

## Response to Stakeholder / Public comments on the proposed amendments to PFRDA (Point of Presence) Regulations, 2018

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|-------|--|---|---|
| 1     | Definition of 'Key Personnel'  | Definition can be aligned with PFRDA (Pension Fund) Regulations, 2015.  | The definition of 'Key Personnel' in the PF Regulations includes KMP as defined under the Companies Act, 2013 and other functionaries such as CIO, CISO, CRO, Operations Head and Fund Manager. Considering the differential functions of PoP vis-à-vis PF, key personnel definition as per PoP includes KMP as defined under the Companies Act, 2013.  |
| 2     | <p>Eligibility criteria – Number of branches:</p> <p>Minimum of ten branches in India, having the necessary Information Technology infrastructure and capacity to have electronic interface with the central recordkeeping agency(s).</p> <p>Demonstrated capability to electronically transmit the subscriber's contribution and information as per the service standards or relevant guidelines issued by the Authority.</p>                     | Clarification sought on applicability of minimum 10 branches criteria to the existing PoPs as well and the rationale thereof.   | <p>In a digital world, online onboarding has gained a significant momentum. Thus, physical branches and online presence have a complimentary role to play. Hence, requirement of number of branches has been relaxed to simplify and for ease of doing business.</p> <p>As per the amendment, the PoPs shall seek registration under POP-NPS and /or PoP-APY and need to have at least one branch/office in India, with Information Technology infrastructure capable of electronic connectivity with the central recordkeeping agency(s) to receive and transmit the subscriber's funds and instructions and pay out of funds as per the service standards.</p> <p>This change shall be applicable uniformly to existing PoP as well as to the applicants.</p> |
| 3     | <p>Eligibility criteria – Networth:</p> <p>Applicant should have a minimum net worth of rupees seventy-five lakhs as on date of application including a minimum paid up equity capital of rupees fifty lakhs.</p> <p>Explanation: Net worth as defined under Section 2(57) of Companies Act 2013 for the purpose of this clause.</p>   | Clarification on networth has been acknowledged.  | <p>The eligibility criteria in terms of minimum networth requirement has been strengthened further and it has been increased to Rupees two crore which shall include minimum paid up equity capital of Rupees fifty lakh.</p> <p>This requirement shall be met as on the last day of the immediately preceding quarter to the date of application vis-à-vis last day of the immediately preceding financial year.</p>   |
| 4     | <p>Eligibility criteria – Fit and proper person:</p> <p>The Applicant or its key managerial personnel should not have been convicted in the past five years, immediately preceding the date of its application, for commission of any economic offences or involving national security or moral turpitude, or be involved in violation of any law, including banking law or insurance law or securities law or have committed acts of fraud or</p> | <p>(i) To include a threshold for violation of any law including banking law or insurance law or securities law.</p> <p>(ii) The phrase "a major penalty has been imposed by any regulator upon it" should be defined, by mentioning the quantum of the penalty imposed. The addition of "involved in violation of any law, including securities law" should be changed. This should instead be for</p> | Schedule-V specifying 'Fit and proper person' criteria has been incorporated.   |

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|       | a major penalty has been imposed by any regulator upon it.  | violation of law that exceeds a specific threshold of penalty or imprisonment, or only for certain types of violations such as fraud, moral turpitude, etc.   |  |
| 5     | Public disclosure of information in the application: The Authority having regard to the interest of the subscribers, may make disclosure to the public of the information on such application made by the applicant, by placing such information on its website, except information of a commercial and confidential nature.  | (i) Suggest to keep the original clause unchanged.<br>(ii) PoPs should not be required to make additional disclosures in relation to individual applications to the public. Any information that is required for applicants and subscribers will continue to be available on the PoP's website. | The application has information of commercial and confidential in nature. Thus, its disclosure on website may not be required. Thus, the regulation has been deleted.  |
| 6     | Disclosure of any change in material information during application pending stage:<br>Any material change having occurred in respect of the information furnished shall be submitted to the Authority within seven days of occurrence of such change.   | (i) What constitutes "Material Change". Also, the word "business days" is required to make it uniform in all the regulations<br>(ii) The timelines provided are not giving adequate time for reporting.<br>(iii) Suggestion to maintain the original timelines of fifteen days.                 | <i>"Material change"</i> has been replaced with <i>"any change in information"</i> and timeline to furnish the such information has been reduced to three working days.<br>This regulation is applicable to applicants, but disclosure of any change in material information requirement is applicable to existing PoPs as well.<br>The time to dispose-off the application has also been reduced. |
| 7     | Verification of application:<br>While considering the information furnished by the applicant, the Authority may, if it so desires, verify the information by physical verification of documents, inspect the availability of office space, infrastructure, and technological capabilities or such other facilities which the applicant is required to fulfil. The Authority may also seek confidential report from any other regulatory body or organization on the information disclosed in the application or on any other matter concerning the applicant. | "or such other facilities" may be defined in explicit terms.  | The amended regulation provides for verification of technological capabilities of the applicant to render the PoP services.  |
| 8     | Past track record:<br>Whether the request of registration of the applicant or of any entity which controls the applicant has in the past been refused by Reserve Bank of India, Securities and Exchange Board of India, Insurance Regulatory and Development Authority of India or Pension Fund Regulatory and Development Authority or any other regulator in India or whether any registration certificate granted, has been cancelled during the said period and if so, the ground for such refusal or cancellation.                                       | Clarity on definition of Controlling entity. Whether the control will be assessed immediate one level up of PoP i.e., the PoP and its holding company (sponsor).  | The amended regulation require these details only in respect of the applicants.  |

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| 9            | Grounds of rejection of application: which is incorrect, false or misleading in nature or has omitted to disclose material facts; or   | (i) Suggest to replace the word “omitted” with “wilfully omitted”   | The omission in respect of “ <i>material facts</i> ” in the application is serious in nature. Hence, the suggestion is not accepted.  |
| 10           | Grounds of rejection of application:<br>Before rejecting an application, the applicant shall be given an opportunity in writing to remove such deficiencies, which can be removed, within the time given by the Authority, for this purpose.<br>Provided that where an application is rejected on the ground, that it contains false or misleading information or has omitted to disclose material facts, no fresh applications for grant of Certificate of Registration under these Regulations or any other Regulations shall be considered for a period of three years, from the date of such rejection, made either by the applicant or by any entity comprising key managerial personnel of such applicant. | (i) Suggest to replace the word “omitted” with “wilfully omitted”<br><br>(ii) Suggest to delete “made either by the applicant or by any entity comprising key managerial personnel of such applicant.”  | The omission in respect of “ <i>material facts</i> ” in the application is serious in nature. Hence, the suggestion is not accepted.<br><br>The restriction of one year to seek fresh registration is applicable to the applicant entity. |
| 11           | Compliance certificate:<br><br>It meets the eligibility criteria and other requirements specified in these regulations or any guidelines or circulars issued, throughout the tenure of such certificate of registration, so granted. A certificate evidencing compliance with the eligibility conditions shall have to be furnished by the registered point of presence to the Authority on annual basis, as specified by the Authority.   | Whether the compliance certificate shall be similar to Annexure 2.1. of the Guidelines for Operational Activities – to be followed by Points of Presence performing the activities of the National Pension Scheme dated June 30, 2023. If not, please provide a compliance certificate template to be followed by PoPs. | This is not an additional requirement. This is the annual certificate submitted by PoP certifying the fulfilment of eligibility criteria.   |