

Preliminary Draft Regulations (September 2005)

Pension Fund Regulatory and Development Authority (Registration of Intermediaries) REGULATIONS, 200--

NOTIFICATION

Whereas, in exercise of powers conferred by and pursuant to sub-sections (--) and (--) of section --, sub-section (--) of section -- and paragraph(--) of sub-section (--) of section -- of the Act, the AUTHORITY hereby makes the following regulations:

Part 1 General Provisions

1. These regulations shall be known as the Registration of Intermediaries (Central Recordkeeping Agency, Pension Funds and Point of Presence) Regulations, 200--;
2. In these regulations the terms “Act” means the Pension Fund Regulatory Development Authority Act effective ----, 200-- (Act No. -- of 200--), “AUTHORITY” means the Pension Fund Regulatory Development Authority, “company” means a company as defined in section -- of the Pension Fund Regulatory and Development Authority Act 200-- (Act No. --of 200--) and “NPS” means the New Pension System as defined in Chapter V of the Pension Fund Regulatory and Development Authority Act, 200-- (Act No. -- of 200--);
3. An entity shall be eligible to be granted a certificate of registration provided it meets all of the following conditions. {It is assumed that India Post is not an entity and, as a result, it could be granted a certificate of registration by the Authority pursuant to a special regulation made for that purpose. Alternatively, it could be accorded special treatment in the Regulations Applicable to Intermediaries };
4. For the purposes of this regulation, a significant shareholder of a entity means any person who, together with any or all members of his or her immediate family, being parents, siblings, spouse, former spouse or spouses., children and grandchildren, controls 10% or more of the voting shares or controls shares comprising 10% or more of the votes that may be cast at meetings of shareholders.;
5. The entities shall be fully compliant with all requirements of the Companies Act, 1956, the Income Tax Act, the Securities Contract Regulations Act, the Insurance Act and any other legislation or regulations of the Central Government and any State Government that apply to it and shall furnish to the Authority a certificate of compliance from the relevant Authority responsible for certifying compliance in each instance.
6. Such entity shall file with its application for a certificate of registration under this regulation a certified true copy of its Articles of the entity (consolidated), By-Laws(consolidated), complete listing of all current shareholders and minutes of all shareholder and directors’ meetings held during the 5 years preceding the date of application;
7. The shareholders of such entity, if it is a corporate, shall at a general meeting of shareholders to be held prior to being granted a certificate of registration by the Authority, adopt resolutions agreeing that

no significant shareholder may, on or after the date of the entity's receiving a certificate of registration from the Authority sell or transfer ownership of any of the shares held by such shareholder without the prior written approval of the Authority and that no amendments to the articles of organization/association of the entity shall be made without the Authority's prior written approval;

8. The directors of such entity, if it is a corporate, shall at a meeting held prior to its being granted a certificate of registration by the Authority, adopt a resolution that they shall not, subsequent to its being granted a certificate of registration and during its being in effect, amend the entity's By-Laws without the Authority's prior written approval nor shall they declare any dividends payable to shareholders without having given the Authority 30 days' notice of the intended date of declaration.
9. Such entity shall not have committed any material breaches of any legislation or regulations that apply or applied to it during the 10 years preceding the date of its application for a certificate of registration under this regulation. Such entity shall request its regulators to disclose all breaches known to them in writing and file their reports with its application and the decision of the Authority as to materiality shall be binding and final.
10. It shall not have been adjudicated or found liable in any action for loss or damages exceeding _____crore by a _____court during the 10 years preceding the date of its application for a certificate of registration under this regulation. Such entity shall file with its application for a certificate of registration under this regulation a report prepared by its directors on all pending litigation involving the entity as at the date of the application. {Issue – points similar to those mentioned in regard to section 9 above can be made. The alternative is to require disclosure of litigations during the past 10 years that found the applicant to be liable for material damages and all the directors' report on pending litigation. Another item that could be required would be disclosure of all out-of-court settlements.};
11. No director or officer or significant shareholder of such entity has been convicted of any criminal offence or of fraud, embezzlement, or moral turpitude, nor has any such person been declared bankrupt or insolvent.
12. All persons who, being other than entity or partnerships, as at the date of application, are directors, officers and significant shareholders shall file a credit report from an agency satisfactory to the Authority and a police report from (appropriate Authority of the Central Government), as well as reports from the national police authorities of any jurisdiction out of India in which they were resident for more than 183 consecutive days, with the entity's application for a certificate of registration. Such persons shall also file with the application statements disclosing, in detail, their education (including all matriculations, degrees, professional designations, and awards identifying the educational or professional institution in each case) and occupational background (showing for each employment after age 21, the relevant dates, nature of work and level of responsibility and name and contact co-ordinates of a person having knowledge of the employment and the performance achieved).
13. All significant shareholders of such entity, who are entity or partnerships as at the date of the application, shall file their lists of shareholders, directors and officers, and their audited financial statements for each of the 5 years preceding the date of application during which time they were significant shareholders;
14. All audited financial statements that were presented to meetings of such entity's shareholders (if the entity is a corporate) or filed with any and all regulators to which it is subject during the 10 years preceding the date of its application shall be filed with the Authority with the entity's application for a certificate of registration and shall have been free of qualifications or limitations and shall not have disclosed any impairments of its capital nor any reductions or suspensions in dividends to

