

## **Importance of making a nomination**

### **Introduction**

This is an introductory guide to help you understand the importance of making a nomination in your life insurance policy to safeguard the interest of your loved ones.

It gives you some basic information to help you understand the nomination process and its benefits. A brief explanation on several technical terms used is also provided to help your reading process.

### **Making a nomination**

The purpose of having life insurance is to ensure that your loved ones are protected financially should anything happen to you. It is then important that your loved ones can access the funds quickly. If you do not make a nomination in your insurance policy, your insurance company is not obligated to release the policy moneys until your loved ones obtain a Grant of Probate or Letter of Administration or Distribution Order, which may take several years. However, if a nomination is made, the policy moneys can be disbursed much faster without the need to obtain the Grant of Probate or Letter of Administration or Distribution Order.

In addition, in the case of a non-Muslim policy owner, a trust will be created in favour of the nominee under the following circumstances:

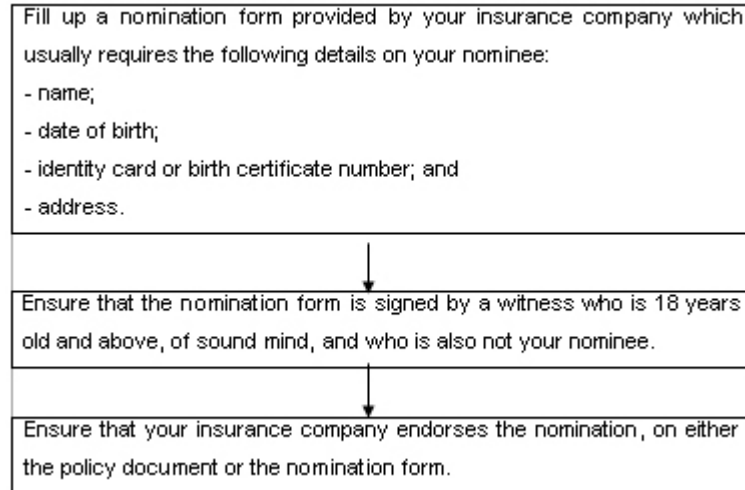
- if the nominee is the spouse or child of the policy owner, or
- if the nominee is the policy owner's parent (provided that there is no living spouse or child at the time of such nomination).

When such a trust is created, the policy is known as a trust policy. As a trust policy, the policy moneys payable do not form part of the estate of the deceased policy owner and are not subjected to the deceased policy owner's debts. This ensures that your loved ones get the full amount of the policy moneys payable. However, this is only applicable if the policy is taken in good faith and with no intention to defraud creditors.

A trust policy does not apply in the case of a Muslim policy owner. The nominee of a Muslim policy owner takes the policy moneys only as an executor and must distribute the moneys in accordance with Islamic laws.

### **How do I make a nomination?**

If you are 18 years old and above, you can nominate an individual or individuals to receive the policy moneys in the event of your demise. Nomination can usually be done at the time of application of the life insurance policy or any other time, when necessary.



You can nominate more than one nominee, and state the proportion to which each nominee would be entitled. For example:

Name	NRIC	Share
Tan Mei Ling	601212-21-1010	50%
Lim Jet Li	850619-22-5000	20%
Lim King Sing	430915-23-6050	30%

If you do not specify the portions to be paid to each person, the policy moneys will be distributed to the nominees in equal share.

### Who can I nominate?

You are free to nominate whoever you want. However, not all nominees will receive the policy moneys beneficially or for their own use.

In the case of a non-Muslim policy owner, depending on the relationship between the policy owner and the nominee, a nominee can receive his or her share of the policy moneys either beneficially or as a trustee or an executor.

Where the nominee is the spouse or child, a trust will be created in favour of the nominee who will receive the policy moneys beneficially. If there is no living spouse or child at the time of nomination and you nominate your parent, then a trust will be created in favour of your parent and he or she will receive the policy moneys beneficially. In such a case, the policy is called a trust policy.

[ Note: When a trust policy has been created, you cannot revoke a nomination under the policy, vary or surrender the policy, or assign or pledge the policy as security, without the written consent of the trustee].

However, where there is a living spouse or child at the time of nomination and you nominate your spouse and parent or you nominate your child and parent, a trust will only be created in favour of your spouse or child but not your parent in both these instances. Similarly, where there is a living spouse or child at the time of nomination and only your parent is nominated, a trust will not be created in favour of your parent.

Where the nominee is not the policy owner's spouse or child or parent (if there is no living spouse or child at the time of nomination), the nominee will receive the policy moneys only as an executor and shall distribute it according to the will, or if there is no will, the applicable laws of distribution. In such a case, the policy is called a non-trust policy. The policy moneys form part of the deceased's estate and are subjected to his debts.

For example, if you nominate your brother, he will receive the policy moneys as an executor. The policy moneys will then form part of your estate and your brother would be bound to distribute the policy moneys accordingly, including to your creditors, if any. If there is a surviving spouse, child, or parent, and there is no will, then according to the Distribution Act 1958, the brother will not inherit any part of the estate.

