

**STANDARD
OPERATING PROCEDURE
DEMAT ACCOUNT OPERATIONS - INCAPACITATED INVESTOR**

STANDARD OPERATING PROCEDURE

Background:

SEBI, through various circulars, has updated the nomination rules for Demat Accounts and Mutual Fund folios in the Indian securities market. In order to have uniformity in dealing with incapacitated investors and those with special needs or sick or old investors in the securities market, SEBI has mandated to put in place common Standard Operating Procedure (SOP).

Purpose:

The purpose of this SOP is to establish a standardized process for handling requests relating to operation of demat accounts of investors who are physically incapacitated but having the legal capacity to contract, through an Empowered Nominee, in compliance with SEBI guidelines. This SOP is intended to provide more clarity on the processes to be followed in alignment to the current regulatory guidelines and may undergo changes based on regulatory/statutory guidelines or due to other legal aspects from time to time.

Applicability:

This SOP applies to:

- Individual demat accounts, including accounts where a nominee is already registered and eligible cases where the investor registers a nominee in the prescribed manner after becoming physically incapacitated.
- Joint demat accounts with registered nominee(s), provided that all holders are simultaneously physically incapacitated and continue to have the legal capacity to contract.
- Investors who are physically unable to sign or execute instructions but continue to have the capacity to understand and authorize transactions.

This SOP does not apply to investors who are in a coma, unconscious, on ventilator support, or otherwise unable to enter into a legally valid contract.

Definitions:

Incapacitated Investor

Incapacitation referred to here is the physical incapacitation but having capacity to enter into a contract in terms of section 11 of the Indian Contract Act, 1872. An investor who is physically unable to sign or carry out transactions but continues to have legal capacity to understand and enter into contracts.

Empowered Nominee

A registered nominee who has been authorized by the investor to operate the account on his/her behalf during the period of incapacitation.

Independent Witness

An individual who is not directly related to the investor or the Bank and who witnesses the thumb impression, toe impression or mark affixed independently by the incapacitated investor

Empowered Nominee Facility:

Investors may designate one of their registered nominees (other than a minor nominee) as an Empowered Nominee to operate the demat account in the event of physical incapacitation.

While registering an Empowered Nominee, the investor may:

- Authorize a registered nominee to act on the investor's behalf during incapacitation.
- Specify a transaction limit in terms of either a percentage of holdings or a fixed monetary value.
- Modify or change the Empowered Nominee at any time before incapacitation occurs.

The above clause shall be applicable for an account / folio having multiple holders, irrespective of mode of holding and only in the event where all the holders are simultaneously incapacitated and having registered nominee/s.

Intimation of Incapacitation:

- a) Upon becoming physically incapacitated, an intimation may be submitted by:
- the Empowered Nominee;
 - the investor;
 - a family member; or
 - any person acting on behalf of the investor.

The request should include the prescribed Intimation of Incapacitation Form together with supporting documents. An intimation by way of a written request (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 submitted to respective Federal Bank Branch from an empowered nominee of the investor/Client. The intimation of incapacitation request can be accepted from any other person as well.

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 Bank Official, followed by appointing him/her as "Empowered Nominee".

Documents Required:

The following documents are required to process an incapacitation request:

Mandatory Documents

- Duly completed Intimation of Incapacitation Form.
- Medical Certificate issued by a qualified medical practitioner stating:
 - a. the nature of incapacitation;
 - b. confirmation that the investor is unable to sign
 - c. the date or period since the investor became unable to sign and, wherever available, the expected duration of incapacitation.

- Self-attested PAN copy or other valid identity proof of the investor.
- Identity proof of the Empowered Nominee.
- Contact details of the investor and Empowered Nominee.

