

CHAPTER I PRELIMINARY

1. **Short title and commencement**—(1) These regulations may be called the Pension Fund Regulatory and Development Authority (Point of Presence) Regulations, 2015.
The regulation aims at encouraging an independent, strong and effective distribution channel for National Pension System and ensuring that market practices of the points of presence are fair, efficient and transparent for the promotion and protection of interest of the subscribers.
(2) They shall come into force on the date of their publication in the Official Gazette.
2. **Definitions**—(1) In these regulations, unless the context otherwise requires—
 - (a) “Act” means the Pension Fund Regulatory and Development Authority Act, 2013 (23 of 2013);
 - (b) “auditor” means a person who is qualified to audit the accounts of a company under section 224 of the Companies Act, 1956 (1 of 1956);
 - (c) “Citizen of India” means any person qualifying to be a citizen of India under the Citizenship Act, 1955 (57 of 1955);
 - (d) “Company” means any company formed and registered under the Companies Act, 1956 (1 of 1956);
 - (e) “compliance officer” means a person of responsibility from the point of presence; designated as such and charged with the responsibility of monitoring compliance by the point of presence of the provisions of the Act or the rules or the regulations made or notifications, guidelines, circulars or instructions issued by the Authority thereunder;
 - (f) “I-Pin” means an identification number used to authenticate the subscriber to login website of the central recordkeeping agency or the National Pension System Contribution Accounting Network through internet.
 - (g) “T-Pin” means an identification number used to authenticate the subscriber in the Interactive Voice Response system.
 - (h) “Point of Presence- corporate” means an entity which is registered by the Authority to act as a point of presence in respect of its employees and directors only.
 - (i) “Point of Presence- sub-entity” means an entity which has been assigned any of the functions or obligations of a point of presence specified under these regulations, by a registered point of presence and which has been accepted by the Authority.
- (2) Words and expressions used and not defined in these regulations but defined in the Act, shall have the meanings assigned to them in the Act.

CHAPTER II

REGISTRATION OF POINTS OF PRESENCE

3. **Application for grant of certificate of registration**—(1) Any applicant meeting the eligibility criteria specified in this regulation, may apply for grant of a certificate of registration as a point of presence, in such application form as may be specified by the Authority and supplied by it to the applicant. Applicant shall submit a non-refundable fee of Rupees Ten thousand towards for application and administrative fee for processing of the application along with the application form in the manner specified in the application form. The Authority shall acknowledge receipt of the application form within seven days of receipt of such application from the applicant.
(2) The applicant shall pay an initial registration fee of Rupees twenty-five thousand within fifteen days from the date of receipt of intimation from the Authority about acceptance of its application for grant of certificate of registration as point of presence.
(3) An application, not complete in all respects and not conforming to the instructions as specified in the application form and these regulations shall be rejected:
Provided that, before rejecting any such application, the applicant shall be given a reasonable opportunity to withdraw or to complete the application in all respects and rectify the errors, if any, within such time as the Authority may specify.
(4) The Authority may seek additional information from the applicant for processing the application:
Provided that the Authority shall record the reasons in writing about the relevance of such additional information in processing of the application.
(5) Any point of presence, which was granted a permission to function as such by the Interim Pension Fund Regulatory and Development Authority immediately prior to establishment of the Authority under the Act and such permission continues to be valid as on or after the date of notification of these regulations may continue to act as such for a period of ninety days from the notification of these regulations or, if it makes an application for grant of registration within ninety days of notification of these regulations till the disposal of its application by the Authority.
4. **Fit and proper person-criteria or eligibility**—(1) The following shall be the eligibility criteria for any applicant intending to obtain a certificate of registration as a point of presence and the date, on which the application has been received for the first time by the Authority, shall be construed as the date for satisfying the following eligibility conditions by the applicant, namely:-
 - (a) registered and regulated by any financial regulator including the Reserve Bank of India, the Securities and Exchange Board of India, the Insurance Regulatory and Development Authority, the Pension Fund Regulatory and Development Authority and the National Housing Bank;

- (b) having a minimum of fifteen branches in India with each branch having the necessary Information Technology infrastructure and capacity to electronically link to the central recordkeeping agency approved by the Authority. Each of these branches of the point of presence should have demonstrated capability to electronically transmit the subscriber's contribution and information not later than "T+1" basis where T stands for the day on which clear funds are available with the Point of Presence;
- (c) minimum net worth (paid-up capital plus free reserves) of rupees two crores which shall include a minimum paid up capital of rupees fifty lakhs as on the last day of the immediately preceding financial year;
- (d) shall possess a three year track record of profitability (Profit after tax) out of the last five financial years as on the last day of the immediately preceding financial year and not having any cash losses in the last two financial years;
- (e) shall be in the business of marketing or selling of retail financial services or products;
- (f) absence of convictions and restraint orders by any financial sector regulator or by a court of law in any of the preceding five years for any offence involving moral turpitude, economic offences, violation of any securities or banking law or fraud;
- (g) conforming to any other criteria as may be specified by the Authority from time to time in the form of resolutions, notifications, circulars, guidelines, having regard to the interest of the subscribers and for orderly growth of the pension industry:

