



Sebi norms ease investment access for the incapacitated

The new rules aim to simplify nominee access to investor accounts, but raise fresh concerns

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Picture this: A family's financial stability teeters on the edge when the primary earner is hospitalized after a sudden accident. With only ₹2 lakh liquid in the bank and the rest tied up in mutual funds and stocks, the family is unable to access savings. The incapacitated breadwinner cannot operate his accounts, leaving the family stranded in their time of need.

To address such scenarios, the Securities and Exchange Board of India (Sebi) has rolled out revamped rules that allow nominees to manage the accounts of physically incapacitated investors without requiring a power of attorney (POA). Announced on 10 January, these rules aim to provide families with a financial safety net. However, experts warn of limitations and potential challenges.

Easing access but with caveats
Sebi's new guidelines allow single-holding investors to authorize one nominee (excluding minors) to operate their accounts if they are physically incapacitated but still mentally capable of contracting. Redemption proceeds are credited directly to the investor's linked bank account.

However, nominees cannot update bank accounts or contact information. Additionally, the provisions exclude investors in critical conditions, such as coma or on ventilators. While this is one of several revamped rules designed to help mutual fund and demat account holders manage their investments during sudden illnesses or death, experts warn the rules may lead to unintended consequences.

"Redemption by a nominee operating on behalf of an incapacitated asset owner is prone to abuse; policing of the same could be a huge challenge for the Sebi and humongous work for the depository participants (DPs) and asset management companies (AMCs)," said Rajat Dutta, founder of Inheritance Needs Services.

This may lead to an increase in complaints filed through Sebi's Complaint Redress System (SCORES), with online dispute resolution (ODR) becoming the logical recourse. Dutta said. He also raised concerns about Sebi's safeguard requiring redemption proceeds to be credited to the investor's linked bank account. This offers little protection if the nominee is a joint holder in the linked account, Dutta noted.

Even genuine cases may face roadblocks. According to the Reserve Bank of India (RBI), banks require a POA or mandate to grant nominees access to funds. This misalignment between Sebi and RBI rules could leave families without recourse.

Certified financial planner Viresh Patel emphasized the need for regulatory harmonization. "The issue will remain unresolved unless RBI takes a similar stance. We need an aggregator regulator acting as a bridge between all regulators from Sebi, RBI, Irdai (Insurance Regulatory and Development Authority of India), PFRDA (Pension Fund Regulatory and Development Authority), Cert-In (Indian Computer Emergency Response Team) or MeITY (ministry of electronics and information technology). The finance ministry should consider forming a JPC (Joint Parliamentary Committee) so that

Sebi's nomination reforms: Clarity or confusion?

The revamped nomination rules for incapacitated investors can solve key issues for families, but their implementation could lead to several unintended outcomes

Investor grants permission

- ▶ To either encash a percentage of assets or a fixed amount
- ▶ Do it when filling up the nomination form

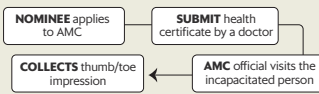
Investor later is incapacitated

- ▶ Nominee can operate MFs, demat accounts
- ▶ Investor must be physically incapacitated
- ▶ But has the capacity to contract (not in a coma)

Safeguards

- ▶ Redemption only to the investor's bank account
- ▶ No changes to bank account, phone, or email allowed

Process



Documentation For nomination

- ▶ PAN, driving licence, Aadhar (last 4 digits)
- ▶ Contact details of nominee
- ▶ Relationship with investor
- ▶ Date of birth if nominee is a minor
- ▶ Can list up to 10 nominees

Joint holders

- ▶ Only death certificate is mandatory
- ▶ No fresh KYC for second holder
- ▶ Second holder gets ownership

Joint holding

- ▶ Surviving holders inherit deceased's share
- ▶ No clarity on whether a valid will determines ownership of the deceased's share

No nominees (joint holding)

- ▶ Transmission goes to legal heir of the youngest holder*
- *According to the rules of intestate succession or will

Transmission to nominee

- ▶ Death certificate is mandatory
- ▶ Nominee's KYC to be verified
- ▶ Nominee must give an undertaking to transfer the assets to legal heirs
- ▶ Discharge Letter from creditors if applicable
- ▶ No affidavits, indemnities or undertakings will be considered

Nominees are not owners of deceased investor's MFs or demat a/c's. They are custodians and must distribute it among legal heirs

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wherever a law is amended, the JPC will recommend a change," Patel said.

