Safeguarding your retirement benefits

NEED AND VIABILITY OF A BENEFIT PROTECTION FUND FOR RETIREMENT BENEFITS SCHEMES IN KENYA

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ABSTRACT

Retirement benefits schemes in Kenya are exposed to a number of risks that may jeopardize their ability to ultimately pay adequate retirement benefits to their members. Protection funds have been established for other parts of the financial sector, including banking, capital markets and insurance but there is none in place for retirement benefits. The paper examines the need and viability of putting in place a benefit protection fund for retirement benefits.

The paper finds that though most of the risks faced by schemes have been mitigated either through: the regulatory framework in place; risk based supervision by the Retirement Benefits Authority; changes in scheme design; or, existing protection funds, schemes are still exposed to elements of counterparty default and fraud risk. The paper finds that there is need to set up a retirement benefits protection fund in Kenya that will cover counterparty default and fraud risk The Fund should cover both defined benefit and defined contribution schemes and be modeled on best practices in benefit protection including: risk based premiums; mitigation of moral hazard; and, institutional autonomy from the regulator.

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1.0 INTRODUCTION

The four main pillars of the financial sector are the capital markets, banking, insurance and retirement benefits sectors. These sectors are closely interrelated[1] as evidenced by the recent signing of a Memorandum of Understanding (MOU)[2] on collaboration between the four regulators of this sector in Kenya, namely the Capital Markets Authority, Central Bank of Kenya, Insurance Regulatory Authority and the Retirement Benefits Authority.

Amongst other areas of collaboration spelt out in the MOU is the area of consumer protection and compensation. With regard to compensation, it is instructive to note that three of the four pillars namely capital markets, banking and insurance have in place some form of consumer compensatory fund in place but retirement benefits does not. The existing Retirement Benefits Trust Fund is not a protection fund but instead a repository for unclaimed assets from wound – up schemes whose members cannot be traced. Consumer compensation, on the other hand, is a last resort for customers of authorized financial service firms which is paid when a firm is unable to pay claims against it. The three existing compensation arrangements in Kenya are:

- Investor Protection Fund established by the Capital Markets Act (Chapter 485A of the Laws of Kenya)
- The Deposit Protection Fund established by the Banking Act (Chapter 488 of the Laws of Kenya)
- Policyholder's Compensation Fund established by the Insurance Act (Chapter 487 of the Laws of Kenya) under Legal Notice No. 105 of 2004.

In light of the above, the question that comes to mind is why there is no protection fund in place for the retirement benefits industry. Naturally, retirement benefits schemes as consumers of capital markets, banking and

[1] Mutuku 2008
[2] RBA News 2009

insurance products are covered by the above funds just like any other customer. Thus some risks that schemes are exposed to are already covered - at least up to the limits of applicability and ceilings of the above funds. However, retirement benefits scheme members may be exposed to other risks that may endanger their ultimate retirement benefits and to which they may not be protected against. These risks may include sponsor (employer) insolvency risk, systemic risk, market risk and actuarial risks.

This paper examines the need and viability of establishing a benefit protection or guarantee fund with a view to providing some protection to members of retirement benefits schemes against some key risks that they may be exposed to.

2.0 OBJECTIVES OF THE PAPER

The main objective of the paper is:

- To establish the need and viability of establishing a benefit protection fund for retirement benefits in Kenya.

The secondary objectives of the paper are:

1. To examine the case for and against benefit protection funds for retirement benefits
2. To examine the experience of benefit protection funds in other jurisdictions
3. To examine the current protection mechanisms for retirement benefits in Kenya
4. To analyze the need and practicability of establishing a benefit protection fund for the retirement benefits industry in Kenya.

3.0 METHODOLOGY

The objectives of the paper are met through the following methodologies.