provided that,-

- (i) a Central or State Public Sector Undertaking ; or
 - (ii) a Public sector undertaking registered under any of the Central or State Acts; or
 - (iii) any other entity, organization or company not falling either under (i) or (ii) mentioned above with a minimum employee strength of three hundred as on the date of making application to the Authority and which is desirous of offering National Pension System account to its employees may either join the National Pension System through a point of presence or may opt to be registered as a point of presence- corporate by applying to the Authority in the application form so specified along with a registration fee of Rupees ten thousand only. The Authority may having regard to the interest of the employees exempt the applicant at the time of making an application as point of presence- corporate, from fulfilling any or all of the eligibility criteria as mentioned in this regulation. Those employers desirous of offering National Pension System to their employees and who do not fall under any of the above shall join the National Pension System through the medium of Point of Presence only. This dispensation shall be provided to the applicant to offer National Pension System account in respect of his employees and directors only and not to others.
5. **Disclosure of information**—(1) 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 a website as specified by the Authority including a website maintained by the applicant:
- Provided that the other relevant information furnished by the applicant and which relates to commercial confidence and private information of the applicant, which it may state as confidential, may not be disclosed by the Authority, subject to the provisions of any law or rules or regulations or any order or decision pronounced by a court of law or tribunal, as the case may be, mandating such disclosure.
- (2) Any material change in the information furnished or placed on a website under these regulations shall be intimated to the Authority by the applicant promptly but not later than fifteen days of the occurrence of such change.
6. **Furnishing of information and clarification**—(1) Subject to sub-regulation (4) of regulation 3, the Authority may require an applicant to furnish any further information or clarification for the purpose of disposal of the application, and, thereafter, in regard to any other matter as may be deemed necessary by the Authority. The applicant or its principal officer shall, if so required, appear before the Authority for a personal representation in connection with an application.
- (2) The applicant shall furnish such information and clarification to the satisfaction of the Authority, within the time specified in this regard by the Authority.
7. **Verification of information**—(1) While considering the application, the information furnished by the applicant and its eligibility, the Authority may, if it so desires, verify the information by physical verification of documents, office space, and inspect the availability of office space, infrastructure, and technological support which the applicant is required to have.
- (2) For the purpose of verification of information, the Authority may appoint any person including any of its officers or an external auditor or agency.
8. **Consideration of application**—(1) For considering the eligibility of the applicant and grant of certificate to such applicant, the Authority shall take into account all such matters which it deems relevant to the pension sector and the National Pension System, including but not limited to the following :-
- (a) whether the applicant or any of its associates have in the past been refused certificate of registration by any of the regulators including, Reserve Bank of India, the Securities and Exchange Board of India, the Insurance Regulatory and Development Authority, Pension Fund Regulatory and Development Authority and National Housing Bank and if so, the ground for such refusal;
 - (b) whether the applicant have in the past five years been imposed with penalties by any of the regulators referred to in clause (a) or by a court of law or tribunal, on the matters concerning violation of regulations,

directions, guidelines and circulars of the regulators and if so, the ground for such refusal or have been convicted for any offence involving moral turpitude, economic offence, violation of any securities or banking law or fraud;

- (c) whether the applicant satisfies the eligibility criteria and other requirements specified in these regulations;
 - (d) whether the grant of a certificate to the applicant is in the interest of the subscribers or the objective of orderly development of pension sector or of the National Pension System.
- (2) The Authority may invite the applicant to make a presentation to the Authority at a date, time and locations determined by the Authority. The purpose of such presentations would be to allow the applicants to present their proposal to the Authority and the key strengths in their proposals.
- (3) Any application for grant of certificate of registration,-
- (a) which is not complete in all respects and does not conform to the requirements and the relevant requirements specified in these regulations; or
 - (b) which does not contain such additional information as required by the Authority; or
 - (c) which is incorrect, false or misleading in nature; or
 - (d) where the applicant is not in compliance with the eligibility requirements as set out under these regulations or the relevant regulations; or
 - (e) which in the opinion of the Authority is not in the interest of subscribers and or the objective of orderly development of pension sector and the National Pension System; or
 - (f) where the applicant is not a 'fit and proper person' or not complying with the requirements as provided in these regulations;

shall be rejected by the Authority for reasons to be recorded in writing by the Authority.

- (4) Before rejecting an application, the applicant shall be given an opportunity in writing to make good such deficiencies which can be removed, within the time specified by the Authority, for the purpose:
Provided that where an application is rejected for the reason that it contains false or misleading information, no such opportunity may be given and the applicant shall not make any application for grant of certificate of registration under these regulations or any other regulations for a period of one year from the date of such rejection.

- (5) An application for grant of certificate of registration, under regulation 3, which is complete in all respects, shall be disposed of by the Authority, normally within a period of sixty days from the date of receipt of such request.

9. **Procedure for grant of certificate of registration**—(1) The Authority on being satisfied that the applicant is eligible, shall grant a certificate of registration in the form specified in Schedule-I and send intimation to the applicant in this regard:

Provided that where any pending proceeding is before the Authority or any court or tribunal which may result in the suspension or cancellation of the certificate of registration, the Authority may grant a conditional registration.

(2) The successful applicant who has been given the certificate required to submit a security deposit equivalent to one percent of its net worth or rupees five lakh, whichever is higher. The maximum security deposit shall not exceed rupees twenty lakhs. The stipulated deposit has to be deposited with any scheduled commercial bank which will not be released to the applicant unless the prior permission of the Authority is obtained or a Bank guarantee to the same extent is furnished. Such deposit certificate duly marking the lien of the Authority shall be retained by the point of presence after producing the same to Authority for verification.

(3) Every point of presence shall furnish to the Authority, as and when called upon to do so, a statement certified by the Bank in which such fixed deposit is kept.

(4) If the Authority is *prima facie* of the opinion that any point of presence or point of presence sub-entity working under the point of presence and registered with Authority has violated the terms and conditions of registration or has contravened any provisions of the Act, rules or regulations, the Authority may pass orders for attachment of the security deposit, pending the inquiry or investigation against such point of presence.

(5) Upon the request of the point of presence to waive this requirement of security deposit, the Authority may consider waiving the requirement of the security deposit for reasons to be recorded in writing, having regard to the interest of the subscribers.

(6) Within thirty working days of the date of receipt of certificate of registration, the point of presence shall enter into separate agreement with the National Pension System Trust and the central recordkeeping agency for operationalisation of National Pension System, besides any other intermediary, as may be directed by the Authority.

