

**Item No. 21    Amendment in the EPF & MP Act, 1952 and EPF Scheme, 1952 for amending the provisions related to grant/cancellation of exemption from the operation of EPF Scheme, 1952.**

1. The Sub-Committee of CBT, EPF on exempted establishments in its 39<sup>th</sup> meeting had raised apprehension on the viability of small P.F. Trusts and the Central P.F Commissioner assured the Sub-Committee that the concept paper on viability of small P.F. Trusts will be placed before the Committee in its next meeting (Minutes are enclosed as **[Annexure-21A]**).
2. A concept paper on the viability of small P.F. Trusts was placed before the Sub-Committee in its 40<sup>th</sup> meeting held on 20.06.2016 and the Committee deferred the agenda item for the next meeting.
3. The concept paper was again placed before the Sub-Committee in its 41<sup>st</sup> meeting held on 12.01.2017, where the Sub-Committee agreed to impose three eligibility criteria on the establishments seeking grant of exemption (Minutes are enclosed as **[Annexure-21B]**). The said criteria are as follows –
  - i) The establishment should comply as an un-exempted establishment for a minimum period of five years.
  - ii) The employment strength for such establishments should be more than 500.
  - iii) The Corpus size should be more than Rs. 100 Crores at the time the establishment is seeking grant of exemption.
4. Subsequent to the approval of Sub-Committee, a proposal for obtaining the approval of the CBT regarding the eligibility conditions for the establishment seeking grant of exemption was placed in the 216<sup>th</sup> meeting of CBT, EPF held on 30.03.2017. The CBT approved the proposal as contained in the agenda (Agenda and Minutes are enclosed as **[Annexure-21C]**).
5. After getting the approval of Sub-Committee of CBT, EPF on exempted establishments and Central Board of Trustees, a formal proposal for incorporating the eligibility conditions in the EPF Scheme, 1952 was sent to the Central Government **[Annexure-21D]**.
6. However, the proposal for amendment in the Scheme was not acceptable to the Legislative Department of Ministry of Law & Justice in the form as was prepared by EPFO and was rejected. The Ministry again directed EPFO to send a revise proposal **[Annexure-21E]**.
7. Further, the Parliamentary Standing Committee on Labour in its 26<sup>th</sup> report has also raised observations on the existing provisions related to grant/cancellation of exemption (Relevant observations are enclosed as **[Annexure-21F]**).
8. After addressing the objections of the Legislative Department, EPFO has sent a proposal for amending the provisions related to grant/cancellation of exemption **[Annexure-21G]** to the

Government. Ministry of Labour & Employment desired to place the proposed amendments before CBT, EPF.

9. The amendments proposed in the EPF & MP Act, 1952 and EPF Scheme, 1952 are as follows:-

**Amendments proposed in the EPF & MP Act, 1952.**

**1. Insertion of a new Section 17(1D) in the EPF & MP Act, 1952 –**

After Section 17(1C) of EPF & MP Act, 1952, a new Section 17(1D) shall be inserted in the Act as under –

*17(1D) - (1) “No exemption from the operation of EPF Scheme, 1952 shall be granted by the appropriate Government under Section 17 of the EPF & MP Act, 1952 unless the applicant establishment, on the date such establishment makes the application for grant of exemption, fulfils all the following criteria :*

- (i) The establishment should comply as an un-exempted establishment for a **minimum period of five years.***
  - (ii) The employment strength for such establishment should be **more than five hundred.***
  - (iii) The corpus size should be more than one hundred crores of Rupees at the time the establishment is seeking grant of exemption.*
- (2) Every establishment which is exempted or relaxed, as on the date of publication in the gazette of this amendment, shall be required to fulfil, within three hundred and sixty five days from the publication of this amendment in the gazette, the following conditions :*
- i) That the establishment has employment strength of more than five hundred and*
  - ii) That the establishment has the corpus size of more than one hundred crores of Rupees.*
- (3) Exemption or as the case may be relaxation granted to an establishment shall stand revoked and it shall cease to be an exempted or as the case may be relaxed establishment from three hundred and sixty sixth day from the date of publication of this provision in the gazette, if such establishment fails to fulfil the conditions mentioned in sub-section (2) of this Section.*

**Explanation 1**

*“Corpus size” as used in the above provisions shall, in relation to an un-exempted establishment, mean the total amount, in relation to that establishment, lying in the Fund – as defined under Section 2(h) of this Act – excluding the amount lying in the Pension Fund under Section 2(kA) of this Act and Employees’ Deposit Linked Insurance Fund under Section 2(ia) of this Act.*

**Explanation 2**

**“Corpus size”** as used in the above provisions shall, in relation to an exempted or relaxed establishment, mean the total amount lying in the Provident Fund, in relation to that establishment, with the Board of Trustees constituted under sub-section (b) of Section 17(1A), with which the said establishment is making Provident Fund remittances in respect of its employees in terms of Appendix ‘A’ to Para 27AA of the Scheme.

- (4) If any establishment, exempted or relaxed as the case may be, which fulfils the provision mentioned in sub-section 2 of this section, on the date of publication of this provision in the gazette but later on fails to fulfil the provision mentioned in sub-section (2) of this Section, consecutively for three financial years ending on 31<sup>st</sup> day of March, then the exemption or relaxation granted to such establishment, as the case may be, shall stand revoked with effect from 1<sup>st</sup> day of April, following the third consecutive failure.
- (5) If any provision of this Act, the Scheme or the conditions mentioned in the notification issued under Section 17(1) in relation to that establishment, which provides for revocation of exemption granted to an establishment [excluding the cases falling under sub Section (3) of Section 17(1D)] is attracted, then the exemption granted to the establishment shall stand revoked from the 1<sup>st</sup> day of next/ succeeding financial year and provisions. Provision of Section 17(4) shall not be applicable in such cases wherever revocation of exemption has been prescribed by the Act and Scheme.

### **Objective of this amendment –**

As per the observations of the Committee at Para 2.6 of the 26<sup>th</sup> Report, the Committee has impressed upon EPFO to speed up the formulation of policy guidelines for grant of exemption based on past performance, net worth, collections, contributions, minimum corpus and membership. Through the said amendment the concern of the Committee regarding the viability/sustainability of small size exempted establishments regarding maintaining their own Trust, as raised under Para 2.9 of the 26<sup>th</sup> Report, shall be addressed.

Insertion of Section 17(1D) in the Act, shall effect few other Sections of the Act and accordingly such Sections shall also require amendment and accordingly the proposed amendments are as follows :-

### **2. Amendment to Section 17(1) of EPF & MP Act, 1952 –**

Subject	Provision/objective
Original Provision of Section 17(1) of	Power to exempt. – (1) The appropriate Government may, by notification in the Official Gazette, and subject to such conditions as may be specified in the notification, [exempt, whether prospectively or retrospectively, from the operation] of all or any of the provisions of any Scheme –

EPF & MP Act, 1952.	
Amendment Required	<b><i>In Section 17(1) after the words “The appropriate Government”, the words, “subject to provisions of Section 17(1D) of this Act” shall be inserted.</i></b>
Amended provision	Power to exempt. – (1) The appropriate Government <b>subject to provisions of Section 17(1D) of this Act</b> may, by notification in the Official Gazette, and subject to such conditions as may be specified in the notification, [exempt, whether prospectively or retrospectively, from the operation] of all or any of the provisions of any Scheme –
Objective	Through above mentioned amendment, stringent eligibility criteria for grant of exemption as suggested by the Standing Committee on Labour shall be laid. By inserting the words, <b>“subject to provisions of Section 17(1D) of this Act”</b> , appropriate Government shall be required to examine the cases of grant of exemption on the basis of the new eligibility criteria, which shall be laid down under Section 17(1D) of EPF & MP Act, 1952.

### 3. Amendment to Section 17(4) of EPF & MP Act, 1952 -

Subject	Provision/objective
Original Provision of Section 17(1) of EPF & MP Act, 1952.	Any exemption granted under this section may be cancelled by the authority which granted it, by order in writing, if an employer fails to comply, -
Amendment Required	<b><i>In Section 17(4) the word “authority which granted it” shall be replaced by “Central Government or an authority notified by the Central Government.”</i></b>
Amended provision	Any exemption granted under this section may be cancelled by the <b>Central Government or an authority notified by the Central Government.</b> , by order in writing, if an employer fails to comply, -
Reason/Objective	The monitoring the exempted establishments is done by EPFO, which comes under the administrative control of Government of India, Ministry of Labour and cancellation of exemption is the logical conclusion of the action taken against the defaulting establishments, which involves monitoring, inspections and

	ensuring statutory compliance from the exempted establishments. Hence, it is logical that power to cancel the exemption should rest under the authority of the Government of India.
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4. **Amendment to Section 17(5) of EPF & MP Act, 1952 -**

<b>Subject</b>	<b>Provision/objective</b>
Original Provision of Section 17(5) of EPF & MP Act, 1952.	Where any exemption granted under sub-section 1, sub-section 1C, sub-section 2, sub-section 2A or sub-section 2B is cancelled, the amount of accumulations to the credit of every employee to whom such exemption applied, in the provident fund, the Pension Fund or the Insurance Fund of the establishment in which he is employed together with any amount forfeited from the employer's share of contribution to the credit of the employee who leaves the employment before the completion of the full period of service shall be transferred within such time and in such manner as may be specified in the Scheme or the Pension Scheme or the Insurance Scheme to the credit of his account in the Fund or the Pension Fund or the Insurance Fund, as the case may be.
Amendment Required	<i>In section 17(5) after the words "<b>is cancelled</b>" following words are inserted "<b>or revoked</b>".</i>
Amended provision	Where any exemption granted under sub-section 1, sub-section 1C, sub-section 2, sub-section 2A or sub-section 2B is cancelled <b>or revoked</b> , the amount of accumulations to the credit of every employee to whom such exemption applied, in the provident fund, the Pension Fund or the Insurance Fund of the establishment in which he is employed together with any amount forfeited from the employer's share of contribution to the credit of the employee who leaves the employment before the completion of the full period of service shall be transferred within such time and in such manner as may be specified in the Scheme or the Pension Scheme or the Insurance Scheme to the credit of his account in the Fund or the Pension Fund or the Insurance Fund, as the case may be.
Reason/Objective	After insertion of Section 17(1D) in the Act, an establishment can be converted from exempted to un-exempted, not only through cancellation but also through revocation of exemption.