- shareholders. Such filing shall include the disclosure of the entity's annualized rate of return on equity for each of the last 10 fiscal years, and, if the entity's share were publicly listed at any time during such period, the average weekly value (based on value as at the close of trading) during such period.
15. The directors of such entity shall file with its application for a certificate of registration a statement disclosing all changes in significant shareholders, directors, officers, auditors, bankers and legal advisors of the entity that have occurred during the 5 years preceding the date of the application indicating, in each case other than that of significant shareholders, to the best of their knowledge and belief, the reasons for such change;
 16. The directors of such entity shall, prior to being granted a certificate of registration under this regulation, resolve in writing: (a) not to replace the entity's auditors, bankers or legal advisors at any time following its being granted a certificate of registration under this regulation without granting the Authority at least 30 days' notice, such notice to state the reasons for the impending replacement, and, (b) to forthwith upon learning of the resignation or termination of appointment of the entity's auditors, bankers or legal advisors, notify the Authority together with, to the best of their knowledge and belief, a statement of the reasons for such resignation or termination of appointment;
 17. PFRDA will consider registering an entity as a Fund Manager on the basis of the following parameters: satisfying minimum capital requirement criteria; past track record including ability to provide guaranteed returns; costs' and fees' structure; customer base; information technology capabilities; human resources, and other related matters; and
 18. No certificate of registration may be granted under these regulations to any points of presence unless it is regulated by the RBI, IRDA or SEBI.

Part 2 – Continuing Capital and Surplus Provisions

19. A holder of a certificate of registration under these regulations shall ensure that its unappropriated capital and surplus complies with the following requirements at all times;
20. The unappropriated capital and surplus of a CRA shall not be less than an amount computed as _____ crore rupees plus _____% of its obligations to subscribers plus _____% of its liabilities in respect of its obligations to third parties other than due and accrued shareholder dividends;
21. The unappropriated capital and surplus of a Pension Fund shall be not less than an amount computed as _____ crore rupees plus _____% of its obligations to subscribers plus _____% of its liabilities in respect of its obligations to third parties other than due and accrued shareholder dividends;
22. The unappropriated capital and surplus of a Point of Presence shall be not less than an amount computed as _____ crore rupees plus _____% of its obligations to subscribers plus _____% of its liabilities in respect of its obligations to third parties other than due and accrued shareholder dividends;
23. No Pension Fund or Point of Presence shall, at any time, hold more than 10% of the ownership rights in the CRA. No Audit firm, at any time, hold any ownership stake in CRA.

Part 3 – Service Agreement Provisions

Provisions Applicable to a Central Recordkeeping Agency

24. The following provisions apply to a entity to be registered to act as a Central Recordkeeping Agency. In this Part, the term "CRA" shall mean a Central Recordkeeping Agency;
25. A CRA shall file for approval with its application for registration under these regulations the standard service agreement which it will enter into with (i) each subscriber of the new pension system (ii) each

PF or Pension Fund seeking registration under these regulations and the (iii) standard service agreement that it will enter into with each POP or Point of Presence seeking registration under these regulations which shall include provisions respecting:

