

NATIONAL PENSIONS REGULATORY AUTHORITY



NPRA/GD/PFC/01/11

GUIDELINES FOR PENSION FUND CUSTODIANS

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1. INTRODUCTION

The purpose of these Guidelines is to provide the basic procedures that shall be adhered to for services provided by Pension Fund Custodians (PFCs) in terms of the National Pensions Act, 2008 (Act 766), hereinafter referred to as the Act.

- 1.1 In developing these requirements, the National Pensions Regulatory Authority (NPRA) has provided Pension Fund Custodians with the minimum requirements as to how it could achieve the prudential objectives of the requirements.
- 1.2 Furthermore, these requirements are not intended to be all encompassing, references to the Act and the Regulations shall always be taken into consideration.

2. ELIGIBILITY FOR APPOINTMENT

- 2.1 An Applicant shall be eligible for appointment as Pension Fund Custodian if that Applicant:
 - 2.1.1 Is licensed by the Securities & Exchange Commission as a Custodian under the Securities Industry Act, 1993 (P.N.D.C. Law 333) and has paid up stated capital as stated in the Banking Act, 2004 (Act 673) and net assets of at least the same amount;
 - 2.1.2 Issues a Guarantee to the full sum and value of pension fund assets held by it or to be held by it.
- 2.2 An Applicant shall not be appointed as a Custodian of Pension Scheme assets unless that Applicant:
 - 2.2.1 Is a body corporate
 - 2.2.2 Is a Bank or wholly owned subsidiary of a Bank
 - 2.2.3 Has sufficient presence and control in Ghana
 - 2.2.4 Is independent of the Approved Trustee and Pension Fund Managers appointed in respect of the Scheme, and all delegates of the Trustee and Pension Fund Manager; and
 - 2.2.5 Satisfies minimum capital requirement and net asset value determined by the Authority.

- 2.3 A Business entity has sufficient presence and control in Ghana if that entity's day-to-day business activities in relation to its business in Ghana, including the keeping of records in relation to its activities are conducted wholly in Ghana; and that Business entity has sufficient expertise and management resources in Ghana to conduct its business operations effectively.
- 2.4 A Guarantee relating to a Custodian shall be issued in writing by an authorized financial institution or authorized insurer, and shall impose a continuing obligation on the authorized financial institution or authorized insurer to indemnify the Pension Scheme against any loss sustained by the Pension Scheme Members as a result of a failure by the Custodian to perform an obligation imposed under the National Pensions Act, 2008 (Act 766).

3. REGISTRATION REQUIREMENTS

The following are the registration requirements:

3.1 The Applicant must submit to the NPRA, evidence that:

- 3.1.1 It is a body corporate;
- 3.1.2 It is licensed by the Securities & Exchange Commission as a Custodian under the Securities Industry Act 1993 (P.N.D.C. Law 333); and has paid up stated capital as indicated in the Banking Act, 2004 (Act 673) and net assets of at least the same amount.
- 3.1.3 It is a Bank or a wholly owned subsidiary of a Bank.
- 3.1.4 It has sufficient expertise and management resources in Ghana to conduct its business operations effectively.

3.2 Application shall be accompanied by:

- 3.2.1 A non-refundable application fee approved by the Board, in bank draft, payable to the National Pensions Regulatory Authority and marked "Application Fee".
- 3.2.2 Name, Address (physical and electronic) telephone numbers of the person to whom enquiries may be referred.
- 3.2.3 Address and location of the Applicant's Registered Office, and Head Office if different from the Registered Office.

- 3.3 The Application shall be accompanied by:
- 3.3.1 A Certified True Copy of the Regulations of the Applicant Company.
 - 3.3.2 Latest three (3) years Audited Accounts & Reports of the Company, or the latest copy of Audited Accounts & Report for a parent Company in operation for less than a year.
 - 3.3.3 Attestation of the willingness and capacity on the part of the Applicant to comply with the provisions of the Pensions Act and NPRA's supervisory requirements and standards on a continuous basis, if the application is approved.
 - 3.3.4 Copy of SSNIT Employer Registration Certificate
- 3.4 After evaluation of the Application, an Applicant must submit evidence of a minimum paid up stated capital as stated in the Banking Act, 2004 (Act673) and net assets of at least the same amount.
- 3.5 Duly completed application form and supporting documents should be submitted in both hard and soft copies in sealed envelopes to the following address:

CHIEF EXECUTIVE OFFICER
NATIONAL PENSIONS REGULATORY AUTHORITY
PMB, MINISTRIES POST OFFICE, ACCRA.

