

**Response to the stakeholder / public comments on the amendments to PFRDA (Pension Fund) Regulations, 2015**

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|-------|--|--|---|
| 1     | <p>Definition of “Business Day”</p> <p>It means days on which the following are open to transact business:</p> <p>(i) designated Branch of Trustee Bank; and</p> <p>(ii) stock exchange for equity and bond market; and</p> <p>(iii) Government securities market</p>  | <p>(i) Original definition may be retained.</p> <p>(ii) Need clarity wrt whether “or” / “and” is required to be read.</p>  | <p>To simplify and provide clarity and certainty the definition has been suitably reworded, for guidance of all concerned.</p>  |
| 2     | <p>Definition of “Compliance officer” of Pension Fund</p> <p>An employee of the pension fund designated as such by the Board of Pension Fund for monitoring compliance of the provisions of the Act or the rules or the regulations, notifications, guidelines, circulars or instructions issued by the Authority;</p> | <p>(i) To substitute ‘person of responsibility’ for the words ‘employee of’.</p> <p>(ii) Compliance officer may be allowed on deputation from the Sponsor for a period of 60 months from the date of issuance of certificate of registration or further extension as may be approved by the authority. Necessary changes be also carried out in proviso under the Regulation 8 (3) (a).</p> <p>(iii) There shall be three Compliance Officers.</p> | <p>Key personnel have major roles and responsibilities to ensure compliance with the provisions of the Act, rules and regulations.</p> <p>Key personnel of Pension Fund include CEO, CRO, CIO, CISO, Head of Operations and Compliance officer.</p>   |
| 3     | <p>“Key Managerial Personnel” of Pension Fund</p> <p>It means employees of the pension fund designated as Chief Executive Officer, Chief Investment Officer, Chief Risk Officer, Chief Information and Security Officer (CISO), Fund Manager, Operations Manager, Compliance Officer;</p>                              | <p>(i) Whether CFO is not covered as KMP.</p> <p>(ii) Operations Manager be designated as Chief Investment Operations Officer or Head of Investment Operations.</p> <p>(iii) To substitute ‘person’ for the words ‘employees of the pension fund’.</p> <p>(iv) KMPs must also include Whole Time Directors, Executive Director, Managing Director and Principal Officers.</p>  | <p>“Principal Officer of pension fund” includes the Board of Directors of Pension Fund and ‘key personnel’.</p>   |
| 4     | <p>Eligibility criteria – Name clause</p>  | <p>(i) For more clarity after 12 months “from date of notification of such clause may be inserted.</p> <p>(ii) The companies can be incorporated with the word ‘Pension’ in their name.</p> <p>(iii) The change in name clause should be dispensed with for the existing companies who do not have “Pension Fund” in their name.</p> <p>(iv) It shall have Pension Fund in its name and not in name clause.</p>                                    | <p>Time period of 12 months has been provided to the existing Pension Funds to comply with the requirement. ‘Pension Fund’ is an intermediary which functions exclusively under NPS unbundled architecture. Hence, usage of name ‘Pension’ Fund is appropriate and synonymous with the activity</p> |

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|       |  |   | undertaken by it, for guidance of all.   |
| 5     | Eligibility criteria - Networth  | To add the phrase “or such higher amount as stipulated by the authority from time to time”  | It is a prudential norm and principle of specificity has been followed. It may be amended through regulation in future, when deemed necessary in subscribers’ interest.  |
| 6     | Eligibility Criteria – Infrastructure requirement  | <p>(i) PFM should be allowed to continue sharing the IT infra of the sponsor (e.g. network, firewall etc.). This would give the PFM access to superior quality infrastructure along with economies of scale. Adequate governance standards should be put in place to ensure data integrity and confidentiality. However at least transaction systems should be completely segregated.</p> <p>(ii) It is suggested to use the word ‘provide’ instead of ‘facilitate’, and increase the period of 12 months to 36 months.</p> <p>(iii) The revised clause is incomplete. The words before “facilitate” are missing. The word “independently” should be deleted. The period of 12 months be changed to 60 months with an option to be extended with the approval of the authority.</p> | Technology infrastructure is necessary to perform the core function of Pension Fund, which should be an independent entity in its operations and activities. Thus, Pension Funds are expected to develop such infrastructure of their own within 12 months from date of commencement of operations vis-à-vis date of registration. |
| 7     | Terms and conditions of Certificate of Registration – Changes in management, shareholding pattern or control | <p>(i) The criteria for intimation of any other change in ownership, shareholding pattern can be kept limited to if there is a change of more than 1 percent of the paid-up capital of the Pension Fund.</p> <p>(ii) Increase in capital of the Sponsor or Pension Fund through rights issue should be exempted from prior approval if such increase does not result in change in shareholding pattern of the sponsor or pension fund.</p> <p>(iii) The requirement of approval of Authority for the change in management, ownership, shareholding pattern or controlling interest of ‘sponsor’ of the pension fund should be removed if the sponsor is already regulated by other regulator.</p>   | <p>For compliance of the provisions of the Act and strengthening governance, the change in capital structure of Pension Fund shall require prior approval of the Authority only under the following circumstances</p> <p>i. the status as sponsor of pension fund is likely to undergo a change; or</p>                            |

