

File No.3/2/2011- FSLRC
Government of India
Ministry of Finance
Financial Sector Legislative Reforms Commission

18/2, Satsang Vihar Marg
New Delhi, dated the 26th July, 2011

ORDER

Subject: - Working Group on Insurance, Pensions, PFs and Small Savings.

Vide Resolution No.18/1/2011-RE dated 24th March, 2011, Ministry of Finance, Department of Economic Affairs constituted the Financial Sector Legislative Reforms Commission (FSLRC) with a view to rewrite and clean up the financial sector laws to bring them in tune with the current requirements. As per para 3 of the Resolution, the Commission has been authorised to device its own procedure and to appoint consultants, advisors and experts and outsource research work to institutions of repute and expertise in the relevant area for the purpose for which the Commission has been set up.

2. The Commission has decided to constitute Working Groups to study different sectors/aspects of the financial sector in detail. Accordingly, with the approval of the competent authority, it has been decided to set up a Working Group on Insurance, Pensions, PFs and Small Savings with the following composition:

Shri Dhirendra Swarup, Member Convener, FSLRC	Chairman
Shri C.S. Rao, former Chairman, IRDA	Senior Advisor
Shri Tarun Bajaj, former Joint Secretary (Insurance). (presently with the Govt. of Haryana)	Member
Ms. Anuradha Prasad, Chief Controller of Defence Accounts	Member
Shri V.S. Chauhan, Director, DEA, MOF	Member


The Working Group may co-opt other experts as members/special invitees.

3. The Working Group will examine the current legislative and policy framework on the subject, identify the major limitations of the existing framework and suggest necessary reforms/changes. The Working Group will follow the broad principles and processes as approved by the Commission, while making their recommendations. The Working Group may draw detailed terms of reference in tune with these broad framework laid down by the Commission.

4. The Working Group will submit a draft report & draft bill(s) to the Commission by the end of June, 2012. The Working Group may also make presentations before the Commission for keeping the Commission informed as well as for seeking its advice.

5. The Working Group will be supported by the Headquarter Research Team of the Commission.

6. Shri C. S. Rao will be paid a lump sum honorarium of Rs.1.50 lakh. Further, he will be entitled for business class air travel from his headquarters and Delhi for attending the meetings of the Working Group. Shri Tarun Bajaj, Ms Anuradha Prasad and Shri Chauhan will be paid a lump sum honorarium of Rs 1 lakh each. In addition, they will be entitled (as per their normal entitlement) for air travel between their headquarters and Delhi for attending the meetings of the Working Group. Whenever required, Senior Adviser and out-station members may also be provided with accommodation, subject to availability at IIC/IHC.


(A.K. Sinha)

Deputy Secretary (FSLRC)

1. Chairman, FSLRC
 2. Member Convener, FSLRC
 3. Secretary, FSLRC
 4. Shri C.S. Rao
 5. Shri Tarun Bajaj
 6. Ms. Anuradha Prasad
 7. Shri V.S. Chauhan
- Copy to Secretary, NIPFP.

Terms of Reference of the Working Group on Insurance, Pensions and Small Savings

1. Insurance

- (a) Review the consumer protection aspects of insurance and recommend principles for legal framework for the same. Some specific issues to be examined in this regard are:
 - i. Review distribution models and sales practices in the insurance industry.
 - ii. Review the present grievance redressal mechanisms.
 - iii. Review the manner in which special aspects of insurance contracts, such as, dealing with misstatements, insurance fraud, assignment of policy and appointment of nominees, should be addressed.
 - iv. Review the competition laws suitable for the insurance sector.
 - v. Review general market conduct laws suitable for the insurance sector.
- (b) Examine the role of the regulator in pursuing the goal of 'development' and the manner in which the development of products in various areas, including, rural and social sector, micro insurance, agriculture insurance, health insurance, should be specified in laws and regulations.
- (c) Examine whether information should be treated as a public good that can be shared through appropriate data warehousing and data mining infrastructure, subject to customer privacy and confidentiality requirements.
- (d) Identify the prudential regulation and supervision aspects of insurance regulation and recommend a model legal framework for the same. This may include:
 - i. review of the ownership and capital structure of insurance companies

