

## **SUPERVISION OF PENSIONS - KENYAN EXPERIENCE**

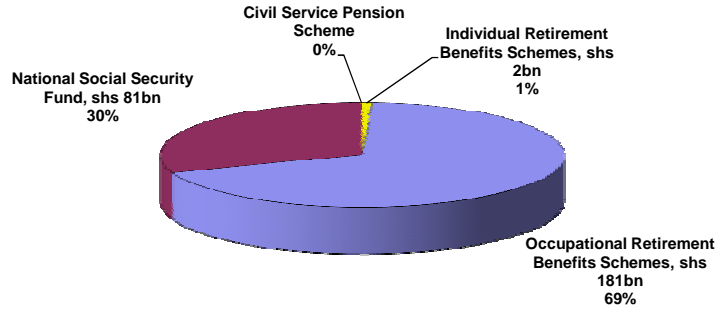
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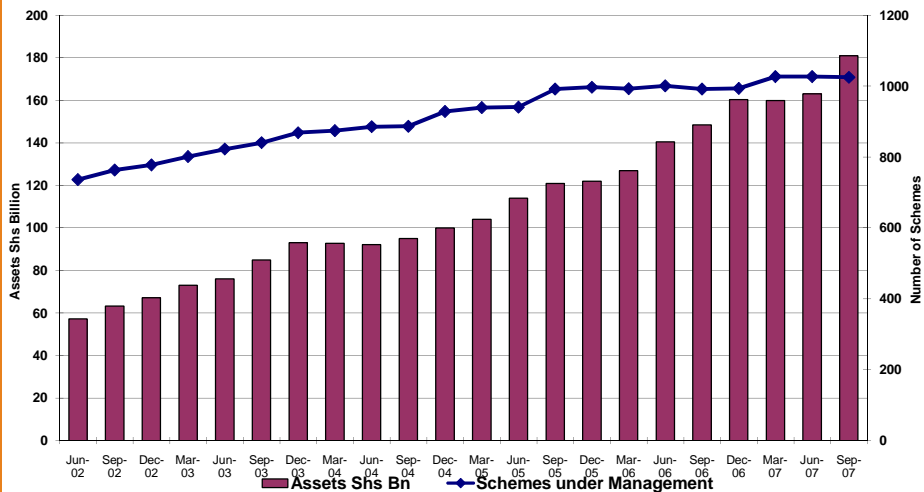
## **THE STRUCTURE OF KENYA'S RETIREMENT BENEFITS INDUSTRY**

	<b>Civil Service Scheme</b>	<b>National Social Security Fund</b>	<b>Occupational Schemes</b>	<b>Individual Schemes</b>
<b>Legal Structure</b>	Act of Parliament	Act of Parliament	Trust Deed	Trust Deed
<b>Membership</b>	all civil servants and teachers	-formal sector workers in companies	formal sector workers in companies that have schemes	individuals formal/informal sector join voluntarily
<b>Funding</b>	Non-funded	funded	funded	funded
<b>Regulation</b>	Exempt from RBA	Subject to RBA	Subject to RBA	Subject to RBA

# RETIREMENT BENEFITS INDUSTRY IN KENYA - ASSETS - US\$ 4bn



# GROWTH IN RETIREMENT BENEFITS ASSETS SINCE REFORM



Excluding NSSF

## **SCHEMES IN UNREGULATED ENVIRONMENT**

**Prior to enactment of Retirement Benefits Act in 1997, schemes were not supervised and regulated and they faced the following problems:-**

- **Lack of harmonized legislation**
- **Dominance by sponsors and misappropriation of scheme funds**
- **Members not involved**
- **Lack of transparency and information disclosure**
- **Poor record keeping**
- **Poor investments decisions**
- **Lack of professional input**
- **Funding problems**
- **Delays in benefits payments**

## **REGULATION OF PENSION SCHEMES**

- **Establishment of a scheme is voluntary**
- **Registration is mandatory**
- **Establishment is under a written law or trust**
- **Rules to protect the member and the sponsor**
- **Schemes to be fully funded and separated from the sponsor**
- **Trustees must develop a prudent investment policy**

## **PENSION SCHEME ADMINISTRATION**

- **Administration duties vested in trustees**
- **Trustees may appoint administrators to carry out their administration duties**
- **Trustees fully liable to members and supervisor**
- **Scheme rules must make provision for inter alia**
  - **Membership eligibility**
  - **Retirement age**
  - **Vesting and benefits formula**
  - **Dissolution of and winding up of scheme**
  - **Contribution rates etc.**

## **PENSION SCHEME FUNDING - I**

- **Minimum funding level - 80% DB schemes, 100% DC schemes**
- **Schemes proper records must be kept**
- **Audited Financial statements - to be published**
- **Statement of contributions remitted and benefits payout**
- **Data of each member - membership statements issued**
- **Scheme rules and the amendments thereof**
- **Disclose information about the scheme**
- **Hold Annual General Meetings**

## **PENSION SCHEME- FUNDING - II**

- **Trustees to engage services of experts who have no relationship with the scheme. These include:**
  - **Auditors**
  - **Fund Managers**
  - **Custodians**
  - **Administrators**
  - **Actuaries**
- ❖ **Defined Benefits schemes required to carry actuarial valuations every three years**