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|       |   | (iv) We request that the term management be defined.   | ii. the pension fund is likely to cease to be a government company; or<br>iii. any change (in accordance with guidelines issued) in foreign holding in the pension fund attracting restriction under Section 24 of the Act;<br>iv. Change in the shareholding pattern in excess of 5%   |
| 8     | <p>Terms and conditions of Certificate of Registration:</p> <p>The pension fund shall comply with the Cyber security policy, outsourcing policy, Common Stewardship code, Prevention of Money Laundering Act, 2002 (PMLA), Valuation guidelines, broker empanelment, auditor appointment and voting policy on assets held in the name of National Pension System Trust and such other guidelines issued by the Authority for the purpose.</p>                                   | <p>(i) Reference to PMLA Act when Pension Fund do not have account base relationship with the subscribers.</p> <p>(ii) To remove valuation and broker empanelment guidelines from the Regulations since valuation is undertaken by a third-party agency. Pension funds do not have control over the process.</p> <p>(iii) The additional requirement of compliance with outsourcing policy, Valuation guidelines, broker empanelment, auditor appointment should be voluntary or be made mandatory to large pension funds with large assets base and large resource base.</p>  | <p>As per provisions of PMLA, Pension Funds are reporting entities having obligations to comply and guidelines covering the subject matter have already been issued.</p> <p>NAV computation in accordance with the guidelines is the primary responsibility of Pension Funds. For clarity, an illustration has been provided.</p> |
| 9     | <p>Terms and conditions of Certificate of Registration:</p> <p>The sponsor or the pension fund shall obtain prior approval from the Authority in case of amalgamation or merger or acquisition or take over by the sponsor leading to holding of equity stake by sponsor or pension fund in any other pension fund already registered with the Authority. The Sponsor or Pension Fund shall notify the Authority of the proceedings before NCLT/other relevant Authorities.</p> | <p>(i) Proposed change can be omitted since Reg 8(1) (j), restricts the sponsor and the pension fund from holding any equity stake in any other pension fund regulated by the Authority.</p> <p>(ii) A threshold of holding of equity stake by sponsor or pension fund in any other pension fund should be defined and the approval of Authority should be required only in case of acquisition of equity stake by sponsor or pension fund beyond the said threshold. Also, please clarify that this is applicable on direct equity holding in the pension fund.</p> <p>(iii) The sponsor and the pension fund being the entities of financial sector may make investments during their ordinary course of business and approval of Authority for every minor acquisition of</p> | <p>To avoid any conflicts in operation and management, Sponsor should not have control or hold any equity stake directly or through its subsidiary Company in any other Pension Fund.</p> <p>Also Pension Fund should not hold any direct equity stake in any other Pension Fund</p>  |

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|       |   | equity stake directly/indirectly in another pension fund may not be feasible.  |  |
| 10    | Prudential norms for income recognition, asset classification and provisioning  | (i) This is already being communicated to the Trust and the Authority in the quarterly reviews.  | The words “below investment grade” have been added to harmonize with the Valuation Guidelines.   |
| 11    | Computation of NAV – Allowable charges  | (i) The Authority is requested to consider allowable charges as any type of brokerage other than mutual fund and PFRDA fees for the schemes, to the extent applicable.<br>(ii) Suggest inclusion of debt brokerage charges upto 0.01% on debt transaction or as may be determined by authority under allowable charges. Further, we also recommend raising the equity brokerage charges (to be chargeable to scheme) to 0.07% instead of 0.03%.<br>(iii) Further, the Authority is requested to allow annual fees payable as an allowable expense. | There is no change in the NAV computation vis-à-vis the existing practice. The methodology adopted has been clarified for ease of understanding of all concerned including subscribers.  |
| 12    | Computation of NAV:<br>The pension fund shall calculate and declare the net asset value of units for each pension scheme at the close of each “Business Day” within the time specified by the authority.  | (i) Request the Authority to evaluate the possibility of declaring Net Asset Value (NAV) on quarter/ year end if the last day of the quarter end/ year end is not a Business Day.<br>(ii) The proposed change is okay. Due to technical glitch/ error the condonation of delay to be accepted by the Authority.<br>(iii) It is suggested to clarify NAV of which Business Day i.e., preceding Business Day or current Business Day, will be applicable for creation and redemption of units.   | The declaration of NAV for the purpose of transactions is business day.<br>For preparation of Scheme Financials and disclosures, NAV shall be declared at the quarter, half-year and year end.   |
| 13    | Annual Report:<br>The pension fund, shall within sixty days from the date of closure of each financial year:-<br>(a) submit to National Pension System Trust for approval of the annual report (inclusive of financial statements of the pension schemes and auditor report) duly approved by the board of directors of pension fund. The Board of Trustees of the National Pension System Trust shall thereafter approve and counter sign the financial statements of the pension schemes. | (i) The annual report shall be submitted to the Authority within 7 days from the date of receipt of signed financial statements from the NPS Trust.<br>(ii) It is suggested that the annual report be submitted by NPS Trust<br>(iii) Quarterly unaudited report should be submitted for more vigil.<br>(iv) Preparation of annual report as mandated under Regulation 19 should remain unchanged.   | NPS Trust to provide the observations, if any and Pension Funds to address observations within 15 days.<br>In all, 90 days have been provided for submission of Annual Report to the Authority after addressing the observations of NPS Trust. |