Joint holdings and succession challenges

Sebi's revamped rules also introduce complexities in joint ownership scenarios. Consider a case where three siblings jointly hold an investment, and one sibling passes away. Even if the deceased sibling has bequeathed his share to a child in their will, Sebi's rule states that the surviving joint holders, in this case surviving siblings, automatically become owners of the deceased's share of the assets. However, experts said the markets regulator needs to clarify what happens if the investor has created a will leaving her share of assets to her legal heirs.

Vishal Dhawan, founder and CEO of Plan Ahead Wealth Advisors, advises investors to carefully consider joint holders. "If the intent is not to give your assets to a particular friend or family member, avoid having them as joint holders."

The other new guideline comes into play when joint holders fail to nominate anyone and all of them pass away. In such cases, Sebi mandates that the legal heir of the youngest joint holder will inherit the investments. It can lead to disputes, especially when joint holders are not family members.

"Why should the legal heir of youngest joint holder become the sole beneficiary of the entire investment? This is unfair to heirs or beneficiaries of the other joint holders. Joint holders could also be business partners or friends. It will create unnecessary hurdles in the legacy and succession process. There is

no clarity," Dutta remarked.

Sebi also introduced new provisions for handling the transmission of joint accounts or folios to nominees. After the transmission, nominees can either continue as joint holders with the other nominees or choose to open individual accounts or folios for their respective portions. For accounts or folios with multiple nominees, Sebi clarified that when part of the account is transmitted to certain nominees while other portions remain unclaimed, the depository participant (DP) or asset management company must allow unclaimed portions to remain in the existing account. However, no transactions will be permitted in the accounts but eventual transmission to remaining nominees.

To accommodate diverse succession planning, Sebi now allows investors to nominate up to 10 people per account or folio, up from the earlier limit of just three. By comparison, the RBI took six decades to expand its nomination system to four individuals with the Banking Laws (Amendment) Bill on 3 December, while Irdai permits three nominees.

This expansion makes the markets regulator unique among all other regulators, but it also comes with challenges, said Dutta from Inheritance Needs Services. "This calls for huge software expenditure on part of the DPs and AMCs. Asset owners will be confused as there is no parity among financial products," Dutta added.

Dhawan said the expanded nomination limit is a way to reduce inheritance disputes. "Investors may want to distribute wealth among a large number of people, but the limitation of having not

more than three nominees puts a challenge. The solution is in creating a will, but not many people do it. The revamped rule will allow investors to have up to 10 nominees," said Dhawan.

Streamlining documentation
The Sebi circular also simplifies the nomination process by standardizing requirements.

To nominate, investors must provide one of the following: a PAN, driving licence number, or the last four digits of an Aadhaar number (only the number, not the document itself). Additionally, nominees' full contact details—residential address, email address, telephone/mobile number—along with their relationship to the investor and date of birth (if the nominee is a minor) are required.

For asset transmission to registered nominees, the regulated entity will only need a self-attested copy of the deceased investor's death certificate and the nominee's updated or reaffirmed KYC details. Sebi has emphasized that no additional documentation, such as affidavits, indemnities, undertakings, attestations, or notarizations, should be sought.

This measure eliminates inconsistencies where AMCs enforced their own transmission rules, creating unnecessary hurdles for nominees. To ensure readiness, AMCs and depositories must report their preparedness to Sebi by 20 February and implement the revised rules by 1 March.



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