PENSION FUND REGULATORY AND DEVELOPMENT AUTHORITY

EXPOSURE DRAFT

PFRDA (Exits and Withdrawals under NPS) (first amendment) Regulations, 2016

Issued on: 17th August, 2016

Last date to accept Comments: 07th September, 2016

PFRDA is proposing to amend the PFRDA (Exits and Withdrawals under NPS) Regulations, 2015 based on the experience gained during the year and in order to protect the interest of the subscribers.

Keeping the above in perspective, the draft PFRDA (Exits and Withdrawals under NPS) (first amendment) Regulations, 2016and comments from the public and all concerned are invited. It may also be noted that suggestions on improving/ simplifying the process can also be given.Comments/Feedback may be forwarded by email to the e-mail id vikas.s@pfrda.org.in latest by 07.09.2016. **Comments should be given in the following format:**

Name of entity/ person			
Sr.No.	Pertains to which Section/sub-section and Page number	Proposed/ suggested changes	Rationale

Written comments in the above format may be addressed to:

Mr. Vikas Kumar Singh
Dy. General Manager
Pension Fund Regulatory & Development Authority
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THE GAZETTE OF INDIA

EXTRAORDINARY

PART III SECTION 4

PUBLISHED BY AUTHORITY

PENSION FUND REGULATORY AND DEVELOPMENT AUTHORITY

NOTIFICATION

NEW DELHI, the …….., 2016

Draft Pension Fund Regulatory and Development Authority (Exits and Withdrawals under the National Pension System) (First Amendment) Regulations, 2016

No.PFRDA/12/RGL/139/9- In exercise of the powers conferred by sub-section(1) of Section 52 read with sub-clause(g), (h), and (i)of sub-section 2 of Section 52 of the Pension Fund Regulatory and Development Authority Act, 2013 (Act No.23 of 2013), the Pension Fund Regulatory and Development Authority hereby makes the following regulations to amend the Pension Fund Regulatory and Development Authority(Exits and Withdrawals under the National Pension System) Regulations, 2015 namely,-

1. These regulations may be called thePension Fund Regulatory and Development Authority(Exits and Withdrawals under the National Pension System) (First Amendment) Regulations, 2016.
2. These shall come into force on the date of their publication in the official gazette.
3. In the Pension Fund Regulatory and Development Authority(Exits and Withdrawals under the National Pension System) Regulations, 2015:-

(I) In regulation 2, in sub-regulation (1), the following shall be added after sub-clause(j)-

(k) "Exit " for the purpose of this regulation shall mean closure of individual pension account of the subscriber under National Pension System, upon and on the date of happening of the following events, as may be applicable:

(i) a subscriber having superannuated/retired from employment, as per the terms of such employment;

(ii) a subscriber having attained the age of sixty years, and where so specifically permitted has not exercised a choice in writing to continue to remain subscribed to such system by making contributions;

(iii) death of the subscriber before attaining the age of superannuation, or the age of sixty years, or in cases where an option has been exercised to continue to remain subscribed to a certain age, before attaining such age;

(iv) voluntary closure of the account by the subscriber, in cases where so permitted and on the date on which such closure is effected in the system.

Provided that a subscriber shall be deemed to have exited from National Pension System, in accordance with sub-clause (i) to (iv) notwithstanding that no claims have been received by or on behalf of the subscriber or such claims have been deferred by the subscriber as may be permitted or such claims having being received are pending settlement.

Provided further that where a subscriber ceases to be in employmentother than retirement or superannuation, it shall not be treated as exit and he shall have the option to continue his individual pension account if available under new employment or as voluntarily available.

(l) "deferment" shall mean the postponement or deferment of claimsor receiving benefits admissible to a subscriber upon exit from National Pension System in accordance with and as permissible in these regulations.

(II) Sub-clause (a) of Regulation 3shall be substituted as follows –

3. Exit from National Pension System for government sector subscribers.-A subscriber under the government sector shall exit from the National Pension System in the manners specified hereunder, namely:-

(a) Where the subscriber who, upon attaining the age of superannuation as prescribed by the service rules applicable to him or her, retires, then at least forty per cent. out of the accumulated pension wealth of such subscriber shall be mandatorily utilized for purchase of annuity providing for a monthly or any other periodical pension and the balance of the accumulated pension wealth, after such utilization, shall be paid to the subscriber in lump sum or he shall have a choice to collect such remaining pension wealth in accordance with the other options specified by the Authority from time to time, in the interest of the subscribers:

Provided that,-

(i) the following shall be the default annuity contract that will be applicable and wherein the annuity contract shall provide for annuity for life of the subscriber and his or her spouse (if any) with provision for return of purchase price of the annuity and upon the demise of such subscriber, the annuity be re-issued to the family members in the order specified hereunder at a premium rate prevalent at the time of purchase of such annuity by utilizing the purchase price required to be returned under the annuity contract (until all the family members in the order specified below are covered) :

(a) living dependent mother of the deceased subscriber;

(b) living dependent father of the deceased subscriber.