	<p>Subsequent to revocation of exemption the Provident Fund accumulations of the members lying with the Trust known as past accumulations need to get transferred to the accounts CBT, EPF.</p> <p>Para 28 of EPF Scheme, 1952 lay down the procedure for transfer of past accumulations. Para 28 speaks about the accumulations transferred to the fund under sub Section 5 of Section 17. Further sub Section 5 of Section 17 speaks about any exemption granted is cancelled, then accumulations shall be transferred as may be specified in the Scheme i.e. Para 28. To enable Para 28 for transferring the past accumulations to the Fund, sub Section 5 of Section 17 shall require amendment.</p>
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### **Amendments proposed in the EPF Scheme, 1952.**

#### **1. Amendment to Para 27 of the EPF Scheme, 1952-**

<b>Subject</b>	<b>Provision/objective</b>
Amendment Required	<p>A new sub para 5 to para 27 shall be added as follows –</p> <p><b>No fresh exemption under para 27 of the EPF Scheme, 1952 shall be given after the publication of this provision in the gazette.</b></p>
Reason/Objective	<p>Para 27 has not been deleted because the said amendment will not be applied retrospectively and the exemption granted under Para 27 shall remain in existence. Since various compliance related obligations of the employer is mentioned under Para 27 itself, therefore if whole is the para deleted then monitoring and compliance related issues will arise. The objective of Committee can be achieved prospectively with the help of above amendment.</p>

#### **2. Amendment to Para 27A of the EPF Scheme, 1952 -**

<b>Subject</b>	<b>Provision/objective</b>
Amendment Required	<p>A new sub para 6 to para 27A shall be added as follows –</p> <p><b>No fresh exemption under para 27A of the EPF Scheme, 1952 shall be given after the publication of this provision in the gazette.</b></p>
Reason/Objective	<p>Para 27A has not been deleted because the said amendment will not be applied retrospectively and the exemption granted under Para 27A shall remain in existence. Since various compliance related obligations</p>

	of the employer is mentioned under Para 27A itself, therefore if whole is the para deleted then monitoring and compliance related issues will arise. The objective of Committee can be achieved prospectively with the help of above amendment.
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3. **Amendment to Para 79 of the EPF Scheme, 1952 -**

Subject	Provision/objective
Original provision	Special provisions relating to [factories or other establishments] in respect of which applications for exemption are received – Notwithstanding anything contained in this Scheme, the Commissioner may, in relation to [factories or other establishments] in respect of which an application for exemption under section 17 of the Act has been received relax pending the disposal of the application, the provisions of this Scheme in such manner as he may direct.
Amendment Required	<b>Para 79 – Deleted.</b>
Reason/Objective	EPFO has already stopped the practice of granting the relaxation as provisioned under Para 79 of the Scheme and thus this para has already become obsolete.

**Proposal: The Central Board of Trustees is requested to approve the amendments proposed in the EPF & MP Act, 1952 and EPF Scheme, 1952 as mentioned in the agenda item above.**



**Item No. 3 Grant of exemption under Section 17(1)(a) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and Para 27A of the Employees' Provident Funds Scheme, 1952 by Appropriate Government.**

- 3.1 The Addl. CPFC-I(Compliance) informed the Sub-Committee that proposals in respect of 14 establishments as stated at have been processed and placed before the Sub-Committee for consideration and recommendation, on behalf of the Central Board of Trustees, EPF to the Appropriate Governments for grant of exemption. Out of these 14 proposals, 09 proposals relate to grant of exemption for class of employees under Para 27A of the EPF Scheme, 1952 and the remaining 05 proposals relate to grant of exemption for the establishment as a whole under Section 17(1)(a) of the Employees' Provident Funds & Miscellaneous Provisions Act, 1952.
- 3.2 He further apprised the Committee that out of 14 proposals, one proposal in respect of **M/s. Patel Engineering Limited, MH/20119 figuring at Sl. No. 7** is not a new proposal. As per the direction of the Central Board of Trustees, in their 120<sup>th</sup> meeting held on 26.09.1989, the Central Provident Fund Commissioner was authorized to forward the proposals in connection with grant of exemption to the Appropriate Government on its behalf and to place the details in the subsequent meetings of the Central Board. The proposal in question is a proposal of that nature which was forwarded by Central Provident Fund Commissioner to Appropriate Government i.e. Government of India, Ministry of Labour & Employment on 07.07.1994. But, after the transmission of the proposal to the Central Government, the details concerning the proposal was not placed before the Central Board for information. He also apprised that the decision of the Ministry is yet to be conveyed to EPFO in this case. Ministry vide letter dated 01.04.2008 issued direction to EPFO to the effect that all the proposals, whether under 17(1)(a) of the Act or under Para 27A of the Scheme, be first placed before the Central Board and then sent to the Appropriate Government alongwith the recommendation of the Board. Since then, all proposals, whether under 17(1)(a) of the Act or under Para 27A of the Scheme, are invariably placed before the Central Board for consideration and recommendation to Appropriate Government. Additional CPFC-I (Compliance) further apprised the Sub-Committee that the RPFC concerned reported that the present compliance position of the establishment is satisfactory and the requirements of exemption are met by the establishment. Since the proposal had



already been sent to Ministry in the year 1994, the details are placed before the Committee for information.

The Sub-Committee took note of the position and desired that the matter may be taken up with the Appropriate Government for grant of exemption to **M/s. Patel Engineering Limited, MH/20119.**

- 3.3 Shri Ashok Singh pointed out that the proposal for grant of exemption in respect of **M/s Hindustan Electro Graphite (HEG) Ltd., MP/3448 figuring at Sl. No. 9,** is only for a class of employees and the membership strength of the Trust is only 11. He opined that it will not be feasible to recommend the proposals of such type of establishments to the Appropriate Government for grant of exemption as management and investment of funds of the Trusts may not be viable and cost effective. He suggested that a policy may be put in place so as to decide as to what should be the fund size of the Trust for which exemption will be considered.
- 3.4 Consenting the views of Shri Ashok Singh, Shri Sushant Sen stated that time has come now to decide which class of establishments, exemption will be recommended.
- 3.5 CPFC assured the Sub-Committee that a concept paper on this aspect will be brought before the Sub-Committee for further deliberation.
- 3.6 It has been decided that the proposal of **M/s Hindustan Electro Graphite (HEG) Ltd., MP/3448 figuring at Sl. No. 9** needs detailed examination with reference to the concerns raised by the members and be brought before the Sub-Committee for deliberation.
- 3.7 Additional CPFC-I (Compliance) apprised the Committee that the proposal of **M/s Bharat Pumps & Compressors Ltd. (UP/4882)** which is a Central Public Sector Undertaking under the Ministry of Heavy Industries, Government of India, has incurred losses for three consecutive financial years which is violative of condition No. 25 of the Appendix 'A' to Para 27AA of the Employees' Provident Funds Scheme, 1952 though satisfies all other conditions. He further informed that earlier the Sub-Committee in its 38<sup>th</sup> meeting held on 28.01.2015 had decided to recommend the proposals of Public Sector Undertakings (both Public and Private) incurring losses for three financial years consecutively if there is guarantee by the Appropriate Government for safety of the Trust Fund.



- 3.8 The Sub-Committee in their 38<sup>th</sup> meeting held on 28.01.2015 approved the proposal for giving preferential treatment to the Public Sector Undertakings (both Central and State) even though incurring losses by proposing amendment to condition No. 25 of Appendix 'A' to Para 27AA of the Employees' Provident Funds Scheme, 1952. The proposal of amending condition No. 25 was placed before the Central Board in its 207<sup>th</sup> meeting held on 31.03.2015 where the Board has decided that the issue be legally examined and then brought before it for further discussion. The said agenda was allowed to be withdrawn.

In view of above, the Sub-Committee decided to keep the proposal for grant of exemption in respect of **Bharat Pumps & Compressors Ltd., UP/4882** on hold till the proposed amendment to condition No. 25 of Appendix 'A' to Para 27AA of the Employees' Provident Funds Scheme, 1952 is through by the Central Board.

- 3.9 Except the above two proposals, the Sub-Committee considered the following twelve proposals for recommending to the Appropriate Government for grant of exemption.

<b>LIST OF ESTABLISHMENTS CONSIDERED AND RECOMMENDED BY THE SUB-COMMITTEE OF CBT, EPF ON EXEMPTED ESTABLISHMENTS IN THE 39<sup>th</sup> MEETING</b>							
Sl. No	Name of the establishment	Office	Code No.	With effect from	Section/ Para	Appropriate Government	No. of members
1.	M/s. Kansai Nerolac Paints Ltd.	RO, Bandra	MH/4098	01.04.2013	27A	Central Government	300
2.	M/s. Alembic Pharmaceuticals Limited	RO, Vadodara	GJ/BD/669 26	01.04.2011	17(1)(a)	Central Government	8295
3.	M/s. Multi Screen Media Pvt. Ltd.	RO, Kandivali	MH/KND/42 927	22.09.1997	27A	Central Government	605
4.	M/s. Comviva Technologies Limited (formerly Bharati Telesoft Limited)	RO, Delhi (South)	DL/23780	01.03.2009	17(1)(a)	Central Government	1054
5.	M/s. Ultra Tech Cement Ltd.	RO, Nagpur	NG/NAG/23 424	01.08.1990	27A	Central Government	774
6.	M/s. Kalyani Carpenter Special Steel Ltd.	RO, Pune	MH/32824	01.04.1999	27A	Government of Maharashtra	335
7.	M/s. Patel Engineering Limited	RO, Kandivali	MH/20119	01.09.1981	17(1)(a)	Central Government	1782



8.	M/s. Delhi Public School, Mathura Road.	RO, Delhi (North)	DL/6211	01.06.1990	27A	Government of NCT of Delhi	418
9.	M/s. Narmda Hydroelectric Development Corporation Ltd.	SRO, Bhopal	MP/13163	01.12.2011	17(1)(a)	Central Government	433
10.	M/s Heinz India Pvt Ltd.	RO, Bandra	MH/40581	01.10.1994	27A	Central Government	578
11.	M/s. Security Printing and Minting Corporation of India Ltd.	RO, Delhi (North)	DL/36036	01.12.2009	27A	Central Government	2912
12.	M/s. Delhi Public School, Vasant kunj	RO, Delhi (North)	DL/27047	04.04.1994	27A	Government of NCT of Delhi	321

**Item No. 4 Proposal for grant exemption to M/s. Bank Note Paper Mills India Pvt. Ltd.**

- 4.1 Additional CPFC-I(Compliance) reiterated the decision of Sub-Committee taken in its 38<sup>th</sup> meeting held on 28.01.2015 to keep the proposal of M/s Bank Note Paper Mills India Pvt. Ltd., (PY/BOM/60951) on hold for further deliberating and accordingly the agenda is again brought before the Sub-Committee.
- 4.2 Shri A.K. Padmanabhan stated that the establishment has been incurring losses for three consecutive financial years which is violative of condition No. 25 of Appendix 'A' to Para 27AA of the Employees' Provident Funds Scheme, 1952. He suggested that the case may be taken up for consideration once a final decision is taken on amendment to condition No. 25 by the Central Government.
- 4.3 Additional CPFC-I(Compliance) apprised the Sub-Committee even though the establishment is a joint venture of Security Printing and Minting Corporation of India Limited (SPMCIL) - a Government of India Enterprise and Bhartiya Reserve Bank Note Mudran Pvt. Ltd. (BRBNMPL) – a subsidiary of Reserve Bank of India under the Ministry of Finance. He informed that the applicant establishment has been complying as an un-exempted establishment with RPFC, Bommasandra. He drew kind attention of Hon'ble members to the fact that the conditions stipulated under Appendix 'A' to Para 27AA of the Employees' Provident Funds Scheme, 1952 are effective from the date exemption is granted and in the case of the



**Item No. 4 : Grant of Exemption under Section 17(1)(a) of the EPF & MP Act, 1952 in respect of M/s. Maharashtra State Electricity Board Holding Co. Ltd., MH/1251 and its three Subsidiary Companies.**

- 4.1 Addl. CPFC-I(Exemption) informed the members that the establishment M/s. Maharashtra State Electricity Board Holding Co. Ltd., MH/1251 was formed and incorporated as a result of re-organization of the establishment Maharashtra State Electricity Board (MSEB) under Electricity Act, 2003.
- 4.2 The Committee was informed that M/s. Maharashtra State Electricity Board Holding Co. Ltd., MH/1251 is incurring losses for more than three consecutive years, which is violative of Condition No. 25 of the Appendix – 'A' to Para 27AA of the EPF Scheme, 1952 containing terms and conditions of grant of exemption.
- 4.3 The Sub-Committee confirmed the actions taken by EPFO so far in the above matter and directed to ensure immediate compliance from the four establishments mentioned in the agenda item as un-exempted.

