

GUIDELINES FOR APPOINTMENT OF NOMINEE DIRECTOR

1. Introduction / Background:

IREDA is a financial institution and is engaged in financing Renewable Energy projects. In order to have successful implementation of projects being financed and to monitor the health of organization financed to ensure the recovery of loan dues, IREDA appoints Nominee Directors on the Board of Borrower concerns.

With this background, the policy and procedure being followed by IREDA has been examined in the light of changed business scenario of renewable energy projects and pros and cons experienced during last few years.

A) **Present Approved Policy**

The policy guideline for appointment of Nominee Director was originally approved by the Board of IREDA in its meeting held on 22-08-1990 (19th Board meeting). It was decided in the said meeting, inter-alia, to appoint Nominee Director in case "where some Special circumstances exists arise for vigilance of a closer watch on the operations of assisted concerns". **The Chairman / Managing Director was authorized by the Board for implementation / operation of the scheme including empanelment / appointment / removal of Nominee Director by designing suitable systems and procedures as being followed by other national and State Level financial institutions.** The policy guidelines inter-alia, provide as under:-

"The right to appoint Nominee Director by IREDA on the Board of assisted concerns is required to be reserved in the Loan Agreement entered into between IREDA and the assisted concerns. Such rights of appointment of nominee directors may be exercised by IREDA, generally, in the following circumstances:

- i) Where it is considered desirable to assist the management of the assisted concern by providing technical, financial and managerial expertise;
- ii) Where it is necessary to build up professional management and facilitate effective functioning of the board and / or it is otherwise necessary to broad base the board by inducting eminent and experienced persons in different fields.
- iii) Where some special circumstances exists or arise for vigilance or a closer watch on the operations of assisted concerns;
- iv) When defaults have occurred in the payment of principal and / or interest on IREDA's loan.
- v) IREDA may appoint its officials as well as non – officials as nominees on the Boards of their assisted Companies.

In the exercise of above delegated powers, a circular dated 21st August 2005 was issued, by Managing Director of IREDA giving detailed guidelines on the following: -

- Nominee Directors appointed on the Board of Directors of IREDA.
- Directors nominated and / or co-opted / elected on the Board of the Companies promoted / sponsored by IREDA.
- Guidelines to be followed in the office of IREDA.

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B) Practice being followed in the lines of guidelines:-

- i) IREDA funds various types of borrowers viz. Companies; Societies; Co-operative Societies; Partnership firms; Municipal Corporation; proprietorship concerns, Trusts, etc. The Nominee Director can be appointed only in the case of Companies incorporated under the companies Act, 1956 which has a Board of Directors.
- ii) IREDA has restricted appointment of Nominee Director(s) in the case of projects set up with its assistance involving manufacturing activities and not in the case of projects involving installation of solar water heating systems, bio-gas generation equipments.
- iii) In some of the projects where promoters had requested exemption from such type of appointment by IREDA, on consideration the right of appointment has still been reserved in following circumstances:-
 - Where some special circumstances exists or arise for vigilance or a closer watch on the operations of assisted concerns;
 - When defaults have occurred in the payment of principal and / or interest on IREDA's loan.
- iv) The issues relating to Nominee Director are examined by a Committee. The final decision for appointment of a Nominee Director is taken by the Managing Director.
- v) The Project Technical Services Department initiates action in the matter of appointment of Nominee Directors on the Board of Borrower concern, depending upon the need / size / policy guidelines of IREDA. After the decision is taken to appoint Nominee Director the file is sent to legal group, which issues the letter of appointment.

C) Statutory Requirement

The assisted company will take all requisite steps/provisions for nominating a Director by IREDA on the Borrower's Company.

D) Source of Right to appoint Nominee Director

The right to appoint Nominee Director on the Board of Borrower flow from the rights reserved in the Loan Agreement.

E) Objective of Appointment

The objective of such nomination is to monitor the performance of the Borrower/concern besides extending co-operation either for implementation of the project within approved time and cost frame and to ensure repayment of IREDA's dues.

