

# Missing nominations pose a challenge to heirs

They have to follow lengthier procedures to access locked-up wealth

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During the second, more lethal, wave of Covid-19, the daily death count has been above the 3,000 mark for some time now. Many families have lost the breadwinner, and in some cases, both the spouses. Wherever the nominations are not in place, personal grief has got compounded with monetary worries as the family's wealth has become inaccessible to the heirs.

If there is a nomination, financial service providers are required by law to transfer the money to the nominee, unless restricted by a court order. However, there's a caveat regarding the role of the nominee. Avinash Khard, associate partner, DSK Legal says, "Any transfer in favour of the nominee does not confer on him any beneficial interest in relation to the financial instruments, which will be subject to the applicable laws of succession. The nominee has to hold the financial instruments, or the proceeds arising from them, in trust for the benefit of the deceased's legal heirs."

If the nominations are not in place, the heirs need to go through a lengthy process to get access to their money.

## Banking

The nominee is the person the depositor designates as the trustee of the bank account, in case of his demise. What happens in the absence of a nominee depends on the nature of the account. If it is a joint account, then the operating condition could be 'either or survivor' or 'jointly'. Adhil Shetty, chief executive officer (CEO), Bankbazaar says, "If the account is operated as 'either or survivor', then the survivor may claim the deposit. If it is operated 'jointly', i.e., when both (or



## DOCUMENTS REQUIRED TO TRANSFER SECURITIES FROM DEMAT ACCOUNT

When letter of succession is available	When letter of succession is not available *
Transmission request form	Transmission request form
Death certificate (original or attested)	Death certificate (original or attested)
Succession certificate, letter of administration, or letter of probate	Letter of indemnity executed by the claimant
Client master report of the claimant (if required)	An affidavit executed by the claimant; no-objection certificate from all legal heirs who are not claimants, or family settlement deed; client master report of the claimant (if required)

\*Legal heir is unable to provide the succession certificate, letter of administration, or letter of probate, and the value of securities is less than ₹5 lakh

Source: DSK Legal

all) account holders need to sign for withdrawals, then the bank will usually pay it out jointly to the surviving account holder and the deceased's legal heirs."

If the account was operated individually, then the heirs may have to present the deceased's Will.

Praveen Bhatt, executive vice president and head, retail liabilities and direct banking channel, Axis Bank says, "If the nomination is not updated in an account, then the funds lying in the deceased customer's accounts are settled to his legal heirs, according to the mandate given by the legal heirs, once they have established their identity."

Once the legal heirs have submitted the claim documents, and the bank has verified them,

the claim is settled to all the legal heirs, or to any one of them, as mandated by the heirs.

The claimants will have to file an application along with a copy of the Death Certificate, the claim form, and the address and ID proof of each claimant. If there are multiple heirs and the assets have to be transferred to only one of them, then the other heirs will have to sign a disclaimer letter, relinquishing rights to the assets in favour of that person.

## Insurance

If there is no nominee, then the legal heirs have to claim the money locked up in insurance policies. Naval Goel, CEO & founder, PolicyX says, "The legal heir needs to present a

claim intimation letter along with other documents like death certificate, beneficiary's ID proof, policy papers, discharge form (if any), post-mortem report, and hospital records (in case of unnatural death)."

Sometimes, the insurer asks for a succession certificate issued by a court, specifically mentioning the policy number and the amount to be paid. Sachin Dutta, chief operating officer, Canara HSBC OBC Life Insurance says, "In certain exceptional cases, if there is no succession or legal heirship dispute in the family, after assessment we can also consider a legal heir certificate issued by a Class One magistrate, along with indemnity signed by all the legal heirs, specifying to whom,

or all, payment of policy proceeds needs to be done."

## Demat account

If the demat account holder did not appoint a nominee, then securities are transferred from the demat account to the deceased's legal heirs according to the procedures laid down in the bylaws of the depository participant (DP). DPs ask for certain documents (see table). If the value of the securities exceeds ₹5 lakh, then the claimant has to provide a copy of the probate of the Will, or attested or notarised copy of letter of administration, or a duly attested or notarised copy of the succession certificate, or an order of a competent court to support his legal claim. Along with the transmission request, he must also submit a copy of the death certificate and client master report of the demat account.

## Mutual funds

Asset Management Companies (AMCs) nowadays have a standard transmission request form and require a common set of supporting documents for the transfer of units, as prescribed by the Association of Mutual Funds in India.

Jayant Pai, head-products, PPFAS Mutual Fund says, "The procedure requires the heirs to first produce certain documents, including the death certificate, PAN Card and KYC acknowledgment of the claimant/s, documents proving their relationship to the deceased, etc. along with the transmission form."

Sriram Iyer, CEO, Digital Wealth Management, ARWealth, (an AnandRathi Company) says, "Each AMC may have slightly varying documentation requirements. The requirements for amounts below ₹2 lakh may be slightly less stringent while for larger amounts, a succession certificate or a probated Will may also be needed."

Some AMCs might even ask for an individual affidavit, a succession certificate, or probate, or letter of administration (as against a bond of indemnity). Probate refers to the legal process in which a Will is reviewed to determine whether it is valid and authentic.