

Item No. 12: Inadequate supply of corporate issuances in the Category (ii) of the New Investment Notification No. S.O. 1071 E dated 23, April 2015 of Ministry of Labour and Employment

1. Ministry of Labour and Employment vide Notification No. S.O. 1071(E) dated 23.04.2015 (**Annexure-12A**) notified a new Investment Pattern which mandated investment limit in category (i) of Pattern of Investment as “minimum 45% and up to 50%”. Subsequently Ministry of Labour and Employment vide Notification No. S.O. 3035(E) dated 22nd September, 2016 (**Annexure 12B**) had increased the maximum limit of investment in Category (i) of Pattern of Investment to “minimum 45% and up to 65%”. Although the upper limit of Category (i) was increased, the limit on category (ii) investments was not correspondingly modified and continues to be “minimum 35% and up to 45%”.
2. Portfolio Managers during performance review meetings had expressed their concern that at times there are inadequate corporate issuances in the segment under category (ii) where EPFO invests, and the interest rate being offered in the corporate segment is either at par or sometimes even lower than SDLs. But due to the compulsion imposed by the Pattern of Investment which specifies a minimum investment of 35% in category (ii) i.e. Debt instruments and related investments, the Portfolio Managers of EPFO are unable to optimize the returns on EPFO’s funds.
3. During the recent performance review meeting of Portfolio Managers held on 02.02.2018, all the Portfolio Managers again expressed their concern over the inadequate supply of quality bonds in category (ii) of the New Investment Notification No. S.O. 1071 E dated 23, April 2015 of Ministry of Labour and Employment that could be purchased at reasonable yields and maturity.
4. Since there are less than 2 months remaining in the current financial year within which the investment pattern is to be achieved. In the given situation, portfolio managers have expressed that it would be very difficult for them to adhere to the Investment Pattern.
5. The FIAC deliberated upon the agenda and decided to place it before upcoming CBT.

Proposal: The item is placed before CBT for deliberation.

MINISTRY OF LABOUR AND EMPLOYMENT

NOTIFICATION

New Delhi, the 22nd September, 2016

S.O. 3034(E).—In exercise of the powers conferred by sub-paragraph (1) of paragraph 52 of the Employees' Provident Funds Scheme, 1952, the Central Government hereby directs to make the following amendment in the notification of the Government of India in the Ministry of Labour and Employment number S.O. 1071(E) dated the 23rd April, 2015 published in the Gazette of India, Extraordinary, Part II, section 3, sub-section (ii) dated the 23rd April, 2015, namely:—

In the said notification, after the opening paragraph, in the Table, against Category (i) relating to the investment pattern "Government Securities and Related Investments", for the entries in the third column relating to "Percentage amount to be invested", the following entries shall be substituted with effect from the 17th day of March, 2016, namely:—

"Minimum 45 per cent and up to 65 per cent".

[F. No. G-20031/1/2012-SS-II]

R. K. GUPTA, Jt. Secy.

Note : The principal notification was published in the Gazette of India, Extraordinary, Part II, section 3, sub-section (ii) vide number S.O. 1071(E) dated the 23rd April, 2015.

MINISTRY OF LABOUR AND EMPLOYMENT
NOTIFICATION
New Delhi, the 23rd April, 2015

S. O. 1071 (E). - In exercise of the powers conferred by sub-paragraph (1) of paragraph 52 of the Employees' Provident Funds Scheme, 1952 and in supersession of the notification of the Government of India in the Ministry of Labour No. S.O. 3450(E).- dated the 21st Nov 2013 the Central Government hereby directs that all incremental accretions belonging to the Fund shall be invested in accordance with the following pattern namely-