10. **Conditions of certificate of registration**—Any certificate of registration granted by the Authority to point of presence shall be subject to the following conditions, namely:—

- (a) where the point of presence proposes to change its status or constitution, it shall obtain prior approval of the Authority for continuing to act as a point of presence after such change in its status or constitution;
- (b) it pays the applicable fees and levies in accordance with the relevant regulations;
- (c) it abides by the provisions of the Act, regulations, directions, guidelines and circulars as may be issued by the Authority from time to time;
- (d) it meets the eligibility criteria and other requirements specified in these regulations throughout the tenure of such certificate of registration so granted:

Provided that the Authority may impose such other and further conditions as it may deem fit in the interest of subscribers and or for the orderly development of the National Pension System or the pension sector.

11. **Effect of refusal to grant certificate of registration**—(1) Where an existing point of presence has been refused grant of certificate of registration under these regulations, or has surrendered its certificate of registration, or has been directed by the Authority to cease to act as a point of presence due to non-payment of renewal fee as required by the regulations or has been directed to be wound up by an order of a court, such point of presence shall,-
- forthwith cease to act as such point of presence;
 - transfer its activities to another point of presence which has been granted a certificate of registration for carrying on such activity and allow the subscribers to move to another point of presence as directed by the Authority and inform all the underlying subscribers of such a change in Point of Presence along with the reasons;
 - make provisions as regards liability incurred or assumed by the point of presence, if any;
 - take such other action, within the time limit and in the manner, as may be required under the applicable regulations or as may be directed by the Authority.
- (2) While refusing grant of certificate of registration under these regulations to a point of presence, the Authority may impose such conditions upon the point of presence as it deems fit for protection of the interest of subscribers of the point of presence and such conditions shall be complied with.
12. **Period of validity of certificate of registration**—(1) Subject to compliance with the provisions of the Act, rules and regulations, the certificate of registration granted to a point of presence shall remain valid unless suspended or cancelled by the Authority.
- (2) where a certificate of registration has been granted subject to conditions, the validity of such registration shall be construed as subject to such conditions.
- (3) a point of presence may, within ninety days before the expiry of five years from the date of registration or from the date of payment of renewal fee last accepted by the Authority, make an application in the specified form to the Authority for acceptance of the renewal fee.
- Provided that if the application along with renewal fee reaches the Authority, not later than one year from the date due for payment of renewal fee, an additional fee of rupees one thousand per month for such period of delay shall be payable by the applicant to the Authority:
- (4) the renewal fees shall be a sum calculated at the rate of one-half percent of the charges earned out of National Pension System business in the preceding financial year subject to minimum of rupees twenty five thousand and maximum of rupees one lakh as renewal fee.
13. **Exemptions in certain cases from eligibility criteria**—(1) If any applicant including entities or institutions which propose to do only online subscriber registration, account operation and servicing activities pertaining to National Pension System does not fulfill any of the eligibility criteria as specified in these regulations, may request the Authority by making an application seeking exemption from fulfillment of such of the eligibility criteria with due justification,
- (2) If in the opinion of the Authority, the non-fulfillment of any of the eligibility criteria by the applicant and of which relaxation is sought, would not prejudicially affect the interest of the subscribers, may grant exemption from such criteria by recording the reasons in writing. The Authority may in such circumstances impose such additional conditions as it may deem fit for grant of certificate of registration.

Chapter III

DUTIES AND RESPONSIBILITIES OF POINT OF PRESENCE

14. **Duties and responsibilities of point of presence**—(1) The point of presence shall perform the following duties through their service provider branches, including offices where the entire business operations are carried out totally on online platform in accordance with the provisions of the Act, rules and regulations and any guidelines and directions issued by the Authority and the operational service level agreements executed with the National Pension System Trust as also any standard operating procedure issued by the National Pension System Trust, based on the Authority's guidelines,-
- (I) Duties in relation to initial customer interaction for National Pension System:
- addressing queries of potential subscribers regarding National Pension System.
 - providing and displaying information, in accordance with the provisions of the scheme, as approved by the Authority including information relating to , application forms, offer documents or any other publicity material pertaining to National Pension System;
- (II) Duties in relation to subscriber registration:
- receive the duly filled application form along with the Know Your Customer documentation as may be applicable from time to time and conduct customer due diligence procedures as required under the Prevention of Money Laundering Act, 2002 (17 of 2003) including the amendments thereof or any other law through effective use of Know Your Customer verification processes laid down by the Authority for all subscribers;
 - the point of presence shall carry out checks, as specified in the service standards as provided in the agreement between the point of presence and National Pension System Trust;

