

Pension Fund Regulatory and Development Authority is in the process of coming out with Regulations for Retirement Advisers. Towards this end, the Authority has prepared a Draft Regulations which is being placed on the website of PFRDA for stakeholders and public comments.

The comments may please be forwarded to email: akhilesh.kumar@pfrda.org.in by 07th February 2016 or sent to the following address:

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Pension Fund Regulatory and Development Authority (Retirement Adviser) Regulations, 2016

Objectives:

A. Educating and making people aware of the benefits of the retirement planning and creating awareness about the pension schemes regulated by PFRDA is critical for increasing participation in the voluntary segment of NPS and other pension scheme regulated by PFRDA. The role of an advisory entity would be critical in propagating the schemes to the masses in order to achieve adequate social security. This requires penetration at the grass root level. Retirement Advisers, with adequate knowledge of a prospects' needs and means, and knowledge of the pension products, will be in a better position to advise individuals, who have different levels of education, financial literacy, wealth, income potential, capacity to save and financial goals. Retirement Adviser can

play a significant role in helping the prospects/subscribers in deciding retirement plans. Accordingly, it is proposed to issue Regulations for Retirement Advisers.

B. The objective of the Retirement Adviser Regulations is to provide a framework for eligibility, registration process, fees etc. of Retirement Adviser and to define the scope of work and responsibility of the Retirement Adviser.

THE GAZETTE OF INDIA
EXTRAORDINARY
PART --*-- SECTION -*--
PUBLISHED BY AUTHORITY
NOTIFICATION
New Delhi, the , 2016

PENSION FUND REGULATORY AND DEVELOPMENT AUTHORITY
(Retirement Adviser) Regulations, 2016

No. ---- In exercise of the powers conferred by sub-section (1) of Section 52 read with clause (w) of sub-section (2) thereof and clause (f) of sub-section (2) of section 14 of the Pension Fund Regulatory and Development Authority Act, 2013 (23 of 2013), the Pension Fund Regulatory and Development Authority hereby makes the following regulations, namely:-

CHAPTER I
PRELIMINARY

1. Short title and commencement.-(1) These regulations may be called the Pension Fund Regulatory and Development Authority (Retirement Adviser) Regulations, 2016

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.- In this regulation, unless the context otherwise requires,—

- (i) "Act" means the Pension Fund Regulatory and Development Authority Act , 2013 (23 of 2013);
- (ii) "any other pension scheme" means any other pension scheme referred to in clause (b) of sub-section (1) of section 12 of the Act;
- (iii) "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) or appointed under Section 139 of the Companies Act, 2013.
- (iv) "Authority" means the Pension Fund Regulatory and Development Authority established under sub-section (1) of section 3 of the PFRDA Act, 2013;
- (v) "Chairperson" means the Chairperson of the Authority;
- (vi) "Company" means any entity formed and registered under Companies Act, 1956 or incorporated under the Companies Act, 2013.
- (vii) "Compliance Officer" shall be a person of responsibility from a Retirement adviser, and designated as such, duly responsible for monitoring compliance of the provisions of Act, rules and regulations, notifications, guidelines, instructions, etc, issued by the Authority or the Central Government from time to time and for redressal of subscriber grievances.
- (viii) "Fees and charges" means fees and charges payable as remuneration for services rendered by NPS intermediaries.
- (ix) "Member" means member of the Authority and includes its Chairperson
- (x) "Potential subscriber" means any prospective subscribers/ subscribers of NPS or any organisation/corporate/employer who wish to implement NPS or has implemented NPS for their employees.
- (xi) "Retirement adviser" means any firm or body corporate or an individual who wishes to engage in the activity of providing advice on National Pension System or other pension scheme regulated by PFRDA to prospects/subscribers or other persons or group of persons.

(2) Words and expressions used and not defined in these regulations but defined in the Act, shall have the meanings respectively assigned to them in the Act.

CHAPTER II

REGISTRATION OF RETIREMENT ADVISERS

3. Application for grant of certificate.- (1) On and from the commencement of these regulations, any individual, firm or a corporate body acting as a retirement adviser or hold itself out as a retirement adviser providing advice on National Pension System (NPS) regulated by PFRDA shall obtain a certificate of registration from the Authority under these regulations:

(2) An application for grant of certificate of registration shall be made in Form A as specified in the First Schedule to these regulations and shall be accompanied by a non-refundable application fee to be paid in the manner specified in Second Schedule.

4. Exemption from registration.- (1) The following persons/entities shall not be required to seek registration under regulation 3 subject to the fulfilment of the conditions stipulated therefor, —

(a) Any intermediary/entity regulated by PFRDA.

(b) Any other entity as may be specified by the PFRDA.