After the coverage of all the family members specified above, the purchase price shall be returned to the surviving children of the subscriber and in the absence of children, the legal heirs of the subscriber, as may be applicable; In the absence of or non-availability of such a default annuity for any reason, the subscriber shall be required to exercise the option for purchase of such annuity of his choice,within the then annuity types or contracts made available by the annuity service providers empanelled by the Authority.

Further, a subscriber who wishes to opt out of the default option mentioned above and wishes to choose the annuity contract of his choice from the available annuity types or contracts with the annuity service providers, shall be required to specifically opt for such an option.

(ii) where the subscriber does not desire to withdraw the balance amount, after purchase of mandatory annuity, such subscriber shall have the option to defer the withdrawal of the lump sum amount until he or she attains the age of seventy years, provided the subscriber intimates his or her intention to do so in writing not less than fifteen days prior to his attaining the age of superannuation to the Central recordkeeping agency or National Pension System Trust or any other approved intermediary or entity authorized by the Authority, in the specified form or in any other manner specified by the Authority through guidelines or circulars:,

(iii) where the subscriber desires to defer the purchase of annuity, he or she shall have the option to do so for a maximum period of three years from the date of attainment of age of superannuation, provided the subscriber intimates his or her intention to do so in writing in the specified form or any other approved mode by the authority at least fifteen days before the attainment of age of superannuation to the Central recordkeeping agency or National Pension System Trust or an intermediary or entity authorized by the Authority for this purpose. It shall be a condition precedent to opt for such deferment of annuity purchase that in case if the death of the subscriber occurs before such due date of purchase of an annuity after the deferment, the annuity shall mandatorily be purchased by the spouse(if any) providing for annuity for life of the spouse with provision for return of purchase price of the annuity and upon the demise of such spouse be re-issued to the family members in the order of preference provided hereunder at a premium rate prevalent at the time of purchase of the annuity, utilizing the purchase price required to be returned under the contract (until all the members given below are covered):-

(a) living dependent mother of the deceased subscriber ;

(b) living dependent father of the deceased subscriber.

After the coverage of all such members, the purchase price shall be returned to the surviving children of the subscriber and in absence of children legal heirs of the subscribers as applicable;

(iv) where the subscriber desires to defer the withdrawal of benefits available under National Pension System, the subscriber shall be allowed to do so, provided the subscriber agrees to bear the maintenance charges of the individual pension account/ Permanent Retirement Account, including the charges payable to the central recordkeeping agency, pension fund, Trustee Bank or any other intermediary, as may be applicable from time to time, failing which such deferment shall not be allowed;

(v) where the accumulated pension wealth in the Permanent Retirement Account of the subscriber is equal to or less than a sum of two lakh rupees, or alimit to be specified by the Authority basing on the instructions issued by the appropriate regulator on the minimum value of annuities to be made available by the life insurers, the subscriber shall have the option to withdraw the entire accumulated pension wealth without purchasing annuity and upon such exercise of this option, the right of such subscriber to receive any pension or other amount under the National Pension System or from the government shall extinguish;

(b) where the subscriber who, before attaining the age of superannuation prescribed by the service rules applicable to him or her, voluntarily retires or exits, then at least eighty per cent. out of the accumulated pension wealth of the subscriber shall mandatorily be utilized for purchase of annuity and the balance of the accumulated pension wealth, after such utilization, shall be paid to the subscriber in lump sum or he shall have a choice to collect such remaining pension wealth in accordance with the other options specified by the Authority from time to time, in the interest of the subscribers:

Provided that such annuity contract shall provide for annuity for life of the subscriber and his or her spouse (if any) with provision for return of purchase price of the annuity and upon the demise of such subscriber the annuity be re-issued to the family members in the order specified hereunder at a premium rate prevalent at the time of purchase of the annuity, utilizing the purchase price required to be returned under the annuity contract (until all the members given below are covered) :-

(i) living dependent mother of the deceased subscriber ;

(ii) living dependent father of the deceased subscriber.

