Policy Committee Meeting

June 1, 2017
TEACHER RETIREMENT SYSTEM OF TEXAS MEETING
BOARD OF TRUSTEES
AND
POLICY COMMITTEE

(Committee Chair and Members: Mr. Corpus, Chair; Mr. Colonnetta, Mr. Elliott, and Mr. Kelly.)

All or part of the June 1, 2017, meeting of the TRS Policy Committee and Board of Trustees may be held by telephone or video conference call as authorized under Sections 551.130 and 551.127 of the Texas Government Code. The Board intends to have a quorum and the presiding officer of the meeting physically present at the following location, which will be open to the public during the open portions of the meeting: 1000 Red River, Austin, Texas 78701 in the TRS East Building, 5th Floor, Boardroom.

AGENDA

June 1, 2017 – 3:00 p.m.
TRS East Building, 5th Floor, Boardroom

1. Call roll of Committee members.

2. Consider the approval of the proposed minutes of the April 6, 2017 committee meeting – David Corpus.

3. Consider authorizing for public comment publication in the Texas Register proposed rule amendments to Chapter 53 of TRS’ rules in Title 34, Part 3, of the Texas Administrative Code – Rebecca Merrill; Dan Pawlisch, Aon Hewitt.

NOTE: The Board of Trustees (Board) of the Teacher Retirement System of Texas will not consider or act upon any item before the Policy Committee (Committee) at this meeting of the Committee. This meeting is not a regular meeting of the Board. However, because the full Policy Committee constitutes a quorum of the Board, the meeting of the Committee is also being posted as a meeting of the Board out of an abundance of caution.
Minutes of the Policy Committee

April 6, 2017

The Policy Committee of the Board of Trustees of the Teacher Retirement System of Texas met on April 6, 2017, in the boardroom located on the fifth floor of the TRS East Building offices at 1000 Red River Street, Austin, Texas.

Committee Members present:
Mr. David Corpus, Chair
Mr. Joe Colonnetta
Mr. John Elliott
Mr. David Kelly

Other Board Members present:
Ms. Karen Charleston
Dr. Greg Gibson
Mr. Chris Moss
Ms. Dolores Ramirez

Others present:
Brian Guthrie, TRS
Ken Welch, TRS
Carolina de Onís, TRS
Don Green, TRS
Britt Harris, TRS
Jerry Albright, TRS
Amy Barrett, TRS
Katrina Daniel, TRS
Heather Traeger, TRS
Sylvia Bell, TRS
Rebecca Merrill, TRS
Katherine Farrell, TRS
Dr. Keith Brown, Investment Advisor
Steve Huff, Fiduciary Counsel, Reinhart Boerner Van Deuren s.c.
Steve Voss, Aon Hewitt

Policy Committee Chair Mr. Corpus called the meeting to order at 3:45 p.m.

1. Call roll of Committee members.

Ms. Farrell called the roll. A quorum was present.

2. Consider the approval of the proposed minutes of the December 1, 2016 committee meeting – Committee Chair David Corpus.

On a motion by Mr. Kelly, seconded by Mr. Colonnetta, the proposed minutes for the December 1, 2016 Policy Committee meeting were approved as presented.

3. Consider recommending to the Board proposed amendments to the Proxy Voting Policy – Sylvia Bell and Heather Traeger.
Ms. Sylvia Bell reported there were three proposed modifications to the TRS Proxy Policy. The first modification would affirm that the exclusive objective in voting TRS proxies would be to protect the long-term economic value of investment assets for the benefit of TRS participants and beneficiaries. She stated that the second modification would clarify that the TRS board would select the TRS Proxy Adviser. Ms. Bell added that the second modification also included review of the Proxy Advisors’ voting guidelines to determine that such guidelines are reasonably designed to help TRS meet its stated exclusive objective in voting TRS proxies. She noted that the request for proposals had been issued and staff planned to review proxy-advisor finalists with the Board at the June meeting.

Ms. Bell said the third modification was to affirm that the TRS Board may vote during a Board meeting to direct the Proxy Committee on matters of special importance to TRS.

On a motion by Mr. Colonnetta, seconded by Mr. Kelly, the committee unanimously voted to recommend to the Board adoption of the proposed amendments to the Proxy Voting Policy as recommended by staff.

4. Receive an update on the 403(b) rulemaking – Rebecca Merrill.

Ms. Rebecca Merrill noted staff planned to bring to the committee drafts of proposed amendments to the 403(b) rules for publication in the Texas Register at this meeting. She explained, however, that implementing some of the proposed rule changes could require the expenditure of additional resources by the Information Technology Division and staff would need additional time to assess that impact. She noted that the additional time would allow staff to hold another informal stakeholder meeting on proposed changes to the 403(b) rules.

Without further discussion, the committee adjourned the meeting at 3:55 p.m.


______________________________    _________________
Katherine H. Farrell       Date
Secretary of the TRS Board of Trustees
403(b) Proposed Rule Amendments
Rebecca Merrill, Director of Strategic Initiatives
Dan Pawlisch, Aon Hewitt
History

• 2001
  • 403(b) law required certification of companies selling products by salary reduction agreement.
  • Created an open access model.
  • Certification means that a company meets financial strength criteria and licensure and experience requirements.
  • Certified companies may not sell products that exceed fee caps adopted by TRS Board of Trustees.
  • TRS is required to publish a list on the TRS web site of certified companies.
  • $3,000 Company Certification Fee for 5 years.

• 2007 & 2009
  • Added product registration.
    • Registration means that a product meets the fee caps set by the TRS Board of Trustees.
    • TRS developed the Product Registration System for companies to register products.
    • TRS is required to publish a list on the TRS web site of registered products.
    • Added certification of platform companies who register and sell other certified companies’ mutual funds.
    • $3,000 Product Registration Fee for 5 years.

• 2017
  • 76 Certified Companies.
  • Over 11,000 active registered products and investment options.
Objective

• Statutory rule review
  • Required every four years by statute.
  • Must be completed by December 2017.
  • Requesting policy committee authorization of public comment publication in the Texas Register.

• Market changes
  • Last substantive rule amendments were in October 2009.
  • Fee caps have not been adjusted since adoption in 2001.

• Retirement Security
  • Members will likely need to supplement their TRS pension with personal savings.
  • Competitively priced products and investment options benefit members.
403(b) Proposed Amendments

Non-Substantive
- Chapter Structure.
- Clarifying company and product structures.

Substantive
- Certification application disclosures.
- Fee caps
An entity that offers annuity or non-annuity products and other than a platform company has primary liability for performance of the investment. Platform companies only offer non-annuity products.

A company that meets TRS’ certification requirements, has been placed on the list of certified companies, and whose certification has not been revoked.
Company Structure: Proposed

A financial services firm that offers Qualified Investment Products.

A company that meets TRS’ certification requirements, has been placed on the list of certified companies, and whose certification has not been revoked.

Proprietary Company – Offers proprietary annuity and non-annuity products.

Platform Company – Offers non-annuity products, including custodial accounts that hold only investment products issued and registered with TRS by a certified proprietary company.
• The statutory terms “qualified investment product” and “eligible qualified investment” were created before product registration.

• Rules use the terms “product,” “qualified investment product” and “eligible qualified investment product” interchangeably.

• No mention of “investment options” which are a component of 403(b) product registration.
### Registered Product: Proposed

**Product**
- Annuity product or custodial account as defined in IRC 403(b)(1) and (7) (IRC requirements).

**Qualified Investment Product**
- IRC requirements.
- Meets all other state and federal laws.

**Eligible Qualified Investment Product**
- IRC requirements.
- Meets all other state and federal laws.
- Offered by a certified company.