(2) The following persons/entities shall not be subjected to certification for registration subject to the fulfilment of the conditions stipulated therefor, —

(a) Any advocate, solicitor or law firm, who provides retirement advice to their clients, incidental to their legal practice;

(b) Any member of Institute of Chartered Accountants of India, Institute of Company Secretaries of India, Institute of Cost and Works Accountants of India, Institute of Actuaries of India or any other professional body as may be specified by the Authority, who provides retirement advice to their clients, incidental to his professional service;

(c) Any other entity as may be specified by the PFRDA.

Provided that such intermediaries shall comply with the general obligation(s) and responsibilities as specified in Chapter III of these regulations:

(3) Registration as Points of Presence or Points of Presence- Corporate

There shall be no restriction on institutional Retirement Adviser for applying for registration as Points-of Presence or Points-of-Presence- Corporate, subject to fulfilment of eligibility criteria for the same.

5. Furnishing of further information, clarification and personal representation.-

(1) The Authority may require the applicant to furnish further information or clarification regarding matters relevant to retirement advisory services for the purpose of consideration of the application filed under sub-regulation (2) of regulation 3.

(2) The applicant or his authorised representative, if so required, shall appear before the Authority for personal representation.

6. Consideration of application and eligibility criteria.- For the purpose of the grant of certificate, the Authority shall take into account all matters which are relevant to the grant of certificate of registration and in particular the following, namely, —

(a) whether the applicant is an individual, a body corporate or a firm;

(b) whether in case the applicant is a body corporate, all the representatives of

the applicant who provide retirement advice are appropriately qualified and certified as specified in regulation 7;

- (c) Whether in case the applicant is a firm or a limited liability partnership, proprietors or all partners who are engaged in giving retirement advice are qualified and certified as specified in regulation 7.
- (d) whether the applicant has the necessary infrastructure to effectively discharge the activities of an retirement adviser;
- (e) whether the applicant or any person directly or indirectly connected with the applicant has in the past been refused certificate by the Authority and if so, the grounds for such refusal;
- (f) whether any disciplinary action has been taken by the Authority or any other regulatory authority against any person directly or indirectly connected to the applicant under the respective Act, rules or regulations made thereunder;

7. Qualification and certification requirement.-

- (a) The individual, proprietors, partners and representatives of a retirement adviser registered under these regulations offering retirement advice shall have the minimum qualifications being a Graduate in any discipline., at all times, and,
- (b) Individuals and the proprietors, partners and representatives of Retirement Advisers to ensure that the individuals offering retirement advice shall have, at all times, a certification on retirement planning or retirement advisory services from an Institute accredited by PFRDA.

Provided that certification shall not be mandatory in the following cases:

- (i) an Investment Adviser registered with SEBI under its regulations
- (ii) a Certified Financial Planner of Financial Planning Services Board
- (iii) any other cases as specified by PFRDA

Provided further that fresh certification must be obtained before expiry of the validity of the existing certification to ensure continuity in compliance with certification requirements.

8. Security Deposit.- (i) Retirement Advisers which are body corporate or partnership firm on registration shall provide security deposit in the form of bank deposit or performance guarantee of Rs. 1 lac to the Authority before commencement of business. The deposit/ Guarantee shall be valid for a period of six months beyond the registration period.

(ii) Retirement Advisers who are individuals or proprietors on registration shall provide security deposit in the form of bank deposit or performance guarantee of Rs. 10 thousand to the Authority before commencement of business. The bank deposit/Guarantee shall be valid for a period of six months beyond the registration period.

9. Grant of certificate of registration.- The Authority on being satisfied that the applicant complies with the requirements specified in regulation 6 shall send intimation to the applicant and on receipt of the payment of registration/renewal fees as specified in Second Schedule, grant certificate of registration in Form B under First Schedule, subject to such terms and conditions as the Authority may deem fit and appropriate.

10. Period of validity of certificate.- The certificate of registration granted under regulation 9 shall be valid for a period of three years from the date of its issue.

11. Renewal of certificate.- (1) Three months before the expiry of the period of validity of the certificate, the retirement adviser may, if he so desires, make an application in Form A for grant of renewal of certificate of registration.

(2) The application for renewal under sub-regulation (1) shall be dealt with in the same manner as if it were an application made under sub-regulation (2) of regulation 3 for grant of certificate.

12. Procedure where registration is refused.- (1) After considering an application made under regulation 3, if the Authority is of the opinion that a certificate should not be granted to the applicant, it may reject the application after giving the applicant a reasonable opportunity of being heard.

(2) The decision of the Authority to reject the application shall be communicated to the applicant within thirty days of such decision.

(3) Where an application for a certificate of renewal is rejected by the Authority, the applicant shall forthwith cease to act as a retirement adviser certified by PFRDA :

Provided that nothing contained in this regulation shall affect the liability of the applicant towards its existing clients under law.