**Item No. 5 : Concept Paper on Viability of Small Provident Fund Trusts.**

- 5.1 The Central P.F. Commissioner informed the members about the Concept Paper on Viability of Small Provident Fund Trusts and its findings.
- 5.2 The committee further deliberated on the issue and it was decided that suitable conditions should be imposed on employment strength and size of the corpus of the trust for the establishments seeking grant of exemption, as small establishments will not be able to manage the Trusts efficiently.
- 5.3 The following criteria, which should be imposed on the establishments seeking grant of exemption, were agreed to:-
  - i) The establishment should comply as an un-exempted establishment for a minimum period of five years.
  - ii) The employment strength for such establishments should be more than 500.
  - iii) The Corpus size should be more than Rs.100 Crores at the time the establishment is seeking grant of exemption.

**Item No. 6 : Proposal for grant of exemption under Section 17(1)(a) of the EPF & MP Act, 1952 to M/s. Indira Gandhi Rashtriya Uran Akademi, UP/15353**

- 6.1 The Committee was informed that M/s. Indira Gandhi Rashtriya Uran Akademi, UP/15353 is incurring losses for more than three consecutive years, which is violative of Condition No. 25 of the Appendix – 'A' to Para 27AA of the EPF Scheme, 1952 containing terms and conditions of grant of exemption.
- 6.2 The Committee recommended to reject the proposal.

**Item No. 7 : Status of the proposals for Grant of Exemption considered by Sub-Committee of CBT, EPF on Exempted Establishments and forwarded to appropriate Government since January, 2016.**

- 7.1 The Committee took note of the status.

**Item No. 8 : Modification in the Rates of levy of surcharge in view of New Pattern of Investment Prescribed by the Government of India vide Notification No. S.O. 1433(E) dated 29.05.2015 to be followed by the Board of Trustees of Exempted Establishments for Investment of Monies of the**

**Item No 7:- Proposal for approval of eligibility conditions for an establishment to apply for grant of exemption as recommended by the Sub-Committee of Central Board of Trustees, EPF on Exempted Establishments in its 41<sup>st</sup> meeting held on 12.01.2017.**

The concept paper on viability of small Provident Fund Trusts was placed before the 41<sup>st</sup> meeting of Sub-Committee of CBT, EPF on Exempted Establishments held on 12.01.2017. The said agenda item is placed at **Annexure - I**

2. The Sub-Committee recommend following eligibility conditions for an establishment to apply for grant of exemption.

- i) The establishment should comply as an un-exempted establishment for a minimum period of five years.
- ii) The employment strength for such establishments should be more than 500.
- iii) The corpus size should be more than Rs. 100 crores at the time the establishment is seeking grant of exemption.

3. Minutes of the 41<sup>st</sup> meeting of the Sub-Committee Central Board of Trustees, EPF on Exempted Establishments are placed at **Annexure-II**. The decision taken in the meeting of the Sub-Committee is placed before the Central Board of Trustees, EPF for deliberation and approval.

**Proposal:- The Central Board of Trustees, EPF is requested to consider & approve the recommendations of the Sub-Committee of CBT, EPF on Exempted Establishments as at Para 2 above.**



Sh. Arun Goel, AS & FA, MoL&E advised that EPFO may prepare a roadmap for complete roll-out of online direct collection of contributions from nationalised banks and private banks so as to minimise collection through the payment aggregator model. If it is felt that such an aggregator model is required, then bidding may be done for selection of banks for collection. CPFC clarified that the philosophy of EPFO in banking is that we would provide EPFO services to employers and employees through whichever bank they prefer to open account with. Further, EPFO prefers direct banking and aims at minimising aggregator operations.

After thorough deliberations on the issue, it was decided to engage all banks (Having at least 0.5% of EPFO collection) whether private or public, for direct online collection and online payments at Zero transaction rates. Further, bidding may be done among all the nationalised banks and the private banks authorised by Ministry of Finance for collections through the payment aggregator.

**Item No. 6: Item No. 6 Request by M/s Chandabhoy & Jassoobhoy, Chartered Accountants, External Concurrent Auditor (ECA) for nominal increase in fees of 10% w.e.f. 1-11-2016.**

The proposal as contained in the agenda was approved.

**Item No. 7. Proposal for approval of eligibility conditions for an establishment to apply for grant of exemption as recommended by the Sub-Committee of Central Board of Trustees, EPF on Exempted Establishments in its 41<sup>st</sup> meeting held on 12.01.2017**

The sub-committee of exempted establishment recommended following eligibility condition for an establishment applying for grant of exemption.

No.1- The establishment should comply as un-exempted establishment for a minimum period of 5 years.

No.2- The employment strength for such establishment should be more than 500.

No.3 – The corpus size should be more than Rs. 100 crore at the time the establishment is seeking grant of exemption.

Shri M J Rao member again stated that certain exempted establishments declared lesser rate of interest than the statutory rate. Vice Chairperson directed CPFC to review such cases declaring lower rate of interest.

The Board approved the proposal as contained in the agenda.

**Item No.8 Authorizing the Sub- Committee on Exempted Establishments for consideration of the proposals for grant of exemption to the establishments subject to ratification**

The Sub-Committee on Exempted Establishments was authorised to consider proposal for grant of exemption and place the same in the Board with recommendations in future, while ratifying the actions.

**Item No.9 Matter relating to making the employees' contribution to EPF optional for employees earning less than Rs.15000/ per month for apparel and made-ups sector.**





कर्मचारी भविष्य निधि संगठन  
श्रम मंत्रालय भारत सरकार

Employees' Provident Fund Organisation  
(Ministry of Labour, Govt. Of India)

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[www.epfindia.gov.in](http://www.epfindia.gov.in), [www.epfindia.nic.in](http://www.epfindia.nic.in)

No. E-III/Misc./2016/Exemption

To

Date:

The Secretary to Government of India,  
Ministry of Labour & Employment,  
Shram Shakti Bhawan,  
Rafi Marg, New Delhi-110001.

(By Name to:- Shri Subhash Kumar, Under Secretary, SS-II)

Subject : Amendment in the EPF Scheme, 1952 for laying down of Eligibility Conditions for the establishments seeking grant of exemption - Regarding.

Sir,

Please refer to the subject cited above

2. EPFO has proposed three eligibility conditions for the establishments seeking grant of exemption which are as follows:-

- The establishment should comply as an un-exempted establishment for a minimum period of five years.
- The employment strength for such establishments should be more than 500.
- The Corpus size should be more than Rs. 100 Crores at the time the establishment is seeking grant of exemption.

3. The aforesaid conditions have been approved by the Sub-Committee of CBT, EPF on Exempted Establishments in its 41<sup>st</sup> meeting held on 12.01.2017 and by the Central Board of Trustees in 216<sup>th</sup> meeting held on 30.03.2017. Subsequent to the approval granted by the Board, the proposal for amending the EPF Scheme, 1952 for laying down of eligibility conditions was sent to Legal Cell of EPFO, Head Office for getting the legal opinion or for getting the proposal legally vetted

4. On the basis of the legal opinion received from the Legal Cell (copy enclosed), a draft notification duly approved by Central P. F. Commissioner is enclosed for consideration by Ministry of Labour & Employment, Government of India and for further publication of the same in the Official Gazette.

Encls : As above

Yours faithfully

(K.L. Goyal)  
Addl. Central P. F. Commissioner-I (Exemption)  
Ph : 011-26170928

Handed over to  
An. Sanjeev Nanda (SS) for L&E  
during meeting held with  
Secy on 05.05.2018  
@  
05032018



No.S-35015/17/2015.SS-II

Government of India

Ministry of Labour &amp; Employment

New Delhi, dated the 9 August, 2017

To

The Central Provident Fund Commissioner,  
Employees Provident Fund Organisation,  
14, Bhikaiji Cama Place,  
Bhavishya Nidhi Bhawan,  
New Delhi.

RC-II (Ex) / On G. Subashini  
AE  
Pl copy with  
minutes Put up  
on 16/8/17  
11 AUG 2017  
118226  
11/8/17

Subject:- Minutes of the Meeting taken by Secretary (L&E) on 20.07.2017 at 11:00 AM in the Mini Committee Room to review the status of reform relating to establishments which have been exempted under the EPF & MP Act, 1952 and Schemes framed thereunder-regarding.

Sir,

I am directed to forward herewith a copy of minutes of the meeting held on 20.07.2017 under the <sup>person</sup> Chairmanship of Secretary (L&E) on the subject mentioned above for taking further necessary action and sending ATR to this Ministry at the earliest.

Encl:- As Above.

Yours faithfully,



(Samir Kumar Das)

Under Secretary to Govt. of India

80 (Ex)  
1768 2017

अ.के.म.नि.आ. -I (छूट) सचिवालय  
Addl C.P.F.C.-I (Exemption) Secretariat  
डायरी सं. 2723  
दिनांक 14/8/17

MINUTES OF THE MEETING TAKEN BY SECRETARY (L&E) ON 20.07.2017 AT 11:00 PM IN THE MINI COMMITTEE ROOM TO REVIEW THE STATUS OF REFORMS ELATING TO ESTABLISHMENTS WHICH HAVE BEEN GRANTED EXEMPTION UNDER THE EPF&MP ACT, 1952 AND THE SCHEMS FRAMED THEREUNDER.

List of participants is at Annex.

2. Secretary (L&E) reviewed the progress of decisions taken in the last meeting held on 30.05.2017. CPFC informed the present status of establishments exempted and relaxed under the EPF&MP Act, 1952 and Schemes framed thereunder. He informed that there are 1549 establishments which are under exemption out of which 126 establishments are under relaxation. CPFC further gave the break-up of the status of establishments under relaxation. He informed that in case of 41 establishments show cause notices have been issued for cancellation of relaxation; in 43 cases relaxations granted have been withdrawn; in 32 cases, the matter is pending in courts while 9 establishments have been closed and liquidation proceedings have been filed in 4 cases. It was further informed that 31 exemption cases are pending with the Central/State Governments and EPFO.
3. CPFC further informed that a circular has been issued for maintaining arm's length principle while making investments by the exempted trusts and now it is a part of the guidelines for exempted trusts.
4. Secretary (L&E) stressed that all exempted trusts should have an Investment Committee constituted. JS (RKG) suggested that the Investment Committee should also comprise of financial experts.
5. Secretary (L&E) reiterated the need for continuous monitoring of exempted trusts to safeguard the interest of workers. CPFC informed that EPFO will soon start publishing ranking of exempted trusts on EPFO's website.
6. The issue of amendment to EPF Scheme, 1952 for insertion of three additional conditions in Appendix A to paragraph 27 AA was also discussed in the meeting. It was informed to EPFO that Legislative Department has raised concern about the proposed amendment. It was decided that officers from EPFO and the Ministry may immediately discuss the issue with the concerned officer in the Legislative Department to clarify to the concerns raised by Legislative Department.



ATN : This issue was discussed by the officers of the Ministry and EPFO with Ms. Veena Kothavale, Additional Legislative Counsel, Legislative Department on the same day, i.e., 20.07.2017 itself. The proposal in its present form was not acceptable to the Legislative Department. EPFO may send revise proposal in this regard.

