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# **SUPPLEMENTARY**

## **PENSION FUND REGULATORY AND DEVELOPMENT AUTHORITY ACT, 2013**

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# PENSION FUND REGULATORY AND DEVELOPMENT ACT, 2013



## Introduction

### National Pension System

#### INTRODUCTION

Short title, extent and commencement

1. This Act may be called the Pension Fund Regulatory and Development Authority Act, 2013.
2. It extends to the whole of India.
3. It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

#### Definitions

In this Act, unless the context otherwise requires,—

- (a) “**Authority**” means the Pension Fund Regulatory and Development Authority established under sub-section (1) of Section 3;
- (b) “**Central recordkeeping agency**” means an agency registered under Section 27 to perform the functions of recordkeeping, accounting, administration and customer service for subscribers to schemes;
- (c) “**Chairperson**” means the Chairperson of the Authority;
- (d) “**Document**” shall include any matter written, expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, in printed or in electronic version, which is intended to be used, or which may be used, by the Interim Pension Fund Regulatory and Development Authority, or Authority or an intermediary or any other entity connected with the National Pension System, for the purpose of recording that matter;
- (e) “**Individual pension account**” means an account of a subscriber, executed by a contract setting out the terms and conditions under the National Pension System;
- (f) “**intermediary**” includes pension fund, central recordkeeping agency, National Pension System Trust, pension fund adviser, retirement adviser, point of presence and such other person or entity connected with collection, management, recordkeeping and distribution of accumulations;
- (g) “**member**” means a member of the Authority and includes its Chairperson;
- (h) “**National Pension System**” means the contributory pension system referred to in Section 20 whereby contributions from a subscriber are collected and accumulated in an individual pension account using a system of points of presence, a central record-keeping agency and pension funds as may be specified by regulations;
- (i) “**National Pension System Trust**” means the Board of Trustees who hold the assets of subscribers for their benefit;

- (j) **“Notification”** means a notification published in the Official Gazette;
- (k) **“Pension fund”** means an intermediary which has been granted a certificate of registration under sub-section (3) of Section 27 by the Authority as a pension fund for receiving contributions, accumulating them and making payments to the subscriber in the manner, as may be specified by regulations;
- (l) **“Pension Regulatory and Development Fund”** means the fund constituted under sub-section (1) of Section 40;
- (m) **“Point of presence”** means an intermediary registered with the Authority under sub-section (3) of Section 27 as a point of presence and capable of electronic connectivity with the central recordkeeping agency for the purposes of receiving and transmitting funds and instructions and pay out of funds;
- (n) **“Prescribed”** means prescribed by rules made under this Act;
- (o) **“Regulated assets”** means the assets and properties, both tangible and intangible, owned, leased or developed by and other rights belonging to, the central recordkeeping agency;
- (p) **“Regulations”** means the regulations made by the Authority under this Act;
- (q) **“Scheme”** means a scheme of pension fund approved by the Authority under this Act;
- (r) **“Securities Appellate Tribunal”** means a Securities Appellate Tribunal established under sub-section(1) of Section 15-K of the Securities and Exchange Board of India Act, 1992;
- (s) **“Subscriber”** includes a person who subscribes to a scheme of a pension fund;
- (t) **“Trustee Bank”** means a banking company as defined in the Banking Regulation Act, 1949.

## NATIONAL PENSION SYSTEM

### National Pension System [Section 20]

- (1) The contributory pension system notified by the Government of India in the Ministry of Finance vide notification number F. No. 5/7/2003-ECB & PR, dated the 22nd December, 2003, shall be deemed to be the National Pension System with effect from the 1st day of January, 2004, and such National Pension System may be amended from time to time by regulations.
- (2) Notwithstanding anything contained in the said notification, the National Pension System shall, on the commencement of this Act, have the following basic features, namely:—
  - (a) every subscriber shall have an individual pension account under the National Pension System;
  - (b) withdrawals, not exceeding twenty-five per cent of the contribution made by the subscriber, may be permitted from the individual pension account subject to the conditions, such as purpose, frequency and limits, as may be specified by the regulations;
  - (c) the functions of recordkeeping, accounting and switching of options by the subscriber shall be effected by the central recordkeeping agency;
  - (d) there shall be a choice of multiple pension funds and multiple schemes:  
Provided that—
    - (a) the subscriber shall have an option of investing up to hundred per cent of his funds in Government Securities; and
    - (b) the subscriber, seeking minimum assured returns, shall have an option to invest his funds in such schemes providing minimum assured returns as may be notified by the Authority;