13. Conditions of certificate.-The certificate granted under regulation 9 shall, inter alia, be subject to the following conditions:-

- (a) the retirement adviser shall abide by the provisions of the Act and these regulations;
- (b) the retirement adviser shall forthwith inform the Authority in writing, if any information or particulars previously submitted to the Authority are found to be

false or misleading in any material particular or if there is any material change in the information already submitted;

- (c) the retirement adviser shall include the words 'retirement adviser' in its name;
- (d) Provided that if the retirement advisory service is being provided by a separately identifiable department or division or a subsidiary, then such separately identifiable department or division or subsidiary shall include the words 'retirement adviser' in its name;

14. Suspension and Cancellation of Certificate of Registration.- The certificate of registration issued to the Retirement Adviser will be subject for suspension or cancellation in the following cases, if the Retirement Adviser :

- a) Fails to comply with any of the conditions subject to which the certificate has been granted;
- b) Contravenes any of the provisions of the Pension Fund Regulatory and Development Authority Act, 2013, the regulations framed thereunder and such other guidelines or directions issued by the Authority from time to time; or;
- c) Fails to furnish any information relating to his activities as retirement adviser as required by the Authority;
- d) Furnishes wrong or false information, or conceals or fails to disclose material facts in the application submitted for obtaining the certificate.
- e) Does not submit periodical returns as required by the Authority
- f) Fails to resolve the complaints of the subscribers or fails to give a satisfactory reply to the Authority in this behalf.
- g) Does not co-operate with any inspection conducted by the Authority
- h) Acts in a manner against the interest of the subscriber or against public interest;
- i) Against whom any investigation has been commenced in relation to fraud or financial impropriety or has been convicted of commission of any economic offences.

15. Fees to be charged by the Retirement Adviser.- (1) An individual Retirement Adviser offering advice to an individual prospect and facilitating on-boarding to National Pension System may charge fees from the prospect, subject to the maximum of charges as specified by PFRDA. The upper ceiling for advisory & on-boarding for a prospect shall be Rs. 120/- which shall be subject to change by PFRDA from time to time. For subsequent services, the individual Retirement Adviser may charge Rs. 20/- per transaction or Rs. 100/- annually which shall be subject to change by PFRDA from time to time. Payment of fee will be only on completion of the registration process/on-boarding of the subscriber.

(2) Retirement Adviser which is a body corporate, firm etc. advising a prospect/subscriber may charge fees, subject to any ceiling as may be specified by PFRDA, if any. However, for the fees for on-boarding of the individual subscriber to National Pension System, shall be the same as specified under sub-regulation (1).

The fees charged should be as per the written agreement between the prospect/subscriber and the Retirement Adviser. Further, a Retirement Adviser shall ensure that fees charged to the prospects/subscribers are fair and reasonable.

16. Recognition of body or body corporate for regulation of retirement advisers.- (1)

The Authority may recognize any body or body corporate for the purpose of regulating retirement advisers.

(2) The Authority may, at the time of recognition of such body or body corporate, delegate administration and supervision of investment advisers to such body or body corporate on such terms and conditions as may be specified by the Authority.

(3) The Authority may specify that no person shall act as an investment adviser unless he is a member of a recognized body or body corporate and in such event, provisions of these regulations and byelaws or articles of such body or body corporate shall apply mutatis mutandis to such retirement advisers.

CHAPTER III

GENERAL OBLIGATIONS AND RESPONSIBILITIES

17. General responsibility.

- a) A Retirement Adviser shall act in a fiduciary capacity towards its prospects/subscribers and shall disclose all conflicts of interests as and when they arise.
- b) A Retirement Adviser may have a tie up with the registered POPs for providing services to the prospects. There shall be no restrictions on the no. of POPs with whom the Retirement Adviser may make a tie up.
- c) A Retirement Adviser shall not receive any consideration by way of remuneration or compensation or in any other form from any person other than the prospect/subscriber being advised, in respect of National Pension System (NPS) or other pension scheme regulated by PFRDA for which advice is provided.
- d) A Retirement Adviser shall not collect any cash amount for investment/contribution to the pension account of the subscribers in the capacity of Retirement Adviser.
- e) The Retirement Adviser shall advice the prospects/subscribers how to fill in the registration form for enrolment, Exit forms, various other forms

required to modify/change personal master details, nomination, POP, PFM, investment choice etc.