Category	INVESTMENT PATTERN	Percentage amount to be invested
(i)	<p>Government Securities and Related Investments</p> <p>(a) Government Securities,</p> <p>(b) Other Securities {'Securities' as defined in section 2(h) of the Securities Contracts (Regulation) Act, 1956} the principal whereof and interest whereon is fully and unconditionally guaranteed by the Central Government or any State Government.</p> <p>The portfolio invested under this sub-category of securities shall not be in excess of 10% of the total portfolio of the fund.</p> <p>(c) Units of Mutual Funds set up as dedicated funds for investment in Govt. securities and regulated by the Securities and Exchange Board of India:</p> <p>Provided that the portfolio invested in such mutual funds shall not be more than 5% of the total portfolio at any point of time and fresh investments made in them shall not exceed 5% of the fresh accretions in the year.</p>	<p>Minimum 45% and upto 50%</p>
(ii)	<p>Debt Instruments and Related Investments</p> <p>(a) Listed (or proposed to be listed in case of fresh issue) debt securities issued by bodies corporate, including banks and public financial institutions ('Public Financial Institutions' as defined under Section 2 of the Companies Act, 2013), which have a minimum residual maturity period of three years from the date of investment.</p>	<p>Minimum 35% and upto 45%</p>

Category	INVESTMENT PATTERN	Percentage amount to be invested
	<p>(b) Basel III Tier-I bonds issued by scheduled commercial banks under RBI Guidelines:</p> <p>Provided that in case of initial offering of the bonds the investment shall be made only in such Tier-I bonds which are proposed to be listed.</p> <p>Provided further that investment shall be made in such bonds of a scheduled commercial bank from the secondary market only if such Tier I bonds are listed and regularly traded.</p> <p>Total portfolio invested in this sub-category, at any time, shall not be more than 2% of the total portfolio of the fund.</p> <p>No investment in this sub-category in initial offerings shall exceed 20% of the initial offering. Further, at any point of time, the aggregate value of Tier I bonds of any particular bank held by the fund shall not exceed 20% of such bonds issued by that Bank.</p> <p>(c) Rupee Bonds having an outstanding maturity of at least 3 years issued by institutions of the International Bank for Reconstruction and Development, International Finance Corporation and Asian Development Bank.</p> <p>(d) Term Deposit receipts of not less than one year duration issued by scheduled commercial banks, which satisfy the following conditions on the basis of published annual report(s) for the most recent years, as required to have been published by them under law:</p> <p>(i) having declared profit in the immediately preceding three financial years;</p> <p>(ii) maintaining a minimum Capital to Risk Weighted Assets Ratio of 9%, or mandated by prevailing RBI norms, whichever is higher;</p> <p>(iii) having net non-performing assets of not more than 4% of the net advances;</p> <p>(iv) having a minimum net worth of not less than Rs.200 crores.</p>	

Category	INVESTMENT PATTERN	Percentage amount to be invested
	<p>(e) Units of Debt Mutual Funds as regulated by Securities and Exchange Board of India:</p> <p>Provided that fresh investment in Debt Mutual Funds shall not be more than 5% of the fresh accretions invested in the year and the portfolio invested in them shall not exceed 5% of the total portfolio of the fund at any point in time.</p> <p>(f) The following infrastructure related debt instruments:</p> <p>(i) Listed (or proposed to be listed in case of fresh issue) debt securities issued by body corporates engaged mainly in the business of development or operation and maintenance of infrastructure, or development, construction or finance of low cost housing.</p> <p>Further, this category shall also include securities issued by Indian Railways or any of the body corporates in which it has majority shareholding.</p> <p>This category shall also include securities issued by any Authority of the Government which is not a body corporate and has been formed mainly with the purpose of promoting development of infrastructure.</p> <p>It is further clarified that any structural obligation undertaken or letter of comfort issued by the Central Government, Indian Railways or any Authority of the Central Government, for any security issued by a body corporate engaged in the business of infrastructure, which notwithstanding the terms in the letter of comfort or the obligation undertaken, fails to enable its inclusion as security covered under category (i) (b) above, shall be treated as an eligible security under this sub-category.</p> <p>(ii) Infrastructure and affordable housing Bonds issued by any scheduled commercial bank, which meets the conditions specified in (ii)(d) above.</p> <p>(iii) Listed (or proposed to be listed in case of fresh issue) securities issued by Infrastructure debt funds operating as a Non-Banking Financial Company and regulated by Reserve Bank of India.</p>	