**Registered Product and Investment Option**
- IRC requirements.
- Meets all other state and federal laws.
- Offered by a certified company.
- Registered with TRS.
Proposed Certification Disclosures

- Proposed amendments would require non-annuity companies to disclose to TRS upon certification and re-certification their customer service offerings.
- Certification is not conditioned upon the offering of customer services. Rather, TRS is proposing to gather information regarding the types of services offered to non-annuity customers, including:

  1. Call center services, including enrollment and member support for all program inquiries such as case management, escalation and problem resolution.
  2. Data management services, including creation and maintenance of records, transaction data and history, supplier interfaces and necessary files for updating payroll systems.
  3. Custody services, including state and federal tax withholding and form preparation.
  4. Member information services, including:
     A. Providing to each employee an account statement both quarterly and upon request in either written or electronic form as specified by the employee; and
     B. Disclosing to each employee annually the amount of investment fees and administrative services fees.
  5. Processing services, including:
     A. Depositing member contributions within a set number of business days after receiving all required information; and
     B. Releasing funds to a member pursuant to a distribution request or rolling over funds to another account within a set number of business days after receiving all required information.
  6. Plan-level services, including reporting of total assets on an educational institution level upon request and annual disclosure of all investment and administrative services fees paid by employees.
### Fee Caps: Current & Proposed

<table>
<thead>
<tr>
<th>Category</th>
<th>Current Cap</th>
<th>Proposed Cap</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front-End / Back-End Sales Load</td>
<td>6% Combined</td>
<td>Eliminate</td>
</tr>
<tr>
<td>Annual Asset-Based</td>
<td>2.75%</td>
<td>Varies by Asset Class</td>
</tr>
<tr>
<td>Surrender / Withdrawal</td>
<td>10%*</td>
<td>5%**</td>
</tr>
<tr>
<td>Loan Initiation</td>
<td>$50</td>
<td>$25</td>
</tr>
<tr>
<td>Annual Fixed Dollar</td>
<td>$50</td>
<td>$50</td>
</tr>
<tr>
<td>Additional Fees</td>
<td>Allowable</td>
<td>Allowable</td>
</tr>
</tbody>
</table>

*Surrender charge must terminate within 10 years of the inception of the employee’s contract, unless a disclosure is made informing the employee of a longer period not in excess of 12 years.

**Surrender charge must terminate within 5 years of the inception of the employee’s contract.
## Fee Caps: Proposed Asset-Based Fee

<table>
<thead>
<tr>
<th>Asset Class</th>
<th>Maximum Annual Product Administration Fee</th>
<th>Maximum Annual Expense Ratio</th>
<th>Total Maximum Annual Asset-Based Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Capital Preservation</td>
<td>1.25%</td>
<td>0.15%</td>
<td>1.40%</td>
</tr>
<tr>
<td>Diversified Bond</td>
<td>1.25%</td>
<td>0.50%</td>
<td>1.75%</td>
</tr>
<tr>
<td>Balanced</td>
<td>1.25%</td>
<td>0.50%</td>
<td>1.75%</td>
</tr>
<tr>
<td>Large Cap U.S. Equity</td>
<td>1.25%</td>
<td>0.50%</td>
<td>1.75%</td>
</tr>
<tr>
<td>Small/Mid Cap U.S. Equity</td>
<td>1.25%</td>
<td>0.70%</td>
<td>1.95%</td>
</tr>
<tr>
<td>International / Global Equity</td>
<td>1.25%</td>
<td>0.80%</td>
<td>2.05%</td>
</tr>
</tbody>
</table>
## Additional Fees

<table>
<thead>
<tr>
<th>Category of Additional Fee</th>
<th>Current</th>
<th>Proposed</th>
</tr>
</thead>
</table>
| **Other Fees**             | • Allow companies to register “other fees” that are transactional.  
                             • Other fees are not defined. | • Same as current practice.  
                             • Define other fees as transactional in nature, including, redemption, closeout, one-time fees, and excessive trading. |
| **Optional Fees**          | • Allow companies to register “optional fees” that exceed the annual asset-based fee cap.  
                             • Companies must have controls in place to ensure that participants are not charged more than the maximum annual asset-based fee.  
                             • Report fees in the PRS (e.g. investment advisor and enhanced rider) | • Companies may only register “optional fees” that are under the annual asset-based fee cap.  
                             • No longer necessary.  
                             • Same as current practice. |
Next Steps

June 28, 2017 - Hold second informal meeting for stakeholder input at TRS Headquarters.
August 25, 2017 – Board meeting presentation on impact of proposed rule amendments.

September 20-21, 2017 - Request Board’s final adoption of rule amendments and closure of the rule review.
September 2017 – April 2018 - Information Technology and DSI update the Product Registration System and prepare to maintain a legacy list (products that were approved prior to April 2018).
October 6, 2017 – Final Adopted Rule published in the Texas Register.

October 26, 2017 - All rule provisions, except the lowered fee caps, take effect. Lowered fee caps will take effect at the start of the April 2018 product registration period.
December 2017 – First product registrations expire under the current provisions and must be renewed under the new $7,000 product registration administrative fee.

April 1 – May 15, 2018 - First product registration in the new environment. Companies register products that meet new fee caps.
May 16, 2018 - New list goes “live” on the TRS web site. List of products approved under the old fee caps moved from “active” to “restricted legacy”.

Texas Register
Resources

• Staff is proposing an increase to the product registration fee from $3,000 to $7,000 to address increased administrative costs. Product registration allows a company to register an unlimited number of products during a five-year period. Currently, companies pay an average of $9 per product per year for registration.

• Work performed by DSI, Information Technology, and Legal and Compliance on the 403(b) rule amendments and updates to the Product Registration System (PRS) must be paid out of 403(b) funds.

• Updating the PRS may entail IT contracting some update work, which would be paid out of 403(b).

• Requesting an additional $225,000 in 403(b) budget for FY 2018.

• To administer the 403(b) Program and work with IT on the PRS updates, the 403(b) Program requests an additional FTE. This is to update procedures, work flows, processes, and forms along with running the program day-to-day. This is included in the additional budget request for FY 2018.
MEMORANDUM

To: TRS Policy Committee and TRS Board of Trustees

From: Rebecca Merrill, Director of Strategic Initiatives

Copy: Brian Guthrie, TRS Executive Director

Date: May 31, 2017

Re: Proposed Amendments to 34 Texas Administrative Code, Chapter 53

Background

Texas statute requires that TRS conduct a statutory rule review at least once every four years to review all its rules. In September 2016, the Policy Committee of the TRS Board of Trustees initiated the statutory rule review for TRS’ rules governing the 403(b) Program. This program, which was created by statute in 2001 and expanded by statute in 2007 and 2009, generally requires vendors who sell annuities or mutual funds to both certify and register their products with TRS. The statute requires TRS to develop and publish on the TRS web site the list of certified companies and registered products. The statute also requires the TRS Board of Trustees to adopt caps for the fees the companies may charge for their products.

As part of the rule review, staff engaged Aon Hewitt to provide market expertise. Then, on December 12, 2016 staff held a stakeholder input meeting and invited vendors, educational associations, reporting entity personnel, and other stakeholders. Staff requested input on a list of specific questions (attached to this memo) and allowed oral comments on the rule and program structure. About 20 people attended the December informal conference.

From December to May, staff conducted an in-depth review of each aspect of the 403(b) certification and registration process, which included examining fee caps, current processes and procedures, and the 403(b) Product Registration System (PRS).

For the fee cap review, staff worked with Aon Hewitt to conduct a fee benchmarking project of current 403(b) companies and products and examined Morningstar data to examine fee structures in the broader defined contribution market.

For the fee benchmarking project, staff reached out to 19 school districts and one charter operator to ask for the names of their three largest 403(b) vendors. A distribution map
is attached to this memo. Staff selected the participant districts based on size and geographic location. Not every district responded with their top vendors. Of those that did, Aon selected one vendor to contact, with ISD written approval, for aggregated participant and fee data. We examined that information in conjunction with a 2015 Aon Hewitt fee study based on Morningstar annual expense ratio data to determine recommended fee caps for administrative fees and expense ratio. As discussed further below, staff is recommending a restructuring of the annual asset-based fee, as well as lowering and eliminating some allowable fees.