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|       | <p>(b) Any observation of the Board of NPS Trust shall be addressed by the Pension Fund within a period of 15 days from the date of receipt.</p> <p>(c) The annual report shall be submitted to the Authority within ninety days from the date of closure of each financial year.</p>  | <p>(v) The 15 days timeline referred in Point (b) can be given separately instead of capturing the same in 60 days timeline provided in the heading. The proposed change referred in point (c) can be excluded.</p>  | <p>Half-yearly Report on Scheme Financials has to be submitted.</p>  |
| 14    | <p>Annual report:<br/>The annual report of schemes managed by the pension fund shall also include Directors' responsibility statement, and CEO and CFO certification which shall include the declaration in respect of following key responsibilities:</p> <p>a) Preparation and presentation of scheme financial statements to provide a true and correct view of scheme state of affairs and scheme NAV;</p> <p>b) Adequacy and effectiveness of internal financial processes and digital architecture controls;</p> <p>c) Compliance with PFRDA Act, PFRDA (Pension Fund) Regulations, Investment Guidelines, Valuation Guidelines, Stewardship code, voting policy and other applicable laws;</p> <p>d) Adherence to Code of Conduct and Ethics.</p> | <p>(i) Request omission of the words "digital architecture controls" and "Adherence to Code of Conduct and Ethics"</p> <p>(ii) Request to consider restricting the certification by CEO and CFO to the extent of preparation and presentation of schemes and financials.</p> <p>(iii) CEO and CFO or Operation Manager shall certify the declaration.</p> <p>(iv) It is suggested to have certification by CEO and Head of Investment Operations instead of CFO.</p> <p>(v) The proposed change is not prescribing any specific format of Directors' responsibility statement.</p> | <p>The format has been specified in the schedule. The certification shall be done by Directors and COO / Operations Head.</p>  |
| 15    | <p>Books of Accounts:<br/>The pension fund shall maintain books of accounts, records, registers and documents relating to investment decisions and the operations of the pension schemes to ensure compliance with the regulations, guidelines, circulars issued by the Authority, facilitate audit trail of transactions and ensure business continuity at all times.</p>   | <p>(i) Request the Authority to allow the Pension Fund Companies to maintain the requisite records and forms in digital format, in order to support the Go Green Initiative by the Government.</p> <p>(ii) Request the Authority to specify the period for which such data (historical data) should be stored by the PFM.</p>  | <p>Pension Fund being company shall maintain books of accounts in the manner prescribed under the Companies Act, 2013. Further, the periodicity shall be in accordance with the applicable laws.</p> |
| 16    | <p>Governance:<br/>The pension fund shall adopt best governance practices for investments and risk management viz. constitution of Investment</p>  | <p>(i) It is suggested that nomenclature of Appointment Committee be changed to Nomination &amp; Remuneration Committee.</p>   | <p>Terms of reference of Nomination and Remuneration committee shall be as per the</p>   |

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|       | Committee, Risk Management Committee, Audit Committee, Appointment Committee whose composition, functions and duties shall be as specified in Schedule. | (ii) The Authority is requested to clarify on the terms of reference and constitution of the Appointment Committee.<br>(iii) It should be Appointment Committee or Nomination & Remuneration Committee Meeting  | provisions of the Companies Act, 2013.   |
| 17    | Governance:<br>The pension funds shall meet the compliance as are required to be effected by public companies under Companies Act, 2013.                | (i) The proposed change can be omitted.<br>(ii) Request you to kindly clarify what does it mean “regarding compliance as are required to be effected by public companies under Companies Act, 2013”   | Pension Fund shall comply with the disclosure requirements as applicable to public company under the Companies Act 2013. |
| 18    | Grounds of suspension or cancellation of CoR  | (i) The Authority may consider levying penalties instead of suspension, cancellation, withdrawal of the certificate of Registration.<br>Request omission of following grounds for cancellation<br>(ii) does not submit periodical returns as required by the Authority<br>(iii) does not intimate change in shareholding pattern<br>(iv) fails in the periodic review<br>(v) generates return significantly lower | Regulations provide sufficient safeguards through detailed hearing mechanism prior to any action.                        |
| 19    | The pension fund shall manage schemes as notified by the Authority on such terms and conditions.  | Allow Pension Funds to discontinue or not offer certain classes of the Schemes to subscribers.  | No change is proposed  |
| 20    | Terms and conditions of Certificate of registration:<br>Delegation of any other function shall be done only with the prior approval of the Authority    | Relax requirement of prior approval for delegation of other functions.  | No change is proposed  |
| 21    | Schedule III – Annual fee   | It is suggested to remove the floor for minimum fee, and cap the maximum annual fee to Rs. 1 Crore.   | No change is proposed. The fee shall be examined at the time of review of charge structure.                              |