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ABOUT SES

Stakeholders Empowerment Services (SES) is a Corporate Governance research and advisory firm. SES assists investors to analyze governance practices including matters relating to sustainability, prevalent at listed entities and empower Investors to undertake meaningful engagement with Investee entities.

SES SERVICES

E-BRSR Tool: Online web-based platform to create BRSR Report by the Company and generate XBRL in seamless, cost and time effective manner

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Contact for Demo –

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SES AIMS:

Designed primarily for Institutional investors to carry out their stewardship activities in an efficient manner.

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Proxy Advisory:

Advises investors on the matters that require shareholder approval at listed entities and identify Governance issues. [Read More](#)

ESG Scores:

Analyze sustainability initiatives of Companies based on various environmental, social and governance factors.

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Corporate Governance Score (CGS):

CGS model measures the Company's compliance and also evaluates the governance practices with respect to global benchmarks. [Read More](#)

E-Ballot:

One stop solution for investors – Online Vote Management System to cater to requirements of Institutional Investors. [Read More](#)

Proxy Advisory Report (Addendum) Deepak Fertilisers & Petrochemicals Corporation Ltd.

COMPANY INFORMATION

BSE CODE: 500645

NSE SYMBOL: DEEPAKFERT

ISIN: INE501A01019

Industry: Commodity Chemicals

Email: investorgrievance@dfpcl.com

Phone: +91-20-66458000

Registered Office: Sai Hira, Survey No. 93, Mundhwa, Pune - 411 036

MEETING DETAILS

Meeting Type: PB

Voting Deadline: 29th April, 2023

Notice Date: 24th March, 2023

Notice: [Click here](#)

Annual Report: [FY 2021-22](#)

SES PA Report (Last AGM): [Report](#)

Main Report: [Link](#)

E-VOTING DETAILS

e-Voting Platform: [KFintech](#)

Cut-off Date: 24th March, 2023

Remote E-voting:

- **Start:** 31st March, 2023
- **Ends:** 29th April, 2023

ADDENDUM REPORT RELEASE DATE: 16th April, 2023

RESEARCH ANALYST: Pranav Shah

CONFLICT DISCLOSURE: SES - No Conflict | Analyst - No Conflict



ADDENDUM

This Addendum is being issued based on the e-mail dated 14th April, 2023 sent by Deepak Fertilisers & Petrochemicals Corporation Ltd. ('the Company') w.r.t. Proxy Advisory Report ('[PA Report](#)') issued by SES in relation to the upcoming PB of the Company having e-voting deadline on 29th April, 2023.

There is no change in any of SES recommendations.

BACKGROUND

SES, as per its policy, had e-mailed its PA Report to the Company on 12th April, 2023 in respect of upcoming PB of the Company with e-voting deadline on 29th April, 2023.

Post release of PA Report, SES received an email from the Company providing its view point, which is reproduced at the last in **blue text** along with the SES Response (**in black**).

It may be noted that the email of the Company (as per SES policy framed to comply with SEBI Circular dated 3rd August, 2020 [SEBI/HO/IMD/DF1/CIR/P/2020/147](#)) has already been forwarded to SES clients 'as it is', without any inputs from SES on 15th April, 2023. This Addendum provides appropriate responses of SES, wherever required.

SES COMMENTS ON COMPANY'S RESPONSE

Resolution No. 1: Re-appointment of Mr. Bhuwan Chandra Tripathi as an Independent Director of the Company.

Company's Response:

The Board of Directors of the Company at its meeting held on 2nd February 2023 based on the recommendation of Nomination and Remuneration Committee and considering his skills, experience and knowledge had approved the re-appointment of Mr. Tripathi as an Independent Director of the Company for the Second term of 5 consecutive years commencing from 13th February, 2023 subject to the approval of the shareholders.

Re-appointment of Mr. Tripathi on the Board has been done on 2nd February, 2023, which is prior to the last date of conclusion of his first tenure i.e. 12th February, 2023, for a period of 5 years w.e.f. 13th February, 2023 subject to approval of the shareholders. The Section 149(10) of the Companies Act, 2013 does not provide for prior approval of the shareholders for a second term, it requires that the appointment of Independent Director for a second term on the Board of the Company shall be done by passing a special resolution.