Staff is also proposing other non-substantive and substantive amendments, the details of which are laid out detail below.

At the June Policy Committee meeting, staff will be requesting public comment publication of the proposed rules in the Texas Register. Then staff proposes to proceed as follows:

- June 16, 2017 – Draft rules are published in the Texas Register for public comment.
- June 28, 2017 – Informal Conference with TRS staff to take input on the proposed rule amendments.
- August 25, 2017 – Staff updates the Board on public comment received and “real-world impacts” of the proposed amendments.
- September 21-22, 2017 – Staff brings final proposed rule amendments to the Policy Committee and the TRS Board for adoption.
- October 26, 2017 – All rule provisions, except the lowered fee caps, take effect.
- April 1, 2018 – Lowered fee caps take effect.

**Summary of Proposed Non-Substantive Amendments to TRS Rule Chapter 53.**

**Grouping Together Ongoing Company Requirements and Suspension and Revocation**

Staff is recommending a large restructuring of the Chapter 53 403(b) rules. The current rule structure spreads throughout the chapter ongoing responsibilities regarding a company’s certification and registration and TRS’ options for suspension and revocation. Staff is proposing to restructure the chapter to group together all ongoing requirements for companies regarding certification and registration and all of TRS’ enforcement options.

**Clarifying the Company Structure**

Currently, the rules provide one definition of “Company” that includes a platform company. Staff is recommending that this definition and the current rules be updated to
reflect the reality that there are two types of certified companies in the 403(b) program: certified proprietary companies and certified platform companies. Certified proprietary companies offer their own registered annuities or registered mutual funds, while certified platform companies offer the registered mutual funds of certified proprietary companies. Staff has updated the rules to add a definition of “Proprietary Company” and to clarify the definition of “Platform Company”. These proposed amendments do not substantively change who must be certified.

**Clarifying the Product Registration Process**

In 2001, the statute only required company certification and used the terms “Product”, “Qualified Investment Product”, and “Eligible Qualified Investment”. In 2007, the statute was amended to require product registration and the term “Registered Product” was developed. Therefore, the product terms evolved over time and are sometimes used interchangeably in the rules. Staff is proposing to clarify, but not substantively change, the usage of product terms in the rules. Additionally, staff is proposing to incorporate “investment options” into the rules. Investment options are the share classes or asset allocation options available in conjunction with a registered product. While companies do register investment options under products, the rules are silent as to them. We are proposing to incorporate them so that the rules match current practice. This does not substantively change the registration requirements or process.

**Summary of Proposed Substantive Amendments to TRS Rule Chapter 53.**

**Proposed Certification Disclosures for Non-Annuity Companies**

Currently, statute establishes some minimum customer service requirements for annuity companies, but statute is silent regarding customer service requirements for non-annuity companies. Staff worked with Aon to identify some of the basic customer service requirements that most mutual fund companies offer, such as quarterly statements and call centers, but it is unclear whether the companies in TRS’ 403(b) program are offering these services. Additionally, when TRS and Aon conducted our benchmarking project, we found that many of the certified companies we contacted were not aggregating, as institutional customers, employees from the same school districts. Therefore, the companies could not provide aggregated data, such as the number of participants and contribution amounts, at the institutional level. In an effort to determine customer service offerings in the market and to assess whether the companies are treating customers as retail or institutional customers, TRS is proposing that the rules be amended to require non-annuity companies to disclose to TRS their customer service offerings in the certification application. TRS will then develop a process to disclose that information to customers on the TRS web site.

**Proposed Changes to 403(b) Allowable Fees**
Staff is proposing substantive changes to four types of fees: loan initiation fees, front- and back-end sales loads, surrender and withdrawal charges, and annual asset-based fees, including other and optional fees.

<table>
<thead>
<tr>
<th>Fee Type</th>
<th>Current</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Loan Initiation</td>
<td>$50</td>
<td>$25</td>
</tr>
<tr>
<td>Front and Back End Sales Load</td>
<td>Maximum 6%</td>
<td>Eliminate</td>
</tr>
<tr>
<td>Surrender and Withdrawal</td>
<td>10% declining over 10 years (12 years with consent)</td>
<td>5% declining over 5 years</td>
</tr>
<tr>
<td>Asset-Based Fee</td>
<td>2.75%</td>
<td>By asset class</td>
</tr>
<tr>
<td>Optional Fees</td>
<td>Allow registration of fees in excess of the cap</td>
<td>Prohibit registration of fees in excess of the cap</td>
</tr>
</tbody>
</table>

As it relates to optional fees, companies may currently register, but not charge, optional fees that exceed the asset-based fee cap. This means some companies have a process to “true up” or refund to the member any excess fees. TRS has no way to monitor the “true up” process or to ensure that every certified company is refunding excess fees. Given that TRS’ charge is to govern the certification and registration process, staff is recommending that the rules be amended to no longer allow companies to register optional fees that exceed the fee caps.

**Increasing the 403(b) Product Registration Fee**

TRS is allowed to charge certified companies a fee to register products provided that the charge is consistent with the amount necessary to administer the program. That means that TRS may not over recover but may adjust the fees as needed. Currently, companies pay a product registration fee of $3,000 to register as many products as they would like over a five year period. Based on the number of companies and active products in the Product Registration System, TRS estimates that companies are paying an average of $9 per product per year to have registered products in the PRS. The proposed rule amendments that will tier allowable expense ratios by asset class necessitates significant updates to the PRS. Therefore, staff is proposing to increase the product registration fee from $3,000 to $7,000.

**Requested Committee Action**

Staff requests that the committee authorize staff to publish the proposed amendments to Chapter 53 in the *Texas Register* for public comment. At this time, staff does not seek final adoption of these proposed amendments as a permanent rule. The public will have at least 30 days to comment on the proposed rule amendments as a permanent rule. After the public comment period and the June informal conference, staff will present on
the public comment and impacts of the proposed rule at the August 2017 Board meeting. Then, staff will bring the final proposed rule amendments before the committee and the Board to consider final adoption as a permanent rule at the September 2017 Policy Committee and Board of Trustees meeting.
CHAPTER 53. CERTIFICATION BY COMPANIES OFFERING QUALIFIED INVESTMENT PRODUCTS

RULE § 53.1 Definitions

The following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

(1) Annuity or annuity contract—A qualified investment product that meets the requirements for a fixed or variable annuity contract under applicable insurance laws and rules.

(2) Approval to register products and investment options—A certified company that has received credentials from TRS to register products and investment options in the TRS Product Registration System.

(3) Board of trustees—The board of trustees of the Teacher Retirement System of Texas (TRS).

(4) Certified company—A company that meets all certification requirements, that has certified to TRS and been placed on the TRS list of certified companies, and whose certification is not expired or been suspended, surrendered withdrawn, denied, or revoked.

(5) Certify—To submit all required information to TRS and meet all requirements required qualifications for certification, as indicated by TRS’s inclusion of a company on the TRS list of certified companies.

(6) Closed—A registered product for which an employee may no longer make contributions under an existing salary reduction agreement or enter into a new salary reduction agreement.

(7) Company—A financial services entity that offers qualified investment products. An entity that offers a qualified investment product, including a platform company. Except for a platform company, a company is the issuer of the qualified investment product and has primary liability to the purchaser for performance of the obligations described in the product, contract, annuity contract or annuity certificate, or policy. A company offering qualified investment products that are not annuity contracts may be an affiliate by common ownership or control of the issuer of the qualified investment products. Generally, unless a person or entity, or its affiliate, has primary liability for performance of the obligations in the product or contract, or such person or entity is a platform company, "company" does not include:

(A) a reinsurance company;

(B) a third party administrator;

(C) an entity performing duties under an administrative-services-only contract; or

(D) a representative such as a licensed or registered agent, broker, or investment advisor.
(86) Contract--An agreement through which an employee purchases or enrolls in a qualified investment product, such as an insurance policy, an annuity contract, or an annuity certificate in a group annuity contract, or establishes a qualified investment product such as a custodial account.