- a. All communication capacities to be supported by the parties to the agreements including security arrangements, technical standards to be observed and warranted, maintenance and upgrading standards and responsibilities, training and manual preparation responsibilities, and sanctions and penalties for failure to discharge such responsibilities including notification of the Authority whenever sanctions or penalties are imposed;
- b. The issuance and use of a unique "PRAN" or Permanent Retirement Account Number to each subscriber, including a warranty that no such number shall be used by any party unless it has been issued by or, in the case of the Central Government of India or a State Government, approved by the CRA according to the protocol it prescribes for that purpose;
- c. The specific data elements to be collected from subscribers, the formats and capacities of the data fields to be maintained by the respective parties, the specific data elements to be calculated, the data elements entering into such calculations and the formulae used to perform the calculations;
- d. An itemization of all transactions to be supported and the agreed protocols for validation, reconciliation, settlement and issuance of receipts;
- e. All record-keeping functions by each party including retention provisions and warranties regarding the responsibility for back-up and recovery in event of disaster;
- f. Procedures to be followed to remediate disputes arising out of the arrangements, including the procedure to be followed in the event any party seeks to impose any sanctions and/or penalties in the event of failure of any other party to meet its obligations arising under the terms of the agreement which procedures shall further include the obligation of any party imposing a sanction or penalty to notify the Authority forthwith;
- g. Communications protocols applicable to sharing information in the event of complaints and enquiries by subscribers;
- h. Provisions respecting the disclosure and protection of subscriber data;
- i. Provisions respecting the dissemination of promotional and sales literature for purposes of transacting with subscribers which provisions shall specify that no such information shall be made available or displayed or stored in electronic format without it having been approved by the Authority;
- j. Provisions respecting the making of information available through any broadcast or other media in any manner which provisions shall specify that no such information shall be disseminated or broadcast through any media in any manner without it having been approved by the Authority;
- k. Collection, validation, reconciliation and remittance procedures involving employees of the Central Government, State Governments or other employers who have established approved pension schemes obliging their employees to participate in the NPS;
- l. Validation, reconciliation and remittance procedures involving all other subscribers who contribute to the NPS on an intermittent or other basis without an agreed frequency;
- m. The procedure for determining the net daily transfer to be made by the CRA to each registered Pension Fund or from a registered Pension Fund to the CRA resulting from the aggregate of all validated and reconciled transactions of the day;
- n. The procedure for holding in trust and managing all contributions, benefits, monies or funds in respect of transactions which cannot or may not be executed by the CRA due to invalidated or

- unreconciled data, or for any other reason, including the investment policy to be applied to the management of such trust funds;
- o. The procedure to be followed to ensure periodic contact is made with subscribers or former subscribers and the treatment to be accorded the contributions, benefits monies or funds of subscribers or former subscribers with whom contact has not been possible for at least)some significant but reasonable period is suggested e.g. 61 calendar months, following which the amount could be paid to the public trustee or to a Board of Trustees struck by the Authority or to the SEPF);
 - p. Procedures for resolving invalidated or unreconciled data provided to the CRA within 7 days of their submission and including specific acceptance of a requirement for the notification of the Authority by the CRA forthwith in the event that such procedures are unsuccessful;
 - q. Procedures for adjusting accounts of subscribers to reflect any delays in allocating contributions to subscribers' invested funds due to the time taken to validate or reconcile data;
 - r. The procedure for notification of the parties to the agreement in the event of discovery of errors made in any calculations required to be made to support the application of contributions or the determination of benefits;
 - s. The procedure for the determination of compensation of any subscriber or former subscriber whose benefits or invested funds have been adversely affected by any error made by any party to the agreement which compensation shall ensure that such subscriber or former subscriber be made whole in all respects;
 - t. A specific provision that no party to any agreement will pay or transfer any contributions, benefits, monies or funds of subscribers or former subscribers to any creditor of a subscriber or former subscriber;
 - u. Warranties that all software, communications or other systems developed by any party to the agreement or by a third party for use by any party to the agreement in support of the NPS will not be copied, distributed, licensed, sold or provided in any manner to any other person and provisions that oblige any party to the agreement, upon learning or being informed in any manner of any breach of such warranties, to immediately notify all other parties and the Authority; and
 - v. Warranties that any software, communications or other systems developed by any party to the agreement or by a third party for use by any parties to the agreement in support of the NPS will not be modified in any way without the agreement of all parties and the Authority.
26. A CRA shall file with its application a report prepared by a recognized systems auditing entity with significant international experience which has been engaged in auditing of large-scale electronic information and which is satisfactory to the Authority. Such report shall be based on a comprehensive audit of the systems developed by the CRA for purposes of conducting the transactions required to support its service agreement and regulatory obligations in respect of the NPS. It shall report on the transactions tested by type and range within type, system security tests by type, tests of the back-up systems and the disaster recovery facility, the test results , and the recommendations for additional systems or improvements, if any, deemed necessary to ensure that the CRA will perform at or above the standards of performance to which the it will be held pursuant to its service agreements and other requirements of the Authority as specified in these Regulations.

Provisions Applicable to a Pension Fund

27. In these regulations the term "PF" shall mean a Pension Fund;

28. A Pension Fund shall, during the in-force duration of its certificate of registration, maintain such service agreements as may be required to be in force from time to time by the Authority. (Service agreements between a PF and another entity apart from the CRA are not anticipated. As a result, no specifics are included herein since the service agreements designed by and for the CRA will bind PFs as well.)

Provisions Applicable to a Point of Presence

29. In these regulations the term "POP" shall mean a Point of Presence. A POP shall, during the in-force duration of its certificate of registration maintain such service agreements as may be required to be in force from time to time by the Authority. (Service agreements between a POP and another entity apart from the CRA are not anticipated. As a result, no specifics are included herein since the service agreements designed by and for the CRA will bind POPs as well.)