- ii. review of the laws governing investment norms for insurance companies - examining how the regulators can be empowered to adjust the regulatory framework with time.
 - iii. review of the prudent man principle approach versus prescription of investment guidelines.
- (e) Review the legal framework relating to re-insurance and examine the changes that might be required to promote more robust participation in the sector.
 - (f) Review the systemic risks that can arise from the failure of insurance firms, and the legal framework for dealing with such risks.
 - (g) Examine the appropriate resolution mechanisms that need to be adopted to deal with the failure of any insurance firm, keeping in view the interests of policyholders and financial stability. Also review whether this process should differ in any manner for life and non life insurance firms.
 - (h) Review the design and implementation of the Employees' State Insurance Act, 1948 and examine the possibility of allowing employers covered by that legislation to opt for group medical insurance offered by the private insurance industry.
 - (i) Review the regulation and structure of State owned insurers, in particular the special status of Life Insurance Corporation.
 - (j) Examine the manner in which life insurance policies offered by the Department of Posts can be brought within the regulatory ambit in order to ensure the protection of consumers and provide a level playing field.
 - (k) Review the role of self regulatory organizations and industry associations in the insurance sector and examine whether there is a need for a re-assessment of their functions.
 - (l) Review the insurance related provisions contained in the Motor Vehicles Act, 1988 and identify any changes required to be made to the existing legal regime.
 - (m) Examine the mechanisms that need to be put in place for resolution of disputes between market players - insurers and intermediaries.

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- (n) In this context, review which powers should be given to regulators under law, how should the powers be used, how should the supervisory function be structured, and what punitive actions can be taken.

2. Pensions

- (a) The present retirement income framework in India consists of many components, such as, Employees Provident Fund Organisation (EPFO), National Pension Scheme (NPS), public provident fund (PPF), provident fund trusts and superannuation trusts, and is regulated in a very fragment manner. Examine the manner in which these components can be brought within the regulatory ambit of financial sector laws and the means for achieving coherence among the different components of the system?
- (b) Identify the *consumer protection*, *prudential regulation* and *systemic risk* aspects of pension regulation, which includes NPS, EPFO, provident fund trusts and superannuation trusts.
- (c) Review the ‘development’ role of PFRDA and examine whether a developmental mandate is essential for ensuring widespread participation in voluntary NPS?
- (d) Review of NPS and examine if there are any changes required to its present features to promote the interests of consumers. This would include, reviewing the mandatory annuity requirement prescribed under NPS and examining the feasibility and desirability of providing minimum guaranteed returns to subscribers.
- (e) Review the laws governing investment norms for NPS, EPFO, provident fund trusts and superannuation trusts, and recommend a model legal framework that gives the requisite powers to the regulators.
- (f) Review the existing administered interest rate mechanism followed by EPFO and examine the problems that might arise on account of unfunded liabilities under the Employees Pension Scheme.
- (g) In this context, review which powers should be given to regulators

under law, how should the powers be used, how should the supervisory function be structured, and what punitive actions can be taken.

3. Small Savings

- (a) Review the existing legal framework governing small savings schemes and identify any changes required to be made to it.
- (b) At present the Government acts as both the operator of small savings schemes as well as its regulator. Examine the issues that might arise on this account and whether there is a case for bringing these schemes under the same regulatory framework as the larger financial system.
- (c) Examine the legal framework required for the regulation of small savings distribution agents, including post offices and banks and review their incentive structures.
- (d) Review whether the financial activities of the Department of Posts may be brought within the regulatory ambit - can narrow banking, corporatisation be considered as options?
- (e) Examine the possibility of separating the investment function from the savings mobilisation function of small savings schemes and the potential implications of the same.
- (f) Identify the *consumer protection* and *prudential regulation* aspects of small savings schemes. The consumer protection aspects would include reviewing the need for preventive measures to deal with issues of excessive churning as well as the need for an appropriate grievance redressal mechanism. Issues to be considered in connection with the prudential regulation of National Small Savings Fund would include, capital requirements, liquidity regulations and norms on governance and internal controls.
- (g) In this context, review which powers should be given to regulators under law, how should the powers be used, how should the supervisory function be structured, and what punitive actions can be taken.

A List of Acts to be reviewed

- Insurance Act, 1938
- Insurance Regulatory Development Authority Act, 1999
- Insurance Laws Amendment Bill, 2008
- Life Insurance Corporation Act, 1956
- Life Insurance Corporation (Amendment) Bill, 2009
- General Insurance Business (Nationalisation) Act, 1972
- Marine Insurance Act, 1963
- Motor Vehicles Act, 1988
- The Actuaries Act 2006
- Employees' State Insurance Act, 1948
- Companies Act, 1956 (to a limited extent)
- Indian Contract Act, 1872 (to a limited extent)
- The Pension Fund Regulatory and Development Authority Bill, 2011
- Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (Employees' Provident Fund Scheme, 1952, Employees' Pension Scheme, 1995, Employees' Deposit-Linked Insurance Scheme, 1976)
- Income Tax Act, 1961 (to the extent relevant for recognized provident and superannuation funds)
- Public Provident Fund Act, 1968
- Government Savings Bank Act, 1873
- Government Savings Certificates Act, 1959