- (c) the point of presence shall ensure maintenance and reporting of all transactions by subscribers in accordance with the provisions of Prevention of Money Laundering Act, 2002 (17 of 2003) including amendments thereof and the rules framed thereunder from time to time, as may be applicable;
- (d) the point of presence is responsible for collecting and transmitting, the initial contribution at the time of opening of National Pension System account and subsequent contributions of subscribers made by them to the Trustee Bank;
- (e) the point of presence shall be responsible for delivering the subscriber registration form and supporting documents to the central recordkeeping agency or its representative which is approved by the Authority;
- (f) the point of presence shall transfer the National Pension System contributions to the National Pension System Trust account maintained with the Trustee Bank and upload the subscriber contribution files with the central recordkeeping agency within the timeframe specified by the service standards for point of presence as provided in the agreement between point of presence and the National Pension System Trust;
- (2) Handling of subscriber requests such as the following:-
- (a) the point of presence is responsible for receiving and processing switching requests from subscribers among schemes and among pension fund;
- (b) the point of presence shall upload all requests from subscribers into the central recordkeeping agency system within the timeframe specified by the service standards, as provided in the agreement between the point of presence and the National Pension System Trust;
- (c) In respect of the subscriber withdrawal requests,-the point of presence shall be responsible for receiving and processing, from subscribers for withdrawal of funds invested within the timeframe specified by the service level standards and in accordance with Pension Fund Regulatory and Development Authority (Exit and Withdrawal) regulations, 2015 or guidelines issued by the Authority. The point of presence shall not charge any extra charge for the service, other than what is permitted by the Authority;
- (d) The Point of Presence shall be responsible for attending to subscriber's request for shift from one point of presence to another point of presence or to another point of presence service provider branch;
- recording the request
- updating records in central recordkeeping agency system;
- (e) the point of presence shall be responsible for receiving and processing requests from subscribers for new I-Pin or T-Pin or Permanent Retirement Account Number card and other subscriber details;
- (f) the point of presence is responsible for any other National Pension System account related service, as may be specified by Authority from time to time;
- (g) the point of presence shall be responsible for all requests for the National Pension System related services received from the subscribers through online mode wherever the same is made available by the point of presence;
- (h) the point of presence shall be responsible for receiving grievances from subscribers and uploading the same into centralized grievance management system and following up till their redressal.
- (3) The point of presence shall be responsible for the following in the event of cancellation or suspension of registration by the Authority or where it ceases to be a point of presence:—
- (a) the point of presence shall transfer all the data or records or documents or money (uncleared funds and cleared funds that have not been transferred to the Trustee Bank) of subscribers to any other point of presence as may be authorized or appointed by Authority for providing services, at the time of termination. All such documents and records shall be transferred without any cost to the new point of presence or its successor as may be determined by the Authority;
- (b) the point of presence, which has been directed to transfer such documents and records, shall extend all necessary cooperation and support to the successor points of presence;
- (c) on transfer of such documents and records, the transferor point of presence shall confirm to the transferee point of presence whether all such necessary documents and records have been transferred;
- (d) the point of presence, point of presence - corporate and point of presence – sub entity shall adhere to the service standards as laid down in the agreement between the point of presence and the National Pension System Trust;
- (e) the point of presence and point of presence – sub entity shall service the requests of the subscribers of any other pension scheme as referred to in clause (b) of sub-section (1) of sec 12 of the Act.
15. **Charges to be charged to the National Pension System subscribers**—(1) the charges that may be levied on the subscriber by the point of presence shall be subject to the limits and manner of collection as laid down by the Authority from time to time. No point of presence shall collect, in a direct or indirect manner, any charge or other levies in any mode or manner, from the subscriber, unless specified by Authority, from time to time. The charges payable by the subscriber to the points of presence shall comprise the following heads:—
- i. initial subscriber registration and contribution upload charges subject to the limits as may be specified by the Authority from time to time.
 - ii. subsequent transaction charges subject to the limits as may be specified by the Authority from time to time.
- (2) no other charges, other than that specified by the Authority from time to time shall be collected from the subscribers.

16. **Maintenance of books of account and audit of accounts**—(1) The following books of accounts be kept by the point of presence :—
- details of applications received and submitted to the central recordkeeping agency for registration and Permanent Retirement Account Number data generated for all such applicants;
 - details of money received from the subscribers – in cash, by cheque, or any authorized form of remittance;
 - details of cash held on a daily basis;
 - details of subscriber-wise money remitted to the Trustee Bank;
 - details of subscriber-wise instructions sent to the central recordkeeping agency.
- (2) The point of presence shall follow the Segmental Method of Accounting (under the relevant accounting standards) for its National Pension System related activities and the same shall be audited.. The format and scope of such an audit shall be in conformity with the notifications, guidelines, circular etc. issued by Authority from time to time. The Audit certificate shall be submitted to the Authority as soon as practicable upon finalisation of books of point of presence’s accounts but not later than ninety days from the date of such finalisation of such accounts.
17. **Separation of National Pension System accounts from other businesses**—Each point of presence shall ensure that all matters related to National Pension System including maintenance of accounts, flow of funds in respect of the National Pension System business are maintained separately or distinctly from its other businesses.
18. **Systems and procedures**—(1) Each point of presence of the National Pension System shall have all the technological capabilities, infrastructures and necessary systems and procedures that may be required to enable it to co-ordinate with other intermediaries.
- (2) Each point of presence shall be responsible for the acts of commissions or omissions by its employees or the persons whose services it has procured.
19. **Redressal of subscriber grievances**—(1)The overall responsibility of the point of presence for redressal of subscriber grievances shall be as provided under the Pension Fund Regulatory and Development Authority (Redressal of Subscriber Grievance) Regulations, 2015. The point of presence shall ensure that an effective mechanism to receive and redress complaints from the subscribers is in place and the grievances are examined and redressed in a prompt and fair manner.
- (2) The point of presence shall inform a subscriber at the commencement of relationship with the subscriber and at such other time when the information is likely to be required by the subscriber of :—
- the subscriber’s right to seek redress for any complaints, including through the Pension Fund Regulatory and Development Authority (Redressal of Subscriber Grievances) Regulations, 2015;
 - the processes followed by the point of presence to receive and redress complaints from its subscribers.
- (3) The point of presence shall display the grievance redressal mechanism prominently on its website.
20. **Appointment of Compliance officer**—(1) Each point of presence shall appoint a compliance officer who shall be responsible for monitoring compliance by it of the provisions of Act, rules and regulations, notifications, guidelines, instructions issued by the Authority for redressal of subscriber grievances.
- (2) The compliance officer shall immediately and independently report any non-compliance observed by him or her to the Authority.
21. **Code of Conduct**—Every point of presence shall adhere to the code of conduct at all times as specified in Schedule II.

