CommonSOPforoperationofaccountsincaseofanincapacitatedinvestorApplicableto Depositories and Mutual Funds.

Background:

SEBIvide itsCircularsdatedJanuary10,2025andFebruary28,2025revisedthenormsfornomination for demat accounts and MutualFund (MF) folios in the Indian Securities Market.

Inordertohaveuniformityindealingwithincapacitatedinvestorsandthosewithspecialneeds orsickor old investors in the securities market, SEBI has mandated the Depositories and AMFI to put in place common Standard Operating Procedure (SOP). This SOP is intended to provide more clarity on the processesto be followed inalignment tothecurrentregulatoryguidelinesandmayundergochangesbased onregulatory/statutoryguidelinesorduetoother legalaspects fromtime to time. Please check the latest guidelines before reliance on the same.

A. Operationalguidelinestobefollowedbytheregisteredintermediariesforoperationofaccounts in case of investors who are physically incapacitated, but are competent to contract:

1. <u>Operationalprocedurestoappoint nomineetoactonbehalfofincapacitatedInvestors:</u>

The registered intermediaries shall provide the investors having single or joint holding in the account / folio, the option to:

a) empower,anyoneofthenominees(excluding minornominee)tooperatetheinvestor's account / folio, if the investor is physically incapacitated, but still has the capacityto contract,
b) specifyeitherthepercentageorabsolutevalueofassetsintheaccount/folio thatcanbe encased by such nominee,
c) Changesuchnomineeanynumberoftimeswithout anyrestriction.

Theaboveclauseshallbeapplicableforanaccount /foliohaving multipleholders, irrespective ofmodeof holdingandonlyintheeventwhereallthe holdersaresimultaneouslyincapacitatedandhavingregistered nominee/s.

2. <u>DefinitionofIncapacitation:</u>

Incapacitationreferredtohereisthephysicalincapacitationbuthavingcapacitytoenterintoacontractin termsofsection11oftheIndianContractAct,1872.Hence,thisSOPdoesnotincludeinvestorswhoare otherwise incapacitated becauseofbeing incomaor areunconscious or in support of a ventilator.

3. <u>Proceduretobefollowedbytheregisteredintermediaries foroperationofaccounts incaseofan incapacitated investor, after the person has become incapacitated:</u>

a) **Intimationofincapacitation**- Anintimationbywayofawrittenrequest(format attached *via* Annexure A) stating that the Client/investor is incapacitated to sign (specifying the reason

therein and its tenure of Incapacitation), can be received by DP/AMC/RTA from an "empowered nominee" of the investor/Client (Empowered Nominee means a Nominee who has been given power by the investor to act on his/her behalf during incapacitation). The intimation of incapacitation request can be accepted from any other person as well.

b) In case there is no nominee registered, or Nominee Opt-out has been registered in the account/folio, investor has to first register nominee in the presence of DP/RTA/AMC personnel, followed by appointing him/her as "empowered nominee".

c) The empowered nominee or any other person shall provide a medical certificate issued by anappropriatelyqualifieddoctorwhichclearlystatesthattheClient /investorisunabletosign, the reason for the same and period since the Client is unable to sign.

d) Upon receipt of written request accompanied with medical certificate regarding incapacitation of investor, a responsible officer of the DP / AMC / RTA shall visit the incapacitated investor in- person.

e) This officer shall first hand ascertain whether the investor has the capacity to contract in terms ofsection 11 ofthe Indian Contract Act, 1872 (i.e. to exclude investors who may be in ventilator, coma or are in an unconscious state).

f) Additionalchecks to be done bythe officer include, (i) where the Client cannot put his/her signature, then is he/she in a position to put his/her thumb or toe impression or 'a mark' on his/herown,withouttheassistanceofanyotherperson,and(ii)whethertheClient understands the consequence ofputting his/her thumb impressionona document to facilitate a transaction or empower the nominee to carry out the transaction on his/her behalf.