(97) Educational institution--A school district or an open-enrollment charter school.

(108) Eligible qualified investment product--A qualified investment product offered by a company that is certified to the board of trustees and offers:

(A) is certified to the board of trustees to offer qualified investment products that are annuity contracts; or

(B) is certified to the board of trustees to offer qualified investment products other than annuity contracts.

(119) Employee--An employee of an educational institution.

(12) Investment option--Individual funds underlying a registered product.

(134) Platform company--A certified company that offers, under §403(b)(7) of the Internal Revenue Code of 1986, qualified investment products other than annuity contracts, including a company that offers custodial accounts that hold only investment products issued and registered with TRS by a proprietary certified company.

(144) Product--For the purpose of registration under this chapter, an annuity contract or custodial account, as defined under §403(b)(1) and §403(b)(7) of the Internal Revenue Code of 1986, offered by a certified company that meets certification requirements and has certified to TRS in accordance with this chapter.

(15) Product Registration System--The TRS online portal where certified companies register products.

(16) Proprietary Company--A certified company that offers eligible qualified investment products to employees of educational institutions for purchase or enrollment. A proprietary company is the issuer of registered products and has primary liability to the employees for performance of the obligations described in the product. “Proprietary company” does not include:

(A) a reinsurance company;

(B) a third party administrator

(C) an entity performing duties under an administrative services only contract; or

(D) a representative such as a licensed or registered agent, broker, or investment advisor.
Qualified investment product--A product that:

(A) meets the requirements of §403(b), Internal Revenue Code of 1986, and its subsequent amendments;

(B) complies with applicable federal insurance and securities laws and regulations; and

(C) complies with applicable state insurance and securities laws and rules.

Register--To submit all required information to TRS about products to be offered and meet all required qualifications for registration, and to pay the fees prescribed by TRS as indicated by retirement system acceptance of a company's application to register to offer products and inclusion of the company's individual products on the TRS system's list of registered products.

Registered product--An eligible qualified investment product that has been registered with TRS and has been placed on the list of registered products, and whose registration has not been suspended or revoked.

Representative--A person, including an investment advisor, who sells or offers for sale an eligible qualified investment product on behalf of a certified company and who is licensed or registered if required by law.

Retirement system or TRS--The Teacher Retirement System of Texas.

Restricted--A registered product to which an employee may make contributions, whether through an existing or a changed or amended salary reduction agreement, but for which an employee may not enter into a new salary reduction agreement.

Salary reduction agreement--An agreement between an educational institution and an employee to reduce the employee's salary for the purpose of making direct contributions to or purchases of a qualified investment product.

Specialized department--One or more employees of a certified company or a company affiliated with the certified company dedicated to servicing employee 403(b) accounts or registered products. If the certified company is authorized by the Texas Department of Insurance to issue annuity contracts in the State of Texas, the affiliated company must be part of an Insurance Holding Company System as described in §823.006, Insurance Code.

RULE §53.2 Applicability

(a) This chapter applies to companies that offer qualified investment products to employees of educational institutions in the State of Texas if such products are, or are likely to be, the subject of salary reduction agreements.

(b) A company that, on or after June 1, 2002, offers, issues, or enters into a contract for a qualified investment product that is, or is likely to be, the subject of a salary reduction agreement shall certify to TRS prior to offering, issuing, or entering into a contract for the
product, unless excepted under §9(a)(8), Article 6228a-5, Texas Revised Civil Statutes. For purposes of this chapter, offering, issuing, or entering into a contract for a qualified investment product includes offering enrollment in, or enrolling an employee in, a group annuity contract through issuance of an annuity certificate.

(c) A company that entered into a contract with an employee before June 1, 2002, is not subject to the certification requirements established by this chapter with respect to that contract, but the company is subject to the certification requirements established by this chapter with respect to any contracts or qualified investment products offered to, or entered into with, an employee on or after June 1, 2002.

(d) If a company has entered into a contract with an employee before June 1, 2002, the company or employee may demonstrate in a manner acceptable to an educational institution that the provisions of this chapter do not apply to the contract in order for the company to receive contributions to, or payments for purchase of, the qualified investment product described in the contract through a salary reduction agreement between the educational institution and the employee.

RULE § 53.3 Maximum Fees, Costs, and Penalties

(a) A certified company offering registered qualified investment products and investment options may not register a product or investment option with fees, costs, or penalties in excess of the amounts established in this section.

(b) This section does not establish or govern the amount of commission a certified company may pay a broker, agent, or other representative.

(c) A certified company may not register a product or investment options that charges a front-end sales load or a back-end sales load that in the aggregate does not exceed six percent (6%) of the amount identified in the contract as subject to sales load charges, such as premiums paid or the price of the fund shares.

(d) A certified company may charge an annual fixed dollar maintenance fee or minimum account fee of no more than $50.00 per year per registered qualified investment product, contract, policy, or account. A fixed dollar maintenance fee must be reported to TRS in the Product Registration System is not dependent on account values, loan amounts, or any other amount for its determination.

(e) A company may not register a product or investment option. For a qualified investment product other than a fixed annuity contract, that charges fees that exceeds those authorized by asset class in the following table, and for the portion of an annuity contract that consists of a variable account, a certified company may assess a charge of no more than 2.75 percent annually of the total value of assets in the employee's variable annuity contract account or other investment product account. The fees reflected in this table apply to a salary reduction agreement entered into on or after April 1, 2018.
<table>
<thead>
<tr>
<th>Asset Class</th>
<th>Maximum Annual Product Administration Fee</th>
<th>Maximum Annual Expense Ratio</th>
<th>Maximum Annual Asset-Based Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Money Market</td>
<td>1.25%</td>
<td>0.15%</td>
<td>1.40%</td>
</tr>
<tr>
<td>Diversified Bond</td>
<td>1.25%</td>
<td>0.50%</td>
<td>1.75%</td>
</tr>
<tr>
<td>Balanced</td>
<td>1.25%</td>
<td>0.50%</td>
<td>1.75%</td>
</tr>
<tr>
<td>Large Cap U.S. Equity</td>
<td>1.25%</td>
<td>0.50%</td>
<td>1.75%</td>
</tr>
<tr>
<td>Small/Mid Cap U.S. Equity</td>
<td>1.25%</td>
<td>0.70%</td>
<td>1.95%</td>
</tr>
<tr>
<td>International Equity</td>
<td>1.25%</td>
<td>0.80%</td>
<td>2.05%</td>
</tr>
<tr>
<td>Global Equity</td>
<td>1.25%</td>
<td>0.80%</td>
<td>2.05%</td>
</tr>
</tbody>
</table>

(f) When registering a product or investment option, a certified company shall:

(a) register in the money market asset class any product with a portfolio of over 50% of the fund’s assets invested in short-term money market securities consistent with the preservation of capital;

(b) register in the diversified bond asset class any product with a portfolio of over 50% of the fund’s assets invested in U.S. government obligations, corporate bonds, foreign bonds, and high-yield debt securities;

(c) register in the balanced asset class any product with a portfolio of over 50% of the fund’s assets invested in a mix of stocks, bonds, and cash;

(d) register in the large cap U.S. equity asset class any product with a portfolio of over 50% of the fund’s assets invested in large-cap U.S. stocks diversified across growth and value styles in the top 70% of the total capitalization of the U.S. equity market;

(e) register in the small/mid cap U.S. equity asset class any product with a portfolio of over 50% of the fund’s assets invested in mid- and small-cap U.S. stocks diversified across growth and value in the bottom 30% of the total capitalization of the U.S. equity market;

(f) register in the international equity asset class a product with a portfolio of over 50% of the fund’s assets invested in large-, mid-, and small-cap international stocks that are diversified in growth and value styles across developed and emerging equity markets. These portfolios will have less than 20% of assets invested in U.S. stocks; and

(g) register in the global equity asset class a product with a portfolio of over 50% of the fund’s assets invested in large-, mid-, and small-cap stocks diversified across growth and value styles anywhere in the world. These portfolios have 20%-60% of assets in U.S. stocks.