- f) The Retirement Adviser shall advise the subscribers on a periodic basis about the performance of POPs, PFs, underlying asset portfolio, NAV, general financial market trend etc. through e-mail, newsletters etc.
- g) The Retirement Adviser shall advise the subscribers on a periodic basis about the change in various policy & guidelines issued by PFRDA, CRA or its intermediaries.
- h) A retirement adviser shall maintain an arms-length relationship between its activities as a Retirement Adviser and other activities.
- i) A Retirement Adviser which is also engaged in activities other than retirement advisory services shall ensure that its retirement advisory services are clearly segregated from all its other activities, in the manner as prescribed hereunder.
- j) A Retirement Adviser shall ensure that in case of any conflict of interest of the retirement advisory activities with other activities, such conflict of interest shall be disclosed to the prospects/subscribers, beforehand.
- k) A Retirement Adviser shall not divulge any confidential information about its prospect/subscriber, which has come to its knowledge, without taking prior permission of its prospect, except where such disclosures are required to be made in compliance with any law for the time being in force.
- l) A Retirement Adviser shall follow 'Know Your Customer' procedure as specified by the Authority from time to time.
- m) A Retirement Adviser shall abide by Code of Conduct as specified by PFRDA.
- n) In case of change in control of firm of the Retirement Adviser, timely intimation shall be given to PFRDA.
- o) Retirement Advisers shall furnish to the Authority information and reports as may be specified by the Authority from time to time.
- p) It shall be the responsibility of the Retirement Adviser to ensure that its representatives and partners, as applicable, comply with the certification and qualification requirements as specified by PFRDA at all times.

18. Scope of Work.- A Retirement Adviser shall undertake the following work:

- (i) Creating awareness of NPS and other pension scheme regulated by PFRDA will be the core responsibility of the Retirement Adviser.
- (ii) To facilitate on-boarding of the prospective subscriber to National Pension System or other pension scheme regulated by PFRDA.
- (iii) To advise prospects on the necessity of retirement planning, level of contributions they could make, considering their current and future potential income to achieve desired retirement goals and other issues connected with taking of these decisions.
- (iv) To help prospects and other citizens in planning for retirement savings.
- (v) The adviser is expected to exercise professional due diligence while dealing with prospects and have the necessary skills towards this end.
- (vi) The adviser shall allow a free and frank atmosphere while dealing with prospects, which shall allow them to take informed transactional decisions.
- (vii) The adviser needs to collect and suggest prospects , the most suitable scheme taking into consideration the following aspects of the prospects and based on utmost good faith and fair market practices:
 - a. Due diligence on the requirements of the prospect to suggest them the most suitable products by collecting basic information of the prospect such as information around: age, marital status, dependents, current assets, liabilities, income, planned purchases, planned retirement age; plans post retirement, family history of health and longevity and the current health position.
 - b. Identifying prospect's financial and retirement goals.
 - c. Analyzing prospect's current financial situation and current investments.
 - d. Risk profiling of the prospect/subscriber.
 - e. Asset Allocation
 - f. Investment allocation strategy
 - g. Periodic monitoring and balancing.
 - h. Likelihood of immediate and near future financial commitments of either self or family.
- (viii) A Retirement Advisor will enable the subscribers to avail the benefits of pension schemes regulated by PFRDA by supporting them in making simple decisions about contributions, investments allocation and selection of Pension Funds.

- (ix) A Retirement Adviser will partner with corporates and Government departments to run awareness programmes on retirement planning for their employees.
- (x) A Retirement Advisor shall be able to appropriately guide and advise the subscriber about the risk and return profiles of the different financial securities and also advise the most suitable ratio of fund allocation in each of the asset classes viz. Equity, Government Securities, Corporate Bonds after duly considering the profile of the prospect and prevailing market conditions, and expected growth in the various parameters of economy and financial markets.
- (xi) Retirement Advisors may create awareness on the fund performance of each fund manager including comparison of the returns of the scheme and investments made by the pension funds, on the basis of information made available/approved by Authority.
- (xii) Retirement Advisors would transmit information and documents to intermediaries in a time bound manner and maintain utmost confidentiality of personal information collected from subscribers and cannot use it for any other activity.

19. Risk profiling. - Retirement Adviser shall ensure that,-

- a) it obtains from the prospect/subscriber, such information as is necessary for the purpose of giving retirement advice, including the following:-
 - (i) age;
 - (ii) income details;
 - (iii) existing retirement savings/ assets;
 - (iv) risk appetite/ tolerance;
 - (v) liability/borrowing details.
 - (vi) dependent family members
- b) it follows a process for assessing the risk, a prospect/subscriber is willing and able to take, including:
 - (i) assessing a prospect's capacity for absorbing loss;
 - (ii) identifying whether prospect is in a position to understand the concept of market risk involved in the process of investment.
 - (iii) appropriately interpreting prospect responses to questions and not attributing inappropriate weight to certain answers.
 - (iv) is able to understand and appreciate that retirement plans involve long gestation period, and early liquidation or exit, from the scheme is not beneficial

- c) where tools are used for risk profiling, it shall be ensured that the tools are fit for the purpose and any limitations are identified and mitigated;
- d) any questions or description in any questionnaires used to establish the risk a prospect is willing and able to take are fair, clear and not misleading, and shall ensure that:
- e) questionnaire is not vague or use double negatives or in a complex language that the prospect may not understand;
- f) questionnaire is not structured in a way that it contains misleading questions.
- g) once the assessment is done risk profile of the prospect is communicated to the prospect;
- h) risk assessment is updated periodically on the basis of the information provided by prospects/subscribers.