Note: As previously mentioned, in the case of a Muslim policy owner, the nominee, irrespective of relationship, can only receive the policy moneys as an executor, and the policy moneys must be distributed according to Islamic laws].

### **The role of trustees**

Trustee(s) can also be appointed to receive the policy moneys in a trust policy. Upon the demise of the policy owner, the trustee's duties would be to receive the policy moneys and distribute them to the nominees accordingly. The trustees must act in the best interest of the nominees at all times.

The appointment of trustee(s) is especially important for children below 18 years of age because, legally, minors are considered incompetent to enter into a contract and therefore not able to receive the policy moneys directly. Where no trustee is appointed and a child is the nominee of the policy, the surviving parent is the trustee. Where there is no surviving parent, the Public Trustee shall be the trustee. Upon receiving the policy moneys from the insurance company by the trustee, the insurance company shall be discharged of all liabilities in respect of the policy moneys paid to the trustee(s).

In the case where a nominee is 18 years old and above, and no trustee has been appointed, the nominee shall act as the trustee of the policy moneys.

### **Changing the nomination**

You can make changes to a nomination by writing to your life insurance company. The latest nomination will supersede all previous nominations. A nomination will also be considered revoked upon the demise of a nominee, or all nominees (if there is more than one nominee), during the lifetime of the policy owner. However, in the case of a trust policy, a nomination cannot be revoked without the written consent of the trustee.

### **What happens when there is no nomination?**

Where no nomination has been made, the insurance company shall pay the policy moneys to the applicant who produces the Grant of Probate or Letters of Administration or Distribution Order.

However, the insurance company may, at its discretion, make payment to a claimant without requiring the Grant of Probate or Letters of Administration or Distribution Order, under the following circumstances:

if the claimants are the policy owner's spouse, child or parent, the insurance company may pay to the policy owner's spouse, child or parent in that order of priority. If there is more than one person

in any of the above-mentioned categories, then all individuals in that category will be paid in equal shares.

if there is no spouse, child or parent and the policy moneys payable do not exceed RM 100,000:

the insurance company, may pay the policy moneys to whom it is satisfied is entitled and likely to be given the Grant of Probate or Letters of Administration or Distribution Order, or to a person who the insurance company is satisfied is beneficially entitled to the estate of the deceased policy owner.

if there is no spouse, child or parent and the policy moneys payable exceed RM100,000:

the insurance company may pay the first RM100,000 to a person as specified in the immediate paragraph above. The balance of the policy moneys shall be paid to the same person upon production of the Grant of Probate or Letters of Administration or Distribution Order.

However, upon 12 months after the first payment of RM100,000 and no claim has been made on the balance of the policy moneys by any person who holds a Grant of Probate or Letters of Administration or Distribution Order, the insurance company shall pay the balance to the person who has received the first payment.

When no nomination has been made, the person who received the policy moneys is only receiving it as an executor and must distribute it in accordance to the will of the deceased, or if there is no will, the applicable laws of distribution.

### **Understanding the important terms used**

- **Beneficiary** - a person who is entitled to receive for his own benefit (beneficially) the policy moneys under an insurance policy, and not merely as an executor or trustee holding the policy moneys for others.
- **Distribution Order** - an order made by the court for the division of the estate of a deceased, who did not leave any will, according to the law.
- **Executor** - a person who has been appointed in a will to administer a deceased's estate, in accordance with the deceased's will, and issued a grant of probate by the court to do so. For purposes of the Insurance Act 1996, a reference to an "executor" is a reference to a nominee of a non-trust policy who receives policy moneys not as a beneficiary but as someone who must pass the policy moneys to the deceased policy owner's estate for distribution.
- **Grant of Probate** - a formal document issued by the court authorising the executor named by a deceased person in his will to administer his estate in accordance to the deceased's will.
- **Letters of Administration** - a formal document issued by the court to a person to administer the estate of a deceased who did not make a will.
- **Nominee** - a person who is named (nominated) in an insurance policy by the policy owner to either receive and/or administer the policy moneys upon the demise of the policy owner.
- **Non-Trust Policy** - an insurance policy whereby the policy moneys form part of the estate of the deceased policy owner and are subjected to his debts.
- **Policy Moneys** - total sum of moneys, including any benefit whether of monetary value or not, that is payable under an insurance policy.
- **Public Trustee** - a statutory body set up to help manage estates of deceased persons, when required. In Malaysia, Amanah Raya Berhad is the public trustee. Amanah Raya Berhad acts as a custodian trustee and may be appointed as trustee of any will or settlement or trust, or perform any trust or duty of certain classes. It may also be granted

probates of wills or letters of administration by a court. Upon application by a beneficiary, Amanah Raya Berhad can also be appointed by a court to replace all or any existing executors, administrators or trustees.

- **Trust Policy** - an insurance policy in which the nominee is the policy owner's spouse or child, or where there is no living spouse or child at the time of nomination, his parent. Under such a policy, the policy moneys do not form part of the estate of the deceased policy owner and is not subjected to his debts.
- **Trustee** - a person who is given the legal title to the property which he holds not for his own benefit but on trust for the benefit or interest of another or others.