## **RETURNS TO THE SUPERVISOR**

- **Annual audited scheme accounts**
- **Actuarial valuations for DB schemes**
- **Quarterly investment and custodian reports**
- **Quarterly record of contributions**
- **Any other information as may be required by the supervising Authority**

## **INSPECTION OF SCHEMES**

- **Supervisor empowered to carry out inspection on scheme, fund manager and custodian**
- **Inspection reports may lead to imposition of sanctions against the guilty or appointment of interim administrator**
- **Obstruction of inspection or refusal to co-operate is a criminal offence**
- **Introduction of risk based supervision (to identify and reduce risks) will assist in identifying schemes to be inspected**

## **SCHEMES INVESTMENTS**

### **Trustees required:**

- **To have clear understanding of purpose, objectives and goals of the scheme (investments options to meet the scheme objectives)**
- **To formulate written policy on investment with help of investment advisor**
- **To revise investment policy every three years**
- **To ensure policy complies with statutory guidelines**
- **To appoint and monitor the investment manager**
- **To ensure strategic allocation of scheme funds diversified across and within assets**

## **EXPERIENCE IN REGULATED ENVIRONMENT**

- **Improved Investments – diversified pool of assets**
- **Increased professionalism**
- **Increased member confidence – more people now desire to save for retirement**
- **Increased member participation and involvement**
- **Improved record keeping**
  - **Member statements issued**
  - **Scheme accounts summaries issued**
- **Scheme transparency and disclosure increased – Audited Accounts received by RBA and regularly analyzed**

## **SHIFT TO RISK BASED SUPERVISION (RBS)**

- **Previous supervision based on off-site reviews and on-site inspections not tied to scheme specific risk**
- **Authority has shifted from a compliance based to more pro-active risk based approach.**
- **Approach concentrates on identifying pension risks using defined criteria, monitoring risks and dealing with any identified risk early enough before they become unmanageable and too costly to resolve**
- **RBS focuses on the aspects of scheme which pose high risk to the security and delivery of benefits**
- **Authority has implemented 75% of Risk Based Supervision based on implementation manual developed from international best practice**

## KEY RISKS ADDRESSED IN RBS APPROACH

- **Counterparty Default Risk:** Risk of loss from the failures of a counterparty to meet its obligations
- **Balance Sheet and Market Risk:** Risk of losses due to movements in interest rates and other market prices
- **Operational Risk:** The risk of losses resulting from inadequate internal processes, people and systems – whether these are internal to the regulated entity or in a service provider
- **Liquidity Risk:** The risk that an institution will not be able to meet its payment obligations as they fall due without excessive cost
- **Legal and Regulatory Risk:** The likelihood of adverse consequences arising from the failure to comply with all relevant laws and regulations
- **Strategic Risk:** Risks to the continued viability of an entity as a result of change in the operating environment, including internally driven change such as merger or introduction of new product line
- **Contagion and Related Party Risk:** Risk to an entity's business as a result of close association with another entity – the risks may be direct through financial exposure or indirect through reputation damage

## RATING OF KENYA PENSION SUPERVISION *viz* IOPS PRINCIPLES OF PRIVATE PENSION SUPERVISION - I

Principle	Kenya Status
1 <i>National laws should assign clear and explicit objectives to pension supervisory authorities</i>	Objectives clearly spelt out in Retirement Benefits Act
2 <i>Pension supervisory authorities should have operational independence</i>	Independent Board but Minister retains powers to appoint and fire Board
3 <i>Pension supervisory authorities require adequate financial, human and other resources</i>	Authority funded through levy on schemes
4 <i>Pension supervisory authorities should be endowed with the necessary investigatory and enforcement powers to fulfill their functions and achieve their objectives</i>	Authority has powers to sanction and directly prosecute offenders under the Act
5 <i>Pension supervision should seek to mitigate the greatest potential risks to the pension system</i>	Implementation of risk based supervision

## RATING OF KENYA PENSION SUPERVISION viz IOPS PRINCIPLES OF PRIVATE PENSION SUPERVISION - II

	Principle	Kenya Status
6	<i>Pension supervisory authorities should ensure that investigatory and enforcement requirements are proportional to the risks being mitigated and that their actions are consistent</i>	Authority has taken a flexible approach taking cognisance of historical factors that may mitigate against immediate compliance
7	<i>Pension supervisory authorities should consult with the bodies they are overseeing and cooperate with other supervisory authorities</i>	Constant consultation with industry. Financial sector regulators forum in place.
8	<i>Pension supervisory authorities should treat confidential information appropriately</i>	Scheme information kept confidential
9	<i>Pension supervisory authorities should conduct their operations in a transparent manner</i>	Periodic updates to industry. Annual accounts and audit report circulated to industry
10	<i>The supervisory authority should adhere to its own governance code and should be accountable</i>	Authority operates an ISO 9001: 2000 certified quality management system

## FUTURE CHALLENGES

- Bringing schemes to full compliance
- Ways of Increasing coverage
- Adequacy of retirement benefits savings
- Increased longevity of life
- Uncertainty of investment returns from the capital markets (market volatility)
- The increasing costs of providing promised benefits by Defined Benefits Schemes( most employers considering to shift DC schemes)



**Ahsante**

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