20. Disclosures to prospects/subscribers.-

- a) A retirement adviser shall disclose to a prospective subscriber, all material information about itself including its business, disciplinary history, the terms and conditions on which it offers advisory services, affiliations with other intermediaries and such other information as is necessary to take an informed decision on whether or not to avail its services.
- b) A retirement adviser shall disclose to its prospect, any consideration by way of remuneration or compensation or in any other form whatsoever, received or receivable by it.
- c) A retirement adviser shall disclose to the prospect any actual or potential conflicts of interest arising from any connection to or association with any intermediaries under NPS or any other pension scheme regulated by PFRDA, including any material information or facts that might compromise its objectivity or independence in the carrying on of retirement advisory services.
- d) A retirement adviser shall, while making an advice, make adequate disclosure to the prospect of all material facts relating to the key features of the products or securities, particularly, performance track record of various investment asset class and annuity schemes offered by various PFMs and ASPs.
- e) A retirement adviser shall draw the prospect's attention to the warnings, disclaimers in documents, advertising materials relating to an investment choice and annuity choice which it is recommending to the prospect/subscriber.

21. Maintenance of records.-

- a) A Retirement Adviser shall maintain the following records,-
- i) Know Your Customer records of the prospect/subscriber;
 - ii) Risk profiling and risk assessment of the prospect/subscriber;
 - iii) Suitability assessment of the advice being provided;
 - iv) Copies of agreements with prospects/subscribers, if any;
 - v) Retirement advice provided, whether written or oral;
 - vi) Rationale for arriving at advice, duly signed and dated;
 - vii) A register or record containing list of the prospects/subscribers, the date of advice, nature of the advice and fee, if any charged for such advice.
- b) The records may be maintained in the physical or electronic format and be retrieved whenever required by the Authority or any other person as authorised by the Authority.
- c) A Retirement Adviser, other than an individual Retirement Adviser generating a fees of amount of not more than the limit as specified by PFRDA for retirement advisory services, shall undertake yearly audit in respect of compliance with these regulations from a member of Institute of Chartered Accountants of India or Institute of Company Secretaries of India.

22. Appointment of compliance officer.-

A Retirement Adviser which is a body corporate or a partnership firm shall appoint a compliance officer who shall be responsible for monitoring the compliance by the Retirement Adviser in respect of the requirements of the Act, regulations, notifications, guidelines, instructions issued by the Authority.

23. Redressal of grievances.-

- (a) A Retirement Adviser shall redress subscriber grievances promptly.
- (b) A Retirement Adviser shall abide by and be bound by the provisions of the Pension Fund Regulatory and Development Authority (Redressal of Subscriber Grievance) Regulations, 2015.

24. Segregation of execution services.-

Retirement Advisers which are banks, NBFCs and body corporate providing distribution or execution services to their prospects shall keep their retirement advisory services segregated from such activities:

Provided that such distribution or execution services can only be offered subject to the following:

- (a) The prospect shall not be under any obligation to avail the distribution or execution services offered by the Retirement Adviser.
- (b) The Retirement Adviser shall maintain arm's length relationship between its activities as retirement adviser and distribution or execution services.
- (c) All fees and charges paid to distribution or execution service providers by the prospect shall be paid directly to the service providers and not through the Retirement Adviser.

CHAPTER IV

INSPECTION

25. Authority's right to inspect.

The Authority may suo moto or upon receipt of information or complaint appoint one or more persons as inspecting authority to undertake inspection of the books of accounts, records and documents relating to retirement advisers for any of the following reasons, namely: -

- (a) to ensure that the books of account, records and documents are being maintained by the retirement adviser in the manner specified in these regulations;
- (b) to inspect into complaints received from subscribers or any other person, on any matter having a bearing on the activities of the retirement adviser;
- (c) to ascertain whether the provisions of the Act and these regulations are being complied with by the retirement adviser;
- (d) to inspect into the affairs of a retirement adviser, in the interest of the pension market or in the interest of subscribers.

26. Notice before inspection.

(1) Before ordering an inspection under regulation 23, the Authority shall give not less than ten days notice to the retirement adviser.

(2) Notwithstanding anything contained in sub-regulation (1), where the Authority is satisfied that in the interest of the subscribers no such notice should be given, it may by an order in writing direct that the inspection of the affairs of the retirement adviser be taken up without such notice.

(3) During the course of an inspection, the retirement adviser against whom the inspection is being carried out shall be bound to discharge its obligations as provided in regulation 25.

27. Obligation of retirement adviser on inspection.

(1) It shall be the duty of every retirement adviser in respect of whom an inspection has been ordered under the regulation 23 and any other associate person who is in possession of relevant information pertaining to conduct and affairs of such retirement adviser, including representative of retirement adviser, if any, to produce to the inspecting authority such books, accounts and other documents in his custody or control and furnish him with such statements and information as the inspecting authority may require for the purposes of inspection.