Part 4 – Performance Criteria Provisions

Provisions Applicable to a Central Record Keeping Agency

30. A CRA shall, during the in-force duration of its certificate of registration observe the following performance criteria;
31. A CRA shall publish notification in daily newspapers in major centres and through the electronic broadcast media at least _____ such notification to include summary information regarding its functions, duties and powers under the Act, as well as its availability to the public for purposes of serving the needs of NPS subscribers for information regarding their accounts;
32. A CRA shall not make any charges against contributions, benefits, amounts of a subscriber's schemes of funds or monies of subscribers that exceed:
- In the case of contributions received from subscribers, ___% of such amount, not to exceed ___ rupees in respect of each contribution;
 - In the case of periodic benefits to be paid to subscribers on exit, ___% of such benefits, not to exceed ___ rupees in respect of each such benefits payment;
 - In the case of lump sum benefits to be paid to subscribers or the beneficiaries of subscribers upon exit from the NPS, ___% of such benefits, not to exceed ___ rupees in respect of any such lumpsum payment;
 - In the case of transfers of a subscriber's account balance on exit from the NPS, ___% of such benefits, not to exceed ___ rupees in respect of any such amount to be transferred;
 - In the case of transfers of funds of a subscriber between the schemes of funds held in respect of the subscriber by a specific Pension Fund, ___% of such amount, not to exceed ___ rupees in respect of each such transfer, other than the first such transfer provided it occurs within 30 days or the date of the opening of the subscriber's account with the CRA.

- f. In the case of transfers of funds of a subscriber between the schemes of funds held by one Pension Fund and those of one or more other such Pension Funds, ___% of each amount transferred, not to exceed ___rupees in respect of each such transfer, other than the first such transfer provided it occurs within 30 days of the date of the opening of the subscriber's account with the CRA;
 - g. In the case of executing the instructions of a subscriber to change the allocation of future contributions or remittances between specific schemes of funds of one or more Pension Funds, an amount not to exceed ___% of the current balance of the schemes of fund having the largest balance as at that date, not to exceed ___rupees;
 - h. In the case of sending the subscriber a statement of account information (other than as required by these Regulations), ___rupees per statement sent to the subscriber which amount may be charged to the scheme of fund of the subscriber having the largest balance as at the date of the statement; and
 - i. Such amounts as would, if made, reduce the balance in any fund of the subscriber with any Pension Fund below___rupees;
33. If, for purposes of making a charge against a subscriber's contributions, benefits, amounts of schemes of funds or monies, a ___% is applied against an amount and the result produced thereby is less than 1 rupee, the result shall be taken to be zero and no charge may be made;
34. Each subscriber shall, not less frequently than once per year, be mailed, by regular post, at the CRA's expense, or e-mailed, at the subscriber's option, a statement showing at least the following information and such other information as the Authority may prescribe:
- a. The subscriber's PRAN, civic address, telephone and fax number, e-mail address (up to 2 allowed);
 - b. The subscriber's appointed beneficiary or a statement that none has been recorded by the CRA;
 - c. An itemized list of all transactions involving the subscriber's account during the previous 12 months in each case showing the description, date, amount and net monetary effect on all fund holdings of the subscriber;
 - d. A statement showing, for each of the previous 5 years, the number of contributions made, their average amount, and the projected aggregate amount of their NPS account based on a continuation of the contribution pattern revealed and such other assumptions as the Authority may prescribe for the purpose;
 - e. The fund balances of the subscriber with their reconciliation between the current and most recent statement;
 - f. The% change over the previous 12, 36 and 60 months in the net asset value of each fund in which the subscriber held units as at the statement date together with the comparable information for all other funds in which the subscriber could have held units as at the statement date;
 - g. The % change in the benchmark indices (as approved by the Authority) over the previous 12, 36 and 60 months; and
 - h. The % change in the redemption value per unit of fund balance, for each of the subscriber's funds in which the subscriber held units as at the statement date, over the previous 12, 36 and 60 months. (Technical Note).