Category	INVESTMENT PATTERN	Percentage amount to be invested
	<p>(iv) Listed (or proposed to be listed in case of fresh issue) units issued by Infrastructure Debt Funds operating as a Mutual Fund and regulated by Securities and Exchange Board of India.</p> <p>It is clarified that, barring exceptions mentioned above, for the purpose of this sub-category (f), a sector shall be treated as part of infrastructure as per Government of India's harmonized master-list of infrastructure sub-sectors.</p> <p>Provided that the investment under sub-categories (a), (b) and (f) (i) to (iv) of this category No. (ii) shall be made only in such securities which have minimum AA rating or equivalent in the applicable rating scale from at least two credit rating agencies registered with Securities and Exchange Board of India under Securities and Exchange Board of India (Credit Rating Agency) Regulation, 1999. Provided further that in case of the sub-category (f) (iii) the ratings shall relate to the Non-Banking Financial Company and for the sub-category (f) (iv) the ratings shall relate to the investment in eligible securities rated above investment grade of the scheme of the fund.</p> <p>Provided further that if the securities / entities have been rated by more than two rating agencies, the two lowest of all the ratings shall be considered.</p> <p>Provided further that investments under this category requiring a minimum AA rating, as specified above, shall be permissible in securities having investment grade rating below AA in case the risk of default for such securities is fully covered with Credit Default Swaps (CDSs) issued under Guidelines of the Reserve Bank of India and purchased along with the underlying securities. Purchase amount of such Swaps shall be considered to be investment made under this category.</p> <p>For sub-category (c), a single rating of AA or above by a domestic or international rating agency will be acceptable.</p> <p>It is clarified that debt securities covered under category (i) (b) above are excluded from this category (ii).</p>	
(iii)	<p>Short-term Debt Instruments and Related Investments</p> <p>Money market instruments:</p>	Upto 5%

Category	INVESTMENT PATTERN	Percentage amount to be invested
	<p>Provided that investment in commercial paper issued by body corporates shall be made only in such instruments which have minimum rating of A1+ by at least two credit rating agencies registered with the Securities and Exchange Board of India.</p> <p>Provided further that if commercial paper has been rated by more than two rating agencies, the two lowest of the ratings shall be considered.</p> <p>Provided further that investment in this sub-category in Certificates of Deposit of up to one year duration issued by scheduled commercial banks, will require the bank to satisfy all conditions mentioned in category (ii) (d) above.</p> <p>(b) Units of liquid mutual funds regulated by the Securities and Exchange Board of India.</p> <p>(c) Term Deposit Receipts of up to one year duration issued by such scheduled commercial banks which satisfy all conditions mentioned in category (ii) (d) above.</p>	
(iv)	<p>Equities and Related Investments</p> <p>Shares of body corporates listed on Bombay Stock Exchange (BSE) or National Stock Exchange (NSE), which have:</p> <p>(i) Market capitalization of not less than Rs. 5000 crore as on the date of investment; and</p> <p>(ii) Derivatives with the shares as underlying, traded in either of the two stock exchanges.</p> <p>(b) Units of mutual funds regulated by the Securities and Exchange Board of India, which have minimum 65% of their investment in shares of body corporates listed on BSE or NSE.</p> <p>Provided that the aggregate portfolio invested in such mutual funds shall not be in excess of 5% of the total portfolio of the fund at any point in time and the fresh investment in such mutual funds shall not be in excess of 5% of the fresh accretions invested in the year.</p> <p>(c) Exchange Traded Funds (ETFs) / Index Funds regulated by the Securities and Exchange Board of India that replicate the portfolio</p>	Minimum 5% and upto 15%

Category	INVESTMENT PATTERN	Percentage amount to be invested
	<p>of either BSE Sensex Index or NSE Nifty 50 Index.</p> <p>(d) ETFs issued by SEBI regulated Mutual Funds constructed specifically for disinvestment of shareholding of the Government of India in body corporates.</p> <p>(e) Exchange traded derivatives regulated by the Securities and Exchange Board of India having the underlying of any permissible listed stock or any of the permissible indices, with the sole purpose of hedging.</p> <p>Provided that the portfolio invested in derivatives in terms of contract value shall not be in excess of 5% of the total portfolio invested in sub-categories (a) to (d) above.</p>	
(v)	<p>Asset Backed, Trust Structured and Miscellaneous Investments</p> <p>(a) Commercial mortgage based Securities or Residential mortgage based securities.</p> <p>(b) Units issued by Real Estate Investment Trusts regulated by the Securities and Exchange Board of India.</p> <p>(c) Asset Backed Securities regulated by the Securities and Exchange Board of India.</p> <p>(d) Units of Infrastructure Investment Trusts regulated by the Securities and Exchange Board of India.</p> <p>Provided that investment under this category No. (v) shall only be in listed instruments or fresh issues that are proposed to be listed.</p> <p>Provided further that investment under this category shall be made only in such securities which have minimum AA or equivalent rating in the applicable rating scale from at least two credit rating agencies registered by the Securities and Exchange Board of India under Securities and Exchange Board of India (Credit Rating Agency) Regulations, 1999. Provided further that in case of the sub-categories (b) and (d) the ratings shall relate to the rating of the sponsor entity floating the trust.</p> <p>Provided further that if the securities / entities have been rated by more than two rating agencies, the two lowest of the ratings shall</p>	Upto 5%