(2) It shall be the duty of every investment adviser and any other associate person who is in possession of relevant information pertaining to conduct and affairs of the retirement adviser to give to the inspecting authority all such assistance and shall extend all such co-operation as may be required in connection with the inspection and shall furnish such information as sought by the inspecting authority in connection with the inspection.

(3) The inspecting authority shall, for the purposes of inspection, have power to examine on oath and record the statement of any employees, directors, partners or person responsible for or connected with the activities of retirement adviser or any other associate person having relevant information pertaining to such retirement adviser.

(4) The inspecting authority shall, for the purposes of inspection, have power to obtain authenticated copies of documents, books, accounts of retirement adviser, from any person having control or custody of such documents, books or accounts.

28. Submission of report to the Authority.

The inspecting authority shall, as soon as possible, on completion of the inspection submit an inspection report to the Authority: Provided that if directed to do so by the Authority, the inspecting authority may submit an interim report.

29. Action on the inspection report.

The Authority may after consideration of the inspection report and after giving reasonable opportunity of hearing to the retirement advisers or its authorized representatives, issue such directions as it deems fit in the interest of pension market or the subscribers including,-

(a) requiring an retirement adviser not to provide retirement advice for a particular period;

(b) requiring the retirement adviser to refund any money collected as fees, charges or otherwise to the concerned subscribers along with the requisite interest and penalty which may be prescribed by the Authority. In case of any loss caused to the subscriber/s by an act of the Retirement Adviser, PFRDA may invoke the Performance Guarantee submitted by the Retirement Adviser and may have to compensate the subscriber/s in addition to PFRDA initiating penal action keeping in mind the extent of violation and level of violation as per the provisions of the PFRDA Act and applicable regulations.

(c) prohibiting the retirement adviser from operating as a Retirement adviser.

CHAPTER V

PROCEDURE FOR ACTION IN CASE OF DEFAULT

30. Liability for action in case of default.

A retirement adviser who -

(a) contravenes any of the provisions of the Act or any regulations or circulars issued thereunder;

(b) fails to furnish any information relating to its activity as an retirement adviser as required by the Authority;

(c) furnishes to the Authority information which is false or misleading in any material particular;

(d) does not submit periodic returns or reports as required by the Authority;

(e) does not co-operate in any enquiry, inspection or investigation conducted by the Authority;

(f) fails to resolve the complaints of subscribers or fails to give a satisfactory reply to the Authority in this behalf, shall be dealt with in the manner provided under the Pension Fund Regulatory and Development Authority (Redressal of Subscriber Grievance) Regulations, 2015.

CHAPTER V MISCELLANEOUS

31. Power of the Authority to issue clarifications etc. -In order to remove any difficulties in the application or interpretation of these regulations, the Authority may issue clarifications and guidelines in the form of circulars.

32. Power of the Authority over entity recognized under regulation 14.- The Authority reserves the right to alter, modify and overrule any decision, action taken or penalties imposed by the body or body corporate recognized under regulation 14.

FIRST SCHEDULE

FORM A

PFRDA (Retirement Adviser) Regulations, 2016

[See Regulations 3 and 11]

Application for Grant of Certificate of Registration/Renewal as Retirement adviser

PFRDA, ICADR Building, Vasant Kunj, New Delhi-110070

INSTRUCTIONS

1. This form is meant for use by the applicant for grant of certificate of registration as a retirement adviser.
2. The applicant should complete this form, and submit it, along with all supporting documents to the Authority at its head office at New Delhi.
3. This application form should be filled in accordance with these regulations.

4. The application shall be considered by the Authority provided it is complete in all respects.

5. All answers must be legible and all the pages must be numbered with signature/ stamp on each page of the form.

6. Information which needs to be supplied in more detail may be given on separate sheets which should be attached to the application form and appropriately numbered.

7. The application must be signed.

8. The application must be accompanied by an application fee as specified in the Second Schedule to these regulations.

1. GENERAL INFORMATION

(a) Name, address of the registered office, address for correspondence and principal place of business, telephone number(s), fax number(s), e-mail address of the applicant.

(b) Whether application is for registration/ renewal. Provide registration number if the application is for renewal of certificate.

(c) Name, direct line number, mobile number and e-mail of the contact person(s).

(d) Legal structure of applicant - Whether the applicant is a proprietor, body corporate (including company), partnership firm or limited liability partnership.

(e) Whether the applicant is a bank /NBFC.

(f) Date and place of incorporation/ establishment, if any. If the applicant is incorporated outside India, details of such incorporation.

(g) Whether the applicant is engaged in retirement advisory services prior to making application under these regulations.

(h) Whether the applicant is registered with SEBI, RBI, IRDA or PFRDA in any capacity. If so, details of such registration.

