

Consultation paper on “Opening of demat account in the name of Association of Persons (AOPs) for holding certain securities in dematerialized form.”

Objective:

1. To solicit views from stakeholders and public on the proposal to clarify that Association of Persons (AOPs) can open a demat account in the name of AOP to dematerialise and hold securities (other than equity shares).

Background:

2. SEBI has received suggestions that depositories may be allowed to open demat account in the name of partnership firms, Association of Person (AOP) and unregistered trusts instead of the current practice of allowing opening of demat account only in the name of the relevant natural persons i.e. in the names of its partners, persons associated with AOP and trustees respectively.
3. As per the current statutes, shares in a company cannot be held in the name of partnership firm, unregistered trust or AOP unless such an entity is a separate legal entity.
4. Although statutes clarify that unregistered trusts, AOPs and partnership firms cannot become member of the Company as they are not juristic persons, but the position in terms of their holding of other financial assets like corporate bonds, G-Sec, mutual fund units etc. (which too are held in demat form) by partnership firms, unregistered trusts and association of persons is not clear.

Main Issue

5. On examination of various legal provisions, it was noted that in respect of partnership firms and unregistered trusts, a common view regarding holding of mutual fund units, corporate bonds and government securities is difficult. Thus at this stage, due to the legal issues involved in holding of such securities by partnership firms and unregistered trusts, no changes are being envisaged for such entities.
6. However, it was also noted that AOPs can be organised in different forms (like joint venture association, cooperative society, co-operative housing society, etc.) and can hold government securities, mutual fund units and corporate bonds when permitted by the applicable law.
7. As AOPs can hold securities other than equities in the name of the entity, the BO account can be in the name of the AOP. Thus, towards the pursuit of Ease of Doing Business, we propose to allow holding of units of mutual funds, corporate bonds, government securities by AOPs in their own demat accounts. This would also encourage dematerialisation of securities held in physical form.

AOP shall also be legally responsible for ensuring that they only subscribe to the financial instrument/ securities that are permitted by statutes governing the AOP.

Proposal

8. In line with the above, it is proposed to carry out the following amendment to para 1.2.6 of the SEBI Master Circular for Depositories:

Existing provision in the Master Circular for Depositories	Suggested amendments (additions are shown in bold and deletions are in strikethrough)
<p>1.2.6 HUF, Association of Persons (AoP), Partnership Firm, unregistered Trust, Registered Trust, Corporate Bodies, minors, etc. The BO account shall be in the name of natural persons, PAN card details of the respective HUF, AoP, Partnership Firm, Unregistered Trust, etc. shall be obtained. The PAN number of Registered Trust, Corporate Bodies and minors shall be obtained when accounts are opened in their respective names</p>	<p>1.2.6 HUF, Association of Persons (AoP), Partnership Firm, unregistered Trust, Registered Trust, Corporate Bodies, minors, etc. The BO account shall be in the name of natural persons, PAN card details of the respective HUF, AoP, Partnership Firm, Unregistered Trust, etc. shall be obtained. The PAN number of Registered Trust, Corporate Bodies and minors shall be obtained when accounts are opened in their respective names.</p> <p>In case of Association of Persons (AOP), the BO account can be in the name of AOP and securities (other than equity shares) can be held in its own name. PAN card details of the respective AOP shall be obtained.</p> <p>The Depository Participants to seek confirmation from the AOP to the following effect while opening a demat account in the name of the AOP: The statutes governing the AOPs permit the AOP to hold securities that are being dematerialised and that only such securities that an AOP is permitted to hold shall be dematerialised / subscribed in demat form.</p>

	The demat account shall not be used for subscribing / holding equity shares.
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9. Comments are sought from the public on the afore mentioned amendment to para 1.2.6 of the SEBI Master Circular on Depositories.
10. The comments/ suggestions, with respect to para 1.2.6 of the SEBI Master Circular on Depositories, may be submitted latest by November 05, 2024, through the following link.

<https://www.sebi.gov.in/sebiweb/publiccommentv2/PublicCommentAction.do?doPublicComments=yes>

11. In case of any technical issue in submitting your comments through web based public consultation form, you may write to mrd_consultation@sebi.gov.in with the subject, "**Opening of demat account in the name of Association of Persons for holding certain securities in dematerialized form.**"