- Examining the existing consumer protection funds in the financial sector in Kenya in terms of structure and objectives, funding and challenges. This informs the objectives with regard to the case for such funds as well as to their practicability.
- Examining existing retirement benefits protection funds in other jurisdictions in terms of structure and objectives, funding and challenges. This informs the objectives with regard to the case for such funds, learning from other experiences as well as to their practicability in the Kenya context.
- An examination of the theoretical case for establishing a retirement benefits protection fund which informs the primary objective of the paper.
- An examination of the retirement benefits industry in Kenya to explore need and practicability issues.
- An examination of risks faced by schemes in Kenya, mitigants put in place to address these risks and cases of scheme failure in the recent past. This establishes if indeed there is a case for the retirement benefits protection fund or if existing structures are adequate to protect members.
- A survey of industry experts to canvas their views with regard to need and viability of a retirement benefit protection fund in Kenya.
- An examination of international best practices in benefits protection funds.

4.0 CONSUMER PROTECTION FUNDS IN THE FINANCIAL SECTOR IN KENYA

4.1 THE CMA INVESTOR COMPENSATION FUND

4.1.1 Structure & Objectives

The Investor Compensation fund is established by section 18(1) of the Capital Markets Acts (chapter 485A of the laws of Kenya). The Act at Section 18A

provides for the appointment of the Fund's Board that consists of the following persons:

- Chairman appointed by the president on recommendation by the Minister for Finance;
- Permanent Secretary to the Treasury or a person deputed by him in writing;
- Attorney General or a person deputed by him in writing;
- Public Trustee;
- Chief Executive of the Capital Markets Authority or a person deputed by him in writing;
- The Chief Executive of the Board; and
- Five other members appointed by the Minister for Finance by virtue of their knowledge and experience in legal, financial, business or administrative matters.

The Principal mandate of the Board is to grant compensation to investors who suffer pecuniary loss resulting from failure of a licensed stockbroker or dealer to meet his contractual obligations and to trace and pay unclaimed dividends to beneficiaries in the event that they resurface.

The fund was established in July 1995 and is managed by the Capital Markets Authority at a nominal fee of Kshs. 500,000/= per year. It has power to invest the money accumulated in the fund in such manner as it may determine.

4.1.2 Funding

The sources of monies to the Compensation Fund consist of:

- A charge of 0.01 percent on sale or purchase of shares at the Nairobi Stock Exchange;
- Interest accruing on funds received from subscribers to public issues;
- Financial penalties for noncompliance with CMA requirements; and,
- Interest earned from investment.

4.1.3 Challenges

As at June 2010 the Investor Compensation Fund stood at Kshs 193.0 million after paying out Kshs 268million to investors through Nyaga Stockbrokers which is under statutory management[3]. This amounted to 90 percent of claimants. The Fund is therefore likely to face funding constraints as it pays out to the remainder of Nyaga claimants as well as the claimants from Discount Securities which is also under statutory management.

4.2 DEPOSIT PROTECTION FUND

4.2.1 Structure & Objectives

The Deposit Protection Fund is established by Section 36 of the Banking Act (Chapter 488 of the Laws of Kenya) and is managed by the Deposit Protection Board which is a body corporate. The Deposit Protection Board provides a safety net for the savings, banking and payment systems. It protects depositors against loss of their deposits in case of a bank failure by providing payment of insured deposits. This ensures that depositors remain confident enough to continue keeping their savings within the bank.

The Management of the Fund is through a Board of Directors. The Board formulates policy and gives direction on the Fund's activities. The day to day management is under an Executive Director. The Central Bank is obligated by law to provide all facilities necessary for the proper and efficient exercise of the Board's functions. Such facilities include the office space and staff. Currently, the Executive director and all staff are seconded from the Central Bank.

The Fund undertakes the following functions:

Deposit Insurance - Payment of protected deposits as a result of failed (insolvent) financial institutions placed under liquidation. The maximum

[3] CMA 2010

protected limit is Kshs 100,000. This limit was set with a view to provide maximum coverage to the majority of small depositors and was derived from analysis of returns showing total depositor accounts and deposit spreads submitted by the institutions. Currently, about 88% of the total deposit accounts are fully covered. All accounts of a depositor are first consolidated before settlement as one claim.