35. A CRA shall electronically monitor its transaction files on a daily basis and in any case of a file having been inactive for more than 365 days, notify the subscriber, at the subscriber's last known address of the fact that his or her account has been inactive for the relevant period, and request the subscriber to respond to the notice with an affirmation of his or her status, including a request to be informed of any changes in the subscriber's particulars. Such notices shall continue to be sent to subscribers with inactive accounts on a quarterly basis for a period of at least 3 years. If no response is received from the subscriber, the CRA shall pay the balances in the subscriber's accounts to the Authority forthwith. The CRA shall retain a record of all such transfers indefinitely;
36. A CRA shall provide all subscribers with such information and at such times and by such means as may be prescribed by the Authority for purposes of educating or alerting subscribers, either generally or concerning their particular accounts;
37. No CRA or agent, representative or employee of a CRA shall provide any information to any subscriber or other person or entity that in any way is, or could reasonably be interpreted as, an opinion regarding the reputation, suitability, financial condition, performance (either absolutely or relatively), standards of conduct, market share, or any other matter, in respect of any registered POP or PF, or party related thereto in any way, without the express written direction of the Authority;
38. No CRA or agent, representative or employee of a CRA shall provide any information to any person concerning any matter relating to an inquiry or complaint made by a subscriber against a registered entity even if requested or directed to do so by the subscriber without the written approval of the Authority;
39. No CRA, or agent, representative or employee of a CRA, shall offer to or effectively rebate, reimburse, compensate, finance or otherwise monetarily or materially induce or dissuade any subscriber to take any action, or to refrain from acting, with respect to his or her contributions, funds, benefits or resources relative to the NPS; and
40. No CRA, or agent, representative or employee of a CRA, shall, by way of offering advice or counsel to a subscriber or potential subscriber to the NPS, provide information or promotional material that has not been approved in writing by the Authority, nor shall he or she misrepresent such material through attempted projection, elucidation or explanation based on data or calculations that have not been approved in writing by the Authority, nor shall he or she withhold any material or information approved in writing by the Authority for dissemination to subscribers or potential subscribers."

Provisions Applicable to a Pension Fund

41. A Pension Fund shall, during the in-force duration of its certificate of registration observe the following performance criteria;
42. A Pension Fund shall at all times and in all respects and in all transactions act in the best interests of subscribers to the NPS and shall place the interests of subscribers ahead of those of the Pension Fund, its shareholders, executives, managers and agents, representatives or employees and any parties related to those persons;
43. A Pension Fund shall not make any charges against contributions, benefits, funds or monies of subscribers in any manner or form other than in accordance with this regulation and that exceed:
 - a. An amount in excess of four one thousand four hundred and sixty-firsts of ___% of the amount of the daily balance of the fund at the close of business where the amount of the fund is less than _'a'_ crore;

- b. An amount in excess of four one thousand four hundred and sixty-firsts of ___% on the excess of the amount of the fund over _'a'_crore where the amount of the fund is greater than _'a'_crore but less than _'b'_crore;
 - c. An amount in excess of four one thousand four hundred and sixty-firsts of ___% on the excess of the amount of the fund over _'b'_crore where the amount of the fund is greater than _'b'_crore but less than _'c'_crore; and
 - d. An amount in excess of four one thousand four hundred and sixty-firsts of ___% on the excess of the amount of the fund over _'c'_crore where the amount of the fund is greater than _'c'_crore(Technical Note)
44. If, for purposes of making a charge against a subscriber's contributions, benefits, amounts of schemes of funds or monies, a % is applied against an amount and the result produced thereby is less than 1 rupee, the result shall be taken to be zero and no charge may be made;
45. Every Pension Fund shall transact exclusively with the CRA and shall transact with respect to ----- schemes of funds which shall for all purposes be named and referred to as --x--- --y-- -z--- respectively;
46. Every scheme shall adhere at all times to the following investment policy. NO investments may be made except in the following classes, hereinafter referred to as G-SECS, COR-SECS, INDEX-EQS (domestic) :
- a. Publicly traded debt securities issued by the Government of India
 - b. Publicly traded debt securities of corporations incorporated in India that are regularly rated as investment grade by at least two of the rating agencies regulated by SEBI and/or notified by the AUTHORITY, and loans of Micro Finance Institutions legally established in India which are guaranteed by the Reserve Bank of India
 - c. Equity shares of corporations listed on exchanges in India regulated by SEBI that are included in an index approved by the Authority
47. A Pension Fund shall at all times ensure that the percentage exposures of the total fund to each asset class comply with the prescribed portfolio limits :
48. A Pension Fund shall, at least daily, calculate the "net asset value" of each Scheme, hereinafter referred to as the "NAV" of a Scheme, in accordance with the standards prescribed for such purpose by the competent Authority;
49. A Pension Fund shall provide the Authority with a daily report in electronically readable format disclosing, in respect of each of its funds or schemes, the value at which contributions of subscribers were converted into units on that day, the value at which units of subscribers were redeemed on that day, the number of units of subscribers at the close of the previous day and their value, the total contributions of subscribers converted to units and number of units acquired thereby, the total units of subscribers redeemed on that day and their value and the number of units of subscribers at the close of the current day and their value. This report is also to be made available to CRA and POPs on daily basis.
50. A Pension Fund shall not acquire, transfer to or from any scheme of fund or dispose of any investments or assets except at their fair market value;
51. A Pension Fund shall prepare all its statements of accounts in accordance with generally accepted accounting principles as prescribed by the Institute of Chartered Accountants of India;
52. A Pension Fund shall at all times maintain real time on-line secure connectivity with the CRA and with the Authority;