CHAPTER IV INSPECTION AND AUDIT

22. **Inspection and audit**—(1) The Authority may if it considers necessary at any time, undertake directly or through its authorized representative an inspection and audit of the books, accounts, records including the telephone records and electronic records and documents of the point of presence for any purpose, including the purposes as specified under this regulation.
- (2) The purposes referred to in sub-regulation (1) may include:—
- ensuring that the books of account, records including telephone records and electronic records and documents are being maintained in the manner required under these regulations;
 - ascertaining whether adequate internal control systems, procedures and safeguards have been established and are being followed by the point of presence;
 - ascertaining whether the provisions of the Act or the regulations made or circulars, guidelines or notifications issued by the Authority are being complied with;
 - inquiring into the complaints received from subscribers, nodal offices, intermediaries or any other person on any matter having a bearing on the activities assigned by the Authority to the point of presence;
 - inquiring *suo motu* into such matters as may be deemed fit in the interest of subscribers.
- (3) The Authority may, appoint one or more persons as inspecting officer or, appoint a qualified auditor to undertake the inspection or audit referred to in sub-regulation (1).

Explanation.- For the purposes of this sub-regulation, the expression “qualified auditor” shall have the meaning derived from section 226 of the Companies Act, 1956 (1 of 1956).

- 23. Notice before inspection and audit**—(1) Before undertaking an inspection or audit under regulation 22, the Authority or its authorized representative or auditor shall give ten working days' notice to the point of presence; Provided that no notice shall be required if the Authority is satisfied that an inspection or audit is required for immediate safeguarding of the interest of the subscribers.
- (2) During the course of an inspection or audit, the point of presence against which the inspection or audit is being carried out shall be bound to discharge its obligations as provided in these regulations.
- 24. Obligations on Inspection and Audit**—(1) It shall be the duty of the point of presence the affairs of which is being inspected or audited, and of every director, officer and employee thereof, to produce to the Authority, or its authorized representative or auditor, such books, accounts, records, and other documents in its custody or control and furnish it to him with such statements and information relating to the activities entrusted by the Authority, as may be required, within such reasonable period as may be specified.
- (2) The point of presence shall allow the Authority or its authorized representative to have a reasonable access to the premises occupied by it or by any other person on its behalf and also extend reasonable facility for examining any books, records, documents and computer data in the possession of the points of presence or such other person and also provide copies of documents or other materials which in the opinion of the Authority or its authorized representative or auditor are relevant for the purpose of the inspection or audit.
- (3) It shall be the duty of the point of presence to give to the Authority or its authorized representative or auditor all assistance in connection with the inspection or audit which the Authority, or its authorized representative may reasonably require.
- 25. Submission of report**—(1) On completion of the inspection or audit, a report shall be submitted to the Authority, who after consideration of the report, may take such action as it may deem fit and appropriate in the interest of the subscribers.
- (2) The Authority may *suo motu* or after consideration of the inspection report, as the case may be, order an investigation or inquiry to be conducted in the matter.
- 26. Payment of inspection or audit fees**—The Authority shall be entitled to recover from the point of presence such expenses incurred by it for the purposes of inspection or audit undertaken directly or through its authorized representative.
- 27. Inspection and audit by National Pension System Trust**—(1) The National Pension System Trust shall undertake directly or through its authorized representative inspection or audit or both of the point of presence, on an annual basis or at such other period as may be specified by the Authority in relation to operational Service Level Agreements in accordance with the provisions of Pension Fund Regulatory and Development Authority (National Pension System Trust) Regulations, 2015. The point of presence shall allow the National Pension system Trust, or its authorized representative to have a reasonable access to the premises occupied by it, books of accounts, records and provide necessary information as may be required by it for the purpose of such inspection or audit, as the case may be.

CHAPTER-V

SUSPENSION OR CANCELLATION OF CERTIFICATE AND ACTION IN CASE OF DEFAULT.

- 28. Cancellation or suspension of certificate of registration**—(1) where any point of presence which has been granted a certificate of registration under these regulations—
- fails to comply with any conditions subject to which the certificate of registration has been granted to it;
 - contravenes any of the provisions of the Act or the rules or the regulations made or any guidelines, notifications, directions, instructions or circulars issued thereunder;
 - indulges in unfair trade practices or conducts its business in a manner prejudicial to the interests of the subscribers;
 - fails to furnish any information as required by the Authority relating to its area of operations;
 - does not submit periodical returns as required under the Act or by the Authority;
 - does not cooperate in an inquiry conducted by the Authority;
 - fails in the periodic review of its performance in terms of number of new National Pension System subscriber registrations done by the point of presence in relation to the business plan submitted at the time of registration or against any other uniform criteria applicable to all the registered point of presence;
 - commits any acts of defaults as mentioned under section 28 of the Act, the Authority may, without prejudice to any other action under the Act, regulations, directions, instructions or circulars issued thereunder, by order take such action in the manner provided under these regulations including cancellation or suspension of the registration of such Point of Presence and such other action, as may be deemed appropriate.
- (2) point of presence once registered shall have to ensure that the eligibility conditions as mentioned in these regulations are strictly adhered to during the entire currency of the registration period and any extension thereto, failing which the registration certificate may be cancelled. 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 within thirty days of closure of accounts for the financial year.