In addition to the payment of insured deposits, depositors with deposits in excess of the guaranteed amount are entitled to receive liquidation dividends based on the value of recoveries and proceeds from the sale of the institutions assets.

Liquidation of failed Institutions - The appointment of the Fund as a liquidator by the Central Bank has the same effect as the appointment of a liquidator under the Companies Act (Cap 486 Laws of Kenya). The liquidation process, which is subject to the supervision of the High Court, is therefore governed by the provisions of the Companies Act (Winding up Rules) and the Banking Act. In this respect, the Fund is mandated to take over failed institutions, sell assets and collect debts and pay dividends to uninsured creditors.

Upon payments of the protected deposits the Fund is entitled to receive from the institution or its liquidation an amount equal to the insolvency payments made by the Fund on account of its subrogation to the claims of the depositor. To that end, the Board has priority over any other customer or depositor of the institution.

4.2.2 Funding

Sources of funding are:

- Money contributed into the fund by all licensed banking institutions as Insurance Premiums, which are levied annually currently at a rate of 0.15% of the average total deposits during the previous year. Contributions into the fund shall not be less than Kshs. 100,000.00 nor shall they exceed 0.4% of the institutions total deposit liabilities during the period of twelve (12) months; and,

- Interest accrued when the proceed of the fund are held by the CBK as required by section 37(3) of the Banking Act and invested in treasury bills ,bonds or such other securities issued by the government.

By June 2010 the Fund had assets of Kshs. 24.2 billion.[4]

4.2.3 Challenges

Although it is a statutory body corporate, it operates as a department of the Central Bank hence making it difficult to focus on the unique objectives of the Fund. The Fund does not hire, train and retain staff making retention of institutional memory difficult. In addition the Fund lacks its own legislation and is governed by three different laws: The Central Bank of Kenya Act; The Banking Act and The Companies Act, making its operations difficult. However, a separate Deposit Protection Fund Board Bill is currently before parliament.

The Fund also experiences challenges in expeditious resolution of liquidations which is hampered by the delays in the court process and difficulties in debt collection, especially in the actual realization of collateral securities

4.3 POLICYHOLDERS' COMPENSATION FUND

4.3.1 Structure & Objectives

The Policyholders' Compensation Fund was established in 2004 following amendments to the Insurance Act by the Minister for Finance. The Fund is governed by the Policyholders' Compensation Fund Regulations issued in 2004 (Legal Notice No 105 of 2004).

The Fund is a nonprofit legal entity and its functions arose out of insolvencies in the insurance industry. It is the judicial insolvency procedure that would

[4] DPFB 2010

facilitate action from the Fund. The obligations of the Fund are not invoked until the insurer has been declared insolvent and a policyholder lodges a claim. The primary objective of the Fund is to protect the interest of policyholders, especially individual or nonprofessional policyholders in the event of bankruptcy of an insurance company. The Funds are expected to serve as the final safety net for policyholders, when, in spite of all possible supervisory measures, liquidation of an insurer occurs.
Regulation 4 of the Regulations established the PHCF to vest in and be operated and managed by a Board of Trustees under the control of the Minister.

The scheme protects against systemic problems and secures an appropriate degree of protection for the policy holders. In addition, it maintains confidence in the financial system. Regulation 13 of the insurance (PHCF) Regulations, 2004 provides that the maximum compensation payable by the fund on any claim shall be Kshs. 100,000.00

Pursuant to Regulations 6 of the Regulations the purpose of the PHCF has been defined as to provide compensation to the policy holders of an insolvent insurer. However, Regulation 11 excludes body corporate or any Insurance arrangement made by such body corporate for its employees from the list of eligible claimants in the PHCF. The Regulations apply to individuals as opposed to corporate policy holders or government of Kenya institutions.