(g) The maximum asset-based fee does not include transaction fees such as:

(1) redemption fees;

(2) short-term trading fees;
(3) closeout fees; 

(4) excessive trading fees; and 

(5) one-time fees, including: 

(A) transfer fees; 

(B) withdrawal fees; and 

(C) termination fees. 

(h) All fees charged or assessed by a certified company to an employee must be reported to TRS in the Product Registration System. 

(if) Effective November 1, 2017, a certified company may not register any annuity contract or eligible qualified investment product that assesses a surrender or withdrawal charge for the portion of an annuity contract that consists of a variable account or for eligible qualified investment products other than annuity contracts. Effective November 1, 2017, a certified company may not register a fixed annuity contract that assesses a surrender or withdrawal charge that may exceed fifteen percent (15%) of the accumulated account value, the individual deposits, employee's contributions, or the premiums paid, whichever is specified in the contract. Surrender or withdrawal charges must terminate within five (5) years from the inception of the employee's contract. 

(j) For an annuity contract registered before November 1, 2017, surrender or withdrawal charges may not exceed ten percent (10%) of the accumulated account value, the employee's contributions, or the premiums paid, whichever is specified in the contract. Surrender or withdrawal charges must terminate within ten (10) years of the inception of the employee's contract unless a disclosure is made informing the employee of a longer period of not in excess of twelve (12) years. No surrender or withdrawal charge may be longer than twelve (12) years from the inception of the employee's contract. Surrender or withdrawal charges shall decline annually. Surrender or withdrawal charges imposed for longer than ten (10) years are limited to no more than one percent (1%) in year eleven and one percent (1%) in year twelve. Surrender or withdrawal charges may be based on the accumulation value of an annuity or a component part thereof, as specified and defined in the contract. 

(kg) A certified company may charge a loan initiation fee of no more than $250.00 and may not charge a loan maintenance fee. This subsection does not prohibit a certified company from charging a reasonable interest rate on a loan in addition to a loan initiation fee. If the registered investment product is an annuity contract, loan terms must comply with applicable requirements of insurance laws, including Chapter 1110, Insurance Code. 

(lh) This section does not authorize a certified company offering registered qualified investment products that are annuity contracts to charge fees, costs, or penalties in excess of any charges established or approved by the Texas Department of Insurance for the company or for the annuity contract.
RULE § 53.4 Qualifications for Certification by Companies Offering Qualified Investment Products that are Annuity Contracts

(a) A proprietary company may certify to TRS that it offers qualified investment products that are annuity contracts if the company meets the requirements of this section.

(b) A company may certify to TRS under this section if the company:

(1) is authorized to issue annuity contracts in the State of Texas at the time the certification is filed; and

(2) does not assess fees, costs, or penalties in an annuity contract that exceed the maximum amounts established by this chapter; and

(3) complies with the following standards:

(A) the company’s actuarial opinions required under §425.054 or §802.002, Insurance Code, have not been adverse or qualified in the five years preceding the date the certification is filed;

(B) the company is subject to the annual audit requirements of §401.004, Insurance Code, and its most recent audit of financial strength conducted by an independent certified public accountant is timely filed and does not indicate the existence of any material adverse financial conditions in the company for the five years preceding the filing deadlines for the audit;

(C) the company has not been the subject of any of the following administrative or regulatory actions by the Texas Department of Insurance in the five years preceding the date the certification is filed:

(i) an order to rectify one or more conditions that render the continued operation of the company hazardous to policyholders, creditors, or the general public, pursuant to §404.003, Insurance Code;

(ii) a supervision, conservation, or forfeiture or cancellation of the charter of the company pursuant to Chapter 441, Insurance Code; or

(iii) a cease and desist order issued to the company pursuant to §83.051, Insurance Code, or its predecessor statute, Article 110A, Insurance Code.

(D) the company has maintained total adjusted capital during the five years preceding the date the certification is filed of an average of at least 400 percent of the authorized control level risk-based capital, as calculated in accordance with the risk-based capital requirements established in rules adopted by the Texas Department of Insurance, with the five-year average to be calculated using the company’s financial results as of December 31 of the five preceding years;

(E) the company’s total adjusted capital has not fallen below 300 percent of the authorized control level risk-based capital, as calculated in accordance with the risk-based capital
requirements established in rules adopted by the Texas Department of Insurance, at any time in the five years preceding the date the certification is filed; and

(F) the company has at least five years' of experience in offering qualified investment products and has a specialized department dedicated to the service of qualified investment products. If a company is part of an Insurance Holding Company System as described in §823.006, Insurance Code, and an affiliate of the company has met the five years of experience requirement of this section, the company is deemed to have the same experience of its affiliate for purposes of this section;

(54) the company's products comply with the registration requirements of Article 6228a-5, Texas Revised Civil Statutes, and this chapter, as applicable.
RULE § 53.5 Qualifications for Certification by Companies Offering Qualified Investment Products and Investment Options Other than Annuity Contracts

(a) A proprietary company, other than a platform company, that offers qualified investment products and investment options other than annuity contracts may certify to TRS if it meets the following requirements:

(1) The company has at least five years' experience in managing qualified investment products and has a specialized department dedicated to the servicing of qualified investment products.

(2) The company is licensed and qualified to do business in the State of Texas.

(3) The company, or an affiliate of the company related by common ownership or control, has a current issuer's authorization from the State Securities Board.

(4) The company has not had a license or registration suspended or revoked by state or federal regulators within the five years preceding the date the certification is filed.

(5) The company manages assets totaling at least $2 billion.

(6) The company does not assess fees, costs, or penalties that exceed the maximum amounts established by this chapter.

(7) The company's products comply with the registration requirements of Article 6228a-5, Texas Revised Civil Statutes, and this chapter, as applicable.

(b) A platform company that offers qualified investment products and investment options other than annuity contracts may certify to TRS if it meets the following requirements:

(1) The company has at least five years' experience in managing qualified investment products and has a specialized department dedicated to the servicing of qualified investment products.

(2) The company is licensed and qualified to do business in the State of Texas.

(3) The company is registered as a securities dealer, agent, or investment advisor with the State Securities Board, if required by the State Securities Board, the Texas Department of Banking, or other law.

(4) The company has not had a license or registration suspended or revoked by state or federal regulators within the five years preceding the date the certification is filed.

(5) The company manages accounts totaling at least $1 billion.

(6) The company does not assess fees, costs, or penalties, inclusive of investment option fees underlying the product, that exceed the maximum amounts established by this chapter.
(7) The products offered by the company comply with the registration requirements of Article 6228a-5, Texas Revised Civil Statutes, and this chapter, as applicable.

RULE § 53.6 Application and Fee for Certification Procedure for Certification

Repeal existing § 53.6 and replace with the following

(a) A company that meets the qualifications for certification may certify to TRS that it offers one or more qualified investment products, which shall be identified in the certification as annuity contracts, qualified investment products other than annuity contracts, including custodial accounts under §403(b)(7) of the Internal Revenue Code of 1986, or both.

(b) A company applies for certification to TRS by providing all information required in this chapter in a form prescribed by TRS for this purpose and by paying the required certification fee.

(c) A company that applies for certification shall pay a certification fee of $3,000 to TRS at the time its application is filed.

(d) As part of its application for certification, a company shall affirm that each of its representatives is properly licensed and qualified, by training and continuing education, to sell and service the company’s eligible qualified investment products and that the company will demonstrate this annually to TRS, as required by Article 6228a-5, Texas Revised Civil Statutes.