- 29. Surrender of any certificate of registration—**(1) Any point of presence, who has been granted a certificate of registration under the Act or the regulations made thereunder, desirous of giving up its activity and surrendering the certificate, may make a request for such surrender to the Authority.
- (2) While disposing off a request under these regulations, the Authority may require the concerned point of presence to satisfy the Authority of the factors as it deems fit, including but not limited to the following—
- (a) the arrangements made by the intermediary at its own costs and expenses for maintenance and preservation of records and other documents required to be maintained under the relevant Act, regulations and guidelines;
 - (b) redressal of subscriber grievances;
 - (c) transfer of records, funds or securities of the subscribers at its own cost and expense;
 - (d) the arrangements made by it for ensuring continuity of service to the subscribers;
 - (e) defaults or pending actions, if any.
- (3) While accepting the surrender request, the Authority may impose such conditions upon the point of presence as it deems fit for the protection of interest of the subscribers of the National Pension System and the Point of presence concerned shall comply with such conditions.
- (4) No point of presence shall be permitted to surrender its certificate, in respect of which any action for default has been initiated or has been contemplated by the Authority.
- 30. Effect of suspension, cancellation or surrender of certificate—**(1) On and from the date of suspension or cancellation of the certificate, the concerned point of presence shall-
- (a) not undertake any additional assignment or collect any new money or information from the subscriber. During the period of such suspension, it shall cease to carry on any activity in respect of which the certificate of registration had been granted;
 - (b) allow its subscribers to transfer, as the case may be, their money or assignments or allow the National Pension System Trust to withdraw any assignment given to it, without any additional cost;
 - (c) make provisions as regards liabilities incurred or assumed by it;
 - (d) take such other action including the action relating to any records or documents and information or money of the subscribers that may be in the custody or control of such point of presence, within the time limit and in the manner, as may be required under the relevant regulations or as may be directed by the Authority, while passing the order under these guidelines or otherwise.
- (2) On and from the date of surrender or cancellation or suspension of the certificate of registration, the concerned point of presence shall-
- (a) return the certificate of registration so cancelled to the Authority and shall not represent itself to be a holder of the certificate of registration for carrying out the activity for which such certificate had been granted;
 - (b) cease to carry on any activity in respect of which the certificate had been granted;
 - (c) transfer its activities to another point of presence, as directed by the Authority, holding a valid certificate of registration to carry on such activities and allow its subscribers to transfer their funds to the transferee entity, without any additional cost;
 - (d) make provisions as regards liability incurred or assumed by it;
 - (e) take such other action including the action relating to any records or documents and assets of the subscribers that may be in the custody or control of such point of presence, within the time limit and in the manner, as may be required under the relevant regulations or as may be directed by the Authority while passing order under these guidelines or otherwise.
- 31. Appointment of designated authority—**(1) Where it appears to the designated member that any point of presence who has been granted certificate of registration under these regulations or any other concerned person has committed any default of the nature specified in regulation 28, he may appoint an officer not below the rank of a Chief General Manager, or any other officer of an equal rank as a designated authority.
- (2) No officer who has conducted investigation or inspection in respect of the alleged violation shall be appointed as a designated authority.
- 32. Issuance of notice—**(1) The designated authority shall, if he finds reasonable grounds to do so, issue a notice to the point of presence or any person concerned requiring it to show cause as to why the certificate of registration granted to it, should not be suspended or cancelled or why any other action provided herein should not be taken.
- (2) Every notice under sub-regulation (1) shall specify the contravention alleged to have been committed by the noticee indicating the provisions of the Act, regulations, directions or circulars in respect of which the contravention is alleged to have taken place.
- (3) There shall be annexed to the notice issued under sub-regulation (1) copies of documents relied on in making of the imputations and extracts of relevant portions of documents, reports containing the findings arrived at in an investigation or inspection, if any, carried out. (4) The noticee shall be called upon to submit within a period to be specified in the notice, not exceeding twenty-one days from the date of service thereof, a written representation to the designated authority.
- 33. Reply by noticee—**(1) The noticee shall submit to the designated authority its written representation within the period specified in the notice along with documentary evidence, if any, in support thereof:

Provided that the designated authority may extend the time specified in the notice for sufficient grounds shown by the noticee and after recording reasons of extension in writing.

(2) If the noticee does not reply to the show-cause notice, within the time granted for the purpose, the designated authority may proceed with the matter *ex parte* recording the reasons for doing so and make recommendation as the case may be on the basis of material facts available before it.

34. **Action in case of default**—After considering the representations, if any, of the noticee, the facts and circumstances of the case and applicable provisions of the Act, regulations, directions or circulars administered by the Authority, the designated authority shall submit a report, where the facts so warrant, recommending,-
- suspension of certificate of registration for a specified period;
 - cancellation of certificate of registration;
 - prohibiting the noticee to take up any new assignment or contract or launch new scheme for the period specified in the order;
 - debaring a principal officer of the noticee from being employed or associated with any registered intermediary or other registered person for the period specified in the order;
 - debaring a branch or an office of the noticee from carrying out activities for the specified period;
 - warning the noticee.
35. **Procedure for action on recommendation**—(1) On receipt of the report recommending measures from the designated authority, the designated member shall consider the same and issue a show cause notice to the noticee enclosing a copy of the report submitted by the designated authority calling upon the noticee to submit its written representation as to why the action, including passing of appropriate direction, should not be taken.
(2) The noticee may, within twenty-one days of receipt of the notice send a reply to the designated member who may pass appropriate order after considering the reply, if any received from the noticee and providing the person with an opportunity of being heard, as expeditiously as possible and endeavor shall be made to pass the order within one hundred and twenty days from the date of receipt of reply of the notice or hearing.
36. The designated member may pass a common order in respect of a number of noticees where the subject matter in question is substantially the same or similar in nature.
37. **Intimation of order**—(1) Every report made by a designated authority and every order passed by the designated member under these regulations shall be dated and signed.
(2) A copy of the order passed under these regulations shall be sent to the point of presence or other concerned person and also placed on the website of the Authority.
38. **Penalty and adjudication**—The imposition of penalty, if any, on the point of presence or any person concerned shall be in accordance with the provisions of the Act and the Pension Fund Regulatory and Development Authority (Procedure for Inquiry by Adjudicating Officer) Regulations, 2015.
39. **Appeals to Securities Appellate Tribunal**—The point of presence or any person concerned may if aggrieved by any order passed by the designated member prefer an appeal before the Securities Appellate Tribunal under sub-section (1) of Section 36 of the Act.

Explanation.- For the purposes of this Chapter,-

- “designated authority” means an officer of the Authority appointed under sub-regulation (1) of regulation 31;
- “designated member” means the Chairperson or a whole-time Member of the Authority designated for the purpose;

“noticee” means the person to whom a notice has been issued under this Chapter.

