- c. ITSL shall ensure that such empanelment shall not impair the ability of any regulatory authority or auditors to exercise its regulatory responsibilities such as supervision/inspection of ITSL.
- d. ITSL shall report of any suspicious transactions / reports to the Board of Directors, Regulators or any other competent authority in respect of activities carried out by the external agencies.

IX. APPROVAL MECHANISM

The Risk management Committee shall evaluate the profile of the external agencies in accordance with the aforesaid selection criteria and shall shortlist the external agencies for empanelment as put up by the Compliance Department.

The Risk management Committee shall then recommend the shortlisted external agencies to MD&CEO for empanelment on the basis of the foregoing selection criteria

X. WRITTEN CONTRACTS WITH EXTERNAL AGENCIES

ITSL's empanelment shall be governed by written contracts / agreements / terms and conditions/email confirmations (as deemed appropriate) {hereinafter referred to as "contract"} that clearly describe all material aspects of the empanelment including the rights, responsibilities and expectations of the parties to the contract, client confidentiality issues, termination procedures, etc. ITSL and empanelled External Agencies shall execute the engagement letters before assigning and entrusting any assignment/work.

XI. PRESERVATION OF CONTRACTS WITH EXTERNAL AGENCIES

All the letters, contracts/agreements with External Agencies to be preserved in accordance with the Document Handling and Retention Policy of ITSL.

XII. ASSESSMENT AND MITIGATION OF RISKS ASSOCIATED WITH EMPANELMENT

Empanelment of external agencies may expose ITSL to various risks. The key risks that may arise out of empanelment are:

- Reputation Risk - Poor service from the external agency, its client interaction may not be consistent with the overall standards of ITSL
- Operational Risk - Arising due to non-submission of timely reports/certifications, inaccurate or error in reports/certifications, inadequate resources to fulfill obligations and/or provide remedies.
- Compliance Risk – Non-compliance with privacy laws and applicable SEBI regulations/circulars, non-maintenance of confidentiality, false declaration, occurrence of conflict of interest, non-compliance with the terms of the contract with ITSL
- Concentration Risk – This could arise when activities of multiple intermediaries like ITSL are concentrated with a limited number of External Agencies or when there is a considerable exposure to one agency.

To enable sound and responsive risk management practices for effective oversight, due diligence and management of risks arising from the empanelment, the Risk management committee shall consider the following factors/principles that may include but not limited to:

- a. Compliance department shall review and evaluate the list of external agencies from time to time and shall place its recommendation to the Risk Management Committee for any additions or deletions from the list of external agencies. The Risk Management Committee shall place its recommendation to the MD & CEO for any revision in the list after proper due diligence.
- b. ITSL shall not empanel the agencies that would result in business conduct or reputation being compromised or weakened.

- c. Ability of ITSL to cope up with the work, in case of non-performance or failure by empanelled Agencies by having suitable back-up arrangements;
- d. ITSL shall establish and maintain a contingency plan for each empanelment, including a plan for disaster recovery and periodic testing of backup facilities.
- e. ITSL shall take appropriate steps to assess and address the potential consequence of a business disruption or other problems at the third-party level. Notably, it shall consider contingency plans at the External Agencies; co-ordination of contingency plans at both ITSL and the Empanelled Agencies;
- f. To assess that empanelled Agencies maintains appropriate IT security and robust disaster recovery capabilities.
- g. Retain an appropriate level of control over its empanelment activities and the right to intervene with appropriate measures to continue its business operations in such cases without incurring prohibitive expenses and without any break in the operations of the ITSL and its services to the clients.
- h. In the event of non-submission of timely reports/certifications or inaccuracy or error in delivering the reports/certifications by the external agency, the concerned external agency shall be blacklisted depending upon the frequency of occurrences of such errors/delays and another agency amongst the panel of empanelled agencies will be selected for the task. The agency shall observe high standard care in performing the tasks and effective completion of assignments.
- i. There could be potential risks posed where the activities of multiple intermediaries are concentrated with a limited number of External Agencies. In instances, where the External Agencies is empanelled with multiple intermediaries like ITSL, it is the duty of the External Agencies and ITSL to ensure that strong safeguards are put in place so that there is no co-mingling of information /documents, records and assets. For this purpose, before empaneling any external agency, ITSL shall obtain the list of such other intermediaries with whom the external agency is empanelled with.
- j. In order to avoid over reliance on one agency for multiple assignments, sufficient number of external agencies are to be empanelled and care should be taken that the assignments are to allotted in a reasonable and proportionate manner.
- k. In order to mitigate any conflict of interest arising between ITSL and External Agencies following process is being laid down:
 - e. ITSL shall ensure that empaneled agency do not have pecuniary relationship with the issuer company 3 years prior to the issue.
 - f. Any external agency is to be empanelled with ITSL only by way of approval mechanism prescribed in the policy and this operational procedure
 - g. A line of confirmation /email or an undertaking in support of confirmation that there is no conflict of interest be obtained from the Issuer and external agencies and placed on record.
 - h. Any addition/deletion to the approved Panel should be on regular basis and routed through Risk Management Committee and with the approval of MD & CEO.
- l. Any other step that the Risk Management Committee may deem appropriate to mitigate the risks associated with the empanelment of external agencies.

XIII. DEVIATION MECHANISM

Any deviation from the process set out in this operational procedure shall be very exceptional and only with prior approval of MD & CEO.

XIV. REVIEW OF OPERATIONAL PROCEDURE

This Operational Procedure shall be reviewed annually and put up to Audit Committee followed by placing the same before the Board by Compliance Department.