7. Secretary (L&E) directed to fix-up the next meeting in this regard in a month's time.

8. The meeting ended with a vote of thanks to the Chair.

\*\*\*\*\*

List of Participants

1. Secretary (L&E) - In chair.
2. Dr. V.P. Joy, CPFC, EPFO.
3. Shri R.K. Gupta, Joint Secretary, M/o Labor & Employment
4. Shri Vinod Kumar, Director, M/o Labour & Employment
5. Shri K.L. Goyal, Addl. CPFC, EPFO.
6. Shri Samir Kumar Das, Under Secretary, M/o Labour & Employment
7. Shri Sanjeev Nanda, Section Officer, M/o Labour & Employment
8. Shri Gaurav Srivastava, APFC, EPFO

Relevant para of 26<sup>th</sup> Report (2016-17) of Standing Committee on Labour

Para 2.6 - "The Committee also impress upon the EPFO to speed up the formulation of policy guidelines for grant of exemption based on past performance, net worth, collections, contributions, minimum corpus and membership which is statedly under submission to the Central Board of Trustees. **The Committee further recommend that once such guidelines are finalised by EPFO, a complete review of all presently Exempted Establishments should be undertaken and completed within three months, followed by appropriate decision to close defective/unhealthy/deviating exempted PF Trusts and transfer the same to EPFO.**"

Para 2.7 - "The Committee note that as per the latest information provided by EPFO, there are 1549 Exempted Establishment all over India employing 84,42,241 workers. Further, the number of workers/employees covered under each of those 18 establishments varies from 1 to 3,25,997. The Committee observe that some of the establishments are following dual set up i.e. some of their workers/employees were subscribing to their own trust while some were subscribing to EPF. While an individual employee or a class of employees can be exempted under Section 17(2) read with Para 27 and 27(A) respectively, the Committee apprehend that in such a scenario, there could be a possibility of workers/employees being left out of coverage of either of the setup in confusion. Besides, in view of the very limited capability of the Exemption Division of EPFO to minutely monitor compliance, it may not, perhaps, be possible to detect exclusion of employees, even if it exists. **They, therefore, desire that in the policy guidelines being formulated, adequate care needs to be taken to ensure that either all the eligible workers/employee subscribe to their own Trust or to EPFO as a whole. They also recommend that the enabling clause for choosing the Trust or EPF by the respective subscriber may be withdrawn with immediate effect.**"

Para 2.59 - "The Committee therefore, recommend that the formulation of new guidelines for grant of exemption be prioritised followed by the review of the exemption granted so that the same could be cancelled for the defaulting Exempted Establishment."

2.9 The Committee further find that there are 118 Exempted Establishment having their total corpus of less than one crore. The last return filed by these establishments dated back to the years 2014 and 2015. Hence, the Committee feel that these establishments may not have taken any steps to benefits their PF subscribers. The Committee, note that the Ministry have now initiated identification of small/very small PF trusts and framing of policy guidelines for imposing restrictions of minimum corpus and memberships. **They reiterate that strong guidelines for grant of exemption may be made which make it mandatory to take into account past performance, net worth, group performance as well as minimum strength of workers, collections, contributions and corpus of the company/establishment.**





कर्मचारी भविष्य निधि संगठन  
श्रम मंत्रालय भारत सरकार

Employees' Provident Fund Organisation  
(Ministry of Labour, Govt. Of India)

भविष्य निधि भवन, -14भीकाजी कामा प्लेस, नई दिल्ली -110066

Bhavishya Nidhi Bhawan, 14- Bhikaji Cama Place, New Delhi - 110066

[www.epfindia.gov.in](http://www.epfindia.gov.in), [www.epfindia.nic.in](http://www.epfindia.nic.in)

Annexure-21G

No. E-III/Msic./2016/Exemption

/1353

Date:

17 NOV 2017  
17 NOV 2017  
17 NOV 2017

To

The Secretary to Government of India,  
Ministry of Labour & Employment,  
Shram Shakti Bhawan, Rafi Marg,  
New Delhi-110001.

[By Name to:- Shri Vinod Kumar, Director, Social Security]

Subject : Proposal for Amending the EPF & MP Act, 1952 and EPF Scheme, 1952 in respect of the Provisions related to Grant/Cancellation of Exemption - Regarding.

Reference : i) EPFO, Head Office letter No. E-III/Msic./2016/Exemption/304 Dated: 05.05.2017.  
ii) MoL&E letter No. S-35012/5/2017-SS-II Dated : 26.05.2017.  
iii) MoL&E letter No. S-35015/17/2015.SS-II Dated : 09.08.2017.

Sir,

Please refer to the subject and references cited above.

2. Vide letter under reference at Sl. No. (i) above, EPFO had forwarded the proposal for making amendment in the EPF Scheme, 1952 for laying down eligibility criteria for the establishment seeking grant of exemption. Vide letter under reference at Sl. No. (ii) above, Ministry had forwarded the minutes of the meeting took by Secretary (L & E) on 20.07.2017, wherein it was informed that the proposal in its present form was not acceptable to the Legislative Department and EPFO may send revise proposal in this regard. Further, it was also informed that during the meeting held with Addl. Legislative Counsel and officers of Ministry and EPFO, Ministry of Law & Justice had clearly conveyed that if the Government wants to lay down any additional eligibility condition, then it should be incorporated in the EPF & MP Act, 1952. It was the clear view of Ministry of Law & Justice that incorporation of additional eligibility conditions in the EPF Scheme, 1952 shall not stand to the legal scrutiny.

3. Further, Standing Committee on Labour, Lok Sabha in its 26<sup>th</sup> Report (2016-17) has also raised some serious observations at Para 2.6, 2.7 and 2.59 of the report regarding making suitable amendments in the Act and Scheme (relevant paras are enclosed as Annexure - 'A') so that exemption can be granted only to such establishments which can perform well in the interest of the members.

4. In view of the above, the proposal for laying down the eligibility criteria was examined and as per the observations of Ministry of Law & Justice, it was decided that the requisite amendment may be done in the EPF & MP Act, 1952. For achieving the desired objective, a new section to the Act, namely Section 17(1D) has been proposed, which contains the requisite eligibility conditions. Further, insertion of Section 17(1D) in the Act, shall affect few other Sections of the Act and accordingly amendment is also proposed for Section 17(1), 17(4) and Section 17(5) of the Act. Detailed amendment is annexed as Annexure - 'B'.

5. Vide letter under reference at Sl. No. (ii) above, Ministry has asked to streamline the monitoring mechanism of exempted establishments and to undertake few actions. Parawise reply for the same is as under :-

Sl. No.	Ministry's Direction	EPFO's Reply
1.	Two more conditions, i.e., (a) digitization of investment records in one year time by the exempted trust; and  (b) provision for maintaining the principle of arm's length while making investment by the exempted trust, i.e., not investing in group companies/subsidiaries/parent companies be incorporated in the proposed amendment in the EPF Scheme, 1952 for laying down the eligibility conditions for the establishments seeking grant of exemption.	(a) Digitization of investment records is already followed as all accounts including investment records are computerized nowadays in exempted establishments. Further, securities obtained in the name of Trust are to be kept in dematerialized (DEMAT) form and that too with depository participants approved by RBI and Central Government viz. NSDL and CSDL. Conditions No. 18 and 19 of Appendix - 'A' to Para 27AA of EPF Scheme, 1952 lay down the provisions for the same.  (b) A circular bearing No. Exem/10(20)2016/Vol. III/4043 dated 13.06.2017 (copy enclosed as <b>Annexure - 'C'</b> ) has been issued, wherein Trusts of all exempted establishments have been directed to adhere to arm's length principle of investment. Further, as per para 8 of the pattern of investment issued by the Government for the Trusts of exempted establishments, investment of funds should be at arm's length keeping solely the benefits of beneficiaries in mind (copy enclosed as <b>Annexure - 'D'</b> ).
2.	There is a need to review Para 79 of the EPF Scheme, 1952 as EPFO has stopped granting relaxation to establishments since 2012.	A proposal for deleting Para 79 of EPF Scheme, 1952 has been suggested in <b>Annexure - 'E'</b> .
3.	All the guidelines need to be revisited keeping in view various reforms undertaken by EPFO/ MoL&E with regard to online maintenance of accounts, seeding of Aadhar No., payment through electronic means, etc.	Seeding of Aadhar Number has been made compulsory with effect from 01.07.2017 through Electronic Challan-cum-Return (ECR 2) in respect of all exempted establishments also except for the exempted establishments from North Eastern States. In respect of establishments from North Eastern States, seeding of Aadhar No. is pending.



		from 01.10.2017. As per condition No. 13 of Appendix – 'A' to Para 27AA of EPF Scheme, 1952, exempted establishments have been mandated to maintain their members' accounts electronically. Nowadays establishments are maintaining their accounts in computerized form and are using facilities of payments through electronic means like EPFO.
4.	An unambiguous condition needs to be incorporated which would make digitization of all records / procedures of exempted trusts including claims settlements.	<p>As per condition No. 13 of Appendix – 'A' to Para 27AA of EPF Scheme, 1952 all exempted establishments have been mandated to maintain their members' accounts electronically.</p> <p>A large majority of Trusts of exempted establishments have already incorporated digitization of P.F. records including claim settlement. Sporadic cases, mainly small size establishments can be there, where the digitization may not have been completed. Subsequent to incorporation of proposed Section 17(1D) in the Act, which shall lay down the eligibility criteria for exempted establishments, it is expected that large number of exempted establishments, mainly small size establishments will be converted into un-exempted establishments.</p>

6. At para 2.7 of the 26<sup>th</sup> Report of Standing Committee on Labour, Committee has desired (Annexure – 'A') that either all eligible workers/employees subscribe to their own Trust or to EPFO. In order to meet the said recommendation of the Committee, amendment to Para 27 and 27A are also proposed (copy enclosed as Annexure – 'E').

[This issues with the approval of Central P.F. Commissioner]

Encl:- As above.

जारी किया  
ISSUED

Yours faithfully

(K. L. Panjra) 17/11  
Addl. Central P. F. Commissioner (HQ)

जारी किया  
ISSUED

Relevant para of 26<sup>th</sup> Report (2016-17) of Standing Committee on Labour

Para 2.6 - "The Committee also impress upon the EPFO to speed up the formulation of policy guidelines for grant of exemption based on past performance, net worth, collections, contributions, minimum corpus and membership which is statedly under submission to the Central Board of Trustees. **The Committee further recommend that once such guidelines are finalised by EPFO, a complete review of all presently Exempted Establishments should be undertaken and completed within three months, followed by appropriate decision to close defective/unhealthy/deviating exempted PF Trusts and transfer the same to EPFO.**"

Para 2.7 - "The Committee note that as per the latest information provided by EPFO, there are 1549 Exempted Establishment all over India employing 84,42,241 workers. Further, the number of workers/employees covered under each of those 18 establishments varies from 1 to 3,25,997. The Committee observe that some of the establishments are following dual set up i.e. some of their workers/employees were subscribing to their own trust while some were subscribing to EPF. While an individual employee or a class of employees can be exempted under Section 17(2) read with Para 27 and 27(A) respectively, the Committee apprehend that in such a scenario, there could be a possibility of workers/employees being left out of coverage of either of the setup in confusion. Besides, in view of the very limited capability of the Exemption Division of EPFO to minutely monitor compliance, it may not, perhaps, be possible to detect exclusion of employees, even if it exists. **They, therefore, desire that in the policy guidelines being formulated, adequate care needs to be taken to ensure that either all the eligible workers/employee subscribe to their own Trust or to EPFO as a whole. They also recommend that the enabling clause for choosing the Trust or EPF by the respective subscriber may be withdrawn with immediate effect.**"

Para 2.59 - "The Committee therefore, recommend that the formulation of new guidelines for grant of exemption be prioritised followed by the review of the exemption granted so that the same could be cancelled for the defaulting Exempted Establishment."