(i) Write-up on the activities of the applicant.

(For renewal application, provide details of existing retirement advisory services including number and type of subscribers, assets under advice, revenue, profitability, products/ retirement products on which retirement advice was provided, etc.)

2. DETAILS OF APPLICANT (Provide details of only the section applicable to

you)

I. In case applicant is a company:

1. Shareholding pattern and profile of the directors (Enclose identity proof and address proof of the directors).
2. Number of employees and agents of the applicant (hereinafter referred to as 'representatives') who render/ propose to render retirement advice under these regulations on behalf of the applicant.
3. Declaration by the applicant that its representatives currently comply with the certification and qualification requirements under regulation 7. (If the applicant is an existing retirement adviser applying for fresh registration, then provide a declaration stating that the applicant shall ensure that all its representatives obtain such certification within two years from the date of commencement of these regulations and after all its representatives obtain the certification, a declaration to that effect shall be submitted to PFRDA.)
4. Declaration by the applicant that it shall ensure that its representatives comply with the certification and qualification requirements under Regulation 7 at all times.
5. List of associated companies registered with SEBI, RBI, IRDA or PFRDA along with the registration number.
6. If applicant is a bank or NBFC, then copy of approval from RBI for undertaking retirement advisory services.
7. Net worth certificate by a chartered accountant, not more than six months old. Please note that membership number of the chartered accountant must be included in the certificate,

II. In case applicant is a proprietorship firm, partnership firm or a limited liability partnership:

1. Name of proprietor, names and beneficial ownership pattern of the partners engaged/proposed to engage in retirement advice (Enclose identity proof and address proof of the partners).
2. Whether the aforesaid proprietor or partners have:
 - a. A professional qualification or post-graduate degree or post graduate diploma in finance, accountancy, business management, commerce, economics, capital market, banking, insurance or actuarial science from a university or an institution recognized by the Central Government or any State Government or a recognised foreign university or institution or association; or

b. A graduate in any discipline with an experience of at least five years in activities relating to advice in financial products or retirement products or fund or asset or portfolio management.

(Provide self- certified copies of supporting documents).

3. Copy of certification obtained by the aforesaid partners in accordance with regulation 7(2).

(If the applicant is existing retirement advisers applying for fresh registration, then provide a declaration stating that proprietor or all the partners engaged in retirement advice shall obtain such certification within two years from the date of commencement of these regulations and after all such partners obtain the certification, a declaration to that effect shall be submitted to PFRDA.)

4. Declaration that the aforesaid proprietor or partners shall obtain fresh certification before expiry of the validity of the existing certification to ensure continuity in compliance with certification requirements.

5. Copy of assets and liabilities statement and certification of net tangible assets of the proprietor or partnership firm certified by a chartered accountant (not more than six months old at the time of filing of application). Please note that membership number of the chartered accountant must be included in the certificate.

III. In case applicant is a body corporate (other than company or limited liability partnership):

1. Shareholding pattern and profile of the directors (Enclose identity proof and address proof of the directors).

2. Whether the applicant is set up or established under the laws of the Central or State Legislature and whether the applicant is permitted to carry on of the activity of a retirement adviser (Enclose relevant extract of the relevant Statute/Act).

3. Number of employees and agents of the applicant (hereinafter referred to as 'representatives') who render/ propose to render investment advice under these regulations on behalf of the applicant.

4. Declaration by the applicant that its representatives currently comply with the certification and qualification requirements under regulation 7. (If the applicant is an existing retirement adviser applying for fresh registration, then provide a declaration stating that the applicant shall ensure that all its representatives obtain such certification within two years from the date of commencement of these regulations and after all its representatives obtain the certification, a declaration to that effect shall be submitted to PFRDA.)

5. Declaration by the applicant that it shall ensure that its representatives comply

with the certification and qualification requirements under regulation 7 at all times.

6. Net worth certificate by a chartered accountant, not more than six months old. Please note that membership number of the chartered accountant must be included in the certificate.

3. BUSINESS PLAN

1. Proposed business plan & means of achieving the same.
2. Process for risk profiling of the subscriber and for assessing suitability of advice.

4. DETAILS OF INFRASTRUCTURE

1. Details of office space, office equipment, furniture and fixtures, communication facilities, research capacity, research software for undertaking retirement advisory services.
2. Declaration that the applicant has the necessary infrastructure to effectively discharge the activities of an retirement adviser.

5. EXECUTION SERVICES

1. If the applicant is a body corporate, whether the applicant proposes to offer distribution or execution services to its subscribers.
2. If yes, provide a declaration that the services are being offered through a subsidiary/ separately identifiable department or division.

6. OTHER INFORMATION/DECLARATIONS/ REGULATORY ACTIONS.-

(a) Details of all settled and pending disputes in the last 5 years.

(b) Whether any previous application for grant of certificate made by any person directly or indirectly connected with the applicant has been rejected by the Authority; If yes, provide details of the same.