53. A Pension Fund shall maintain an electronically accessible and searchable investments data base showing, separately, in respect of each investment transaction during the preceding 5 years for each of its funds or schemes,
- a. Name of fund or scheme for which held;
 - b. A complete description of the investment based on generally accepted nomenclature (e.g. Treasury bill, bond, common equity share, preferred equity share, units of another fund etc.);
 - c. Unique security number issued by relevant authorized body'
 - d. Identification of issuer;
 - e. Guarantor, if applicable;
 - f. Market index of which the investment was a component at the date of acquisition'
 - g. The nominal or par value of the investment'
 - h. The market value at most recent closing quotation (this date field to be kept current, i.e. refreshed continually);
 - i. If applicable, the coupon rate at issue, and current, if different;
 - j. If applicable, the dividend rate at issue and current if different;
 - k. The date of acquisition, cost of acquisitions and expenses incurred
 - l. The date of disposition, proceeds of disposition and expenses incurred
 - m. Identification of the broker who negotiated its acquisition or from whom acquired or transferred'
 - n. Identification of the broker who negotiated its sale or disposition or to whom sold or transferred'
 - o. Exchange on which acquired (if disposed on a different exchange so indicate as well);
 - p. If not acquired on an exchange, from whom acquired;
 - q. If not sold or disposed of on an exchange, to whom sold or transferred
54. A Pension Fund shall ensure that its investments data base is updated at least daily and that the date base is organized in such a manner as to permit the Authority to electronically search or query the Pension Fund's inventory of investments as of any time of any day it may select and that the search or query function will permit the construction of any grouping of investments and/or listing of investments by or within any of the data fields in the data base and that such groupings or listings may be specified for the transactions of any period that it may select and shall further include options of performing any rate of return, volatility, covariance or such other function as the Authority may specify on any subset or aggregation of the database over any specified period and with respect to or in comparison with any benchmark index or composite of benchmark indices that the Authority may select;
55. A Pension Fund shall not acquire any investment other than one traded on a public exchange supervised by the SEBI.
56. No Pension Fund, or agent, representative or employee of a Pension Fund, shall offer to or effectively rebate, reimburse, compensate, finance or otherwise monetarily or materially induce or dissuade any subscriber to take any action, or to refrain from acting, with respect to his or her contributions, funds, benefits or resources relative to the NPS;
57. No Pension Fund, or agent, representative or employee of a Pension Fund, shall, by way of offering advice or counsel to a subscriber or potential subscriber to the NPS, provide information or promotional material that has not been approved by the Authority, nor shall he or she misrepresent such material through attempted projection, elucidation or explanation based on data or calculations that have not been approved by the Authority for dissemination to subscribers or potential subscribers;

58. No Pension Fund or agent, representative or employee of a Pension Fund shall provide any information to any subscriber or other person or entity that in any way is, or could reasonably be interpreted as, an opinion regarding the reputation, suitability, financial condition, performance (either absolutely or relatively), standards of conduct, market share, or any other matter, in respect of any registered POP or PF, or party related thereto in any way, without the express written direction of the Authority;
58. No Pension Fund or agent, representative or employee of a Pension Fund shall provide any information to any person concerning any matter relating to an inquiry or complaint made by a subscriber against a registered entity even if requested or directed to do so by the subscriber without the written approval of the AUTHORITY.
59. No Pension Fund or agent, representative or employee of a Pension Fund, shall offer to or effectively rebate, reimburse, compensate, finance or otherwise monetarily or materially induce or dissuade any subscriber to take any action, or to refrain from acting, with respect to his or her contributions, funds, benefits or resources relative to the NPS; and
60. No Pension Fund or agent, representative or employee of a Pension Fund, shall, by way of offering advice or counsel to a subscriber or potential subscriber to the NPS, provide information or promotional material that has not been approved in writing by the AUTHORITY, nor shall he or she misrepresent such material through attempted projection, elucidation or explanation based on data or calculations that have not been approved in writing by the AUTHORITY, nor shall he or she withhold any material or information approved in writing by the AUTHORITY for dissemination to subscribers or potential subscribers.”