2.9 The Committee further find that there are 118 Exempted Establishment having their total corpus of less than one crore. The last return filed by these establishments dated back to the years 2014 and 2015. Hence, the Committee feel that these establishments may not have taken any steps to benefits their PF subscribers. The Committee, note that the Ministry have now initiated identification of small/very small PF trusts and framing of policy guidelines for imposing restrictions of minimum corpus and memberships. **They reiterate that strong guidelines for grant of exemption may be made which make it mandatory to take into account past performance, net worth, group performance as well as minimum strength of workers, collections, contributions and corpus of the company/establishment.**



Amendments proposed in the EPF & MP Act, 1952.1. Insertion of a new Section 17(1D) in the EPF & MP Act, 1952 –

After Section 17(1C) of EPF & MP Act, 1952, a new Section 17(1D) shall be inserted in the Act as under –

17(1D) - (1) "No exemption from the operation of EPF Scheme, 1952 shall be granted by the appropriate Government under Section 17 of the EPF & MP Act, 1952 unless the applicant establishment, on the date such establishment makes the application for grant of exemption, fulfils all the following criteria :

- (i) The establishment should comply as an un-exempted establishment for a **minimum period of five years.**
  - (ii) The employment strength for such establishment should be **more than five hundred.**
  - (iii) The corpus size should be more than one hundred crores of Rupees at the time the establishment is seeking grant of exemption.
- (2) Every establishment which is exempted or relaxed, as on the date of publication in the gazette of this amendment, shall be required to fulfil, within three hundred and sixty five days from the publication of this amendment in the gazette, the following conditions :
- i) That the establishment has employment strength of more than five hundred and
  - ii) That the establishment has the corpus size of more than one hundred crores of Rupees.
- (3) Exemption or as the case may be relaxation granted to an establishment shall stand revoked and it shall cease to be an exempted or as the case may be relaxed establishment from three hundred and sixty sixth day from the date of publication of this provision in the gazette, if such establishment fails to fulfil the conditions mentioned in sub-section (2) of this Section.

Explanation 1

"Corpus size" as used in the above provisions shall, in relation to an un-exempted establishment, mean the total amount, in relation to that establishment, lying in the Fund – as defined under Section 2(h) of this Act – excluding the amount lying in the Pension Fund under Section 2(kA) of this Act and Employees' Deposit Linked Insurance Fund under Section 2(ia) of this Act.

Explanation 2

"Corpus size" as used in the above provisions shall, in relation to an exempted or relaxed establishment, mean the total amount lying in the Provident Fund, in relation to that establishment, with the Board of Trustees constituted under sub-section (b) of Section 17(1A), with which the said establishment is making Provident Fund remittances in respect of its employees in terms of Appendix 'A' to Para 27AA of the Scheme.

- (4) If any establishment, exempted or relaxed as the case may be, which fulfils the provision mentioned in sub-section 2 of this section, on the date of publication of this provision in the gazette but later on fails to fulfil the provision mentioned in sub-section (2) of this Section, consecutively for three financial years ending on 31<sup>st</sup> day of March, then the exemption or relaxation granted to such establishment, as the case may be, shall stand revoked with effect from 1<sup>st</sup> day of April, following the third consecutive failure.
- (5) If any provision of this Act, the Scheme or the conditions mentioned in the notification issued under Section 17(1) in relation to that establishment, which provides for revocation of exemption granted to an establishment [excluding the cases falling under sub Section (3) of Section 17(1D)] is attracted, then the exemption granted to the establishment shall stand revoked from the 1<sup>st</sup> day of next/ succeeding financial

year and provisions. Provision of Section 17(4) shall not be applicable in such cases wherever revocation of exemption has been prescribed by the Act and Scheme.

**Objective of this amendment –**

As per the observations of the Committee at Para 2.6 of the 26<sup>th</sup> Report, the Committee has impressed upon EPFO to speed up the formulation of policy guidelines for grant of exemption based on past performance, net worth, collections, contributions, minimum corpus and membership. Through the said amendment the concern of the Committee regarding the viability/sustainability of small size exempted establishments regarding maintaining their own Trust, as raised under Para 2.9 of the 26<sup>th</sup> Report, shall be addressed.

Insertion of Section 17(1D) in the Act, shall effect few other Sections of the Act and accordingly such Sections shall also require amendment and accordingly the proposed amendments are as follows :-

**2. Amendment to Section 17(1) of EPF & MP Act, 1952 –**

Subject	Provision/objective
Original Provision of Section 17(1) of EPF & MP Act, 1952.	Power to exempt. – (1) The appropriate Government may, by notification in the Official Gazette, and subject to such conditions as may be specified in the notification, [exempt, whether prospectively or retrospectively, from the operation] of all or any of the provisions of any Scheme –
Amendment Required	<b><i>In Section 17(1) after the words “The appropriate Government”, the words, “subject to provisions of Section 17(1D) of this Act” shall be inserted.</i></b>
Amended provision	Power to exempt. – (1) The appropriate Government <b>subject to provisions of Section 17(1D) of this Act</b> may, by notification in the Official Gazette, and subject to such conditions as may be specified in the notification, [exempt, whether prospectively or retrospectively, from the operation] of all or any of the provisions of any Scheme –
Objective	Through above mentioned amendment, stringent eligibility criteria for grant of exemption as suggested by the Standing Committee on Labour shall be laid. By inserting the words, <b>“subject to provisions of Section 17(1D) of this Act”</b> , appropriate Government shall be required to examine the cases of grant of exemption on the basis of the new eligibility criteria, which shall be laid down under Section 17(1D) of EPF & MP Act, 1952.

**3. Amendment to Section 17(4) of EPF & MP Act, 1952 -**

Subject	Provision/objective
Original Provision of Section 17(1) of EPF & MP Act, 1952.	Any exemption granted under this section may be cancelled by the authority which granted it, by order in writing, if an employer fails to comply, -



+88

Amendment Required	<i>In Section 17(4) the word "authority which granted it" shall be replaced by "Central Government or an authority notified by the Central Government."</i>
Amended provision	Any exemption granted under this section may be cancelled by the <b>Central Government or an authority notified by the Central Government.</b> , by order in writing, if an employer fails to comply, -
Reason/Objective	The monitoring the exempted establishments is done by EPFO, which comes under the administrative control of Government of India, Ministry of Labour and cancellation of exemption is the logical conclusion of the action taken against the defaulting establishments, which involves monitoring, inspections and ensuring statutory compliance from the exempted establishments. Hence, it is logical that power to cancel the exemption should rest under the authority of the Government of India.

4. Amendment to Section 17(5) of EPF & MP Act, 1952 -

Subject	Provision/objective
Original Provision of Section 17(5) of EPF & MP Act, 1952.	Where any exemption granted under sub-section 1, sub-section 1C, sub-section 2, sub-section 2A or sub-section 2B is cancelled, the amount of accumulations to the credit of every employee to whom such exemption applied, in the provident fund, the Pension Fund or the Insurance Fund of the establishment in which he is employed together with any amount forfeited from the employer's share of contribution to the credit of the employee who leaves the employment before the completion of the full period of service shall be transferred within such time and in such manner as may be specified in the Scheme or the Pension Scheme or the Insurance Scheme to the credit of his account in the Fund or the Pension Fund or the Insurance Fund, as the case may be.
Amendment Required	<i>In section 17(5) after the words "<b>is cancelled</b>" following words are inserted "<b>or revoked</b>".</i>
Amended provision	Where any exemption granted under sub-section 1, sub-section 1C, sub-section 2, sub-section 2A or sub-section 2B is cancelled <b>or revoked</b> , the amount of accumulations to the credit of every employee to whom such exemption applied, in the provident fund, the Pension Fund or the Insurance Fund of the establishment in which he is employed together with any amount forfeited from the employer's share of contribution to the credit of the employee who leaves the employment before the completion of the full period of service shall be transferred within such time and in such manner as may be specified in the Scheme or the Pension Scheme or the Insurance Scheme to the credit of his account in the Fund or the Pension Fund or the Insurance Fund, as the case may be.

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Reason/Objective	<p>After insertion of Section 17(1D) in the Act, an establishment can be converted from exempted to un-exempted, not only through cancellation but also through revocation of exemption. Subsequent to revocation of exemption the Provident Fund accumulations of the members lying with the Trust known as past accumulations need to get transferred to the accounts CBT, EPF.</p> <p>Para 28 of EPF Scheme, 1952 lay down the procedure for transfer of past accumulations. Para 28 speaks about the accumulations transferred to the fund under sub Section 5 of Section 17. Further sub Section 5 of Section 17 speaks about any exemption granted is cancelled, then accumulations shall be transferred as may be specified in the Scheme i.e. Para 28. To enable Para 28 for transferring the past accumulations to the Fund, sub Section 5 of Section 17 shall require amendment.</p>
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ANNEXURE - C

For Web Circulation Only



कर्मचारी भविष्यनिधि संगठन  
श्रम मंत्रालय भारत सरकार  
Employees' Provident Fund Organisation  
(Ministry of Labour, Govt. Of India)

भविष्यनिधि भवन-14, भीकाजी कामा प्लेस, नई दिल्ली-110066  
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No. Exem/10(20)/2016/Vol. III

Date:

To

All Addl. Central P.F. Commissioner (Zones),  
All Regional P.F. Commissioner/OIC of Regional Offices,  
All Regional P.F. Commissioner/OIC of Sub Regional Offices.

13 JUN 2017

Subject :- Regarding adhering to the arm's length principle of investment of Funds .

Sir,

In the various reviews of EPF exempted establishments, it has been found that many establishments invest accumulated PF fund amount in their own entity or in their Subsidiary entities therefore some check points are recommended to stop such practices, as provided in the pattern of investment 2015 vide Condition No 17 of Para 27AA (Appendix A).

The Board of Trustees, while investing the Provident Fund remittances received from the employer in respect of employees of the exemption establishment, shall adhere to the arm's length principle of investment and shall follow the following:-

- Board of Trustees shall not invest in any of the securities/bonds issued by the exempted establishment, whose Provident Fund money is being managed by the Board of Trustees.
- Board of Trustees shall not invest in any of the securities/bonds issued by the establishment, with which the employer of the exempted establishment is related or occurring any key position like director, independent director etc.
- Board of Trustees shall not invest in any of the Securities/bonds issued by the establishment, which is fully or partially owned subsidiary of the exempted establishment.
- Board of Trustee shall not make investment, beyond 5% of the fresh accretions in a financial year, in the securities of an establishment in which the exempted establishment holds over 10% of the securities issued, and the total volume of such investments will not exceed 5% of the total portfolio of the fund at any time.