CHAPTER VI MISCELLANEOUS OBLIGATIONS

40. **Compensation payable to Subscribers**—In the event of the point of presence or point of presence sub-entity failing to adhere to the Service level standards prescribed in the agreement between the point of presence and National Pension System Trust including the upload of contributions as per the timelines prescribed there under shall compensate the subscriber who is aggrieved by such an act to the tune of bank rate plus two percent for the period of such delay or violation.
41. **Reports and disclosures**—The point of presence shall submit reports on the National Pension System business transacted and related matters to Authority in the prescribed forms and at the defined frequency, as laid down in this regulation, notifications, guidelines and circulars issued by Authority, from time to time.
42. **Confidentiality**—The point of presence shall maintain absolute confidentiality with respect to all records, data and information received by it under the National Pension System. The point of presence shall not, without the prior permission of Authority, produce or share such data or information as evidence, or for any other purpose, except as required by the due process of law. A point of presence shall maintain confidentiality with respect to personal information and data of the subscribers and protect the data as per the stipulations laid down in Schedule-III.
43. **Assignment of functions**—(1) A point of presence shall not transfer or assign any of its functions or obligations specified under these regulations, to any person without the prior written consent of the Authority.

(2) The point of presence desirous of assigning the functions shall apply to the Authority in the specified application providing complete details including the business plan of the entity to which the point of presence wishes to assign the functions and such form shall be signed by both the point of presence and the proposed assignee of functions. For the purpose of this regulation, such an assignee shall be called as point of presence-sub entity. The Authority may refuse or reject or impose any additional conditions as deemed fit by the Authority at the time of approval of such an application by the point of presence seeking permission for assignment of functions. The Authority may impose or stipulate such terms and conditions, including the instructions on banking operations involving subscriber contributions while accepting such an application.

(3) The eligibility criteria for such point of presence- sub entity for seeking registration from the Authority through the concerned point of presence shall be as given below:

- (i) such an entity shall not be an individual and shall be a registered entity with any of the regulators including the Securities Exchange Board of India, the Reserve Bank of India, the Insurance Regulatory and Development Authority, the Pension Fund Regulatory and Development Authority and the National Housing Bank or a company registered under Companies Act, 1956 or Companies Act, 2013 or a society registered under Societies Registration Act, 1860 or a Trust created under Indian Trusts Act, 1882 and is in the business of dealing with sale, distribution or advisory services of financial services products for commercial gain or working with a social motto of spreading the beneficial services to the citizens;
- (ii) such an entity meeting the criteria as specified in clause (i) would include a special purpose vehicle which may carry out only online sale and distribution of National Pension System product;
- (iii) such entity shall apply to the Authority in the specified application form along with the recommendation and Certification of its intent by a registered point of presence along with a onetime registration fee of rupees five thousand only and if in the opinion of the Authority, the application is in order and serves the interests of the subscribers of National Pension System, it may register such entity as a point of presence-sub entity and allow it to carry on the business of transacting the National Pension System business as per these regulations and any other notifications, guidelines, circulars etc. issued by the Authority from time to time.

(4) The liability of the point of presence for any acts of omission or commission by the point of presence-sub entity in discharge of its functions shall be joint and several in case of any liability arising out of such assignment of functions by point of presence to point of presence-sub entity.

(5) The charges payable to point of presence sub-entity provided under point of presence would be as per the contractual agreement between the point of presence and point of presence sub-entity and subject to the condition that the subscriber should not be charged beyond rates permitted by Authority for the particular service for a point of presence and issued through notifications, guidelines, circulars etc from time to time. All such agreements referred above between the point of presence and point of presence sub-entity shall be filed with National Pension System Trust within fifteen days of entering into such an agreement by the point of presence, along with the approval granted by the Authority for acting as point of presence sub-entity.

(6) The Authority may cancel the approval provided for allowing such point of presence-Sub-entities based upon the review of performance in terms of number of new National Pension System registrations done, services rendered to the subscribers or if in the opinion of the Authority it is not in the interest of subscribers and or the objective of orderly development of Pension Sector and/ or National Pension System.

(7) Such authorized point of presence sub-entity shall not be affiliated to more than one point of presence.

(8) Such entities which are allowed to function as point of presence sub-entity shall get registered with the central recordkeeping agency post approval from Authority for activating their operations.

(9) The approved point of presence-sub entity shall—

- (a) pay the fees as specified by Authority for registering as point of presence sub-entity;
- (b) abide by the Code of Conduct specified in this regulation for the point of Presence;
- (c) enter into an agreement with the point of presence for specifying the scope of his authority, responsibilities and mutual liabilities arising out of National Pension System transactions;
- (d) comply with the rules, regulations and guidelines issued by Authority in relation to National Pension System;
- (e) keep and maintain the books and documents specified under rules, regulations and guidelines issued by Authority in relation to National Pension System;
- (f) comply with the Know Your Customer requirements prescribed by Authority for National Pension System while transacting National Pension System business;
- (g) at all times maintain strict confidentiality with regard to all matters, documents, information or data already exchanged or to be exchanged in relation to any subscriber.

(10) General Obligations: point of presence-sub entity shall—

- (i) provide subscriber registration forms to the applicant or prospective applicant for registration in National Pension System;
- (ii) receive subscriber registration form in Authority's prescribed format duly filled and signed by the subscriber along with the necessary documentation;
- (iii) ensure that prescribed Know Your Customer documents have been attached with the Subscriber registration form;
- (iv) ensure that the subscriber registration form submitted by the applicant is complete in all respects;
- (v) ensure that contribution is collected only by means of cheque/Demand Draft drawn in favour of "Name of the point of presence with whom such point of presence-SE is registered – collection account – National Pension System Trust". As Illustration, if the point of presence sub-entity is registered with State Bank of India then the instrument will be in favour of "SBI collection account – National Pension System Trust". Collection of National Pension System contributions by way of cash is not permitted for point of presence sub-entity;
- (vi) ensure that Service Standards as provided in the agreement between the point of presence and National Pension System Trust are adhered to.