Provisions Applicable to a Point of Presence

61. A POP shall, during the in-force duration of its certificate of registration observe the following performance criteria;
62. APOP shall hold all amounts expressly paid to it by a subscriber, or by an Intermediary on behalf of a subscriber, on the explicit understanding that such amounts are immediately to be credited to the subscriber's NPS, in a separate account for the subscriber or to an aggregating account used to accumulate such amounts paid by subscribers which are below the transfer threshold required by a CRA, and all such accounts shall be maintained separate and distinct from all other of its accounts and funds and such accounts shall be held in trust for the benefit of subscribers to the NPS;
63. A POP shall at all times maintain a record on a subscriber-by-subscriber basis of all amounts held in any aggregating accounts used to aggregate subscriber funds until such time as they may, in respect of any subscriber, equal in aggregate the minimum amount that the CRA will accept as a credit to a subscriber's account with the CRA. Such record shall permit the disaggregation of the account balance by subscriber and by date;
64. A POP shall accrue interest on all accounts holding funds received from subscribers being held for transfer to the CRA at such rates and in such manner as the AUTHORITY may prescribe from time to time for the purpose;

65. A POP shall, within 3 business days, transfer to the CRA any payment of an amount in excess of 'x-1' rupees by a subscriber to the POP for credit to the subscriber's NPs account and shall not make any charge for such transfer that exceeds the lesser of ____% of the amount or ____ rupees;
66. A POP shall not make any charges for holding such amounts paid to it by subscribers or on by any Intermediary on behalf of a subscriber that in themselves are less than 'x' rupees or that taken together with all previous such amounts received aggregate less than 'x' rupees;
67. A POP shall electronically monitor its accounts daily and send quarterly notices to subscribers by regular post that inform that subscriber that their account balance is less than the amount necessary to ensure completion of their current subscription to the NPS and that if their balance is not increased to that amount by the first anniversary of the initial payment by the subscriber, the subscriber's money will be transferred to the CRA pursuant to the Regulations;
68. A POP shall electronically monitor its accounts on a daily basis and identify all accounts that have been in force for at least 365 days and that have not, within the preceding 365 days, accrued at least 300 rupees inclusive of any mandated interest as decided by the AUTHORITY as apply to such accounts, transfer them forthwith to the CRA and send a notice to the subscriber by regular post informing them of the action;
69. A POP shall not make any charges for any transaction that involves an amount to complete the transaction that is less than 'x' rupees and shall not make charges for other transactions that exceed the lesser of 1% of the amount, or 'y' rupees;
70. If, for purposes of making a charge against a subscriber's contributions, benefit, amount of schemes of funds or monies, a _____% is applied against an amount and the result produced thereby involved includes a fraction of a rupee, the fractional amount shall be disregarded and the charge shall be based on the amount less the fractional part thereof;
71. A POP shall at all times act as directed by the AUTHORITY and shall assist the AUTHORITY informing and supporting NPS subscribers or other persons by providing such information nor support as the AUTHORITY specifies in a timely, equitable and courteous manner;
72. A POP shall at all times act in the best interest of NPS subscribers, and maintain a high degree of service in terms of timeless, accuracy and accessibility;
73. A POP shall at all times ensure that its agents, representative or employees adhere to the AUTHORITY 's code of conduct to which they are subject;
74. No POP or agent, representative or employee of a POP, shall offer to or in any manner effectively rebate, reimburse, compensate, finance or otherwise monetarily or materially induce or dissuade any subscriber to take any action, or to refrain from acting , with respect to his or her contributions, funds, benefits or resources relative to the NPS;
75. No POP, or agent or employee of a POP, shall, by way of offering advice or counsel to a subscriber or potential subscriber to the NPS, provide information or promotional material that has not been approved by the AUTHORITY, nor shall he or she misrepresent such material through attempted

projection, elucidation or explanation based on data or calculations that have not been approved by the AUTHORITY, nor shall he or she withhold any material or information approved by the AUTHORITY for dissemination to subscribers or potential subscribers;

76. No POP or agent, representative or employee of a POP shall provide any information to any subscriber or other person or entity that in any way is, or could reasonably be interpreted as, an opinion regarding the reputation, suitability, financial condition, performance (either absolutely or relatively), standards of conduct, market share, or any other matter, in respect of any registered POP or PF, or party related thereto in any way, without the express written direction of the AUTHORITY.
77. No POP or agent, representative or employee of a POP shall provide any information to any person concerning any matter relating to any inquiry or complaint made by a subscriber against a registered entity even if requested or directed to do so by the subscriber without the written approval of the AUTHORITY.
78. No POP, or agent, representative or employee of a POP, shall offer to or effectively rebate, reimburse, compensate, finance or otherwise monetarily or materially induce or dissuade any subscriber to take any action, or to refrain from acting, with respect to his or her contributions, funds, benefits or resources relative to the NPS;
79. No POP, or agent, representative or employee of a POP, shall, by way of offering advice or counsel to a subscriber or potential subscriber to the NPS, provide information or promotional material that has not been approved in writing by the AUTHORITY, nor shall he or she misrepresent such material through attempted projection, elucidation or explanation based on data or calculations that have not been approved in writing by the AUTHORITY for dissemination to subscribers or potential subscribers.”