Yours faithfully

(K. L. Goyal)  
Addl. Central PF Commissioner-I (Exemption)  
Ph No. 011-26170928



'ANNEXURE-D'

-185-

Web Circulation only

Telephone : 011 - 26193784  
Fax : 011 - 26107123



कर्मचारी भविष्य निधि संगठन  
(श्रम एवं रोजगार मंत्रालय भारत सरकार)

**Employees' Provident Fund Organisation**  
(Ministry of Labour & Employment, Govt. Of India)

मुख्य कार्यालय/Head Office

भविष्य निधि भवन, 14-भीकाजी कामा प्लेस, नई दिल्ली-110066

Bhavishya Nidhi Bhawan, 14- Bhikaiji Place, New Delhi - 110066

File no. HO/IMC/132/Pattern2015//12937

Date: 26.06.2015

To

26 JUN 2015

The all Additional CPFCs  
RPFCs In-Charge of RO/SRO, EPF

**Subject: - Copy of Gazette Notification of Pattern of Investment 2015 for EPF Exempted Establishments.**

Sir,

In continuation of this Section letter no. HO/IMC/132/Pattern2015/2015/8004 dated 09.06.2015 vide which a copy of draft notification of new Pattern of Investment 2015 was forwarded for information with a request to bring it to the notice of all exempted establishments under your jurisdiction and further instruction that the said pattern will be applicable to all exempted establishments w.e.f. 29<sup>th</sup> May, 2015, please find attached copy of Gazette notification of said Investment Pattern 2015 for exempted establishments notified by Ministry of Labour & Employment, Govt. of India vide S.O. No. 1433 (E) dated 29.05.2015.

It is requested to bring it to the notice of all exempted establishments under your jurisdiction.

Encl: - As above.

Yours faithfully,

*(Signature)*

(Vishal Agarwal)

Regional P.F. Commissioner-II (IMC)

# भारत का राजपत्र The Gazette of India

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अधिसूचना

नई दिल्ली, 29 मई, 2015

का.आ. 1433(अ).—कर्मचारी भविष्य निधि एवं प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) की धारा 17 की उप-धारा (3) के उपवाक्य (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एवं भारत सरकार, श्रम मंत्रालय की अधिसूचना संख्या का.आ. 2126 दिनांक 9 जुलाई, 2013 का अधिक्रमण करते हुए केन्द्र सरकार एतद्वारा अधिनियम की धारा 17 की उप-धारा (i) के उपवाक्य (क) अथवा उपवाक्य (ख) के अंतर्गत छूटप्राप्त स्थापना से संबंधित अथवा अनुच्छेद 27 के अंतर्गत छूटप्राप्त कर्मचारियों अथवा कर्मचारियों की श्रेणी से संबंधित प्रत्येक नियोजन, अथवा जैसा भी मामला हो, कर्मचारी भविष्य निधि योजना, 1952 का अनुच्छेद (27क) स्थापना के संबंध में कर्मचारी अथवा कर्मचारियों की श्रेणी का मासिक भविष्य निधि अंशदान माह की समाप्ति पर 15 दिन के भीतर उस स्थापना के संबंध में गठित न्यामियों के बोर्ड को अंतरित करेगा तथा न्यामियों का वह बोर्ड कर्मचारियों से प्राप्त अंशदान की प्राप्ति की तिथि से दो माह के भीतर, स्थापना के संबंध में कर्मचारी अथवा कर्मचारियों की श्रेणी के संबंधित भविष्य निधि, तात्पर्य अंशदान एवं व्याज में से अनिवार्य व्यय को घटाते हुए निम्नलिखित पद्धति के अनुसार निवेशित करेगा, यथा:

श्रेणी	निवेश की पद्धति	निवेश की जाने वाली प्रतिशत राशि
(i)	सरकारी प्रतिभूतियाँ तथा संबंधित निवेश (क) सरकारी प्रतिभूतियाँ, (ख) अन्य प्रतिभूतियाँ (प्रतिभूति संविदा (विनियमन), 1956 की धारा 2(ज) में यथा परिभाषित प्रतिभूतियाँ) जिसके मूलधन और उस पर व्याज की पूरी और बिना शर्त गारंटी केन्द्र सरकार अथवा राज्य सरकार द्वारा दी जाएगी। प्रतिभूतियों के इस उप-श्रेणी के अंतर्गत निवेशित पोर्टफोलियो निधि के कुल पोर्टफोलियो के 10% अधिक से नहीं होगा। (ग) म्यूचुअल फंड की यूनिट सरकारी प्रतिभूतियों में निवेश के लिए यथा निर्धारित निधियों के अनुसार स्थापित की जाएगी तथा इनका विनियमन भारतीय प्रतिभूति एवं विनियमन बोर्ड द्वारा किया जाएगा।	न्यूनतम 45% तथा 50% तक

	<p>वर्षों कि ऐसे म्यूचुअल फंडों में निवेश किया गया पोर्टफोलियो किसी भी समय कुल पोर्टफोलियो के 5% से अधिक नहीं होगा और इनमें किया गया नया निवेश वर्ष के दौरान नई अभिवृद्धि के 5% से अधिक नहीं होगा।</p>	
(ii)	<p><b>ऋण लिखत तथा संबंधित निवेश</b></p> <p>(क) सूचीबद्ध (या नए निर्गम के मामले में सूचीबद्ध किए जाने के लिए प्रस्तावित) बैंकों तथा सरकारी वित्तीय संस्थाओं सहित निगमित निकायों द्वारा जारी ऋण प्रतिभूतियां (कंपनी अधिनियम, 2013 की धारा 2 के अंतर्गत यथा परिभाषित 'सरकारी वित्तीय संस्थान'), जिसकी न्यूनतम अवशिष्ट परिपक्वता अवधि निवेश की तारीख से तीन वर्ष है।</p> <p>(ख) अनुसूचित वाणिज्यिक बैंकों द्वारा भारतीय रिजर्व बैंक के दिशानिर्देशों के अंतर्गत जारी बासेल-III टियर-I बांड:</p> <p>वर्षों कि बांड के आरंभिक प्रस्ताव के मामले में निवेश केवल ऐसे टियर-I बांड में किया जाएगा जिन्हें सूचीबद्ध किया जाना प्रस्तावित है।</p> <p>वर्षों कि किसी अनुसूचित वाणिज्यिक बैंकों के ऐसे बांड में ग्रीन बाजार से निवेश तभी किया जाएगा जब ऐसे टियर-I बांड सूचीबद्ध हों और जिनकी ट्रेडिंग नियमित रूप से होती हो।</p> <p>किसी भी समय इस उप-श्रेणी में किए गए निवेश का कुल पोर्टफोलियो निधि के समग्र पोर्टफोलियो के 2% से अधिक नहीं होगा।</p> <p>इस उप-श्रेणी में आरंभिक प्रस्ताव में कोई निवेश आरंभिक प्रस्ताव के 20% से अधिक नहीं होगा। इसके अलावा, किसी भी समय निधि द्वारा धारित किसी बैंक के टियर-I बांड का समग्र मूल्य उस बैंक द्वारा जारी ऐसे बांड के 20% से अधिक नहीं होगा।</p> <p>(ग) इंटरनेशनल बैंक फॉर रिकंसट्रक्शन एंड डेवलपमेंट, इंटर नेशनल फाइनेंस कारपोरेशन तथा एशियन डेवलपमेंट बैंक जैसी संस्थाओं द्वारा जारी रूपया बांड जिनकी परिपक्वता कम से कम तीन वर्ष शेष हो।</p> <p>(घ) अनुसूचित वाणिज्यिक बैंकों द्वारा जारी मियादी जमा रसीद, जिसकी अवधि एक वर्ष से कम न हो जो हाल के वर्षों के संबंध में कानून के अंतर्गत उनके द्वारा प्रकाशित किए जाने हेतु यथापेक्षित प्रकाशित वार्षिक रिपोर्ट के आधार पर निम्नलिखित शर्तों को पूरी करती हो:-</p> <p>(i) विगत तीन वित्तीय वर्षों में लाभ घोषित किया हो;</p> <p>(ii) जोखिम भारित आस्ति अनुपात की तुलना में न्यूनतम पूंजी 9% या आरबीआई के मौजूदा मानदंडों द्वारा अधिदेशित अनुपात, जो भी अधिक हो, बनाए रखा हो;</p> <p>(iii) निवल अनर्जक आस्ति निवल अग्रिम के 4% से अधिक न हो;</p> <p>(iv) 200 करोड़ रुपये से कम न्यूनतम निवल आस्ति न हो।</p> <p>(ड.) भारतीय प्रतिभूति एवं विनियम बोर्ड द्वारा यथा विनियमित ऋण म्यूचुअल फंड की इकाईयां।</p> <p>वर्षों कि ऐसे म्यूचुअल फंड में निवेश किया गया पोर्टफोलियो किसी भी समय कुल पोर्टफोलियो के 5% से अधिक नहीं होगा और इनमें किया गया नया निवेश वर्ष के दौरान नई अभिवृद्धि के 5% से अधिक नहीं होगा।</p> <p>(च) निम्नलिखित अवसंरचना संबंध ऋण लिखत:</p> <p>(i) अवसंरचना के निर्माण या संचालन या रख-रखाव या निम्न लागत वाले आवास के निर्माण या वित्तपोषण के व्यवसाय में लगे सूचीबद्ध (या नए निर्गम के मामले में सूचीबद्ध किए जाने के लिए प्रस्तावित) कारपोरेट निकाय द्वारा जारी ऋण प्रतिभूतियां।</p> <p>इसके अलावा, इस श्रेणी में भारतीय रेल या किसी अन्य कारपोरेट निकाय जिसमें इनकी मुख्य भारीदारी हो, द्वारा जारी प्रतिभूतियां भी इसमें शामिल होंगी।</p> <p>इस श्रेणी में भारत सरकार के किसी प्राधिकरण जो कारपोरेट निकाय न हो और जिसका गठन मुख्यतः अवसंरचना के संवर्धन एवं विकास के लिए किया गया है, के द्वारा जारी प्रतिभूतियां भी शामिल होंगी।</p> <p>यह भी स्पष्ट किया जाता है कि अवसंरचना व्यवसाय में लगे कारपोरेट निकाय द्वारा जारी किसी प्रतिभूति के संबंध में केंद्र सरकार, भारतीय रेल या केंद्र सरकार के किसी प्राधिकरण द्वारा जारी कोई अवसंरचनात्मक</p>	<p>न्यूनतम 35% तथा 45% तक</p>