- (e) there shall be portability of individual pension accounts in case of change of employment;
  - (f) collection and transmission of contributions and instructions shall be through points of presence to the central recordkeeping agency;
  - (g) there shall not be any implicit or explicit assurance of benefits except market-based guarantee mechanism to be purchased by the subscriber;
  - (h) a subscriber shall not exit from the National Pension System except as may be specified by the regulations; and
  - (i) at exit, the subscriber shall purchase an annuity from a life insurance company in accordance with the regulations.
- (3) In addition to the individual pension account mentioned in Clause (a) of sub-section (2), a subscriber may also, at his option, have an additional account under the National Pension System having the features mentioned in Clauses (c) to (g) of sub-section (2) and also having the additional feature that the subscriber shall be free to withdraw part or all of his money at any time from the additional account.

### **Central Recordkeeping Agency [Section 21]**

- (1) The Authority shall, by granting a certificate of registration under sub-section (3) of Section 27, appoint a central recordkeeping agency:

Provided that the Authority may, in public interest, appoint more than one central recordkeeping agency.

- (2) The central recordkeeping agency shall be responsible for receiving instructions from subscribers through the points of presence, transmitting such instructions to pension funds, effecting switching instructions received from subscribers and discharging such other duties and functions, as may be assigned to it under the certificate of registration or as may be determined by regulations.

- (3) All the assets and properties owned, leased or developed by the central record-keeping agency, shall constitute regulated assets and upon expiry of certificate of registration or earlier revocation thereof, the Authority shall be entitled to appropriate and take over the regulated assets, either by itself or through an administrator or a person nominated by it in this behalf:

Provided that the central recordkeeping agency shall be entitled to be compensated the fair value, to be ascertained by the Authority, of such regulated assets as may be determined by regulations:

Provided further that where the earlier revocation of the certificate of registration is based on violation of the conditions in the certificate of registration or the provisions of this Act or regulations, unless otherwise determined by the Authority, the central recordkeeping agency shall not be entitled to claim any compensation in respect of such regulated assets.

### **Point of presence [Section 22]**

- (1) The Authority may, by granting a certificate of registration under sub-section (3) of Section 27, permit one or more persons to act as a point of presence for the purpose of receiving contributions and instructions, transmitting them to the Trustee Bank or the central recordkeeping agency, as the case may be, and paying out benefits to subscribers in accordance with the regulations made by the Authority from time to time in this regard.
- (2) A point of presence shall function in accordance with the terms of its certificate of registration and the regulations made under this Act.

### **Pension funds [Section 23]**

- (1) The Authority may, by granting a certificate of registration under sub-section (3) of Section 27, permit one or more persons to act as a pension fund for the purpose of receiving contributions, accumulating them and making payments to the subscriber in such manner as may be specified by regulations.
- (2) The number of pension funds shall be determined by regulations and the Authority may, in public interest, vary the number of pension funds:

Provided that at least one of the pension funds shall be a Government company.

EXPLANATION. — For the purposes of this sub-section, the expression “Government Company” shall have the meaning assigned to it in Section 617 of the Companies Act, 1956.

- (3) The pension fund shall function in accordance with the terms of its certificate of registration and the regulations made under this Act.
- (4) The pension fund shall manage the schemes in accordance with the regulations.

### **Certain restrictions on foreign companies or individual or association of persons [Section 24]**

The aggregate holding of equity shares by a foreign company either by itself or through its subsidiary companies or its nominees or by an individual or by an association of persons, whether registered or not under any law of a country outside India taken in aggregate in the pension fund shall not exceed twenty-six per cent of the paid-up capital of such fund or such percentage as may be approved for an Indian insurance company under the provisions of the Insurance Act, 1938, whichever is higher.

EXPLANATION. — For the purposes of this section, the expression “foreign company” shall have the meaning assigned to it in Clause (23-A) of Section 2 of the Income Tax Act, 1961.

### **Prohibition of investment of funds of subscribers outside India [Section 25]**

No pension fund shall, directly or indirectly invest outside India, the funds of subscribers.

### **Eligibility norms of the central recordkeeping agency, etc. [Section 26]**

The central recordkeeping agency, points of presence and pension funds, shall satisfy the eligibility norms as may be specified by the regulations, including minimum capital requirement, past track-record including the ability to provide guaranteed returns, costs and fees, geographical reach, customer base, information technology capability, human resources and such other matters.