

## ERGO

*Analysing developments impacting business*

### NOMINATION OR OPT-OUT FOR MUTUAL FUND UNIT HOLDERS

25 June 2022

#### **Introduction**

The nomination facility enables a unitholder to nominate (either at the time of purchase or subsequently), a person who would be entitled to claim the investor's mutual fund units, or the redemption proceeds thereof in case of an untimely death of the unitholder. In case of joint ownership, all joint holders are required to provide the details of their nominee together.

In case a nomination is made at the time of the initial investment, the applicant may fill up the 'Nomination' section provided in the application's account opening form, (which may be changed any time and any number of times). An investor can nominate any person, whether a family member, friend, a trusted third person, a minor, or a non-resident (subject to the exchange control rules), any government authority or even a religious or charitable trust. In case of a minor nominee being appointed, the guardian's name and address must also be provided, (in whose control the fund shall rest until the minor attains the age of 18 years). In case a guardian invests to purchase mutual funds on behalf of a minor, the guardian is not permitted to also be a nominee in the same account.

Earlier it was mandatory to have at least one nominee in all mutual fund investments.

#### **Analysis**

To safeguard the interests of investors, bring uniformity in practices across all constituents in securities market and promote the development and regulation of the securities market, Securities and Exchange Board of India (**SEBI**) has issued a circular on 15 June 2022 (under Section 11 (1) of the Securities and Exchange Board of India Act, 1992, read with the provision of Regulation 77 of SEBI (Mutual Funds) Regulations, 1996), whereby all the mutual fund investors have been provided with an option to invest without specifying a nominee. The new mutual fund nomination rules apply equally for all existing and new unitholders.

Under the new rules, investors now can choose to either provide nomination or to opt out nomination through a signed declaration form.

- All new investors subscribing to mutual fund units on or after August 1, 2022, are permitted to choose from the following options. They can either:
  - provide their nomination in the format as specified in fourth schedule of SEBI (Mutual Funds) Regulations, 1996 or
  - opt out of nomination by providing a signed declaration form (under [Annexure - A](#)).

- All the existing individual unit holder(s), holding mutual fund units (whether solely or as a joint holder), are required to, by 31 March 2023, either provide their nomination or opt out of nomination by informing their respective asset management companies (**AMCs**). In case of any delay, the folios shall be frozen, and no further debits shall be permitted.
- All the unit holder(s) shall be provided with an option to submit the documents either in physical or online form, as per their choice. To facilitate this process, all AMCs shall ensure that they are equipped with all adequate systems for enabling the e-Sign facility, while maintaining sufficient safeguards and taking all precautionary steps to preserve the confidentiality, safety, and security of all customer records.
- In case the unitholder(s) chooses the physical option, (to either submit the nomination form or the declaration form for opting out of nomination), the AMCs shall permit them with wet signatures however, in case of the online option, the forms provided by the AMCs, shall use e-Sign facility recognized under the Information Technology Act, 2000.

## Comments

The new investors' adherence to the revised nomination rules is required from 1 August 2022 onwards, while existing mutual fund investors will have to comply with the rules by 31 March 2023. In view of the above, all existing mutual fund investors who have not yet nominated anyone, can expect the AMCs to reach out to them to either fill the nomination or the opt-out nomination form. In case of any failure, they will not be able to withdraw their funds from next fiscal year, starting 1 April 2023.

The circular facilitates investor's choice by providing an option to either nominate or opt-out of nomination, thereby permitting a unitholder to decide as per the preferred selection.

On the other hand, since the nomination facility enables a smooth transfer of funds to the nominee(s) upon the death of the investor, in the absence of a nominee, (multiple legal documents like the will, legal heir certificate (as per succession law), a no-objection certificate from other legal heirs, etc.), will have to be produced by the claimant to get the units transferred, which is a long drawn and strenuous legal procedure, and these are some of the considerations that the investors would need to account for, while exercising their nomination preference.

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