After the coverage of all such members, the purchase price shall be returned to the surviving children of the subscriber and in absence of children, the legal heirs of the subscriber as may be applicable; In the absence of or non-availability of such a default annuity for any reason, the subscriber shall be required to exercise the option for purchase of such annuity of his choice, within the then annuity types or contracts made available by the annuity service providers empanelled by the Authority.

Further, a subscriber who wishes to opt out of the option mentioned above and wishes to choose the annuity contract of his choice from the available annuity types or contracts with the annuity service providers shall be required to specifically opt for such an option.

Provided that if the accumulated pension wealth of the subscriber is more than one lakh rupees or a limit to be specified by the Authorityfor the purpose but the age of the subscriber is less than the minimum age required for purchasing any annuity from any of the empanelled annuity service providers as chosen by such subscriber, such subscriber shall continue to subscribe to the National Pension System, until he or she attains the age of eligibility for purchase of any annuity:

Provided further that if the accumulated pension wealth of the subscriber is equal to or less than one lakh rupees or a limit to be specified by the Authority basing on the instructions issued by the appropriate regulator on the minimum value of annuities to be made available by the life insurers, such subscriber shall have the option to withdraw the entire accumulated pension wealth without purchasing any annuity and upon such exercise of this option the right of the subscriber to receive any pension or other amounts under the National Pension System shall extinguish and any such exercise of this option by the subscriber, before the regulations are notified, shall be deemed to have been made in accordance with this regulation;

(c) where the subscriber who, before attaining the age of superannuation, dies, then at least eighty percent out of the accumulated pension wealth of the subscriber shall be mandatorily utilized for purchase of annuity and balance pension wealth shall be paid as lump sum or in another manner as opted by subscriber from among the options made available by the authority from time to time to the nominee or nominees or legal heirs, as the case may be, of such subscriber:

Provided that,-

(i) such annuity contract shall provide for annuity for life of the spouse of the subscriber(if any) with provision for return of purchase price of the annuity and upon the demise of such spouse be re-issued to the family members in the order specified hereunder at the premium rate prevalent at the time of purchase of the annuity, utilizing the purchase price required to be returned under the contract (until all the members given below are covered):-

(a). living dependent mother of the deceased subscriber ;

(b) living dependent father of the deceased subscriber .

After the coverage of all such members, the purchase price shall be returned to the surviving children of the subscriber and in absence of children, the legal heirs of the subscriber as applicable. In the absence of or non-availability of such a default annuity for any reason, the subscriber shall be required to exercise the option for purchase of such annuity of his choice, within the then annuity types or contracts made available by the annuity service providers empanelled by the Authority.

(ii) Provided further that if the accumulated pension wealth in the permanent retirement account of the subscriber at the time of his death is equal to or less than two lakh rupees or a limit to be specified by the Authority basing on the instructions issued by the appropriate regulator on the minimum value of annuities to be made available by the life insurers, the nominee or legal heirs as the case may be, shall have the option to withdraw the entire accumulated pension wealth without requiring to purchase any annuity and upon such exercise of this option the right of the family members to receive any pension or other amounts under the National Pension System shall extinguish;

(III)(i) Proviso(i) toSub-clause (a) of Regulation 4 shall be substituted as follows –

Provided that,-

(i) the subscriber can continue to subscribe to the National Pension System beyond the age of sixty years or the age of superannuation, so specified, by giving in writing or in such form as may be specified,. Such option shall be exercised not less than fifteen days prior to subscriber attaining the age of sixty years or age or superannuation, as the case may be, to the National Pension System Trust or any other intermediary or entity authorized by the Authority, of the age upto (but not exceeding seventy years) which he would like to contribute to his individual pension account. No option of deferment of collection of benefits shall be admissible to such a subscriber.

Notwithstanding such intimation, the subscriber may exit at any point of time, from the National Pension System by submitting a request in writing to the National Pension System Trust or any intermediary or entity authorized by the Authority for this purpose ;

(ii) Proviso to sub-clause (b) of Regulation 4 shall be substituted as follows

Provided further that if the accumulated pension wealth in the individual pension account of the subscriber is equal to or less than one lakh rupees, or a limit to be specified by the Authority basing on the instructions issued by the appropriate regulator on the minimum value of annuities to be made available by the life insurers, such subscriber shall have the option to withdraw the entire accumulated pension wealth without purchasing any annuity;

(iii) proviso (ii) to sub-clause (c) of clause (ii) of Regulation 4 shall be substituted as follows:

(ii) in case, the nomination is not registered by the deceased subscriber before his death, the accumulated pension wealth shall be paid to the family members on the basis of the legal heir certificate issued by the competent authorities of the State concerned or the succession certificate issued by a court of competent jurisdiction.

