

Draft Administrative Guidelines for Custodian and Depository Participant

1. Regulatory recognition

- (1) The entity must possess a valid Certificate of Registration as a custodian from the Securities and Exchange Board of India (SEBI) to carry out custodial activities.
- (2) The entity must possess a valid Certificate of Registration as a Depository Participant from the Securities and Exchange Board of India (SEBI) to carry out Depository Participant activities.

2. Duties and Responsibilities of the custodian

The custodian's duties and responsibilities towards its role in the New Pension System (NPS) must include

- (1) Custody of New Pension System Trust (NPST) securities, assets or documents;
- (2) Settlement of NPST securities, assets or documents;
- (3) Record, receipt and reporting of rights or entitlements arising on NPST securities, assets or documents,
- (4) The custodian must be continuously accountable for the movement of securities in and out of custody account, deposit, and withdrawal of cash and all other assets from the Pension Fund Manager's account and must provide a complete audit trail, whenever called for by NPST.
- (5) The custodian must adhere to the timelines as defined in the service level agreement entered with NPST.
- (6) Any other incidental activities as defined by NPST from time to time through regulation or agreements with the custodian.

3. Monitoring, review, evaluating and inspecting systems and controls

- (1) The custodian must have adequate mechanisms for the purposes of reviewing, monitoring and evaluating its controls, systems, procedures and safeguards.
- (2) Where the custodian records are kept electronically, the custodian of securities must take precautions necessary to ensure that continuity in record keeping is not lost or destroyed and that sufficient back up of records is available.

- (3) The custodian must cause to be inspected annually, the mechanism referred to in section 3(1) by an expert and forward the inspection report to the NPST within three months from the date of inspection.
- (4) The custodian must establish and maintain adequate infrastructural facilities to be able to discharge custodial services to the satisfaction of NPST, and the operating procedures and systems of the custodian must be well documented and backed by operations manuals.

4. Prohibition of assignment

- (1) The custodian must not assign or delegate its functions as a custodian of securities, assets or documents to any other person unless such person is a custodian of securities authorized to do so by NPST.

5. Separate custody account

- (1) The custodian must open a separate custody account for each Pension Fund Manager, in the name of NPST, whose securities, assets or documents are in its custody. The assets managed by one Pension Fund Manager must not be mixed with those managed by another Pension Fund Manager.

6. Confidentiality

- (1) The custodian must maintain confidentiality in respect of the Pension Fund Managers' affairs.

7. Co-operation and support

- (1) The custodian shall extend to other custodial entities, depositories and clearing organizations all such co-operation that is necessary for the conduct of business in the areas of inter custodial settlements, transfer of securities and transfer of funds.
- (2) The custodian must ensure the complete transfer of assets to other custodians, if instructed by the NPST to do so.

8. Firewall from other businesses

- (1) The custodian must ensure that a firewall is maintained, in respect of the NPS, both in terms of staff and systems, from its other businesses.

9. Tripartite Agreement with the NPST and Pension Fund Managers

The custodian must enter into a tripartite agreement with NPST and each Pension Fund Manager on whose behalf it is acting as the custodian. Every such agreement must provide for the following matters namely:

- (1) the circumstances under which the custodian will accept or release securities, assets or documents from the custody account;
- (2) the circumstances under which the custodian will accept or release monies from the custody account;
- (3) the circumstances under which the custodian will receive rights or entitlements on the securities in the custody account;
- (4) the circumstances and the manner of registration of securities in the custody account; and
- (5) details of the insurance to be provided for by the custodian.

10. Internal controls

- (1) The custodian must have adequate internal controls to prevent any manipulation of records and documents, including audits for securities and rights or entitlements arising from the securities held by it on behalf of NPST.
- (2) The custodian must have appropriate safekeeping measures to ensure that such securities, assets or documents are protected from theft and natural hazard.
- (3) The custodian must prepare and maintain disaster recovery and business continuity plans at all points of time. These must be communicated to NPST. All changes made to such plans must also be communicated to NPST.
- (4) The Custodian must be responsible for the acts of commissions or omissions by its employees or the persons whose services have been procured by it.
- (5) The Custodian must obtain internal Audit reports at half yearly intervals from an independent auditor. The internal auditor shall follow the "Standards on Internal Audits" laid down by Institute of Chartered Accountants of India (ICAI).

11. Maintenance of records and documents and furnishing of information

- (1) Without prejudice to the provisions of any other law in force, the custodian must maintain the following records and documents, namely:
 - (a) records containing details of securities, assets or documents received and released on behalf of each Pension Fund Manager;
 - (b) records containing details of monies received and released on behalf of each Pension Fund Manager;

- (c) records containing details of rights or entitlements of each Pension Fund Manager arising from the securities held on behalf of the Pension Fund Manager;
 - (d) records containing details of registration of securities in respect of each Pension Fund Manager;
 - (e) ledger for each Pension Fund Manager;
 - (f) records containing details of instructions received from and sent to NPST and Pension Fund Managers; and
 - (g) records of all reports submitted to the NPST and Pension Fund Managers.
- (2) The custodian must intimate to the NPST the place where the records and documents under section 11(1) are maintained.
 - (3) The custodian must preserve the records and documents maintained under section 11(1) for a minimum period of *ten* years.

12. Appointment of compliance officer

- (1) The custodian must appoint a compliance officer who shall be responsible for monitoring the Custodian's compliance with the PFRDA Act, rules and regulations, notifications, guidelines, instructions, etc., issued by NPST, PFRDA or the Central Government and for redress of subscriber grievances.
- (2) The compliance officer must immediately and independently report to the NPST / PFRDA any non-compliance observed by him.

13. Information to NPST

- (1) The NPST may, at any time, call for any information from a custodian with respect to any matter relating to its activities as the custodian.
- (2) Where any information is called for by the NPST under section 13(1), it must be the duty of the custodian to furnish such information within such reasonable period as NPST may specify.