Application and Fee

80. Any intermediary shall, prior to being granted a certificate of registration pursuant to this regulation, submit the relevant application form as shown in Schedule _____ to this regulation, together with the relevant registration fee payable to the Pension Fund Regulatory and Development Authority as shown in Schedule ____ to this regulation.
81. The AUTHORITY shall acknowledge the receipt of the application and fee within ___ days of the receipt thereof and the acknowledgement shall indicate thereon the anticipated date by which its decision on the approval of the application shall be made; and
82. In the event that the AUTHORITY intends to delay the making of its decision beyond the date stated in its acknowledgement of receipt, it shall give the applicant _____ days' notice of same and provide replacement receipt including a final date by which its decision on the approval of the application shall be made.

Rejection and Cancellation

83. Where the sponsor/entity does not satisfy the eligibility criteria mentioned in this Regulation, the AUTHORITY may reject the application and inform the applicant of the same.
84. The AUTHORITY may initiate action for suspension or cancellation of registration of an intermediary holding a certificate of registration under section -----of the Act who fails to exercise due diligence or to comply with the obligations under these regulations:

Provided that no such certificate of registration shall be suspended or cancelled unless the procedure specified in the regulations applicable to such intermediary is complied with.

Footnote:

The Regulations will be finalized and notified only after the PFRDA Bill is passed by the Parliament.

Disclaimer: The issues/provisions indicated in the draft Regulations are by no means exhaustive. For example the maintenance of tier-I and tier-II accounts separately are not indicated. There are other such issues which shall be incorporated subsequently. Any provisions of the draft may not be taken as a policy pronouncement by the AUTHORITY. These draft Regulations have not been vetted legally.

Technical Notes

1. There could be some need to for Pension Funds to report the changes in the redemption Value for each of fund held by subscribers since it would tend to change at a rate different from either that of the Fund Balance or that of the NAV or Net Asset Value of the fund. This is because the NAV is a unitized quantity, the Fund Balance is an aggregated quantity based on changes in NAV and in the numbers of units held, and the Redemption Value is a composite aggregated value based on the components of the Fund Balance represented by different cohorts of contributions to which there may be so-called back end expense loading that decline over the in-force duration of the account that are applied to recover unamortized sales and account-opening cost etc. If accounts have been active for several years the changes in the Redemption Value per unit of Fund Balance should trend to zero reflecting the expiry of the back-end formula and the resulting convergence of Redemption Values over time toward Fund Balances.

If there is no back-end expense load schedule or the schedule has expired the Redemption Value should equal the Fund Balance.

The methodology for determining the change in Redemption

Value "RV" per unit of Fund Balance "FB" is as follows:

For any specific fund with a back-end load feature:

Let a, b represent the RV and FB respectively at year end 31.21.z

Let c,d represent the RV and FB respectively at year end 31.21.z-1

Then % change in RV per unit of FB for the year is $100\{(d/c) / (b/a) - 1\}$

In the following example a,b,c,d are 11, 10.3, 24,23.6 respectively and the change in RV per unit of FB is 5.02% versus an optimal value of 0%.

It may be more useful to require the disclosure of the actual value of RV per unit of FB at the beginning and end of the period as it is easier to understand that this should be 1 at all times if there are no redemption charges and that the closer to 1 the better and the faster it is converging to 1 the better.

In the example, this would disclose a ratio of .936 at the beginning of the period and a ratio of .983 at the end of the period.

In any case the disclosure would have to be accompanied by an explanation of the meaning and significance of the computed amounts for the information of subscribers. An even simpler approach, and this has actually been adopted in drafting the regulations is to prevent any Pension Fund from levying and back end or redemption charges. This ensures that the subscriber's fund balance is the redemption value. Of course, no allowance for CRA processing charges for payments to subscribers has been included (which would affect the subscriber's net internal rate of return specific to his

investment performance and transaction history) but these are not to be misconstrued with back end loads often levied by unit funds or mutual funds; and

2. The charges permitted to be levied against Pension Funds for fund management expenses are presumed to be the exclusive source of expenses and profit for Pension Funds and their Asset Management Companies. No other charges are contemplated and the %'s provided for must recover all expenses including brokerage commissions, research, operating costs and overhead.

There has been provision made for a sliding scale of limited charges to reflect the reductions in unit expenses associated with increasing fund size (economies of scale). The last % could well be set at 0 but there is some argument in allowing the fund manager to retain some financial interest in growing the fund without limit.

It may be necessary to refine this approach to permit different scales of %'s to apply to different fund types. The scale applicable to a real estate or equity fund should be somewhat larger than that applicable to a money market fund or government bond fund due to lower research and transaction costs

The fraction of _ %is determined as $1/365.25=4/1461$, being more accurate –and lower–than the conventionally adopted $1/365$.