Category	INVESTMENT PATTERN	Percentage amount to be invested
	be considered.	

2. Fresh accretions to the fund will be invested in the permissible categories specified in this investment pattern in a manner consistent with the above specified maximum permissible percentage amounts to be invested in each such investment category, while also complying with such other restrictions as made applicable for various sub-categories of the permissible investments.

3. Fresh accretions to the funds shall be the sum of un-invested funds from the past and receipts like contributions to the funds, dividend / interest / commission, maturity amounts of earlier investments etc., as reduced by obligatory outgo during the financial year.

4. Proceeds arising out of exercise of put option, tenure or asset switch or trade of any asset before maturity can be invested in any of the permissible categories described above in the manner that at any given point of time the percentage of assets under that category should not exceed the maximum limit prescribed for that category and also should not exceed the maximum limit prescribed for the sub-categories, if any. However, asset switch because of any RBI mandated Government debt switch would not be covered under this restriction.

5. Turnover ratio (the value of securities traded in the year / average value of the portfolio at the beginning of the year and at the end of the year) should not exceed two.

6. If for any of the instruments mentioned above the rating falls below the minimum permissible investment grade prescribed for investment in that instrument when it was purchased, as confirmed by one credit rating agency, the option of exit shall be considered and exercised, as appropriate, in a manner that is in the best interest of the subscribers.

7. On these guidelines coming into effect, the above prescribed investment pattern shall be achieved separately for each successive financial year through timely and appropriate planning.

8. The investment of funds should be at arms length, keeping solely the benefit of the beneficiaries in mind. For instance, investment (aggregated across such companies / organizations described herein) beyond 5% of the fresh accretions in a financial year will not be made in the securities of a company / organization or in the securities of a company / organization in which such a company / organization holds over 10% of the securities issued, by a fund created for the benefit of the employees of the first company / organization, and the total volume of such investments will not exceed 5% of the total portfolio of the fund at any time. The prescribed process of due diligence must be strictly followed in such cases and the securities in question must be permissible investments under these guidelines.

9.

i. The prudent investment of the Funds of a trust / fund within the prescribed pattern is the fiduciary responsibility of the Trustees and needs to be exercised with appropriate due diligence. The Trustees would accordingly be responsible for investment decisions taken to invest the funds.

ii. The trustees will take suitable steps to control and optimize the cost of management of the fund.

iii. The trust will ensure that the process of investment is accountable and transparent.

iv. It will be ensured that due diligence is carried out to assess risks associated with any particular asset before investment is made by the fund in that particular asset and also during the period over which it is held by the fund. The requirement of ratings as mandated in this notification merely intends to limit the risk associated with investments at a broad and general level. Accordingly, it should not be construed in any manner as an endorsement for investment in any asset satisfying the minimum prescribed rating or a substitute for the due diligence prescribed for being carried out by the fund / trust.

v. The trust / fund should adopt and implement prudent guidelines to prevent concentration of investment in any one company, corporate group or sector.

10. If the fund has engaged services of professional fund / asset managers for management of its assets, payment to whom is being made on the basis of the value of each transaction, the value of funds invested by them in any mutual funds mentioned in any of the categories or ETFs or Index Funds shall be reduced before computing the payment due to them in order to avoid double incidence of costs. Due caution will be exercised to ensure that the same investments are not churned with a view to enhancing the fee payable. In this regard, commissions for investments in Category III instruments will be carefully regulated, in particular.

[F.No.G-20031/1/2007.SS-II(Pt.)]

(Manish Kumar Gupta)Jt. Secretary