All enquiries should be referred to the above address. Relevant forms can be downloaded from the NPRA website: www.npra.gov.gh.

4. FUNCTIONS OF THE CUSTODIANS

A Pension Fund Custodian shall:

- 4.1 Receive contributions remitted by the Employer under the National Pensions Act, 2008 (Act 766) on behalf of the Trustees.
- 4.2 Notify the Trustee within forty-eight hours of receiving contributions from an Employer.
- 4.3 Hold pension fund and assets in trust for Members
- 4.4 Settle transactions and undertake activities related to the administration of pension fund investments including the collection of dividends and related activities;

- 4.5 Undertake statistical analysis on the investments and returns on investments with respect to pension funds in their custody and provide data and information to the Trustee and the Authority.

5. APPLICATION FOR REGISTRATION

An application for registration to act as a Pension Fund Custodian shall not be approved unless the Custodian Company:

- 5.1 Undertakes to hold the Pension Fund Assets to the exclusive order of the Trustees on trust for the Members as instructed by the Trustee;
- 5.2 Has never been a Custodian of a Fund which was mismanaged or has been in distress due to a default, either fully or partially, of the applicant.
- 5.3 An Applicant who desires to act as a Custodian of Pension Funds shall apply to the Authority by completing an Application Form for that purpose, and pay the prescribed fee.

6. RULES OF GENERAL APPLICATIONS

- 6.1 The business of the Pension Fund Custodian shall be to provide custody of pension fund assets, to hold and deal with such assets strictly in accordance with directions given by the Trustees and NPRA in conformity with the Act.
- 6.2 The Pension Fund assets in custody shall be kept separate and distinct from the Custodians' own assets.
- 6.3 The Pension Fund Custodian shall bear the full replacement cost, including any incidental costs, in the event of loss of pension fund assets resulting directly or indirectly from fraud, negligence, willful default, misconduct or error by the Pension Fund Custodian or its employees.
- 6.4 The Pension Fund Custodian shall make full identification of the pension fund assets held on behalf of the Trustees in its books. An Investment Register shall be maintained to record all investments effected on behalf of Trustees. The minimum information to be contained in the Register shall include description of the investment, effective date, amount, and remarks.

- 6.5 A Proxy Register shall be maintained to capture all meetings (i.e. Annual General Meetings and Extraordinary General Meetings) and the Trustees voting instructions and major decisions taken at such meetings that could affect the investment.

7. ANNUAL REPORT

- 7.1 A Pension Fund Custodian shall present to an Approved Trustee of a registered scheme, for purpose of performing its functions under the National Pensions Act, an Annual Report which shall contain a copy of the audited profit and loss account and the balance sheet for the financial year of the Custodian, together with a copy of the Auditor's Report on these documents, and the Directors' Report for that year.
- 7.2 The Pension Fund Custodian shall submit to the approved Trustee of a registered scheme, an Annual Report relating to the Scheme, at least two months before the deadline after each financial period.

8. CUSTODY CONTRACT BETWEEN PENSION FUND CUSTODIANS AND TRUSTEES

- 8.1 A Custodian shall enter into a custodial agreement with approved trustees of a registered scheme in order to administer the scheme's assets, and the Custodian shall comply with the terms of the relevant custodial agreement.
- 8.2 An agreement entered into between the approved trustee of a registered scheme and a custodian of scheme assets may provide for scheme assets to be held in a central securities depository.
- 8.3 All forms of agreement and contracts entered between the Trustees and the Pension Fund Custodian shall be executed in Ghana.
- 8.4 The Contract shall provide that, subject to the provisions of the Act and the Regulations and any other Guidelines issued by the Authority, such contract can be terminated where there are reasonable grounds for believing that either of the parties is not complying with, or is unlikely to comply with, the requirements of the contract or the Act or Regulations. The Contract shall provide for other obligations of the parties at termination of the Contract, including the payment of any outstanding fees and charges.
- 8.5 A copy of the Custody Contract shall be lodged with the NPRA.

9. REVIEW AND ENQUIRIES

These Guidelines are subject to review by the Authority.

All Enquiries regarding these Guidelines shall be directed to the Chief Executive Officer, National Pensions Regulatory Authority, Accra.