(e) As part of its application for certification, a company that offers qualified investment products other than annuity contracts shall disclose to TRS as part of its application whether it provides the following customer services:

1. Call center services, including enrollment and member support for all program inquiries such as case management, escalation and problem resolution.

2. Data management services, including creation and maintenance of records, transaction data and history, supplier interfaces and necessary files for updating payroll systems.

3. Custody services, including state and federal tax withholding and form preparation.

4. Member information services, including:

   (A) providing to each employee an account statement both quarterly and upon request in either written or electronic form as specified by the employee; and

   (B) disclosing to each employee the amount of product administration fees, administrative services fees, and investment management fees.

5. Processing services, including:

   (A) depositing member contributions within ten (10) business days of receiving all required information; and

   (B) releasing funds to a member pursuant to a distribution request or rolling over funds to another account within 15 business days of receiving all required information.
(6) Plan-level services, including reporting of total assets on an educational institution level upon request and annual disclosure of all investment and administrative services fees paid by employees.

(f) Certification of a company that offers qualified investment products and investment options other than annuity contracts shall not be conditioned on whether the company offers the customer services listed in subsection (e).

(g) A company applying for certification that offers both annuity contracts and investments other than annuity contracts, including custodial accounts, shall pay one certification fee if the company files its application for both types of qualified investment products at the same time. If the applications are filed separately, a company shall pay a separate certification fee for each separate certification.

(h) A company applying for certification under both §53.5(a) and (b) of this chapter (relating to Qualifications for Certification by Companies Offering Qualified Investment Products Other than Annuity Contracts) shall pay one certification fee if the company files its application under both §53.5(a) and (b) at the same time. If the applications are filed separately, the company shall pay a separate certification fee for each separate application.

(i) If a company proposes to certify more than one legal entity, the company shall submit separate applications and fees for each legal entity.

(j) A company that submits an application for certification shall notify TRS immediately upon discovery that it has submitted erroneous or misleading information in its application. TRS shall deny any application containing erroneous or misleading information unless the company submits a corrected application within five (5) business days after notifying TRS of the erroneous or misleading information.

(k) TRS shall issue a letter or email notice verifying that a company is certified upon determining that it meets the qualifications for certification as required under Article 6228a-5, Texas Revised Civil Statutes and payment of the certification fee.

(l) Certification is effective for five (5) years from the date that TRS issues, by letter or electronic mail notice, that a company has been certified.

(m) Certification remains in effect in accordance with the provisions of this section unless revoked or suspended by TRS or withdrawn by the company through written notice to TRS.

(n) TRS may deny a company's application for certification if the company does not provide all of the required information, if the information provided indicates the company does not meet the requirements for certification, or if TRS receives notification of a violation regarding the company from the Texas Department of Insurance, the Texas Department of Banking, the State Securities Board, the Texas Attorney General, or the company.

(o) TRS shall notify a company if it determines that the application for certification should be denied. A company whose application for certification is denied may re-apply for certification by submitting a new application and showing that it meets the requirements.
(p) If TRS denies the application for certification, TRS may retain the amount of the certification fee sufficient to reimburse TRS for its administrative costs associated with review of the application. TRS may hold the entire certification fee for no more than forty-five (45) business days after denial in order to determine whether the company will submit a new application for certification.

(q) No portion of a certification fee is refundable if TRS revokes or suspends a certification or if a company surrenders its certification after it has been issued by TRS.
RULE § 53.7 **Listing of Certified Companies Certification Fee**

Repeal existing § 53.7 and replace with the following

(a) TRS shall include the name of a certified company on the list maintained on the TRS web site no later than thirty (30) days after certification.

(b) TRS may indicate on the list of certified companies maintained on the TRS web site whether a certified company has complied with the requirements of Article 6228a-5, Texas Revised Civil Statutes and §§ 53.6 and 53.13 of this title regarding annual demonstration.

RULE § 53.8 **Product and Investment Option Registration Requirements List of Certified Companies**

Repeal existing § 53.8 and replace with the following

(a) A certified company required to register its eligible qualified investment products and investment options under Article 6228a-5, Texas Revised Civil Statutes shall submit an application to register products and investment options and a product registration fee to TRS in accordance with this chapter.

(b) The executive director of TRS or his designee may establish the form and content of the registration application.

(c) An eligible qualified investment product or investment option that is offered to an employee on or after January 1, 2008, and that is, or is intended to be, the subject of a salary reduction agreement is required to be registered under this chapter unless excepted under Article 6228a-5, Texas Revised Civil Statutes.

(d) An eligible qualified investment product or investment option that is the subject of a salary reduction agreement that is signed before January 1, 2008, is not required to be registered with respect to that salary reduction agreement. If a salary reduction agreement was signed before January 1, 2008, but only the amount of the contribution is changed by agreement of the employee and the educational institution on or after January 1, 2008, the eligible qualified investment product or investment option that is the subject of the salary reduction agreement is not required to be registered with respect to that salary reduction agreement. A certified company or employee may demonstrate to the educational institution, in a manner deemed acceptable by the institution, that product or investment option registration is not required in order for the company to receive employee contributions to, or payments for purchase of, an eligible qualified investment product or investment option that is the subject of the salary reduction agreement signed before January 1, 2008.

(e) TRS shall offer at least one but not more than two product registration periods each calendar year. Unless otherwise designated by TRS, the standard product or investment option registration periods are from October 1 through November 15 and from April 1 through May 15 each calendar year.

(f) A company must be certified by TRS as required in this chapter in order to apply for approval to register eligible qualified investment products or investment options. A company may submit
an application for company certification and an application for approval to register qualified investment products or investment options simultaneously.
RULE § 53.9. **Application and Fee for Approval to Register Products and Investment Options Notice to Potential Purchaser**

Repeal existing § 53.9 and replace with the following

(a) In order to register eligible qualified investment products or investment options, a certified company shall apply for and receive from TRS an approval to register products and investment options.

(b) A certified company may apply for approval to register products and investment options by providing all the information required by TRS and by paying the required registration fee at the time it submits the application. A certified company shall submit information in the format and manner required by TRS. TRS may require a company to provide information electronically.

(c) Approval to register products and investment options is effective on the date TRS notifies a company by letter or electronic mail of the approval. Approval to register products and investment options remains in effect for a period of five (5) years from the effective date, unless the approval to register products and investment options is suspended, revoked, or withdrawn.

(d) A certified company shall pay a registration fee of $7,000 to TRS when the company submits its application for approval to register products and investment options.

(e) A certified company that submits an application for approval to register products and investment options shall notify TRS immediately upon discovery that it has submitted erroneous or misleading information in its application. TRS shall deny any application containing erroneous or misleading information unless the company submits a corrected application within five (5) business days after notifying TRS of the erroneous or misleading information.

(f) TRS may deny a certified company’s application for approval to register products and investment options if the company does not provide all of the required information, if the information provided indicates the certified company does not meet the requirements for approval to register products and investment options, or if the certified company fails to pay the registration fee.

(g) TRS shall notify a certified company if it determines that the application for approval to register products and investment options should be denied. A certified company whose application for approval to register products and investment options is denied may re-apply for approval to register products and investment options by submitting a new application for approval to register products and investment options and showing that it meets the requirements.
(h) If TRS denies the application for approval to register products and investment options, TRS may retain the amount of the registration fee sufficient to reimburse TRS for its administrative costs associated with review of the application. TRS may hold the entire registration fee for no more than forty-five (45) business days after denial or withdrawal in order to determine whether the company will submit a new application for approval to register products and investment options.

(i) No portion of a product registration fee is refundable if TRS revokes or suspends an approval to register products and investment options or if a company surrenders its approval to register products and investment options after it has been issued by TRS.

RULE § 53.10 Registration and Listing of Products and Investment Options

(a) Upon receiving approval to register products and investment options, a certified company may access TRS’ Product Registration System to register products or investment options as follows:

(1) A proprietary company certified to offer eligible qualified investment products or investment options that are annuity contracts may register annuity products.

