

NOMINATION IN RESPECT OF SHAREHOLDING

Nomination Facility

If you wish to appoint a nominee, kindly fill in the **Nomination Form** and return it to us. Kindly read the instructions pertaining to the Nomination facility furnished beneath the Nomination Form.

With a view to enabling the shareholders to appoint nominees for their shareholding(s), the Companies (Amendment) Act, 1999 has made provision under which a shareholder, debenture holder or a depositor can now nominate a person in whom the share or debenture or deposit would vest with, in the event of former's death. Pursuant to this provision, the Department of Company Affairs has by Notification No. GSR23(F) dated 12th January, 1999 prescribed Form 2B for making nomination in respect of shares, debentures and deposits, pursuant to Rules 4CCC and 5D of the Companies (Central Government) General Rules and Forms, 1956.

Shareholders are requested to read the Form and the clarifications furnished hereunder carefully before nominating any person.

How can you make a nomination?

You can make a nomination by filling in and sending Form 2B singly if you are a sole holder or jointly if you are joint holders to our R & ST Agent, M/s. Abhipra Capital Limited. After verifying your signatures your nomination would be registered and an intimation of the same would be sent to you, which you are requested to preserve to avoid any future

Who can make a nomination?

The nomination can be made only by individual(s) holding shares singly or jointly. If the shares are held jointly, all the joint holders will sign the nomination form. Non-individuals including a society, trust, body corporate, partnership firm, karta of Hindu Undivided Family and holder of Power of Attorney cannot nominate.

What is the advantage of making a nomination?

Notwithstanding anything contained in any other law or any testamentary disposition or otherwise, in respect of the shares or debentures, where a nomination has been made in accordance with the Companies Act, 1956, the nominee on the death of the shareholder/debenture holder/deposit holder of APL Apollo Tubes Limited as the case may be on the death of all the joint holders shall become entitled to the rights in the shares or debentures or deposits of APL Apollo Tubes Limited, as the case may be, in relation to such shares or debentures of APL Apollo Tubes Limited, to the exclusion of all other persons unless the nomination is revoked before such exercise.

Can a Shareholder nominate more than one person to hold shares jointly in the event of his demise?

Section 109A(I) provides for the nomination of "a person", Form 2B prescribed for nomination requires the "name and address of the nominee". The view is that only one nomination is allowed to be made per folio. However if the shareholders/debenture holders hold in more than one folio but in different order of names or hold in joint names in more than one folio in different combination of names, then they can appoint different nominees under each folio.

For example, if shareholder "A" and "B" jointly hold 100 shares, they can together appoint one nominee. However, if 50 shares are held jointly in the names of A and B respectively and further 50 shares in the names of B and A respectively, they can appoint two different nominees for their holdings of 50 shares each. Parents desirous of nominating their children can plan their holdings in such a manner so as to facilitate nomination to their children.

Can a shareholder change his nomination?

A shareholder can change the nomination as and when he so desires. However, the rules do not prescribe any specific manner in which the variation or cancellation of the nomination can be made. In the absence of clear guidelines or rules, shareholder can change the nomination by a letter revoking his old nomination and submitting Form 2B for change in nomination.

How does APL Apollo Tubes Limited establish the identity of the nominee in case of death of the shareholder?

The prescribed Form 2B only provides for the name and address of the nominee. Section 109B(1) provides that the Board may require the nominee to provide and produce such evidence to prove his identity as thought necessary in the opinion of the Board. Without prejudice to the above, the shareholder/debenture holder may also provide the specimen signature of the nominee duly attested by his banker where he/she is holding an account along with Form 2B.

Can the shareholders holding shares jointly make a nomination?

Yes. Shareholders holding shares jointly may together nominate a person to whom the shares shall vest in the event of death of all joint holders.

What is the effect of death of one of the joint holders on nomination?

In the event of death of one of the joint holders, the shares get transmitted in the name of the surviving holder. The death of one of the joint holders does not rescind the nomination. Nominee will have title to the shares/debentures/deposits only on the death of all the joint holders.

Can the surviving joint holder make a fresh nomination by revoking earlier nomination?

Under the laws of wills and testamentary dispositions, joint wills cannot be revoked after the demise of one of the joint testators. Extending the principle in this case would suggest that nominations made jointly cannot be revoked after the demise of one of the joint holders.

However under section 109A the nomination made are to take effect notwithstanding testamentary dispositions, or otherwise. Therefore on demise of one of the joint holders the remaining joint holder would become sole member. In such case, fresh nomination in prescribed manner could be made revoking the old nomination.

Can a holder of partly paid shares / debentures make nominations?

Nominations can be made on partly paid up shares/debentures. However if at the time of demise of the share/debenture holder there are any calls in arrears, then the nominee would be subjected to the same rights and liabilities as the original share/debenture holder and the Board by virtue of Section 109B(2) will have discretion to register the shares/debentures in favour of the nominee.

Can nomination be made in favour of a minor?

Yes. Nomination can be made in favour of minor. In that event, the name and address of the guardian shall be given by the holder.

What will happen when a shareholder dies leaving a minor nominee?

Sub-Section (4) of Section 109A provides that it shall be lawful for the holder of the shares to nominate in the prescribed manner any person to become entitled to shares of the company in the event of his death during the minority of the nominee. A perusal of the prescribed Form 2B reveals that in case of a minor nominee, a person shall be named as guardian to whom the shares shall vest in the event of death of the shareholder during minority of nominee.

What is the effect of nomination upon transfer of shares?

Upon transfer of shares or debentures or repayment/renewal of deposits, nomination stands rescinded.

Do further acquisitions of shares under a given Folio get covered by the nomination?

A shareholder is required to fill in the distinctive numbers of shares on Form 2B and the shares covered by these distinctive shall be transmitted to the nominee in the event of death of the shareholder. For any further acquisition of shares of APL Apollo Tubes Limited, the shareholders will have to extend the nomination to the additional shares by filling in the necessary Form 2B as the existing nomination does not automatically cover the additional shares. To ensure that the nomination is valid, the shareholders need to make specific mention of all distinctive numbers.

Can shareholders nominate a person for a part of their holdings?

The nomination should be for the full holding and not part.

Does a Will by the shareholder override the nomination?

The Act provides that the nomination overrides a Will or any other testamentary law/instrument.

Can a nominee transfer the shares after the death of the shareholder?

A nominee is entitled to transfer the inherited shares in the same manner as the deceased shareholder could have made without having to transmit the shares in his name.

What is the procedure for transmission of shares in favour of the nominee?

Upon death of the shareholder or of both the joint shareholders as the case may be, the nominee would be required to furnish the following documents in addition to any other for the purposes of identification:

- (a) Certified true copy of death certificate of shareholder.
- (b) Proof of date of birth of the nominee.
- (c) An affidavit/declaration by the nominee declaring his rights.
- (d) The original share certificate.

On production of above documents and any further documents, if required, and on being satisfied about the identity of the nominee, will request the nominee elect either to register himself as holder of shares or to transfer the shares, the nominee is then required to issue a notice of election.

There may be further identification requirements at the discretion of the Board of Directors.

If the nominee elects to be registered as a holder of shares, he shall send a notice in writing stating that he so elects.

Is the nominee entitled to dividend and other benefits before being registered as a member?

Yes. However, if the Board has issued a notice to the nominee to elect and no election either to transfer or hold the shares/debentures in his name is made within a period of 90 days, the Board may withhold the payments of the dividends, bonus or other moneys payable/accruing to the shares/debentures/deposits.

Can the nominee exercise voting rights before being registered as a member?

A nominee is not entitled to exercise any voting rights before being registered as a member.

Is it necessary for Deemed Members (Demat Shareholders) to nominate the same person whom they have appointed as their nominee for their shareholdings with the depository?

In case of shares held in electronic form, names of the Depositories concerned (NSDL or CDSL) are entered in the Register of Members. The nomination made by the shareholders in respect of electronic holdings is distinct from their nomination for the physical holdings. Hence APL Apollo Tubes Limited will not recognize the nomination made by deemed members for their holdings in demat form. Such shareholders are given an option of nomination at the time of opening a demat account. However, the deemed members who have part of their holdings in physical form are entitled to make nomination in prescribed Form 2B for their physical holdings.

Can a Power of Attorney holder sign for the shareholder concerned appointing any person as nominee?

The Power of Attorney holder is not allowed to sign the nomination form on behalf of the shareholder.

Does transmission of shares to nominees attract payment of share transfer stamps?

On death of the shareholder, the nominee has to elect either to register himself as a shareholder or to transfer the shares. If he elects to register himself as a shareholder, he has to intimate his decision in writing preferably to our R & ST Agent, M/s. Abhipra Capital Limited This will be in the form of a transmission and therefore will not attract stamp duty.

If a shareholder elects to transfer the shares, he has to send a notice in writing to our R & ST Agent, M/s. Abhipra Capital Limited. Since this amounts to transfer of shares like any other transfer, the same would attract stamp duty.

Nomination Form is an important document like Will. What precaution investors should take to ensure that their instruction as to transmission would be acted upon by APL Apollo Tubes Limited?

The shareholders concerned should preserve a copy of nomination form on their record. APL Apollo Tubes Limited would after registering the nomination advise the shareholder(s) in writing of the registration of nomination.

Will a company be discharged if it acts on valid nomination?

The Companies Act, 1956 has now recognized nomination. APL Apollo Tubes Limited will be fully protected if it acts on the nomination. It is also necessary for APL Apollo Tubes Limited to act on the nomination. The instruction given in the prescribed nomination form states that transfer of shares / debentures in favour of the nominee and repayment of the amount of deposits to the nominee shall be a valid discharge by a company against the legal heir.

Once a nomination is made, the same will qua APL Apollo Tubes Limited, override all claims from the legal heirs under the succession certificate or from beneficiaries/executors under a Will executed by the deceased shareholder.

Whether the heirs of the nominee are entitled to the shares/debenture/deposit amount, if the nominee dies before the nominator?

If the nominee dies before the deposit holder, APL Apollo Tubes Limited should repay the deposit to the depositor on the date of maturity. If on the date of maturity, the depositor has also died, the heirs or legal representatives or holder of the succession certificate of the deposit holder is entitled to get refund of deposit and the interest due thereon. The heirs of the nominee are not entitled to claim the deposit amount if the nominee has predeceased the deposit holder.

Similarly, if the nominee dies before the shareholder/debenture holder, APL Apollo Tubes Limited shall transmit the shares/debentures in the name of the heirs or legal representatives or holder of the succession certificate. The heirs of the nominee are not entitled to the shares/debentures if the nominee has predeceased the shareholder/debenture holder