As rightly mentioned in the report, Mr. Tripathi has decades of relevant industry knowledge as well as top leadership experience and continuation of his role as Independent Director on the Board is critical and therefore the Management strongly recommends his appointment to the shareholders.

The process followed by the Company for re-appointment of ID subject to approval of the shareholders is a standard practice.

SES Comment: It may be noted that, Guidance Note on Independent Directors issued by the Institute of Companies Secretaries of India (ICSI), has addressed the issue regarding re-appointment of Independent Directors

Relevant extract of the Guidance Note is reproduced herein below for immediate reference:

"If the shareholders' approval by special resolution for his *reappointment for second term is not taken as on the last date of the first term*, then such Independent Director cannot be re-appointed by Board as an Additional Director for second term, as he does not possess the eligibility to get reappointed for second term and hence, *he ceases to be a director at the end of his first term.*"

In the present case, the term of Mr. Bhuwan Chandra Tripathi has already ended on 12th February, 2023, therefore, he has ceased to be director of the Company unless re-appointed by the shareholders **prior to his term coming to end.**



Meeting Type: Postal Ballot

Voting Deadline: 29th April, 2023

Therefore, SES does not agree with the interpretation of the Company and reiterates its view. **However, shareholders may take note of the Company's email and take an informed decision.**

Resolution No. 5: Re-appointment of Mr. S. C. Mehta as Chairman and Managing Director of the Company.**Company's Response:**Concentration of Power in the Hands of a single person

Section 179 of the Board of Directors of the Company provides that the Board of Directors of a company is entitled to exercise all such powers and to do all such acts and things as the company is authorised to exercise and do. The Chairman and Managing Director of the Company subject to the superintendence, control and direction of the Board of Directors of the Company, has powers and authorities for the general conduct and management of the business and affairs of the Company through an agreement entered between the Company and the CMD and under Articles of the Company, except in the matters which are specifically required to be done by the Board either under the Companies Act, 2013 or under the Articles of Association of the Company.

The Board of Directors of the Company comprises of one executive director, 2 non-executive non independent directors and 8 Independent Directors and as such consist of majority of Independent Directors. All the decisions taken by the Board are well deliberated and represent collective and independent decision. Accordingly it would be a misstatement to say that there is concentration of power in the hands of a single person, since the Board of Directors of a Company is the governing body and the Chairman and Managing Director derives its powers and authorities from the Board.

Moreover, SEBI vide the SEBI (Listing Obligations and Disclosure Requirements) (Second Amendment) Regulations, 2022, w.e.f. 22.3.2022 has done away with the requirement of separation of position of Chairman and Managing Director. Management is of the view that omission of this provision depicts non criticality of the issue.

Most of the powers delegated to the Management team are being exercised by an internal board collectively consisting of Presidents of all business, sectors, collectively or as per the approved Charter on Delegation of Authority "DOA".

SES Comment: SES as a policy raises concern regarding the appointment/ re-appointment/ remuneration of the appointee in case the person is holding the dual position of chairman & ED/MD.

Further, the concern raised by SES with respect to dual position held by Mr. S. C. Mehta is purely on **governance basis**. SES would like to reiterate that, although, **there is no legal bar** on the Chairman of the Company from holding Executive position, SES is of the view that the Company should have separated the position since combining both the positions may lead to concentration of powers in the hands of a single person.

The Company has not placed any absolute cap neither on commission nor on the overall remuneration (including commission) payable to him

The Industry in which the Company operates is quiet dynamic and experiences high volatility in the raw material prices. The remuneration payable to CMD of the Company apart from fixed salary is dependent on the profits for a particular financial year based on the profits calculated as per the provisions of section 197 and 198 of the Companies Act, 2013. It is difficult for the Company to contemplate the profit for each of the FY over the five year period for which the CMD is appointed at the time of appointment/ re-appointment.

Accordingly, the NRC and Board, based on the profits of the Company for a particular financial year, decides the quantum of commission payable to CMD depending on the performance/ profits of the Company for that financial year. The remuneration payable to CMD by way of basic salary and other perquisites and allowance has been capped as specified in the explanatory statement of Item no.5 of the postal ballot notice.