CHAPTER VII

POWER OF AUTHORITY TO ISSUE CLARIFICATION AND DIRECTION

44. **Power of Authority to issue clarifications**—In order to remove any difficulties in the application or interpretation of these regulations, the Authority shall have the power to issue clarifications and guidelines in the form of notes or circulars which shall be binding on the point of presence or any person connected with it.
45. **Power of Authority to issue directions**—(1) Without prejudice to any order under Chapter V of these regulations, the Authority may, in the interest of the subscribers or for the purpose of securing the proper management of point of presence, issue necessary directions,
- (a) directing the point of presence to refund any contributions or money collected from the subscribers under National Pension System with or without interest;
 - (b) any other direction which the Authority may deem fit and proper in the circumstances of the case:

Provided that before issuing any directions, the Authority shall give to the persons concerned, a reasonable opportunity of being heard:

Provided further that if the circumstances warrant that any interim direction is required to be passed immediately, the Authority may give to the persons concerned, a reasonable opportunity of being heard after passing the direction, without any undue delay.

SCHEDULE-I

Pension Fund Regulatory and Development Authority (Points of Presence) Regulations, 2015

(See Regulation 9)

CERTIFICATE OF REGISTRATION

REGISTRATION No.

Certification of Registration and Commencement of Business as Points of Presence for NPS

- a. In exercise of the powers conferred by sub-section 3 of Section 27 of the Pension Fund Regulatory and Development Authority Act, 2013, the Authority hereby grants this Certificate of Registration to M/s , to act as a Point of Presence under National Pension System (NPS).
- b. The registration code for Point of Presence (POP) is-----

The Certificate of Registration granted shall remain valid unless suspended or cancelled by the Authority and subject to adherence to the terms and conditions provided under the Pension Fund Regulatory and Development Authority Act, 2013 (23 of 2013) and Pension Fund Regulatory and Development Authority (point of presence) Regulations, 2015 and shall not be construed to be in compliance with or in conformity to any other Act, rules or regulations.

Date:

Place: New Delhi

By Order
For and on behalf of
Pension Fund Regulatory and Development Authority

SCHEDULE-II

Pension Fund Regulatory and Development Authority (Points of Presence) Regulations, 2015

(See regulation 21)

CODE OF CONDUCT

- (1) Point of presence shall avoid conflicts of interest in managing the affairs of the National Pension System subscribers and keep the interest of all subscribers paramount in all matters. In case of any conflict between the interests of a subscriber and that of the point of presence or its representative, precedence may be given to the subscribers' interests.
- (2) Subscribers shall be provided with updated information on National Pension System through fair disclosure mechanism as may be prescribed by the Authority from time to time to enable informed decision making by the subscriber:
 - a) Sufficiently before the subscriber enters into a financial contract, so as to allow the subscriber reasonable time to understand the information;
 - (b) on a continuing basis through its website, and within a reasonable time-period from the occurrence of any material change or at reasonable periodic intervals, as applicable; and
 - (c) in writing and in a manner that is likely to be understood by the subscriber
- (3) The point of presence shall ensure that it has not given any undue or unfair advantage to any associates or dealt with any of the associates of its business in any manner detrimental to interest of the subscribers.
- (4) The point of presence shall maintain high standards of integrity and fairness in all their dealings and in the conduct of their business. They shall render at all times high standards of service, exercise due diligence which implies a standard of skill and care that is commensurate with honest market practice, good faith, profile of customer, the extent of dependence of the subscriber on the point of presence and exercise independent professional judgment.
- (5) The point of presence shall not make any exaggerated statement, whether oral or written, either about their qualifications or capability to render services or their achievements.
- (6) point of presence are prohibited from indulging in unfair conduct, i.e an act or omission that significantly impairs, or is likely to significantly impair, the ability of a subscriber to make an informed transactional decision and includes conduct that is misleading or abusive, while dealing with subscribers.

Schedule III

Pension Fund Regulatory and Development Authority (Points of Presence (POP)) Regulations, 2015

(See regulation 42)

Protection of personal information by point of presence

1. Personal information as any information that relates to a subscriber or allows a subscriber's identity to be inferred, directly or indirectly, and includes:
 - Name and contact information;
 - Biometric information, in case of individuals;
 - Information relating to transactions in, or holdings of, financial products;
 - Information relating to the use of financial services; or
 - such other information as may be specified by regulations
2. A point of presence shall –
 - (a) not collect personal information relating to a subscriber in excess of what is required for the provision of a National Pension System;
 - (b) maintain the confidentiality of personal information relating to subscribers and not disclose it to a third party, except where required under law;
 - (c) make best efforts to ensure that any personal information relating to a subscriber that it holds is accurate, up to date and complete;
 - (d) ensure that subscribers can obtain reasonable access to their personal information, subject to any exceptions that the Authority may specify; and
 - (e) allow subscribers an effective opportunity to seek modifications to their personal information to ensure that the personal information held by the point of presence is accurate, up to date and complete.
3. A point of presence provider may disclose personal information relating to a subscriber to a third party only if –
 - (a) It has obtained prior written informed consent of the subscriber for the disclosure, after giving the subscriber an effective opportunity to refuse consent;
 - (b) The subscriber has directed the disclosure to be made;
 - (c) The Authority has approved or ordered the disclosure, and unless prohibited by the relevant law or regulations, the subscriber is given an opportunity to represent under such law or regulations against such disclosure;
 - (d) The disclosure is made to protect against or prevent actual or potential fraud, unauthorised transactions or claims, if the point of presence arranges with the third party to maintain the confidentiality of the personal information in the manner required under this regulation.

HEMANT G. CONTRACTOR, Chairperson

[ADVT.-III/4/Exty./203/14]