(IV) Sub-clause (b) of Regulation 5 shall be substituted as follows:

(b) at any time, before attaining the age of sixty years, subject however that at least eighty percent out of the accumulated pension wealth shall be mandatorily utilized for purchase of annuity and the balance of the accumulated pension wealth, after such utilization shall be paid to the subscriber in lump sum orhe shall have a choice to collect such remaining pension wealth in accordance with the other options specified by the Authority from time to time, in the interest of the subscribers:

Provided that for a Swavalamban subscriber the annuity purchased by utilizing the mandatory minimum of eighty percent out of the accumulated pension wealth shall yield at least a monthly annuity or pension of one thousand rupees per month, failing which the entire accumulated pension wealth shall be annuitised in such a manner so as to yield at least a monthly annuity or pension of one thousand rupees and balance if any thereafter shall be paid as lump sum to the subscriber. However there shall be no implicit or explicit guarantee that the annuity purchased even with entire accumulated pension wealth would yield a monthly annuity or pension of one thousand rupees:

Provided that subject to the provisions of this clause, where the accumulated pension wealth does not exceed one lakh rupeesor a limit to be specified by the Authority basing on the instructions issued by the appropriate regulator on the minimum value of annuities to be made available by the life insurers, the whole of the pension wealth up to the limit so specified shall be paid to the subscribers who have not availed any Swavalamban co-contribution, without any requirement of annuitisation and further this provision shall be applicable to a subscriber who has availed a Swavalamban co-contribution only if such subscriber has continued in the scheme for a minimum period of twenty-five years;

Provided further that the migration of Swavalamban subscriber or subscribers to any other pension scheme of Government of India and as approved by the Authority shall not be deemed as an exit and withdrawal for the purposes of these regulations.

(V) Regulation 6 is substituted as follows and sub-regulation (e) and (h) are amended, new sub-clauses (i) and (j) are included as below:

6. Conditions to apply for exit and withdrawal.- A subscriber registered under the National Pension System shall not exit there from, and no withdrawal from the accumulated pension wealth in the Tier-1 of the Permanent Retirement Account of such subscriber shall be permitted, except in the manner so specified under regulations 3,4, 5 and 8 and further as mentioned hereunder, namely:-

e) If the subscriber or the family members of the deceased subscriber, upon his death, avails the option of additional relief on death or disability provided by the Government, the Government shall have right to adjust or seek transfer of the entire accumulated pension wealth of the subscriber to itself. The subscriber or family members of the subscriber availing such benefit shall specifically and unconditionally agree and undertake to transfer the entire accumulated pension wealth to the Government, in lieu of enjoying or obtaining such additional reliefs like family pension or disability pension or any other pensionary benefit from such Government authority; With the release of such family pension to the eligible family members of the deceased subscriber, the right to claim any benefits under the National Pension System, by any person shall extinguish thereuponincluding that of the rights of the nominee as recorded for the purpose of benefits under national pension system..

(h) Upon exit of a subscriber from National Pension System the tier-II account of the subscriber shall also be closed and benefits paid to the subscriber or his nominees or legal heirs as the case may be.

(ii) New sub-clause (i) to Regulation 6 shall be added as follows:

(i) With respect to subscribers who have not submitted the withdrawal application as is required under regulation 7 and within one month from the date of attainment of the age of sixty years or the age of normal superannuation as the case may be, for withdrawal of benefits upon exit from national pension system, the accumulated pension wealth in the account of such subscriber would be monetized and kept separately as per the guidelines or directions issued by the Authority from time to time for the purpose. The income earned from such safe keeping of the monetized accumulated pension wealth of the subscriber shall form part of the benefits that the subscriber is entitled under the National Pension System. This shall also be applicable in case of such subscribers who have deferred the withdrawal of benefits or have partly withdrawn the benefits and have not taken the steps to completely withdraw the benefits as is required under the regulations and or in the guidelines or directions issued by the Authority for the purpose.