(2) A proprietary company certified to offer eligible qualified investment products or investment options other than annuity contracts may register such other investment products or investment options.

(3) A proprietary company certified to offer both annuity contracts and eligible qualified investment products and investment options other than annuity contracts may register both product types.

(4) A platform company certified to offer eligible qualified investment products or investment options, other than annuity contracts, issued and registered with TRS by a proprietary company, may register such other eligible qualified investment products or investment options.

(b) In registering eligible qualified investment products or investment options, a certified company shall provide information concerning all the fees charged to an employee in connection with the participation in, or purchase, sale, or administration of, each eligible qualified investment product or investment option, including any other applicable fees. The information concerning fees shall be provided in the format and manner required by TRS. A certified company shall also provide to TRS a contract for a fixed annuity and a prospectus for an eligible qualified investment product or investment option other than a fixed annuity.

(c) A certified company that has been approved to register qualified eligible investment
products or investment options shall submit information to TRS on each product and investment option that is required to be registered. During its five-year registration period, a certified company may submit information on additional products and investment options during the registration dates established in this chapter. Registration of an eligible qualified investment product or investment option is effective when TRS posts the product or investment option on the TRS web site. Registration of an eligible qualified investment product or investment option terminates when a company's approval to register products and investment options terminates, regardless of the registered product’s or investment option’s effective date.

(d) A certified company shall provide to TRS information regarding fees that may be deducted from employee contributions for a registered investment product or investment option by an entity other than the company named in the salary reduction agreement. In order for an eligible qualified investment product or investment option to be registered, the fees charged by the company and the other entity, when combined, shall not exceed the amounts established in §53.3 of this chapter (relating to Maximum Fees, Costs, and Penalties).

(e) A product’s or investment option’s registration remains in effect in accordance with the provisions of this section unless:

   (1) A company surrenders its certification or approval to register products and investment options;

   (2) A company’s certification or approval to register products and investment options expires; or

   (3) TRS revokes or suspends the company’s certification or approval to register products and investment options.

(f) Upon verification that all required product and investment option information has been provided, TRS will include the certified company’s registered products and investment options on the list maintained on the TRS web site.

RULE § 53.11 Ongoing Company Responsibilities Regarding Certification and Registered Products and Investment Options Coordination with Regulatory and Enforcement Agencies

Repeal existing § 53.11 and replace with the following

(a) No later than thirty (30) calendar days after one of the following relevant triggering events, a certified company shall notify TRS in writing:
(1) If at any time, the company is not in compliance with the qualifications for certification, including as a result of a merger or change in ownership;

(2) of any erroneous, out of date, or misleading information provided to TRS as part of the application for certification or approval to register products and investment options.

(3) of any changes to the certified company’s information appearing on the list of certified companies;

(4) of any changes to the contact information or the contact person provided to TRS on a form promulgated by TRS for that purpose;

(5) if a certified company offers, as the subject of a salary reduction agreement, an unregistered product or investment option that is required by law to be registered; and

(6) if a product or investment option that is offered as the subject of a salary reduction agreement is no longer eligible to be registered.

(b) The certified company shall provide TRS information sufficient to explain the occurrence leading to a notification under subsection (a), including the nature of non-compliance or reason a product or investment option is not registered or qualified to be registered, the date of the occurrence, and other information requested by TRS to determine whether a company should remain certified.

(c) A certified company shall correct any erroneous, out of date, or misleading information provided in the TRS Product Registration System regarding a registered product or investment option no later than ten (10) business days after the erroneous, out of date, or misleading information is identified.

(d) If a product or investment option is no longer eligible to be registered, a certified company shall restrict and no longer offer the registered product or investment option as the subject of new salary reduction agreements but may continue to allow additional contributions under existing salary reduction agreements.

(e) To offer products or investment options under new salary reduction agreements or to continue to accept contributions under existing salary reduction agreements, a certified company shall

   (1) maintain its certification and approval to register products and investment options; and

   (2) demonstrate annually that each of its representatives is properly licensed and
qualified, by training and continuing education, to sell and service the certified company's registered products or investment options.

(f) To maintain its certification and approval to register products and investment options, a company shall provide to TRS all required information and pay the requisite fees in effect no later than thirty (30) days before expiration of its existing certification or approval to register products and investment options.

(g) A company whose certification or approval to register products and investment options expires may re-apply for certification and approval to register products and investment options.

(h) A certified company may:

(1) update information for its registered products or investment options between the registration periods specified in §53.8 of this chapter (relating to Product and Investment Options Registration Requirements) by submitting the information in the manner prescribed by TRS.

(2) surrender its certification or approval to register products and investment options by notifying TRS in writing thirty (30) days before a company would like the registered products or investment options to be moved to the list of closed products or investment options maintained on the TRS web site.

(3) restrict and no longer offer a registered product or investment option as the subject of new salary reduction agreements, but continue to allow additional contributions under existing salary reduction agreements; or

(4) close and no longer offer a registered product or investment option to both additional contributions under existing salary reduction agreements and new salary reduction agreements.

(i) If a certified company restricts a product or investment option under this section, the certified company shall maintain and renew its company certification and approval to register products and investment options for any restricted product or investment option during any period in which the certified company continues to receive contributions pursuant to existing salary reduction agreements.

(j) If a certified company restricts or closes a product or investment option, then the certified company shall move the restricted or closed product or investment option to the correct list in the TRS Product Registration System no later than ten (10) business days after the company elects to restrict or close the product or investment option.

RULE § 53.12 TRS Actions Regarding Certification and Registered Products and Investment Options Company Notification of Non-compliance
Repeal existing § 53.12 and replace with the following

(a) TRS may create and maintain lists of active, restricted, and closed products and investment options on its web site.

(b) TRS may move any registered product or investment option from the active product list to the restricted product and investment option list or closed product and investment option list if:

(1) a product or investment option that is offered as the subject of a salary reduction agreement no longer meets the qualifications to be registered;

(2) the certified company:

   (A) surrenders its company certification or approval to register products and investment options;

   (B) allows its company certification or approval to register products and investment options to expire; or

   (C) no longer meets the qualifications for certification or approval to register products and investment options; or

   (D) fails to meet the annual demonstration requirements of Article 6228a-5, Texas Revised Civil Statutes and this chapter; or

(3) TRS suspends or revokes a company’s:

   (A) a company’s certification;

   (B) a certified company’s approval to register products and investment options;

   (C) one or more specific products registered by a certified company; or

   (D) one or more specific investment option underlying a specific product registered by a certified company.

(c) If a certified company surrenders its certification or allows the certification to expire, then TRS shall remove the name of the company from the list of certified companies on the TRS web site.

RULE § 53.13 Coordination with Regulatory and Enforcement Agencies Suspension or Revocation of Certification
Repeal existing § 53.13 and replace with the following

(a) TRS shall refer complaints about qualified investment products or investment options or the companies or persons offering them to the Texas Department of Insurance, the Texas Department of Banking, or the State Securities Board, depending on whether one or more agencies have jurisdiction over the complaint or over the person or company that is the subject of the complaint.

(b) TRS may receive notifications from the Texas Department of Insurance, the Texas Department of Banking, the State Securities Board, or the Texas Attorney General regarding a product, investment option or company that violates certification requirements or standards.

RULE § 53.14 Suspension and Revocation Re-certification

Repeal existing § 53.14 and replace with the following

(a) If a certified company no longer meets the qualifications for certification or approval to register products and investment options or if TRS receives notification of a violation of Article 6228a-5, Texas Revised Civil Statutes regarding a certified company or the certified company’s products or investment options, TRS may suspend or revoke:

(1) a certified company's certification;

(2) a certified company’s approval to register products and investment options;

(3) registration for one or more specific registered product; and

(4) registration for one or more specific registered investment options underlying a specific registered product.