g) Depending on the nature and degree of incapacitation, this officer shallobtain a thumb or toe impression or 'a mark' ofthe Client, asthe case may be, on the written request allowing empowerednomineefortransactingintheaccount /folioftheincapacitatedinvestor,inthe Presence of an independent witness. (Independent witness shall be an individual who is not directly related to the Client or the intermediary)

h) Thisofficershall recordhis/hername,signatureandsuitableremarksto theeffectthat "Thumb impression / toe impression / mark affixed in my presence" on the written request.

i) POI document number of such nominee (which should match with details of Empowered Nominee as registered in the demat account/folio), who will act on behalf of incapacitated investor, shall be taken on record and capture the same against the said nominee in the Depository/AMC/RTA system.

j) Uponregistrationofincapacitationdetailsinthedepository/AMC/RTAsystem, DP/AMC/RTA shall intimate the client and empowered nominee about the same suitably.

k) Empowered Nominee should intimate the respective broker/trading member/DP/AMC/MFD/RTA through whom transactions are going to be performed during incapacitationofClient.Thishasbeenincluded intheletterforintimatingincapacitationunder the heading 'Declaration from Empowered Nominee'.

l) Uponreceiptofthe instructionfromsuchEmpoweredNominee, DP/AMC/RTAshallmatch thesignature,asavailableontherecord, against suchEmpoweredNominee. Ifthesignatureis matched,DP/AMC/RTAshallexecutetheinstructionintheDepository/DP/RTA/AMCsystem for such incapacitated investor/ Beneficiary Owner (BO). If the signature does not match, DP/AMC/RTA shall not execute the instruction and shall inform the Empowered Nominee accordingly, clearly stating the reason for non-execution of instruction. DP/AMC/RTA shall also inform such nominee to submit fresh instruction with the proper signature.

m) The Empowered Nominee can only be one of the registered nominees. No third party including legal heirs can be allowed, if they are not registered as nominee. In case of court appointed nominee, it will overrule the existing nominee. Further, in case where the investor doesnot havethecapacitytocontract (foreg.investorisonventilatorsupportorincomaorin unconscious state or is of unsound mind), operation of the account / folio shall be as per the norms under the applicable laws.

n) TheEmpoweredNomineeshallrequiretobeKYCcompliantbeforecarryingouttransaction on behalf of the incapacitated investor/s (not at the time of nomination).

o) The registered intermediaries shall upload the details of mobile number and email address of Empowered Nominee on the KRA system. It shall be ensured that the mobile no. / Email addresses oftheir employees / authorized persons, distributors etc. are not uploaded onbehalf of Empowered Nominee.

4. <u>Further,theDP/ RTA/AMCareadvisedtoensurethe following:</u>

a) Take into account, the available transaction limits flagged off to the Empowered Nominee dealing on behalf of incapacitated investor.

b) DP/AMC/RTAshallinformthe investorandempowerednomineeregardingthetransaction threshold limit alongwiththeutilisedandun-utilisedlimit suitably,asandwhentransactionis processed. After the expiry of a cooling off period of 48 hours post updation of such incapacitation, DP/RTA/AMC shall permit the transactions in those account(s) – offline and online mode, if it is signed or initiated bythe Empowered nominee, subject to limit specified by the investor in amount or percentage* on the date of updation of incapacitation status in depository/AMC/RTA systems. Further, on the date of updation of incapacitation status in depository/AMC/RTAsystems, the percentage limit ofthe holding would be converted tothe absolute limit value based on last available price/NAV. This will remain static throughout incapacitation period and will not be undergoing any change owing to market movement or subsequent investments.Incaseofmutualfunds, Percentage/value limit willbe forthePAN, encompassing all folios under the PAN, where incapacitated investor is the first holder and covering all transactions made by the Empowered Nominee during incapacitation.

c) Ifanypartialtransactionlimitsareavailable,transactionsshouldbesettledwiththeavailable transaction limits.