(iii) New sub-clause (j) to Regulation 6 shall be added as follows:

(j) With respect to settlement of claims arising out of the accumulated pension corpus of deceased subscribers, where no valid nomination as specified in these regulations exist on the date of death, the Authority may issue suitable directions in the interest of subscribers for settlement of such claims in favour of the eligible legal heirs of the deceased subscriber, upto a specified limit, by requiring such heirs to submit such documents as may be specified.

(V) Regulation 7 shall be substituted as follows: - –

7. Conditions of withdrawals under National Pension System.-In general, a subscriber shall submit the withdrawal application along with the required documents for the purpose of withdrawing the benefits upon exit as provided in these regulations on or before the expected date of exit from the national pension system to the national pension system trust or the central recordkeeping agency acting on behalf of it or any other entity authorized by the Authority. Central recordkeeping agency or national pension system trust may on receipt of such an application for exit or withdrawal from a subscriber in the specified form and subject to fulfillment of conditions so specified, may allow exit or withdrawals from the National Pension System in the mode and manner permitted under these regulations and guidelines, circulars, orders or notifications issued by the Authority from time to time:

(VI) Regulation 9 shall be substitutedas follows:—

9. Withdrawal process.- (1) The National Pension System Trust or any other intermediary or entity authorized by the Authority for the said purpose shall be responsible for processing,authorizing and approving the withdrawal and exit claims lodged by the subscriber in accordance with the provisions of the Act, regulations, directions, guidelines issued by the Authority and the Pension Fund Regulatory and Development Authority (National Pension

System Trust) Regulations, 2015, where applicable. The National Pension System Trust shall frame and issue suitable operational processes or guidelines including the exit or withdrawal forms for facilitating withdrawals and Exit of subscribers from National Pension System after approval from the Authority.

(VII) Regulation 10 shall be substituted as follows:—

10. Conditions of annuity purchase upon exit.- (1) The subscriber, at the time of exit, shall mandatorily purchase an annuity providing for a monthly or periodical annuity or pension as specified in these regulations, excepting those cases where exempted or provided otherwise and to the extent so exempted. Such annuity shall be purchased from an annuity service provider who is empanelled by the Authority.

(VIII) In regulation 32, in the proviso, the following shall be added after sub-clause (xi) as sub-clause (xii) -

In respect of subscribers covered under sub-clause(c) of Regulation 3 and sub-clause(c) of Regulation 4, where no valid nomination exists in accordance with these regulations, at the time of exit of such subscriber on account of death, the nomination, if any existing in the records of such subscriber with his or her employer for the purpose of receiving other admissible terminal benefits shall be treated as nomination exercised for the purposes of receiving benefits under the National Pension System. The employer shall send a confirmation of such nomination in its records, to the National Pension System, while forwarding the claim for processing.

(IX) Regulations 33 and 34 shall be omitted

(X) Regulation 35 shall be substituted as follows:-

35. Providing bank account details.- A subscriber seeking benefits upon exit or withdrawals as permitted under these regulations shall provide the Bank details mandatorily apart from copy of Aadhar card issued by Unique Identification Authority of India or a copy of PAN card issued by Income-Tax Department, in order to have the facility of credit of the eligible benefits directly in to the subscriber's or claimants Bank account as applicable.

(XI) Regulation 37 shall be substituted as follows: –

37. Stoppage of last three months deductions by employer.-The monthly contribution consisting of both the employer and employee, as may be applicable and that is required to be deducted for crediting to the subscribers account under the National Pension System by the employers from the salary of such subscriber shall be stopped at least three months prior to the date of superannuation, to ensure that the exit and withdrawal of the subscriber from national pension system is seamless. The employer shall pay such eligible contributions directly to the employee subscriber along with the monthly salary or remuneration that such subscriber is eligible to receive from the employer.

(XII) Regulation 39 shall be substituted as follows: –

39. Power of the Authority to issue directions and clarifications.-(1)The Authority shall have the power to issue necessary directions, restricting the provisions relating to withdrawals and exit, as the case may be, under these regulations for complying with any requirements to move from any other pension or superannuation schemes or funds, to the National Pension System.

(2) The Authority shall also have the power to issue clarifications and guidelines in order to remove any difficulties in the application or interpretation of any of the clauses of these regulations or as may be deemed necessary in the interest of the subscriber and orderly growth of National Pension System.

HEMANT G. CONTRACTOR
CHAIPERSON

ADVT/

Footnote:
1. The Pension Fund Regulatory and Development Authority (Exits and Withdrawals Under the National Pension System) Regulations, 2015 were published in the Gazette of India on 11th May, 2015 vide No. No. PFRDA/12/RGL/139/8.