(b) Upon suspension or revocation of certification, TRS shall:

(1) notify the company of the action and of the opportunity to request review by the Executive Director and move the name of the company to suspended status; and

(2) if TRS does not receive a request for review within 30 days, TRS shall remove the name of the company from the list of certified companies maintained by TRS and may also move any registered products or investment options from the active product list to the restricted product list or closed product list on the TRS web site.

(c) An appeal of a decision by TRS to revoke or suspend is a contested case proceeding under Chapter 2001, Government Code.
(d) The procedures of Chapter 43 of this title (relating to Contested Cases) are adopted by reference for the conduct of a proceeding subject to this section.

(e) A period of suspension of certification or approval to register products and investment options shall not extend the five (5) year period of company certification or approval to register products and investment options.

(f) In the event that a certified company is adversely affected by a decision or action of TRS to revoke or suspend a company’s certification, a company’s approval to register products and investment options, or a company’s registered products or investment options, the certified company may request review by the designee of the TRS executive director.

(g) The executive director's designee shall mail a final written administrative decision regarding the requested review to the company. The administrative decision shall include a statement that the company may appeal the decision to the executive director and the deadline for doing so.

(h) A certified company adversely affected by a final written administrative decision of the executive director's designee may appeal the decision to the executive director of TRS as provided in §43.5 of this title (relating to Request for Adjudicative Hearing). The executive director or his designee shall determine whether the appeal should be docketed and set for a contested case hearing pursuant to §43.9 of this title (relating to Docketing of Appeal for Adjudicative Hearing and Dismissal for Failure to Obtain Setting).

(i) If a company’s certification and approval to register products and investment options have not been revoked by TRS or surrendered by the company, then upon termination of a suspension, TRS shall:

(1) restore the name of the company to the certified company list; and

(2) move registered products and investment options to either the active product list for acceptance of new contributions under new salary reduction agreements or the restricted product list for acceptance of continuing contributions under existing salary reduction agreements.

(j) Suspension or revocation of a company’s certification automatically suspends or revokes registration of all the company’s products and investment options.

(k) If a proprietary company’s products or investment options are suspended or revoked, then the suspension and revocation extends to those same products or investment options registered by a platform company.

RULE § 53.15 Notice to Potential Purchaser of Annuity Contracts Product Registration Requirement
Repeal existing § 53.15 and replace with the following

(a) A representative who offers to sell an annuity contract that is or may be the subject of a salary reduction agreement shall provide notice and other information to an employee as required under Article 6228a-5, Texas Revised Civil Statutes.

(b) The notice must be given to the employee at the time an application form is signed.

(c) The form of the notice for an annuity contract shall be as provided by TRS on its web site. A company shall use the form notice as the basis for its annuity contract notices to employee.

(d) A certified company shall provide TRS a copy of its notice relating to a specific contract within ten (10) business days of a request by TRS.

RULE § 53.16. Electronic Signatures Procedure for Product Registration

Repeal existing § 53.16 and replace with the following

TRS may develop a policy governing the acceptance of electronic filings and signatures for any forms or documents required under this chapter provided that the policy complies with state and federal law governing electronic documentation and signatures.

RULE § 53.17 Administrative Service Providers Product Registration Fee

Repeal existing § 53.17 and replace with the following

(a) A person, other than an employee of an educational institution, or an affiliate of the person may not enter into or renew a contract with an educational institution on or after September 1, 2009 under which the person is to provide services for or administer a plan offered by the institution under §403(b), Internal Revenue Code of 1986, unless the person:

(1) holds a license or certificate of authority issued by the Texas Department of Insurance;

(2) is registered as a securities dealer or agent or investment adviser with the State Securities Board; or

(3) is a financial institution that:

(A) is authorized by state or federal law to exercise fiduciary powers; and

(B) has its main office, a branch office, or a trust office in this state.
(b) A person who has entered into or renewed a contract with an educational institution on or after September 1, 2009 under which the person is to administer a plan offered by the institution under §403(b) of the Internal Revenue Code of 1986, and who holds a meeting at the institution that is open to employees of the institution and at which qualified investment products will be marketed, must provide representatives of certified companies that have previously agreed to comply with the institution’s administrative requirements an opportunity to attend and market their qualified investment products at the meeting.

(c) For purposes of complying with subsection (b) of this section, the person administering the institution's plan may maintain a registry of certified companies with the right to an opportunity to attend meetings and market their qualified investment products. Such a certified company shall be responsible for providing the email addresses of the company's representatives responsible for receiving email notification of meetings described in subsection (b) of this section. The person administering the institution's plan provides an opportunity to attend a meeting described in subsection (b) of this section if the person sends to the email addresses provided by the certified company a notice containing the date, time and physical location of the meeting, and such notice is sent no later than seven (7) days prior to the meeting.

RULE §53.18 List of Registered Products

(a) Upon verification that all required information has been provided in a company's registration application and that the registration fee has been paid, the retirement system will include the company's registered products on the list maintained on the system's Web site.

(b) The retirement system will remove a product from the list upon suspension, revocation, withdrawal, or expiration of the registration.

RULE §53.19 Proceedings to Suspend or Revoke Certification or Registration

(a) The retirement system may suspend or revoke a registration, certification, or re-certification as provided under Article 6228a-5, Texas Civil Statutes. A proceeding to revoke or suspend is a contested case proceeding under Chapter 2001, Government Code.

(b) A period of suspension of certification or registration shall not extend the five-year period of company certification or product registration.

(c) In lieu of suspension or revocation of a company's registration to offer products and registration of all individual products, the retirement system may suspend or revoke one
or more specific registered products if it finds that the grounds for suspension are limited to the specific product or products.

(d) In the event that a company is adversely affected by a decision or action of the retirement system revoking or suspending registration, certification, or re-certification, the company may request review by the designee of the executive director of the retirement system.

(e) The executive director’s designee shall mail a final written administrative decision, which shall include a statement that the company may appeal the decision to the executive director and the deadline for doing so.

(f) A company adversely affected by a final written administrative decision of the executive director's designee may appeal the decision to the executive director of TRS as provided in §43.5 of this title (relating to Request for Adjudicative Hearing). The executive director or his designee shall determine whether the appeal should be docketed and set for a contested case hearing pursuant to §43.9 of this title (relating to Docketing of Appeal for Adjudicative Hearing and Dismissal for Failure to Obtain Setting).

(g) The procedures of Chapter 43 of this title (relating to Contested Cases) are adopted by reference for the conduct of a proceeding subject to this section.

RULE §53.20 Administrative Service Providers

(a) A person, other than an employee of an educational institution, or an affiliate of the person may not enter into or renew a contract with an educational institution on or after September 1, 2009 under which the person is to provide services for or administer a plan offered by the institution under §403(b), Internal Revenue Code of 1986, unless the person:

(1) holds a license or certificate of authority issued by the Texas Department of Insurance;

(2) is registered as a securities dealer or agent or investment adviser with the State Securities Board; or

(3) is a financial institution that:

(A) is authorized by state or federal law to exercise fiduciary powers; and
(B) has its main office, a branch office, or a trust office in this state.

(b) A person who has entered into or renewed a contract with an educational institution on or after September 1, 2009 under which the person is to administer a plan offered by the institution under §403(b) of the Internal Revenue Code of 1986, and who holds a meeting at the institution that is open to employees of the institution and at which qualified investment products will be marketed, must provide representatives of certified companies that have previously agreed to comply with the institution's administrative requirements an opportunity to attend and market their qualified investment products at the meeting.

(c) For purposes of complying with subsection (b) of this section, the person administering the institution's plan may maintain a registry of certified companies with the right to an opportunity to attend meetings and market their qualified investment products. Such a certified company shall be responsible for providing the email addresses of the company's representatives responsible for receiving email notification of meetings described in subsection (b) of this section. The person administering the institution's plan provides an opportunity to attend a meeting described in subsection (b) of this section if the person sends to the email addresses provided by the certified company a notice containing the date, time and physical location of the meeting, and such notice is sent no later than seven (7) days prior to the meeting.