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Amended Guidelines:

Business scenario, opportunity in renewable energy sector, participation of large/medium existing corporate sector, etc. are changing very fast besides increase of quantum of loan per project.

In the light of the above, following amended guidelines have been prepared and enclosed herewith.

- Criteria for selection of Nominee Director for IREDA's funded projects (Annexure-1)
- Procedure for appointment of Nominee Directors (Annexure-2)
- Terms and conditions of appointment of Nominee Directors (Annexure-3)
- Projects to be considered for appointment of Nominee Director (Annexure-4)
- Operational Guideline (Annexure-5)

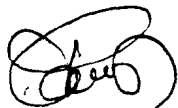
Effectivity of the Guideline:

Guideline will be effective immediately after approval.

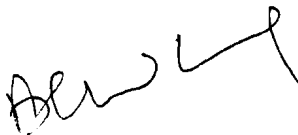
4. Various action to made the guideline operational:

Legal / PTS Deptt. will incorporate suitable clause (regarding right to nominate Nominee Director, provision of payment to Nominee Director by project promoter, commission, if any, to be paid directly to IREDA & not to the Nominee Director etc.

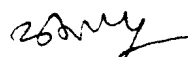
Legal Deptt. will notify terms & conditions of appointment of Nominee Director while sending the appointment letter.



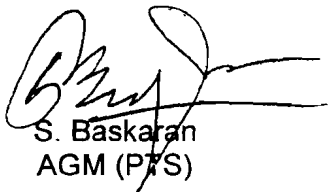
Ishwar Madiwal
AM (FS)



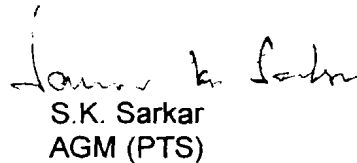
A.B. Kiran
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AGM (PTS)



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Annexure: 1

Criteria for selection of Nominee Director for IREDA funded Projects

No.	Selection Parameter	Selection Criteria
1.	Eligibility	<p>Any person with professional degree like Engineering, Chartered Accountancy, Cost Accountancy, Management, Law degree or any other professional qualification in or out of IREDA will be considered eligible for appointing Nominee Director on the Board of assisted concern.</p> <p>Eligibility condition may be relaxed for any exceptionally qualified/experienced including IAS/IPS officials (retired or in service).</p>
2.	Experience	<p>Preferably the concerned person will have exposure in the financial institution or in a factory or in a Govt. institution/organisation or be professionals with preferable exposure in the Renewable Energy field.</p> <p>Concerned person may be in the service or retired from the service or in the professional practice.</p>
3.	Age	<p>Preferably below 65 years. However, in case of exceptionally qualified/ experienced person, the age criteria will be relaxed.</p>
4.	Tenure of appointment	<p>The initial appointment will be for 3 years generally. After every three years it will be reviewed in IREDA. (Suitable clause to be incorporated in the letter of appointment, if necessary for removal of appointed nominee director at any time will need to be worked out by legal group).</p> <p>Nominee Director will have the right to request IREDA for withdrawal of his nomination for any reason/circumstances known to him and his request will be considered in IREDA.</p>

Procedure for appointment of Nominee Director

Procedural Parameter	Appointment Procedure	Responsibility
Panel of Nominee Directors	<p>The panel of Nominee Directors being maintained by IREDA will be updated with the following:-</p> <p>A list of Nominee Directors from the Banks/Financial Institutions like IDBI, IFCI, ICICI Bank, PFC and other similar financial institutions and Institute of Company Secretaries of India and Institute of Chartered Accountants of India can be obtained and suitable persons can be identified from and out of the said panel by Committee appointed for the purpose the empanelment will be made based on approved criteria.</p> <p>If any Bio Data or letter of inclination to work as Nominee Director is received from any person the same can be examined by the Committee on the updation of panel and the suitable persons' names can be included.</p>	<p>The names of the Personnel / Officials will be considered for empanelment by a Sub-Committee consisting of:</p> <ol style="list-style-type: none"> 1. CGM (TS) 2. Concerned Group Head 3. DGM (FS) 4. M (Law) <p>Legal Group</p>
2. Selection criteria and Appointment	<p>Depending on the nature of the project and a quantum of loan, concerned group of PTS Deptt. will identify the suitable person(s) from the panel and nominate him on the Board of Directors of the company.</p>	<p>PTS Dept. will nominate suitable personnel as Director and put up before the Committee. In case of delay in conducting of Committee Meetings, MD approval will be obtained in file and finally put up before the Committee for ratification.</p> <p>Approving authority will be the MD.</p> <p>PTS Department</p>

		<p>On approval, IREDA will send an invitation letter to have the consent of person proposed for appointment of nominee Director.</p> <p>On receipt of consent letter, Appointment letter will be issued by IREDA. While sending the Appointment letter, IREDA may send guidelines for the use of Nominee Director containing functions, legal aspects relating to meetings and Directorship, Reporting by Nominee Directors etc.</p>	<p>PTS Deptt.</p> <ul style="list-style-type: none">a) IREDA has an approved draft letter of appointment.b) Legal Group may work out the guidelines for sending to the Nominee Directors.c) Suitable clause for removal will also need to be worked out.
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Terms and Conditions of Appointment of Nominee Director

No.	Parameter	Terms and Conditions
	Tenure of Appointment	The initial appointment will be for 3 years generally if otherwise not specified with a right to withdraw the nomination depending upon the circumstances
	Responsibility	<p>i) He shall ensure that Articles of Association have been amended to provide for IREDA's Nominee on the Board of Directors of the Borrower and that Nominee Director of IREDA is not liable to retire by rotation, unless he is withdrawn by IREDA.</p> <p>ii) To advise the company for implementation of the project within time/cost framework approved by IREDA. To keep close watch on the capital expenditure on various head is as per the scheme approved by IREDA</p> <p>iii) To share his professional knowledge/experience for smooth functioning of the company.</p> <p>iv) To attend the Board Meeting and ensure :</p> <ul style="list-style-type: none"> • Statutory compliance close watch and coordination with Nominees of other institutions on Board. • Status of payment of dues to IREDA • Compliance with formalities as required as per the Company Law Board. • To note physical and financial performance/status with respect to projection made for the quarter/year. • To enquire about the reason for shortcomings of the performance of the company, if any. <p>Immediately after the Board Meeting he will submit the Report to IREDA.</p> <ul style="list-style-type: none"> • He will send a Flash Report if circumstances so exist for immediate information. • He will attend the meeting organized by IREDA as and when such request will be made to him by IREDA. • He will maintain cordial relationship with the company. • He will not avail any undue advantage from the company due to this appointment. • He will perform any other duty as and when he will be requested to do so by IREDA. <p>Nominee Director though will not interfere in day to day affairs of management of the Company, he is excepted to keep close watch about the affairs of the Company by attending meetings regularly and if he gets wrong signals about the progress of the project and about the affairs of the Company, he should keep IREDA informed, so that timely action is taken by IREDA.</p>

		<p>Nominee Director should as far as possible ensure that no resolution is passed authorizing creation of other charges on the assets already charged to IREDA unless IREDA's approval in writing has been obtained, and the transfer of shares by the promoters / directors, declaration of dividends when the Company is in default of IREDA's dues.</p> <p>He should not allow any proceedings to be taken up by the company against the Companies Act, Provident Fund Laws and Factory Act and other relevant Laws.</p>
3.	Remuneration/Honorarium / Commission	<p>He will not receive any remuneration. However he will receive following :</p> <ul style="list-style-type: none"> • Sitting fee not less than Rs.2500/ for attending the Board Meeting • Conveyance allowance • Boarding and Lodging arrangement/allowance <p>The concerned company will be advised to organize/pay above to the Nominee Director. In case of non receipt of above from the company, IREDA will reimburse the above.</p> <p>If his services are requested by IREDA for attending any special meeting or for any purpose, he will be paid conveyance/traveling allowance, TA/DA etc.</p> <p>His entitlement for conveyance, boarding & lodging charges will be equivalent to the entitlement of General Manager of IREDA (In case of IREDA officials, as per entitlement).</p> <p>Any amount payable to such Directors in the nature of Bonus, Profit or any other remuneration in any form shall accrue in favour of IREDA and accordingly such amounts, if paid by the company to the Nominee Director, will be remitted to IREDA within 15days from the receipt of such payment</p>
4.	Withdrawal of nomination/ Resignation in NPA accounts nomination will be withdrawn on filing of Recovery proceedings. Intimation of action under SARFAESI Act / Filing of winding up petition by IREDA or filing of reference by Company before BIFR.	<p>IREDA will have the right to withdraw the nomination at any time depending on the circumstances.</p> <p>Nominee Director on his own also can tender his resignation to be considered at IREDA.</p>
	Dispute between the Nominee Director & the company	IREDA will not be responsible for any dispute arising due to his conduct beyond the scope of his act as Nominee Director.

Projects for nomination of IREDA's representative on the Board of the Company 323

S. No.	Project Parameter	Remarks
1.	Independent Power Producing Projects	<p>All IPP projects irrespective of loan amount will be considered for nomination.</p> <p>IPP with following criteria can be exempted from nomination on receipt of a written request :</p> <ul style="list-style-type: none"> • IPP projects promoted by Public Sector Undertakings (PSU/PSE). • IPP projects promoted by a company whose turnover is not less than Rs.500.00 crores with net profit and dividend payment record for the last three years and the company is listed in the stock market with market capitalization of Rs.100 crores.
2.	IREDA's Loan Exposure	All Projects (except IPP projects) with IREDA's loan of Rs. 15.00 crore (to the company or in total to the group companies) and above can be considered for nomination.
3.	Nature of Projects exempted for nomination	<p>Following category of projects will be exempted from nomination (other than projects at Sr. No 1) :</p> <ul style="list-style-type: none"> • Already exempted by other Financial Institutions having more exposure than IREDA and, unless otherwise the circumstances so warrants. <li style="text-align: center;">Or • Company whose turnover is more than Rs.500.00 crore with net profit and dividend payment record for the last three years and the company is listed in the stock market with market capitalization of Rs.100 crores. <li style="text-align: center;">Or • Repeat Company where Nominee Director was not stipulated earlier. <li style="text-align: center;">Or • Repeat Company (with 3 times main loan exposure to earlier loan) <li style="text-align: center;">Or • Any other case where justifiable reasons exist. <p>(Approval of the Committee shall be obtained by PTS, in all the above cases where Nominee Director is not to be appointed). In case of any delay in conduct of meeting of Committee, MD approval will be obtained to be ratified by Committee.</p>

Note:

- IREDA will reserve its right for nomination of its representative on the Board of the company in all projects except the projects promoted by PSU/PSE directly or through IPP mode.
- All the existing guidelines other than the above will remain in force.
- The above is subject to financial guidelines.

Operational Guideline for Appointment of Director

S.No.	Activities	Responsibility/ Authority
1.	Procedure for appointment of Nominee Director	As detailed at Annexure : 2
2.	Payment of Sitting Fee/TA&DA	<p>It is the responsibility of the company to make such payment. If not paid IREDA will make the payment as per the guideline and debit the expenses to the account of the Borrower.</p> <p>However, IREDA will bear the expenses if his services are availed for some purpose other than his scope as nominee director.</p>
3.	Modification of the Guideline	MD,IREDA
4.	Maintenance of Records relating to Appointment, Panel and withdrawal	Legal Dept
5.	Nomination, obtaining consent, decision to appoint & withdrawl. Review of performance and examination of reports	PTS Department