

SYNOPSIS

SCHEME OF ARRANGEMENT BETWEEN NATIONAL SPOT EXCHANGE LIMITED AND SPECIFIED CREDITORS

I. Background

1. National Spot Exchange Limited (hereinafter referred to as ("NSEL") was incorporated on 18.05.2005 as a public limited company.
2. NSEL operated an electronic spot exchange platform for commodity trading. A Gazette Notification dated 05.06.2007 exempted "forward contracts of one-day duration" on NSEL's platform from FCRA provisions, subject to conditions. NSEL framed its Byelaws and Rules accordingly, and trading commenced in October 2008.
3. The payment defaults on the NSEL exchange platform in August 2013 led to widespread litigation involving multiple stakeholders, including traders, brokers, and NSEL's parent company, 63 moons technologies limited. (hereinafter referred to as "63 moons"). The traders, who suffered loss due to the default ("**Traders**"), have ongoing claims that remain disputed, particularly by NSEL, 63 moons, and associated entities. Litigation proceedings have remained pending for more than 11 years.
4. The claims of Traders who had receivables in respect of their trades on NSEL platform upto Rs.10 lakhs have been settled from time to time and have been fully paid. The present Scheme is a Scheme of arrangement between NSEL and those Traders who had claims in excess of Rs. 10 lakhs ("**Specified Creditors**").
5. NSEL Investors Forum ("NIF") as a representative of the Specified Creditors, NSEL and 63 moons came together to find a solution to ensure substantial resolution of the outstanding dues of the Specified Creditors through the mechanism of the present Scheme.
6. On account of these deliberations amongst NIF, NSEL and 63 moons, an understanding has been arrived at that if a one-time settlement amount of Rs. 1,950 crores were to be paid by 63 moons and NSEL to the Specified Creditors, then the Persons in 63 moons Group (as defined in the Scheme) shall stand released and discharged from all Specified Creditors' Claims (as defined in the Scheme) as set out in Clause 19 and further that the Specified Creditors shall assign the Specified Creditors' Claims to 63 moons. A proposal was put forth by NIF to 63 moons and NSEL vide letter dated 08.11.2024.
7. Under the terms of the proposed settlement, the Rs. 1,950 crores will be distributed to all Specified Creditors in proportion to their outstanding claims as of 31.07.2024. There will be no preferential treatment or graded payments; instead, all Specified Creditors will receive their dues on a pro-rata basis.
8. Since NIF does not represent all Specified Creditors, an online voting mechanism was conducted through the website www.nsel-ots.in to gauge support for the settlement. A majority 3,088 creditors, representing approximately 64.11 % of the outstanding claims voted in favour of the one-time settlement. NIF confirmed vide its letter dated 13.12.2025 to NSEL thereby providing data regarding the poll arranged by NIF and *inter alia* informing that 3088 investors (denoting value of claims of Rs. 2951.85 crores) consented to the one-time settlement proposal.

9. Thereafter, it was proposed to proceed with a formal Scheme of Arrangement under Section 230 of the Companies Act, 2013, to ensure a legally binding and enforceable settlement. The Board of Directors of NSEL approved the Scheme of Arrangement by way of a resolution passed in the meeting of Board of Directors on 18.02.2025.
10. Accordingly, the present Scheme of Arrangement was filed before the National Company Law Tribunal, Mumbai by way of Company Application No. 65/MB/2025.

II. Reliefs/Concessions Sought:

1. The Scheme seeks several reliefs and concessions to facilitate the settlement of claims of the Specified Creditors and the release of attached properties. These include:
 - a. The Scheme seeks a one-time settlement of the Specified Creditors' Claims.
 - b. After the Approval of the Scheme by the Statutory Majority and by the NCLT, the Scheme contemplates the release of properties attached and / or restrictions on properties under the MPID Act, PMLA, and other legal proceedings. This includes financial assets of 63 moons and NSEL, such as bank accounts, fixed deposits, mutual funds, and bonds.
 - c. Distribution of the Settlement Amount to be conducted by the Escrow Agent under the supervision of the Monitoring Authority (Justice S.C. Gupte, retd. Judge of the Bombay High Court.)
 - d. Upon the Settlement Trigger Event, all liabilities of 63 moons and Persons in the 63 moons Group towards the Specified Creditors' Claims will be discharged. This includes any claims arising from the Payment Default or transactions executed on the exchange platform of NSEL
 - e. Upon the Settlement Trigger Event (the date the Escrow Agent makes any payment to Specified Creditors), all Specified Creditors' Claims will automatically stand assigned to 63 moons.
 - f. After the Settlement Trigger Event, Specified Creditors shall not pursue any legal proceedings against the Persons in 63 moons Group, Consenting Brokers, or Consenting Brokers' Associates regarding the Payment Default.
 - g. Specified Creditors shall consent and not oppose the quashing/compounding/dismissal/discharge of criminal proceedings against the Persons in the 63 moons Group (excluding certain individuals) and the Consenting Brokers after the Settlement Trigger Event.
 - h. Specified Creditors shall inform all relevant authorities (excluding judicial and quasi-judicial) of the implementation of the Scheme and withdraw requests for action against the Persons in 63 moons Group, Consenting Brokers, and Consenting Brokers' Associates after the Settlement Trigger Event.
 - i. Specified Creditors will need to provide necessary details and cooperate in the implementation of the Scheme.
2. The Scheme requires the fulfilment of several conditions related to ongoing proceedings before various authorities for it to become effective. The Scheme necessitates the withdrawal or disposal

of various legal proceedings against NSEL, 63 moons, and other associated parties. This includes civil suits, proceedings under the MPID Act, PMLA, and proceedings initiated by the SFIO among others. These include:

- a. **MPID Court:** Disposal of applications against the Persons in 63 moons Group, releasing attached properties/money, directions to transfer the entire amount lying with the Competent Authority to the Settlement Account, and directions that future recoveries be distributed to 63 moons as assignee.
- b. **Enforcement Directorate (ED):** Allowing appeals filed by 63 moons and Jignesh Shah and dismissal of Criminal Appeal filed by Enforcement Directorate before the Bombay High Court resulting in the release of all properties of 63 moons from attachment, issuance of letters to transfer funds and liquidate assets into the Settlement Account, and directions that future recoveries be distributed to 63 moons as assignee.
- c. **Bombay High Court:** Disposal of various civil suits, more particularly detailed in the Scheme granting liberty to 63 moons as assignee to pursue claims against defendants other than the Persons in the 63 moons Group, release of amounts in the NSEL Escrow Account and money recovered from NAFED to the Settlement Account.
- d. **Supreme Court:** Disposal of Civil Appeals pending in the Hon'ble Supreme Court by setting aside the order dated 12.03.2020 passed by the NCLAT and without any adverse orders against the Appellants therein in relation to the proceedings under Section 397 Petition filed under Sections 397 and 398, 388B, 388C, 401, 402, 403, 406, 408 of the Companies Act, 1956
- e. **National Company Law Tribunal (NCLT):** Disposal of the Company Petition filed by the SFIO under Sections 241, 246 read with Section 339 of the Act without granting any reliefs.

III. Consideration Payable to Specified Creditors:

1. The Settlement Amount payable to the Specified Creditors is Rs. 1950 crores.
2. This amount will be distributed to the Specified Creditors in proportion to their outstanding claims as on 31.07.2024. There will be no preferential payments.
3. The Settlement Amount will be sourced from various financial assets and recoveries, including:
 - Financial assets of 63 moons, such as bank accounts, fixed deposits, mutual funds, and bonds
 - Financial assets of NSEL, including bank accounts, fixed deposits, and mutual funds
 - Money recovered from Defaulters by the State Government under the MPID Act
 - Money lying in the registry of the Bombay High Court and the NSEL Escrow Account
 - Money recovered by the Supreme Court Committee
4. The payout percentage is approximately 41.94% of the assumed total outstanding amount as of 31.07.2024 (Rs. 4650 crores).

IV. Appointment and responsibilities of the Monitoring Authority and the Escrow Agent

1. The Monitoring Authority with the assistance of Escrow Agent, who shall be acting in accordance with the directions of the Monitoring Authority, inter alia shall be responsible for:
 - a. Overall supervision and monitoring of the implementation of the Scheme after the Appointed Date;
 - b. The distribution of Settlement Amount through the Settlement Account and;
 - c. Acting as a custodian of the release letters of the properties / assets to be released from attachment till the Settlement Trigger Event in the manner provided in the Scheme.
2. It is clarified that at no point in time shall the operation of the Settlement Account be in the hands of Persons in 63 moons Group. The Escrow Agent under the overall supervision and monitoring of the Monitoring Authority shall have the control for withdrawal and transfer of any funds from the Settlement Account.

V. Manner and Timelines of Payment: The payment process involve several steps:

1. **Opening of Settlement Account:** An account will be opened and managed by the Escrow Agent under the supervision of the Monitoring Authority. This account will be used to deposit the Settlement Amount and distribute it to the Specified Creditors
2. **Deposit of Settlement Amount:** The Settlement Amount will be deposited into the Settlement Account from various sources, including released properties and funds. The Escrow Agent will ensure that the entire Settlement Amount is deposited before any distribution is made
3. **Distribution to Specified Creditors:** The Settlement Amount will be distributed to the Specified Creditors on a pro-rata basis after the entire amount is deposited in the following manner:
 - i. For Specified Creditors where reconciliation of their outstanding balance as of 31.07.2024 is complete and all required details (bank account, KYC documents) are provided, 41.94% of the reconciled amount will be paid within seven working days from the deposit of the entire Settlement Amount in the Settlement Account.
 - ii. For Specified Creditors where reconciliation or documentation is pending, payments of 41.94% of the reconciled amount will be made on the last Friday of every calendar month (or the preceding day if it's a holiday) after the Settlement Trigger Event, for a period of six months.
 - iii. Thereafter, payouts for such remaining creditors will be made quarterly for one year, and then every six months.
 - iv. Once the reconciled outstanding amounts cross 95% of Rs. 4650 crores, there might be an additional pro-rata payout to the Specified Creditors if the total reconciled balance is lower than Rs. 4650 crores.
 - v. After three years from the Settlement Trigger Event, any remaining balance in the Settlement Account will be transferred to the Competent Authority for those Specified Creditors to whom payouts have not been made, and no excess claims will be entertained.

VI. Conditions Precedent to Payment:

The Effective Date of the Scheme, which is when the Scheme comes into effect, is the date on which the last of all the conditions stipulated in Clause 14 (related to the disposal of various proceedings and release of attachments) is fulfilled, unless waived by 63 moons. Several conditions must be fulfilled for the Scheme to become effective which is as follows:

- i. Court Orders:** Specific court orders must be obtained to facilitate the release of funds and properties. This includes orders from the Bombay High Court, MPID Court, and other relevant authorities.
- ii. Release of Attachments:** Various properties attached under the MPID Act, PMLA, Civil Suits, and other legal proceedings must be released so they can be utilized for the Settlement Amount. This includes obtaining letters from the Competent Authority, EOW, and Enforcement Directorate for the release of attached properties and transferring the amounts to the Settlement Account
- iii. Withdrawal of Legal Proceedings:** Various legal proceedings against NSEL, 63 moons, and associated parties must be withdrawn or disposed-of and it is a prerequisite for the release of the Settlement Amount. This includes civil suits, proceedings under the MPID Act, PMLA, and proceedings initiated by the SFIO among others.
- iv. Deposit of Entire Settlement Amount:** Deposit of the entire Settlement Amount of Rs. 1950 crores into the Settlement Account is necessary before the major distribution to Specified Creditors can occur. The funds for this will come from various sources including attached financial assets, recoveries from Defaulters, and potentially borrowings by 63 moons.
- v. Satisfaction of Conditions Affidavit:** An affidavit confirming the satisfaction of all conditions must be filed by NSEL and/or 63 moons. This affidavit will trigger the process for the release of properties and monies as contemplated in the Scheme

Note:- Kindly refer to the Scheme for defined terms.