Verification Process:

- a) To safeguard the interests of investors, upon receipt of the written request accompanied by the medical certificate, a responsible officer of the Bank/DP shall personally visit the incapacitated investor.
- b) This officer shall verify the investor's identity and firsthand ascertain whether the investor has the capacity to contract in terms of section 11 of the Indian Contract Act, 1872 (i.e. to exclude investors who may be in ventilator, coma or are in an unconscious state).
- c) Additional checks to be done by the 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/her own, without the assistance of any other person, and (ii) whether the Client understands the consequence of putting his/her thumb impression on a document to facilitate a transaction or empower the nominee to carry out the transaction on his/her behalf.
- d) Depending on the nature and degree of incapacitation, this officer shall obtain a thumb or toe impression or 'a mark' of the Client, as the case may be, on the written request allowing empowered nominee for transacting in the account / folio of the incapacitated investor, in the presence of an independent witness.
- e) This officer shall record his/her name, signature and suitable remarks to the effect that "Thumb impression / toe impression / mark affixed in my presence" on the written request.
- f) POI document number of such nominees (which should match with details of Empowered Nominee as registered in the demat account), who will act on behalf of incapacitated investor, shall be taken on record and capture the same against the said nominee in the Depository system.
- g) The signature, mobile number and email address of the Empowered Nominee shall also be obtained, verified and captured in the applicable records/systems in accordance with the prescribed operational process. The nominee must be KYC compliant before undertaking any transaction.

Activation of Empowered Nominee Facility:

Upon successful verification and completion of all required formalities:

- the incapacitation status will be recorded in the demat account;
- the Empowered Nominee's details will be activated for transaction purposes; and

- confirmations will be sent to the investor and the Empowered Nominee through registered communication channels.

A cooling-off period of 48 hours will apply from the date of activation before transactions may be permitted.

Transactions Permitted During Incapacitation:

Following activation and expiry of the cooling-off period, the Empowered Nominee may submit transaction instructions on behalf of the investor, subject to the limits specified by the investor. This has been included in the letter for intimating incapacitation under the heading 'Declaration from Empowered Nominee'. All instructions will be processed only after verification of the Empowered Nominee's signature and records maintained with the Branch of Bank. If the signature does not match, Bank shall not execute the instruction and shall inform the Empowered Nominee accordingly, clearly stating the reason for non-execution of instruction. Branch shall also inform such nominee to submit fresh instruction with the proper signature.

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 does not have the capacity to contract (for eg.: investor is on ventilator support or in coma or in unconscious state or is of unsound mind), operation of the account / folio shall be as per the norms under the applicable laws. The Empowered Nominee shall require to be KYC compliant before carrying out transaction on behalf of the incapacitated investor/s (not at the time of nomination).

Bank will 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 of their employees / authorized persons, distributors etc. are not uploaded on behalf of Empowered Nominee.

Transaction Limits:

- a) After the expiry of a cooling off period of 48 hours post updation of such incapacitation – offline and online mode of transaction are permitted in those account(s), if it is signed or initiated by the Empowered nominee, subject to limit specified by the investor in amount or percentage. Transactions initiated by the Empowered Nominee will be allowed only up to the limit prescribed by the investor at the time of nomination.
- b) Where the investor has specified a percentage limit, the percentage shall be converted into an absolute amount on the date of updating the incapacitation status in the depository system, based on the last available price of the securities. The absolute limit shall remain static throughout the incapacitation period, irrespective of market movements or subsequent investments.
- c) The Bank/DP shall inform the investor and the Empowered Nominee, as and when a transaction is processed, regarding:
 - approved transaction limits;
 - utilized limits; and

- available balance limits
- d) If any partial transaction limits are available, transactions should be settled with the available transaction limits.
- e) 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.
- f) In case of demat account, the transaction limits will be applicable for all market transfer instructions initiated through physical / POA / DDPI / online.
- g) Credit transactions, including fresh purchases and receipt of securities into the demat account, may be permitted during the incapacitation period subject to applicable regulations.
- h) Upon implementation of the common system changes by the depositories and intermediaries, the Empowered Nominee shall operate using his/her own login credentials after completion of KYC. Such access shall be revoked upon recovery of the investor.

Restrictions Applicable to Empowered Nominees:

The Empowered Nominee facility is intended solely for permitted transaction activities.