d) If at the time of settlement of transactions e.g. traded on exchange at “X” value and at the time of settlement, value is “X +/- 5 %” of the available limits in depository systems, such transactions up to + / - 5 % value would be allowed for settlements to avoid any failure of transactions / loss to the incapacitated investors.

e) In case of demat account, the transaction limits will be applicable for all market transfer instructions initiated through physical / POA / DDPI / online.

f) Incaseofmutualfundtransactions, redemption/switch-out shallbeallowedsubjectto95% ofthetransactionlimit onlyat thetimeofacceptance, asNAV forthedaymaygo upordown.

g) Anycredit transactionsuchas freshpurchase/SIP/IDCWreinvestment etc., willbeallowed during the incapacitation period, subject to existing regulations such as third party etc. However, fresh pledge creation (includes the margin pledge) would not be allowed.

h) Incase of investments in MutualFunds, funds should be received fromthe investor's bank accountandnotfromempoweredrednominee'sbankaccountandMF/RTA/CCisabletovalidate the same independently at their end.

i) Any encashment by such Empowered Nominee shall be credited only to the bank account linked to the account / folio of the incapacitated investor.

j) DP/RTA/AMCshallnotallowanyservicerequest,includingchangeinbankaccount,email address, mobile number etc. by such Empowered nominee.

k) Initially, aftertheexpiryofacooling-offperiod of48 hourspost updationofincapacitation, theDP/RTA/AMCshallallowempoweredrednomineetocarryoutonlinetransactionsonbehalf ofthe incapacitated investor, using the investor's login credentials (i.e. using registered email ID and mobile number of incapacitated investor),subject to the transaction limit specified by theinvestor. Going forward,theDP/RTA/AMCshallput inplacenecessarysystemchanges to allow empowered nomineeto operatetheaccount /folio ofincapacitated investor using his / her own login credentials (i.e. using registered email ID and mobile number of empowered nominee),aftercompletingKYCprocessofsuchnominee,subjecttothelimit specifiedbythe investor. This facility shall be revoked once the investor recovers from incapacitation.

l) Therequisite systemchangesallowingempoweredrednomineetooperatetheaccount /folio of incapacitated investorusing ownlogincredentials shall beput inplace bytheDPs and AMCs /theirRTAstogetherafterdeliberationandgoliveatthesametime,inordertohaveuniformity across demat accounts and MF folios.

m) IDCW pay-out/Cash Corporate Action process can be allowed and paid to the investor's bank Account only.

n) Procedureas specified above inPara 3 shallbe followed incase the investor recovers from incapacitation and the incapacitation flag / date in the demat account/folio shall be removed, andthesignatureoftheempoweredrednomineeshallberemoved fromthedepository/AMC/RTA system.

Post removal of incapacitation flag / date, ifany change (non-financial transactions including nominee registration, change of empowered nominee to transact on investor's behalf, etc.) is initiatedbytheinvestorafterrecordingsuchincapacitation, thenappropriateduediligence has to be made before allowing such updates/changes.

Click Herefor Request format for Incapacitation intimation

B. SpecializedDoorstep SupportforSeniorCitizens,investorswithspecialneedsorsick investors may be provided by DP / RTA / AMC.

SEBI envisages that specialized doorstep support needs to be facilitated for Senior Citizens, investors with special needs or sick investors, not only related to incapacitation but also for other services like;

a) Collectionoftransactionrequests,servicerequestincludingnominationregistration/changes thereto, and registration ofempowered nominee, etc., subject to the availabilityofthe nearest branches, distance between branch and investor location, based on the specific request with relevant proofs thereof for sick investors and investors with special needs.

b) For Senior Citizens, based on the age as per records, such specialized services may be facilitated.

Disclaimer:

CompliancewiththeSOPdoesnotsubstitutecompliancewithapplicablelaws.Accordingly, while following the SOP, compliance with laws, as may be applicable, shall also be met.

……..