(c) Whether any disciplinary action has been taken by the Authority or any other regulatory authority against any person directly or indirectly connected with the applicant under the Act or the regulations made there under in the last 5 years. If yes, provide details of the action.

(d) Whether the applicant/directors/promoters/ partners have been indicted/involved in any economic offence in the last 5 years. If yes, provide details of the same.

(e) A credit report/ score from CIBIL for the applicant. (For applicants other than financial institutions & banking companies)

(f) Declaration that the applicant, its representatives and partners, if any, are fit and proper persons based on the criteria as specified by PFRDA Regulations, 2016;

(g) Declaration that the applicant shall not obtain any consideration by way of remuneration or compensation or any other form whatsoever, from any person other than the subscriber being advised, in respect of the underlying products or securities for which advice is provided to the subscriber.

(h) Any other information considered relevant to the nature of services to be rendered by the applicant.

7. DECLARATION STATEMENT

I/We hereby agree and declare that the information supplied in the application, including the attachment sheets, is complete and true. AND I/ we further agree that, I/we shall notify the PFRDA immediately any change in the information provided in the application. I/ We further agree that I/ we shall comply with, and be bound by the PFRDA (Retirement Advisers) Regulations, 2016, guidelines/instructions as may be announced by PFRDA of India from time to time.

I/ We further agree that as a condition of registration, I/ we shall abide by such operational instructions/directives as may be issued by the PFRDA from time to time.

**For and on behalf of
(Name of the applicant)**

Authorized signatory/ Applicant

(Signature)

(Date and Place)

FORM B

PFRDA (Retirement Adviser) Regulations, 2016 [See regulation 9]

Certificate of registration as Retirement Adviser .

In exercise of the powers conferred by sub-section -- of section -- of the PFRDA Act, 2013 (-- of ----), read with the regulations made there under, the Authority hereby grants a certificate of registration to _____ as an retirement adviser subject to the conditions specified in the Act and in the

regulations made thereunder.

II. The Registration Number of the retirement adviser is IN/IA/_____.

Date :

Place : New Delhi

For and on behalf of
Pension Fund Regulatory and Development
Authority

SECOND SCHEDULE

PFRDA (Retirement Adviser) Regulations, 2016 [Regulation 9]

FEES

1. Every individual applicant shall pay non-refundable application fees of five

hundred rupees and every applicant other than individuals shall pay non-refundable application fees of five thousand rupees, along with the application for grant or renewal of certificate of registration.

2. Applicants which are individuals shall pay a sum of one thousand rupees as registration/ renewal fee at the time of grant or renewal of certificate by the Authority.

3 Applicants which are firms/body corporate shall pay a sum of ten thousand rupees as registration/ renewal fee at the time of grant or renewal of certificate by the Authority.

4. The fee referred to in paragraph 2 and 3 shall be paid by the applicant within fifteen days from the date of receipt of intimation from the Authority by a demand draft in favour of 'PENSION FUND REGULATORY AND DEVELOPMENT AUTHORITY' payable at New Delhi. or as specified by the Authority from time to time.

THIRD SCHEDULE

PFRDA (Retirement Adviser) Regulations, 2016 [See sub-regulation (14) of regulation 15]

CODE OF CONDUCT FOR RETIREMENT ADVISER

1. Honesty and fairness

A retirement adviser shall act honestly, fairly and in the best interests of its subscribers and in the integrity of the market.

2. Diligence

A retirement adviser shall act with due skill, care and diligence in the best interests of its subscribers and shall ensure that its advice is offered after thorough analysis and taking into account available alternatives.

3. Capabilities

A retirement adviser shall have and employ effectively appropriate resources and procedures which are needed for the efficient performance of its business activities.

4. Information about subscribers

A retirement adviser shall seek from its subscribers, information about their financial situation, investment experience and investment objectives relevant to the services to be provided and maintain confidentiality of such information.

5. Information to its subscribers

A retirement adviser shall make adequate disclosures of relevant material information while dealing with its subscribers.

6. Fair and reasonable charges

A retirement adviser advising a prospect may charge fees, subject to any ceiling as may be specified by the Authority, if any. The retirement adviser shall ensure that the fee charged to the subscribers is fair and reasonable.

7. Conflicts of interest

A retirement adviser shall try to avoid conflicts of interest as far as possible and when they cannot be avoided, it shall ensure that appropriate disclosures are made to the prospects and that the prospects are fairly treated.

8. Compliance

A retirement adviser including its representative(s) shall comply with all regulatory requirements applicable to the conduct of its business activities so as to promote the best interests of subscribers and the integrity of the market.

9. Responsibility of senior management

The senior management of a body corporate which is registered as retirement adviser shall bear primary responsibility for ensuring the maintenance of appropriate standards of conduct and adherence to proper procedures by the body corporate.