The following requests will not be accepted from an Empowered Nominee:

- a) change of Bank Account details;
- b) change of mobile number;
- c) change of email address;
- d) KYC modifications;
- e) nominee registration or modification requests;
- f) pledge creation;
- g) margin pledge creation; and
- h) any other account maintenance activities not expressly permitted under applicable regulations.

Any proceeds arising from transactions, corporate actions, dividends, or other entitlements will continue to be credited only to the Bank Account registered in the investor's demat account. No payment or transfer of funds will be made to the Empowered Nominee's bank account.

Recovery from Incapacitation:

Where the investor subsequently recovers from the condition resulting in incapacitation, a request for removal of incapacitation status may be submitted along with supporting medical evidence.

Upon completion of verification procedures:

- incapacitation status will be removed from the account; and

- the authorisation granted to the Empowered Nominee shall cease to have effect, and the Empowered Nominee's signature and system/login access will be removed from the applicable records and systems.

Post removal of incapacitation flag / date, if any change (non-financial transactions including nominee registration, change of empowered nominee to transact on investor's behalf, etc.) is initiated by the investor after recording such incapacitation, then appropriate due diligence has to be made before allowing such updates/changes.

Special Assistance and Doorstep Services

To facilitate ease of access for senior citizens, investors with special needs and sick investors, doorstep assistance may be provided, subject to operational feasibility and availability of service infrastructure.

Such assistance may include the following subject to the availability of the 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:

- Nomination Registration;
- Nomination Modification;
- Registration of Empowered Nominee;
- Collection of service requests; and
- Collection of transaction-related documents

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

Annexure A

Letter for Intimating Incapacitation of the Investor and Relevant Authorization

Date:

To
The Federal Bank Ltd
Operations Department, Capital Market Operations
3rd Floor, Parakkal Towers, Parur Jn, Thottakattukara
U C College P O, Aluva, Ernakulam – 683102

Sub: Intimation about Incapacitation of the investor and Authorization letter:

PAN of the Incapacitated Customer	
Demat Account No / Folio No	

I/We hereby wish to inform you that the above referred investor has become incapacitated from ____/____/____ to ____/____/____ (tentatively) for reason _____

to which he/she is unable to transact though having the capacity to contract. Refer the medical certificate from our doctor indicating the same.

I/We request you to record the same in your records and approve the transactions only if the same is initiated by the person(s) authorized by him and is within the limits prescribed, if any. I/We also hereby authorize you/your team to independently validate the above incapacitation by visiting the incapacitated investor (tick appropriately / provide information as requested), take appropriate thumb / toe impression or complete any other prescribed processes and procedures as mandated by the regulator(s).

- ☐ at the registered address (or)
- ☐ at the address where investor stays now (specify) _____
- ☐ at the hospital specify the details _____
- ☐ Contact Number(s): _____ to fix appointments (if required)

Documentary Proof enclosed (tick as applicable):

- ☐ Original Medical certificate indicating incapacitation.
- ☐ Self-attested PAN card copy / Masked Aadhaar copy of the incapacitated investor.
- ☐ Copy of the court order or letter from the competent authority (where applicable).
- ☐ ID Document number of authorized nominee (which should match with details of registered nominee)

I/We extend all support and cooperation to complete the processes and tag the account as Incapacitation wherever the above referred PAN / Folio(s).

Declaration from Empowered Nominee

I hereby confirm my understanding and the responsibility that I own for limited purpose transaction as per the wish of the investor(s) in the above referred account/folio and help your esteemed organization with all the required information/documentary proof and support as required from time to time

Signatures: Holder	Name	Signature
First holder		
Joint Holder1		
Joint Holder2		
Authorized Nominee		

For Office Use only to be filled only by Regulated Entity employee

I _____ Employee No _____ of The Federal Bank Ltd. Visited the above address / hospital and met the incapacitated investor and noted the incapacitation and obtain the following:

Date of Visit	Thumb Impression*	Toe Impression*	Marks Noted

*Signature of Witness:

Name of the Witness:

Address of the Witness:

Signature of the Branch/DP Official: