Central Depository Services (India) Limited

Convenient ⌖ Dependable ⌖ Secure

COMMUNIQUÉ TO DEPOSITORY PARTICIPANTS

CDSL/OPS/DP/1879 **February 02, 2010**

AMENDMENTS TO CDSL's DP OPERATING INSTRUCTIONS – CHAPTER 7: TRANSMISSION

DPs are advised to note that amendments have been effected in CDSL's DP Operating Instructions, Chapter 7: Transmission and related annexures.

The abovementioned chapter and related annexures are attached, with the amendments effected therein in *track changes* mode.

DPs are advised to take note of the new guidelines and ensure compliance with immediate effect.

Queries regarding this communiqué may be addressed to **CDSL – Helpdesk:** (022) 2272-8642, 2272-8427, 2272-8624, 2272-8693, 2272-8625, 2272-8639, 2272-8663, 2272-1261 or 2272-2075. Emails may be sent to: helpdesk@cdslindia.com

sd/-

Ramkumar K.
Vice President – Operations

7 TRANSMISSION

7.1 Objective:

7.1.1 The objective of transmission functionality is to allow the transfer of title of securities in case of death of an account holder and inheritance by a successor, as stated by the deceased BO.

7.2 Features

7.2.1 The securities are transferred into the account of either the surviving joint holder(s) or the claimant to the securities.

7.3 Reference To Law :

Depositories Act, 1996, SEBI (Depositories and Participants) Regulations, CDSL Bye-Laws

7.3.1 **SEBI Regulations**

- Regulation 41 : Agreement by Participant
- Regulation 44 : Transfer or withdrawal by beneficial owner

7.3.2 **Companies Act, 1956**

- Section 109 : Transfer by legal representative

7.3.3 **CDSL Bye Laws**

- Bye Laws 13.9 : Transmission of securities

7.3.4. **Prevention of Money Laundering Act, 2002**

- Rule 6. : Retention of Records.

7.4 Annexures

- Annexure 7.1 : Transmission Request Form - (In case of Sole Holder's Death)
- Annexure 7.2 : Transmission Request Form - (In case of Death of one of the Joint Holders)
- Annexure 7.3 : Letter of Indemnity
- Annexure 7.5 : Affidavit

- ~~Annexure 7.6 : No Objection Certificate~~

7.5 Precautions

7.5.1 This transaction can be initiated by the DP for transfer of securities only in case of death of all or any of the holders or in any other case with the prior approval of CDSL. For transmission of securities in case of death of one of the holders, the new account would need to be opened in the same order of names of the surviving holders as given in the old account. For example: If the old account is in the names of **A, B & C** and "C" expires, the new account, shall necessarily be in the names of **A and B**.

7.5.2 In case the surviving holders wish to transfer the securities to a demat account with any other DP of CDSL, the DP shall ensure that the names of the surviving holders are in the same order of names as in the existing account. The surviving holders shall submit to the old DP, the Client Master Report of the new account duly stamped and signed by the new DP for effecting the transmission of securities. A declaration stating that all transactions in the account are authentic shall be submitted by the surviving holders to the old DP.

7.5.3 If the surviving holders wish to transfer the securities to a demat account with the **same DP**, the new account may be opened by the DP, based on the documents submitted at the time of opening of the original account. However, if the 1st holder in the new account is different from that in the old account, the DP shall ensure that the existing KYC norms are adhered to in obtaining the required proofs for recording of permanent and correspondence address. A declaration stating that all transactions in the account are authentic shall be submitted by the surviving holders to the old DP. Further, DPs shall ensure that the KYC documentation, for opening of new accounts, is as per SEBI and CDSL specifications in force at the time.

7.5.4 If the surviving holders wish to transfer the securities to a demat account with the other depository, they would have to submit the Client Master Report of the account with the other depository duly stamped and signed by the DP of the other depository. The CDSL-DP would need to verify if the account is in the same order of names of the surviving holders before effecting the transfer. The transfer may be effected using the "Inter-depository" Module in the CDSL system. The following documents shall also be obtained along with the Client Master Report:-

- Duly filled and signed Account Closure Request form.
- Duly filled and signed DIS for Inter-depository Transfer.

- A declaration stating that all transactions in the account are authentic.
- All Unused DIS. If unused DIS are untraceable/misplaced, a declaration from the surviving holder(s) shall be obtained stating that the same are not traceable. The DP shall ensure that the serial numbers of the unused / untraceable DIS are blocked.

The DP shall apply to CDSL requesting waiver of charges for such transfers on a case-to-case basis.

7.5.5 If the transfer of securities from the account is to be effected to a claimant / Successor, the DP shall take measures to satisfy itself as to the identity of the Successor mentioned in the Succession documents.

7.5.6 The DP shall ensure that the copies of the documents submitted by the Claimant (Successor) are verified with the original documents.

7.5.7 On receiving intimation of the death of any of the holder(s) and after receiving the original Death Certificate or a copy of the same (duly notarized or attested by a Gazetted Officer), the DP shall not allow the execution of any instruction other than transmission request in the deceased BO's account, i.e. the DP shall freeze the account for debits with appropriate reason code.

7.5.8 The securities which are encumbered (i.e. Pledged, earmarked, etc.) will not be transferred out of the account and will remain in the deceased BO account till such time as the encumbrance is removed or the obligation (in case of earmarking) is met.

7.5.9 After receipt of all required documentation, the DP shall ensure that the Transmission request is processed within seven days of receipt of the same.

7.5.10 On transmission of all the securities to the Transmittee BO's account, the account of the deceased BO will be automatically closed by the CDSL system.

7.6 Procedure

7.6.1 Death of Sole Holder (Transfer)

A) If the deceased BO has nominated a person, then the Nominee shall be entitled to the transmission of securities standing to the credit of the deceased BO's account. In such a case, the nominee shall submit the following documents to the DP –

a) Transmission Request Form duly filled in – Annexure 7.1.

b) Original or copy of the death certificate of the deceased holder duly notarized / attested by a Gazetted Officer.

c) Client Master Report (of the demat account of the nominee), in case the nominee has a demat account in individual capacity with another DP of CDSL. Nominee shall be the sole holder of the account. The DP shall ensure that the said nominee does not have any joint holders in this new account.

B) If the deceased BO (sole holder) has not appointed a nominee, then the Successor(s) claiming title to the securities of the deceased BO (sole holder) must fill up the Transmission Form and submit the original death certificate of the deceased BO or a copy of the same, (duly notarised / attested by a Gazetted Officer) and any one of the following:

1. A Succession Certificate, or
2. A Letter of Administration, or
3. A Probate of the will of the deceased.

- If there is more than one claimant, the claimants / successors shall submit **one** Transmission Request Form to the DP.
- However, if the Successors express their inability to produce either of the documents mentioned in 1, 2 and 3 above, and the market value of the securities held in each of the accounts of the deceased BO as on the **date of application** for Transmission does not exceed Rs. 1,00,000/- or such other amount as may be specified by CDSL from time to time, the DP shall process the Transmission request on the basis of the following documents:

  a) Transmission Request Form (Annexure – 7.1).

  b) Copy of the death certificate of the deceased BO, duly notarized or attested by a Gazetted Officer.

  c) Any one or more of the following documents:

  (i) Letter of Indemnity executed by the applicant(s) on non-judicial stamp paper of appropriate value, duly notarized (Annexure – 7.3)

  ~~c)~~

  (ii) An Affidavit from the applicant executed on non-judicial stamp paper of appropriate value and notarized (Annexure 7.5).

  ~~d)~~

(iii) No objection certificate [NOC] ~~letter(s)'~~ from all legal heir(s) who are not applicants conveying no objection to the transmission of the relevant securities in favor of the applicant(s) - (Annexure – 7.1 ~~7.6~~).

~~e)~~(iv) As an alternate to NOC, copy of Family Settlement Deed duly notarized or attested by a Gazetted Officer and executed by all the legal heirs of the deceased BO, provided that:

- The Family Settlement Deed clearly vest the securities in favour of the person seeking transmission in his/her name.
- Vesting of securities in favour of the person seeking transmission in his/her name is not contingent upon any other onerous conditions in such Family Settlement Deed.

Note: If the division of shares as per the Family Settlement Deed is amongst more than one person, then the Family Settlement Deed can be considered as an NOC for transmission of shares to each legal heir applying for transmission.

- ~~On receipt of the above mentioned certificates and documents, the DP shall suspend prospective debits to the deceased BO's account and await Instructions from the Successor(s) / Nominee.~~ *[This point has been deleted as instructions have already been stipulated in this regard in point 7.5.7 above].*
- The DP shall verify the notarized / attested copy of the death certificate and the document of Succession / Nomination.
- The DP shall verify the details in the Transmission Request Form with the BO account details of the deceased BO as available at CDSL. If the details are found to be incorrect in any manner, the DP shall inform the Successor(s) / Nominee about the errors in the Form. The Transmittee BO(s) shall make the necessary corrections and return the Transmission Request Form to the DP.
- Once the details on the Transmission Request Form and the documents are found to be in order, and if the account of the Successor(s)/Nominee is with CDSL, then the DP shall set up a Transmission Request through the front-end system of CDSL.
- The transmission of balances of all the ISINs (as specified in the Succession Certificate / Nomination Form or in the relevant legal document), will be done into the account of the Transmittee BO(s) at CDSL.

- The Transmittee `DP shall give a Statement of Account to the new Beneficial Owner.
- In case the account of the Successor(s)/Nominee is with the other depository, the DP shall effect the transmission through the "Inter-depository" Module in the CDSL system.
- After all the holdings have been transmitted from the deceased BO's Account, the DP shall close the deceased BO's account.
- All transmission requests shall be processed within seven days from receipt of required documentation.

7.6.2 Death of one of the Joint Holders

- On death of one of the joint holders, the surviving holders shall succeed to the securities standing to the credit of such an account.
- On the death of one of the joint holders, the surviving holders shall submit the following documents to the DP –
  a) Transmission Request Form duly filled in – Annexure 7.2. The surviving holders shall submit **one** Transmission Request Form to the DP.
  b) Original or copy of the death certificate of the deceased holder(s), duly notarized / attested by a Gazetted Officer.
  c) Client Master Report of the joint holders, in case the joint holder(s) has/have a demat account with some other DP of CDSL / other depository.
- The surviving holder(s) can transmit securities to an account opened in their names only.
  e.g. 1: If the account is in the name of A, B and C, on death of B, the surviving holders : A and C can transmit the securities only to an account opened in the order A and C.
  e.g. 2 : If the account is in the name of A and B, on the death of B, the surviving holder: A can transmit the securities only to an account in the name of A without joint holders.

- On submission of the abovementioned certificates and documents, the DP shall suspend prospective debits to the deceased BO's account and await instructions from the Successor(s).

- The DP shall make a prima facie check on the death certificate submitted by the surviving holder(s).
- The DP shall open a new account, if an account does not exist in the same order of names of the surviving holders as appearing in the original BO account.
- The new account may be opened, with the same DP, based on the documents submitted at the time of opening of the original account. If the 1st holder of the new account is different from the 1st holder of the old account, the DP shall ensure that the existing KYC norms are adhered to in obtaining the required proofs for recording of permanent and correspondence address. Further, DPs shall ensure that the KYC documentation for opening of new accounts is as per SEBI and CDSL specifications in force at the time.
- The surviving holder(s) shall submit a request in the Transmission Request Form (Annexure 7.2)
- The deceased BO's DP shall verify the details in the Transmission Request Form with the original BO account details available at CDSL. If the details are found to be incorrect in any manner, the DP shall inform the successor(s) about the errors in the Transmission Request Form. The Transmittee BO(s) shall make the necessary corrections and return the Transmission Request Form to the DP.
- Once the details on the Transmission Request Form and the documents are found to be in order, and if the account of the transmittee BO is with CDSL, then the DP shall set up a Transmission Request through the front end system of CDSL.
- The transmission of balances of all the ISINs will be done into the account of the Transmittee BO(s) at CDSL.
- The DP shall give a statement of account to the new BO.
- In case the account of the transmittee BO is with the other depository, the DP shall effect the transmission through the "Inter-depository" Module in the CDSL system.
- After all the holdings have been transmitted from the deceased BO's Account, the DP shall close the deceased BO's account.
- All transmission requests shall be processed within seven days of receipt of required documentation.

7.7 Controls

7.7.1 The securities cannot be rematerialised directly from the deceased BO's account.

7.7.2 The DP shall take precautions to ensure that the correct BO ID(s) and ISIN(s) are entered in the CDSL system for effecting the Transmission Request.

7.7.3 The request for transmission shall be in accordance with the Succession Certificate, Letter of Administration or a Probate of the Will of the deceased BO – valid only in the case of a sole holder without nominee.

7.8 Reconciliation

7.8.1 The DPs shall reconcile, on a daily basis, the total number of transmission requests received to the total number of transmission requests executed and the total number of transmission requests pending.

7.9 Records to be maintained

7.9.1 Notarized / attested copy (ies) of death certificate(s) of the deceased BO(s), letters of administration, Succession Certificate, probate of Will of the deceased shall be maintained.

7.9.2 Correspondence with the successor(s) / Nominee(s), if any.

7.9.3 Transmission Request Forms

7.9.4 Letter of Indemnity.

7.9.5 Affidavit made on appropriate non-judicial stamp paper.

7.9.6 No Objection Certificate from the legal heirs.

7.9.7 All the above documents are to be preserved for a period of 10 years or any such period informed by SEBI/ CDSL.

7.9.8 If any original documents are submitted to the CID, CBI or such investigating agency, then copies of all such documents are to be retained till the investigations are complete.

TRANSMISSION REQUEST FORM

(In case of death of the sole holder)

Application No.		Date	D	D	M	M	Y	Y	Y	Y

(Please fill all the details in **Block Letters** in English)

To,
Depository Participant Name
Address

Dear Sir / Madam,

PART - I

I, Nominee / Successor/ Guardian of the successor or nominee (in case of Minor) request you to **transmit** the following securities due to the death of the sole account holder. Original Death Certificate / copy of Death Certificate (duly notarized / attested under seal by a Gazetted Officer) is attached herewith.

Name of the deceased BO:
Account Number of the deceased BO:

DP ID									Client ID								

Kindly transmit all securities in the deceased BO's account mentioned above to the BO account mentioned below.

Successor BO Account Number

DP ID									Client ID								
Name																	

Details of Transmission

Sr. No	Name of the Security	ISIN	Quantity of securities to be transmitted

Attach an annexure duly signed by the Nominee / Successor / Guardian of the successor or nominee (in case of Minor), if the space above is insufficient.

(Nominees / Successor / Guardian of successor or nominee (in case of Minor))

	First / Sole Holder	Second Holder	Third Holder
Name			
Signature			

PART – II

No Objection Statement from other heirs/successors who are non-applicants

1. I/We, the undersigned, residing at ______________________, am/are legal heir(s) of the said deceased.

2. I/We do not desire to make any claim of title of the said securities and have no objection whatsoever in transmitting the said securities in the name(s) of Mr. / Mrs. ________________ who has/have opened a beneficial owner account(s) under Client ID _______ and DP ID _____.

3. In consideration of registration of the aforesaid securities in the client account of Mrs. / Mrs. ____________ under DP ID ____________ Client ID _____________ at my request, I/We hereby renounce all my/our rights existing as well as those that may accrue to me/us in future in respect of the aforesaid securities.

Signed in the presence of

Bank Manager	**Signature of the legal heir**

Full Name and Address of Bank Manager:

Name : ______________________

Address : ______________________

____

Note for all legal heirs/successors who are applicants / non-applicants:
Only one Transmission Request Form is to be submitted by claimants/non-claimants to the DP of the deceased BO for the transmission of securities wherein the intentions of the legal heirs/successors are collectively stipulated.

============================(Please tear here)=======================

Acknowledgement Receipt

Application No. **Date: -**

We hereby acknowledge receipt of the instructions for transmission of securities from the deceased BO's account to the account of the Nominee / Successor / Guardian of the successor or nominee (in case of Minor), as per details given on the transmission form.

Account number of the deceased BO

DP ID									Client ID								

Successor BO Name(s)		
First/Sole Holder	**Second Holder**	**Third Holder**
Documents Submitted		

Subject to verification.

Depository Participants Seal & Signature

~~No Objection Certificate~~

~~**Date**~~	~~D~~	~~D~~	~~M~~	~~M~~	~~Y~~	~~Y~~	~~Y~~	~~Y~~

~~**To,**~~
~~**Depository Participant Name**~~
~~**Address**~~

~~Dear Sir/Madam,~~

~~**Re: Transmission of security balances standing in the name of Late ____ under Client ID ______________ DP ID __________________**~~

~~1. In connection with the above, I wish to inform you that Mr. / Mrs. ______________________, expired on ______________ and was holding the following securities under the DP ID ____________ and Client ID ____________.~~

~~**ISIN**~~	~~**Name of Company**~~	~~**Number of Securities**~~

~~2. I, the undersigned, residing at ____, am a legal heir of the said deceased.~~

~~3. I do not desire to make any claim of title of the said securities and have no objection whatsoever in transmitting the said securities in the name(s) of Mr. / Mrs. ____________________________ who has/have opened a beneficial owner account(s) under Client ID ______________ and DP ID _______________.~~

~~4. In consideration of registration of the aforesaid securities in the client account of Mrs. / Mrs. ___________________________________ under DP ID ___________ Client ID ____________ at my request, I hereby agree to renounce all my rights existing as well as they may accrue to me in future in respect of the aforesaid securities.~~

~~**Signed in the presence of**~~

________________________ ____________________________

~~**Bank Manager**~~ ~~**Signature of the legal heir**~~

~~Full Name and Address of Bank Manager~~

~~Name : ____________________________~~
~~Address : ____________________________~~
____

~~**Note: Each legal heir should sign this letter of No Objection separately.**~~

~~***This page has been intentionally left blank.***~~