The overall remuneration payable to CMD has been capped at ten percent of the net profits of the Company calculated in accordance with the provisions of Section 197 of the Companies Act, 2013. Further, the Board has been authorised to alter or vary the terms and conditions of the said re-appointment including remuneration within the overall limit of ten percent to be approved by the Shareholders."



Meeting Type: Postal Ballot

 Voting Deadline: 29th April, 2023

Since the Company is in a strong growth mode and requires extensive efforts from everyone including CMD putting any restrictive clause is not desirable.

SES Comment: SES would like to reiterate that in the proposed remuneration package of Mr. S. C. Mehta, no absolute/ relative cap has been placed by the Company on the overall remuneration payable to him. In the absence of any absolute cap, the Board shall have discretion to fix the variable pay with no absolute upper limit, which according to SES defies the very purpose of seeking shareholders' approval.

SES is of the opinion that the Company must place absolute cap either on variable component or the overall remuneration (including variable pay) for the shareholders to take informed decision. Although, no concern has been identified with respect to the profile of the appointee, however, in view his dual position and absence of absolute cap on the proposed remuneration, SES raises a governance concern for the proposed resolution.

Therefore, there is no change in SES Analysis, however, **shareholders may take note of the Company's email and take an informed decision.**

COMPANY'S EMAIL

Dear ***,

It was pleasure speaking with yourself. As discussed, please find attached Deepak Fertilisers' Management response to some of the observations raised by yourself for item no. 1 and item no. 5 of the postal ballot notice. Requesting you to kindly take below responses into consideration and republish the report on priority basis.

SES Observations	Management Responses
Approval of Shareholders for re-appointment of Mr. B C Tripathi as an Independent Director of the Company for a second term of 5 years not obtained prior to end of his first term.	<ul style="list-style-type: none"> The Board of Directors of the Company at its meeting held on 2nd February 2023 based on the recommendation of Nomination and Remuneration Committee and considering his skills, experience and knowledge had approved the re-appointment of Mr. Tripathi as an Independent Director of the Company for the Second term of 5 consecutive years commencing from 13th February, 2023 subject to the approval of the shareholders. Re-appointment of Mr. Tripathi on the Board has been done on 2nd February, 2023, which is prior to the last date of conclusion of his first tenure i.e. 12th February, 2023, for a period of 5 years w.e.f. 13th February, 2013 subject to approval of the shareholders. The Section 149(10) of the Companies Act, 2013 does not provide for prior approval of the shareholders for a second term, it requires that the appointment of Independent Director for a second term on the Board of the Company shall be done by passing a special resolution. As rightly mentioned in the report, Mr. Tripathi has decades of relevant industry knowledge as well as top leadership experience and continuation of his role as Independent Director on the Board is critical and therefore the Management strongly recommends his appointment to the shareholders. The process followed by the Company for re-appointment of ID subject to approval of the shareholders is a standard practice.
Concentration of Power in the Hands of a single person	<ul style="list-style-type: none"> Section 179 of the Board of Directors of the Company provides that the Board of Directors of a company is entitled to exercise all such powers and to do all such acts and things as the company is authorised to exercise and do. The Chairman and Managing Director of the Company subject to the superintendence, control and direction of the Board of Directors of the Company, has powers and authorities for the general conduct and management of the business and affairs of the Company through an agreement entered between the Company and the CMD and under Articles of the Company, except in the matters which are specifically required to be done by the Board either under the Companies Act, 2013 or under the Articles of Association of the Company.