	<p>दायित्व या सुविधा पत्र, जो सुविधा पत्र या लिए गए दायित्व की शर्त के बावजूद इसे उपर्युक्त श्रेणी (i) (ख) के अंतर्गत प्रतिभूति के रूप में शामिल करने में असफल रहता है, को इस उप-श्रेणी के अंतर्गत पात्र प्रतिभूति माना जाएगा।</p> <p>(ii) किसी अनुसूचित वाणिज्यिक बैंक द्वारा जारी अवसंरचना तथा सस्ते आवासीय बांड, जो उपर्युक्त (ii) (घ) में निर्दिष्ट शर्तों को पूरा करता है।</p> <p>(iii) अवसंरचना ऋण निधि जो गैर-बैंकिंग वित्तीय कंपनी के रूप में संचालित तथा भारतीय रिजर्व बैंक द्वारा विनियमित हो, द्वारा जारी सूचीबद्ध (या नए निर्गम के मामले में सूचीबद्ध किए जाने के लिए प्रस्तावित) प्रतिभूतियां।</p> <p>(iv) अवसंरचना ऋण निधि, जो म्यूचुअल फंड के रूप में संचालित तथा भारतीय प्रतिभूति एवं विनियम बोर्ड द्वारा विनियमित हो, द्वारा जारी सूचीबद्ध (या नए निर्गम के मामले में सूचीबद्ध किए जाने के लिए प्रस्तावित) युनिट।</p> <p>यह स्पष्ट किया जाता है कि उपर्युक्त अपवाद को छोड़कर, इस उप-श्रेणी (च) के प्रयोजन हेतु किसी क्षेत्र को भारत सरकार की सुमेलित अवसंरचना उपक्षेत्र मास्टर सूची के अनुसार अवसंरचना के भाग के रूप में माना जाएगा।</p> <p>वशर्त कि श्रेणी संख्या (ii) की उप-श्रेणी (क), (ख) और (च) (i) से (iv) के अंतर्गत निवेश उन्हीं प्रतिभूतियों में किया जाएगा जिनकी न्यूनतम रेटिंग भारतीय प्रतिभूति एवं विनियम बोर्ड के (क्रेडिट रेटिंग एजेंसी) विनियमन, 1999 के अंतर्गत पंजीकृत कम से कम दो ऋण रेटिंग एजेंसियों द्वारा एए या प्रयोज्य रेटिंग पैमाने में समकक्ष रेटिंग हो। वशर्त कि उप-श्रेणी (च) (iii) के मामले में रेटिंग गैर-बैंकिंग वित्तीय कंपनी के संबंध में तथा उप-श्रेणी (च) (iv) के संबंध में रेटिंग पात्र प्रतिभूति के रूप में किए गए रेटिंग निधि की योजना के उपर्युक्त निवेश ग्रेड में निवेश के संबंध में होगा।</p> <p>वशर्त औरकि यदि प्रतिभूतियां/कंपनियां जिनकी रेटिंग दो से अधिक रेटिंग एजेंसियों द्वारा की गई हो, के मामले में सभी रेटिंग में से दो न्यूनतम रेटिंग पर विचार किया जाएगा।</p> <p>वशर्त कि इस श्रेणी के अंतर्गत उपर्युक्त यथा निर्दिष्ट न्यूनतम एए रेटिंग, बूक के जोखिम के मामले में एए से निम्न रेटिंग निवेश रखने वाली प्रतिभूतियां, जो भारतीय रिजर्व बैंक द्वारा जारी दिशानिर्देशों के अंतर्गत ऋण बूक स्वेप (सीडीएस) के साथ पूर्णतः कवर हैं तथा जिनका क्रय अंतर्निहित प्रतिभूतियों के साथ किया गया है, स्वीकार्य होंगी।</p> <p>उप श्रेणी (ग) के संबंध में घरेलू या अंतर्राष्ट्रीय रेटिंग एजेंसी द्वारा एए की एकल रेटिंग या उपर्युक्त रेटिंग स्वीकार्य होगी।</p> <p>यह स्पष्ट किया जाता है कि उपर्युक्त श्रेणी (i) (ख) के अंतर्गत कवर की गई ऋणप्रतिभूतियों को इस श्रेणी (ii) में बाहर रखा गया है।</p>	
(iii)	<p><b>लघु अवधि ऋण लिखत तथा संबंधित निवेश</b></p> <p>धन बाजार लिखत</p> <p>वशर्त औरकि कारपोरेट निकाय द्वारा जारी वाणिज्यिक दस्तावेज में निवेश केवल उन्हीं लिखत में किया जाएगा जिनकी न्यूनतम रेटिंग भारतीय प्रतिभूति एवं विनियम बोर्ड में पंजीकृत कम से कम दो रेटिंग एजेंसियों द्वारा ए1+ हो।</p> <p>वशर्त कि यदि वाणिज्यिक दस्तावेज की रेटिंग दो से अधिक रेटिंग एजेंसियों द्वारा की जाती है तो दो न्यूनतम रेटिंग पर विचार किया जाएगा।</p> <p>वशर्त और कि अनुसूचित वाणिज्यिक बैंकों द्वारा जारी एक वर्ष तक की अवधि के जमा-प्रमाणपत्रों के इस उप-श्रेणी में निवेश के संबंध में बैंकों को उक्त वर्ग (ii) (घ) में वर्णित सभी शर्तों को पूरा करना होगा।</p> <p>(ख) भारतीय प्रतिभूति एवं विनियम बोर्ड द्वारा विनियमित नकदी म्यूचुअल फंड ईकाइयां</p> <p>(ग) सूचीबद्ध वाणिज्यिक बैंकों द्वारा जारी एक वर्ष की अवधि तक की सावधि जमा रसीदें, जो उपर्युक्त के अनुसार वर्ग (ii) (घ) में वर्णित शर्तों के अनुरूप हों।</p>	5% तक

4	THE GAZETTE OF INDIA : EXTRAORDINARY	[PART II—SEC. 3(ii)]
(iv)	<p><b>इंडिटी एवं संबंधित निवेश</b></p> <p>बम्बई स्टॉक एक्सचेंज (बीएसई) अथवा नेशनल स्टॉक एक्सचेंज (एनएसई) में सूचीबद्ध निगमित संकायों के शेयर, जिनमें:-</p> <p>(i) निवेश की तारीख तक कम से कम 5000 करोड़ रुपये तक की राशि का बाजार पूंजीकरण; एवं</p> <p>(ii) दोनों में से किसी एक स्टॉक एक्सचेंज में कारोबार, विद्यमान शेयरों के साथ व्युत्पादित</p> <p>(ख) भारतीय प्रतिभूति एवं विनियम बोर्ड द्वारा विनियमित ऐसे म्यूचुअल फंडों की इकाइयां, जिनका बीएसई अथवा एनएसई में सूचीबद्ध निगमित संकायों के शेयरों में कम से कम 85% का निवेश हो।</p> <p>वशर्त कि ऐसे म्यूचुअल फंडों में निवेश की गयी सकल राशि किसी भी समय कुल कारोबार राशि के 5% से अधिक न हो तथा ऐसे म्यूचुअल फंडों में निवेश की गयी नयी राशि भी वर्ष के दौरान कारोबार में वृद्धि के 5% से अधिक न हो।</p> <p>(ग) भारतीय प्रतिभूति एवं विनियम बोर्ड द्वारा विनियमित एक्सचेंज ट्रेडेड फंड (ईटीएफएस)/इन्वेक्स फंड वस्तुतः बीएसई सेंसेक्स इन्डेक्स अथवा एनएसई निफ्टी 50 इन्डेक्स में से किसी एक के कारोबार की ही दशाति हैं।</p> <p>(घ) सेबी विनियमित म्यूचुअल फंड द्वारा जारी ईटीएफएस विशेष रूप से निगमित संस्थाओं में भारत सरकार की शेयरधारिता के विनिवेश हेतु तैयार किये गये हैं।</p> <p>(ङ) भारतीय प्रतिभूति एवं विनियम बोर्ड द्वारा विनियमित एक्सचेंज कारोबार व्युत्पन्नक जो किसी भी अनुमेय सूचीबद्ध स्टॉक अथवा इन्डेक्स में केवल उपाव हेतु शामिल हैं।</p> <p>वशर्त कि कारोबार की शर्तों के अनुसार व्युत्पन्नकों में निवेश की गयी राशि उक्त उपवर्ग (क) से (घ) में निवेश की गयी कुल राशि के 5% से अधिक न हो।</p>	<p>न्यूनतम 5% और 15% तक</p>
(v)	<p><b>समर्थित परिसम्पत्तियां, गठित ट्रस्ट एवं विविध निवेश</b></p> <p>(क) वाणिज्यिक बंधक आधारित प्रतिभूतियां अथवा आवासीय बंधक आधारित प्रतिभूतियां</p> <p>(ख) भारतीय प्रतिभूति एवं विनियम बोर्ड द्वारा विनियमित रियल एस्टेट निवेश ट्रस्टों द्वारा जारी इकाइयां</p> <p>(ग) भारतीय प्रतिभूति एवं विनियम बोर्ड द्वारा विनियमित परिसम्पत्ति समर्थित प्रतिभूतियां</p> <p>(घ) भारतीय प्रतिभूति एवं विनियम बोर्ड द्वारा विनियमित मूलभूत निवेश ट्रस्टों की इकाइयां</p> <p>वशर्त कि वर्ग सं. (v) के तहत यह निवेश केवल सूचीबद्ध लिखतों अथवा सूचीबद्ध किए जाने हेतु प्रस्तावित नये निर्गमों में हो।</p> <p>वशर्त कि इसके अलावा यह निवेश इस वर्ग के तहत केवल ऐसी प्रतिभूतियों में ही किया जाएगा जिन्हें भारतीय प्रतिभूति एवं विनियम बोर्ड (क्रेडिट रेटिंग एजेंसी) विनियमन, 1999 के तहत प्रतिभूति एवं विनियम बोर्ड द्वारा पंजीकृत कम से कम दो क्रेडिट रेटिंग एजेंसियों द्वारा लागू रेटिंग के पैमाने पर न्यूनतम एए अथवा समकक्ष रेटिंग प्राप्त हो।</p> <p>वशर्त और कि यदि प्रतिभूतियों/कम्पनियों की रेटिंग दो से अधिक एजेंसियों द्वारा की गयी है तो न्यूनतम रेटिंग पर विचार किया जाएगा।</p>	<p>5% तक</p>

- बड़ी हुई नयी निधि को निवेश संरचना में विनिर्दिष्ट अनुमेय वर्गों में ही निवेश किया जाएगा और यह निवेश प्रत्येक वर्ग में निवेश की गयी राशि की विनिर्दिष्ट अधिकतम अनुमेय प्रतिशतता के अनुरूप ही होगा। इसके साथ ही अनुमेय निवेशों के विविध उप वर्गों पर लागू अन्य प्रतिबंधों का भी अनुपालन किया जाएगा।
- निधियों में नए संवर्धन पूर्व में अनिवेशित निधियों तथा प्राप्तियों जैसे निधियों में अंशदान, लाभांश/व्याज/कमीशन, पूर्व निवेशों की परिपक्वता राशियों का योग होगा जो कि वित्त वर्ष के दौरान बाध्यकारी व्यय/निकास द्वारा कम हो गया हो।
- विक्रय विकल्प की प्रक्रिया, अवधि अथवा आस्ति स्विक्र अथवा परिपक्वता से पूर्व किसी आस्ति के व्यापार से प्राप्त होने वाली आय का निवेश उपर वर्णित की गई अनुमत श्रेणियों में से किसी भी श्रेणी में उस तरीके से ताकि किसी समय पर श्रेणी के अंतर्गत आस्तियों का प्रतिशत उस श्रेणी के लिए विनिर्धारित अधिकतम सीमा तथा साथ ही उप-श्रेणियों के लिए विनिर्धारित सीमा, यदि हो, से अधिक नहीं होना चाहिए। तथापि, आरबीआई द्वारा अधिदेशित किसी सरकारी ऋण स्विक्र के कारण आस्ति स्विक्र इस प्रतिबंध के तहत कवर नहीं होगा।
- खरीद-बिक्री अनुपात (वर्ष में खरीद-बिक्री गयी प्रतिभूतियों की कीमत/वर्ष के प्रारम्भ तथा अंत में पोर्टफोलियो की औसत कीमत) दो से अधिक नहीं होना चाहिए।



6. यदि उपर वर्णित लिखतों में से किसी एक की रेटिंग उस लिखत को क्रय करते समय उसमें निवेश हेतु विनिर्धारित न्यूनतम अनुमत निवेश ग्रेड से गिर जाती है, जिसकी पुष्टि किसी ऋण रेटिंग एजेंसी द्वारा की गयी हो, तो अभिदाताओं के सर्वोत्तम हित वाले तरीके में यथा उचित विकास के विकल्प पर विचार करके उसका उपयोग किया जाएगा।
7. इन दिशानिर्देशों के लागू होने पर समय से और उचित नियोजन के माध्यम से प्रत्येक आगामी वित्त वर्ष के लिए ऊपर विनिर्धारित निवेश पैटर्न अलग-अलग हासिल किया जाएगा।
8. निधियों का निवेश केवल लाभार्थियों के लाभ को ध्यान में रखते हुए, तजदीक ही किया जाना चाहिए। उदाहरणार्थ, किसी वित्त वर्ष में नए संवर्धनों के 5% से अधिक निवेश (यहां वर्णित ऐसी कंपनियों/संगठनों में समग्र) किसी कंपनी/संगठन की प्रतिभूतियों अथवा किसी कंपनी/संगठन जिसमें ऐसी कंपनी/संगठन पहली कंपनी/संगठन के कर्मचारियों के लाभ हेतु सृजित निधि द्वारा जारी प्रतिभूतियों के 10% से अधिक धारण करती है तथा ऐसे निवेशों का कुल आकार किसी भी समय निधि के कुल पोर्टफोलियो से 5% से अधिक नहीं होगा। ऐसे मामलों में देय सावधानी हेतु विनिर्धारित प्रक्रिया का कड़ाई से अनुपालन करना चाहिए तथा विचारार्थ प्रतिभूतियां इन दिशानिर्देशों के अंतर्गत अनुमत निवेशों के भीतर होनी चाहिए।
9. i. विनिर्धारित पैटर्न के भीतर किसी न्यास/निधि की निधियों का विवेकपूर्ण निवेश/निधिन्यासियों का प्रत्ययी उत्तरदायित्व है तथा उसका सावधानीपूर्वक निर्वहन किया जाना आवश्यक है। तदनुसार निधियों के निवेश हेतु लिए गए निवेश निर्णयों हेतु न्यासी उत्तरदायी होंगे।
- ii. निधि के प्रबंधन की लागत को नियंत्रित एवं वाजिब बनाने हेतु न्यासी उचित कदम उठाएंगे।
- iii. न्यास यह सुनिश्चित करेगा कि निवेश की प्रक्रिया जवाबदेह तथा पारदर्शी हो।
- iv. यह सुनिश्चित किया जाएगा कि निधि द्वारा किसी विशेष आस्ति में निवेश करते समय तथा उस अवधि के दौरान जब तक उसे निधि द्वारा धारित किया जाता है किसी विशेष आस्ति से जुड़े हुए जोखिमों का आकलन करते समय उचित सावधानी बरती गयी है। इस अधिसूचना में रेटिंग की यथा अधिदेशित आवश्यकता का उद्देश्य निवेशों से जुड़े जोखिम को केवल व्यापक सामान्य स्तर तक सीमित करना है। तदनुसार, किसी भी प्रकार से यह नहीं समझा जाना चाहिए कि यह न्यूनतम विनिर्धारित रेटिंग को पूरा करने वाली किसी आस्ति में निवेश करने को स्वीकृति देती है अथवा निधि/न्यास द्वारा विनिर्धारित उचित सावधानी प्रक्रिया के लिए अनुकूल है।
- v. न्यास/निधि को किसी एक कंपनी, कारपोरेट समूह अथवा क्षेत्र में निवेश के केंद्रीकरण की रोकथाम हेतु विवेकपूर्ण दिशानिर्देश अपनाने अथवा लागू करने चाहिए।
10. यदि अपनी आस्तियों के प्रबंधन हेतु निधि ने पेशेवर निधि/आस्ति प्रबंधकों की सेवाएं ली हों, जिसे प्रत्येक लेन-देन की कीमत के आधार भुगतान किया जा रहा हो, उनके द्वारा, वर्णित श्रेणियों में से किसी एक म्यूचुअल फंड अथवा ईटीएफ अथवा इंडेक्स निधियों में निवेश की गयी निधियों की लागत उनको देय भुगतान की गणना करके पहले ही घटा दी जाएगी ताकि लागत के दोहरेपन से बचा जा सके। यह सुनिश्चित करने के लिए उचित सावधानी बरती जाएगी कि देय शुल्क को बढ़ाने के उद्देश्य से एक ही निवेश को बार-बार न कर दिया जाए। इस संबंध में श्रेणी III लिखतों में निवेशों के लिए कमीशन को विशेष रूप से सावधानीपूर्वक विनियमित किया जाएगा।

[फा. सं. जी-20031/1/2007/एस.एस.-II खंड.II]

मनीष कुमार गुप्ता, संयुक्त सचिव

## MINISTRY OF LABOUR AND EMPLOYMENT

## NOTIFICATION

New Delhi, the 29th May, 2015

S.O. 1433(E).—In exercise of the powers conferred by clause (a) of sub-section (3) of Section 17 of the Employees' Provident Funds and Miscellaneous Provision Act, 1952 (19 of 1952) and in supersession of the Notification of the Government of India, Ministry of Labour No. S.O. 2126 dated the 9th July, 2003 the Central Government hereby directs that every employer in relation to an establishment exempted under clause (a) or clause (b) of sub-section (i) of Section 17 of the said Act or in relation to any employee or class of employee exempted under paragraph 27, or as the case may be, paragraph (27A) of the Employees' Provident Fund Scheme, 1952 shall transfer the monthly provident fund contribution in respect of the establishment or, as the case may be of the employee or class of employees within fifteen days of the close of the month to the Board of Trustee duly constituted in respect of that establishment and that the said Board of Trustee shall invest every month within a period of two weeks from the date of receipt of the said contributions from the employee, the provident fund accumulations in respect of the establishment or

as the case may be, of the employee, or class of employee that is to say, the contributions and interest as reduced by any obligatory outgoings in accordance with the following pattern, namely:-

Category No.	Category/Sub-Category	Percentage amount to be invested
(i)	<p><b>Government Securities and Related investments</b></p> <p>(a) Government securities,</p> <p>(b) Other securities (as defined in Section 2 (h) of the Securities Contract (Regulations) 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 Government 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 of the fund at any point in time and fresh investments made in them shall not exceed 5% of the accretions invested in the year</p>	Minimum 45% and Up to 50%
(ii)	<p><b>Debt instruments and Related Investments</b></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 Institutes') 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>(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 either listed or are proposed to be listed.</p> <p>Provided further that investment shall be made in such bonds of a scheduled bank from the secondary market or from subsequent placement only if the existing 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 and further, the aggregate value of such bonds held by the fund shall not exceed 20% of such bonds issued till that point in time 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 the 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 the published annual report(s) for the most recent years, as required to have been published by them under the law:</p> <ol style="list-style-type: none"> <li>Have declared profit in immediately three preceding financial years;</li> <li>Have maintained a minimum Capital to Risk Weighted Assets Ratio of 9% or as mandated by prevailing RBI norms, whichever is higher;</li> <li>Have net non-performing assets of not more than 4% of the net advances;</li> <li>Have minimum net worth of not less than Rs.200 crore.</li> </ol> <p>(e) Units of Debt mutual Funds 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 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 corporate engaged mainly in the business of development or operation of infrastructure or construction/finance of low cost housing.</p> <p>Further this category shall also include securities issued by Indian Railways or any of the body corporate in which it has majority shareholding</p>	Minimum 35% and Up to 45%



	<p>This category shall also include securities issued by any Authority of the Government which is not a body corporate and has been formed solely 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, a State Government, Department of Railways or any Authority of Government, for any security issued by a body corporate engaged in the business of infrastructure, which notwithstanding the terms in letter of comfort of the obligation undertaken, fails to enable its inclusion as security converged 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 category (ii) (d) above</p> <p>(iii) Listed (or proposed to be listed in case of fresh issue) securities or units issued by Infrastructure debt funds operating as a Non- Banking Financial Company regulated by Reserve Bank of India.</p> <p>(iv) Listed (or Proposed to be listed in case of fresh issue) units issued by infrastructure Debt Funds operating as a Mutual Fund regulated by Reserve Bank 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 (Credit Rating Agency) Regulation, 1999. Provided further that in case of sub category (f) (iii) the rating shall relate to the Non-Banking Financial company and for the sub category (f) (iv) the rating 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 more than two rating agencies the two lowest of all the ratings shall be considered.</p> <p>Provided further that investment 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><b>Short-term Debt Instruments and Related Investments</b></p> <p>(a) Money market instruments</p> <p>Provided that investment in commercial paper issued by body corporate shall be made only in such instruments which have minimum rating of A1+ by at least two credit rating agencies registered with 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 Securities and Exchange Board of India.</p> <p>(c) Term Deposit Receipts of up to one year duration issues by such scheduled commercial banks which satisfy all conditions mentioned in category (ii) (d) above.</p>	Up to 5%
(iv)	<p><b>Equities and Related Investments</b></p> <p>(a) Shares of body corporate 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 SEBI, which have minimum 65% of their investment in</p>	Minimum 5% and upto 15%

	<p>shares of body corporate 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) Exchanged Traded Funds (ETFs)/Index Funds regulated by Securities and Exchange Board of India that replicate the portfolio 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 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><b>Asset Backed, Trust Structured and Miscellaneous Investments</b></p> <p>(a) Commercial mortgage based Securities or Residential mortgage based securities.</p> <p>(b) Units of securities issued by the Real Estate Investment Trusts regulated by Securities and Exchange Board of India.</p> <p>(c) Asset Backed Securities regulated by Securities and Exchange Board of India</p> <p>(d) units of Infrastructure Investment Trusts regulated by 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 Securities and Exchange Board of India under Securities and Exchange Board of India (Credit Rating Agency) Regulation, 1999. Provided further that in case of 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 rating shall be considered.</p>	Up to 5%

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, 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 such a 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 these restrictions.

5. Turn over 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 such successive financial year through finely and appropriate planning.

8. The investment of funds should be at arm's 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 incidents of costs. Due caution will be exercised to ensure that the same investment 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 Vol.II]

MANISH KUMAR GUPTA, Jt. Secy.

Amendments proposed in the EPF Scheme, 1952.1. Amendment to Para 27 of the EPF Scheme, 1952-

Subject	Provision/objective
Amendment Required	A new sub para 5 to para 27 shall be added as follows –  <b>No fresh exemption under para 27 of the EPF Scheme, 1952 shall be given after the publication of this provision in the gazette.</b>
Reason/Objective	Para 27 has not been deleted because the said amendment will not be applied retrospectively and the exemption granted under Para 27 shall remain in existence. Since various compliance related obligations of the employer is mentioned under Para 27 itself, therefore if whole is the para deleted then monitoring and compliance related issues will arise. The objective of Committee can be achieved prospectively with the help of above amendment.

2. Amendment to Para 27A of the EPF Scheme, 1952 -

Subject	Provision/objective
Amendment Required	A new sub para 6 to para 27A shall be added as follows –  <b>No fresh exemption under para 27A of the EPF Scheme, 1952 shall be given after the publication of this provision in the gazette.</b>
Reason/Objective	Para 27A has not been deleted because the said amendment will not be applied retrospectively and the exemption granted under Para 27A shall remain in existence. Since various compliance related obligations of the employer is mentioned under Para 27A itself, therefore if whole is the para deleted then monitoring and compliance related issues will arise. The objective of Committee can be achieved prospectively with the help of above amendment.

3. Amendment to Para 79 of the EPF Scheme, 1952 -

Subject	Provision/objective
Original provision	Special provisions relating to [factories or other establishments] in respect of which applications for exemption are received –  Notwithstanding anything contained in this Scheme, the Commissioner may, in relation to [factories or other establishments] in respect of which an application for exemption under section 17 of the Act has been received relax pending the disposal of the application, the provisions of this Scheme in such manner as he may direct.
Amendment Required	<b>Para 79 – Deleted.</b>
Reason/Objective	EPFO has already stopped the practice of granting the relaxation as provisioned under Para 79 of the Scheme and thus this para has already become obsolete.