	<ul style="list-style-type: none"> · <i>The Board of Directors of the Company comprises of one executive director, 2 non-executive non independent directors and 8 Independent Directors and as such consist of majority of Independent Directors. All the decisions taken by the Board are well deliberated and represent collective and independent decision. Accordingly it would be a misstatement to say that there is concentration of power in the hands of a single person, since the Board of Directors of a Company is the governing body and the Chairman and Managing Director derives its powers and authorities from the Board.</i> · <i>Moreover, SEBI vide the SEBI (Listing Obligations and Disclosure Requirements) (Second Amendment) Regulations, 2022, w.e.f. 22.3.2022 has done away with the requirement of separation of position of Chairman and Managing Director. Management is of the view that omission of this provision depicts non criticality of the issue.</i> · <i>Most of the powers delegated to the Management team are being exercised by an internal board collectively consisting of Presidents of all business, sectors, collectively or as per the approved Charter on Delegation of Authority "DOA".</i>
<i>The Company has not placed any absolute cap neither on commission nor on the overall remuneration (including commission) payable to him</i>	<ul style="list-style-type: none"> · <i>The Industry in which the Company operates is quiet dynamic and experiences high volatility in the raw material prices. The remuneration payable to CMD of the Company apart from fixed salary is dependent on the profits for a particular financial year based on the profits calculated as per the provisions of section 197 and 198 of the Companies Act, 2013. It is difficult for the Company to contemplate the profit for each of the FY over the five year period for which the CMD is appointed at the time of appointment/ re-appointment.</i> · <i>Accordingly, the NRC and Board, based on the profits of the Company for a particular financial year, decides the quantum of commission payable to CMD depending on the performance/ profits of the Company for that financial year. The remuneration payable to CMD by way of basic salary and other perquisites and allowance has been capped as specified in the explanatory statement of Item no.5 of the postal ballot notice.</i> · <i>The overall remuneration payable to CMD has been capped at ten percent of the net profits of the Company calculated in accordance with the provisions of Section 197 of the Companies Act, 2013. Further, the Board has been authorised to alter or vary the terms and conditions of the said re-appointment including remuneration within the overall limit of ten percent to be approved by the Shareholders."</i> · <i>Since the Company is in a strong growth mode and requires extensive efforts from everyone including CMD putting any restrictive clause is not desirable.</i>

As acknowledged in your report, Mr. Mehta brings on board over a 4 decades of experience, industry knowledge and leadership qualities and continuation of his role as CMD of the Company would be beneficial for all the stakeholders of the Company and therefore the Management strongly recommends his appointment to the shareholders.

Regards,



Disclaimer

Sources

Only publicly available data has been used while making the report. Our data sources include Notice of Shareholders' Meeting, BSE, NSE, SEBI, Capitaline, MCA, Moneycontrol, Businessweek, Reuters, Annual Reports, IPO Documents and Company Website.

Analyst Certification

The Analyst(s) involved in development of this Report certify that no part of the Research Analyst's compensation was, is, or will be directly or indirectly related to the specific recommendations or views expressed by the Research Analyst(s) in this Report. The concerned Research Analyst(s) and Director(s) do not have any pecuniary relationship with the Reported Company, except that they may be holding miniscule shares in the Company which does not impact their independence in respect of this Report.

SES may be a shareholder in the Company holding equity shares as disclosed on its [website](#). The objective of SES' investment is solely to obtain Shareholders' communications from the Company as a shareholder.

CAUTIONARY STATEMENT

The recommendations made by SES are based on publicly available information and conform to SES's stated Proxy-Advisory Guidelines. SES opinion is based on SES's interpretation of law and governance benchmarks, which may differ from opinion/ benchmarks of other analysts or practitioners. Further, SES analysis is recommendatory in nature and reflects how SES would have voted if it was a shareholder. Therefore, SES expects that the clients will evaluate the effect of their vote on their investments independently and diligently and will vote accordingly. Subscribers may also carry out an impact analysis of their votes and keep the same as an addendum for their records. In our opinion, Institutional investors are positioned significantly differently from other shareholders due to their ability to engage the board and the management to bring out desired result. As a firm, it is our endeavour to improve the level of corporate governance while not causing any disruption in company's proceedings and therefore we respect the independence of investors to choose alternate methods to achieve similar results.

Disclaimer

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Concern terminology

NC – Compliance Concern: The Company has not met statutory compliance requirements

FC – Fairness Concern: The Company has proposed steps which may lead to undue advantage to a particular class of shareholders and can have adverse impact on non-controlling shareholders including minority shareholders

GC – Governance Concern: SES questions the governance practices of the Company. The Company may have complied with the statutory requirements in letter. However, SES finds governance issues as per its standards.

TC - Disclosures & Transparency Concern: The Company has not made adequate disclosures necessary for shareholders to make an informed decision. The Company has intentionally or unintentionally kept the shareholders in dark.

Company Information



Stakeholders Empowerment Services

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