4.3.2 Funding

The Fund is financed by contributions collected from member companies and policyholders. The law requires that contributions by insurers be calculated at 0.25% based on monthly premiums and should be paid monthly to the Fund. The policyholders, who are the direct beneficiaries of the scheme, are also required through their insurers to pay a levy at 0.25% on premium. All registered insurance companies in Kenya are under a statutory obligation to collect the levy from policyholders on a monthly basis and make a payment of the same to the Fund by the 15th day of each calendar month. These funds are

invested in liquid assets, mainly government bonds. As at June 2010 the fund had net assets of Kshs. 1.2 billion[5].

4.3.3 Challenges

Whereas the level of compensation may be adequate for individual life policy holders, it is most certainly inadequate for most general insurance policy holders particularly where there are liability claims. For instance a personal injury third party claim may give rise to a claim running into millions of shillings and compensation for one hundred thousand shillings would not be much assistance. Compensation is only paid after completion of liquidation process of an insolvent insurer. A process which takes several years. For this reason, no compensation has ever been paid from the fund despite several insurers having been declared insolvent.

Currently, the Fund is staffed and accommodated by the Insurance Regulatory Authority thus reducing its operational independence.

5.0 CASE STUDIES OF RETIREMENT BENEFITS PROTECTION FUNDS

5.1 INTRODUCTION TO CASE STUDIES

Kenya is by no means unique in not having a benefit protection fund for retirement benefits schemes. Very few countries have such funds and where they exist their mandate is largely limited to protecting defined benefits schemes members against sponsor insolvency risk. For example in the United States of America and the United Kingdom, both of which have funded retirement benefits systems similar to that of Kenya, the Pension Benefit Guarantee Corporation and the Pension Protection Fund respectively provide cover against insolvency of sponsors with defined benefit schemes. A similar scheme is found in Ontario - though not in any of the other nine provinces - in Canada.

[5] PHCF 2010

Germany, Sweden and some other European countries require some statutory insurance of book reserve, that is not separately funded, pension liabilities. In certain countries with mandatory retirement systems, such as Chile, the state itself may guarantee a certain minimum benefit in the event a workers retirement account is below a certain threshold on retirement date. Generally, most countries with voluntary funded systems have taken an approach similar to Kenya's where protection is assumed to be provided by scheme funding requirements and other regulatory requirements to enforce governance of the schemes.

The following sections examine some of the retirement benefits protection schemes in place in different jurisdictions

5.2 PENSION PROTECTION FUND – UNITED KINGDOM

5.2.1 Structure and Objectives

The Pension Protection Fund (PPF) was set up by the UK Pensions Act 2004 and began operating in April 2005. It is a public corporation run by an independent Board, which is responsible to Parliament through the Secretary of State for Work and Pensions.

PPF pays compensation to people belonging to certain defined benefit pension schemes, for example, final salary pension schemes whose employer became insolvent – and where there are not enough assets in the scheme to pay protected levels of
compensation or above. In order for the PPF to assume responsibility for a scheme, the scheme must satisfy the following key criteria:

- the scheme must be a scheme which is eligible for the Pension Protection Fund;
- the scheme must not have commenced wind up before 6 April 2005;
- an insolvency event must have occurred in relation to the scheme's employer which is a qualifying insolvency event;
- there must be no chance that the scheme can be rescued; and

- there must be insufficient assets in the scheme to secure benefits on wind up that are at least equal to the compensation that the Pension Protection Fund would pay if it assumed responsibility for the scheme.

There are currently around 7,100 defined benefit pension schemes in the UK with over 12 million members eligible for PPF protection. By March 2010, 150 schemes with over 47,000.00 members had their benefits transferred to the PPF[6]. An additional 340 schemes were being assessed for transfer to the PPF.

PPF is also responsible for providing compensation to pension schemes of all types whose employer has become insolvent and the scheme has lost out financially owing to dishonesty. The assets held for this purpose are ring fenced within a Fraud Compensation Fund.

The PPF also manages a Financial Assistance Scheme which pays compensation to members of schemes whose employers went insolvent before April 2005. However, this scheme is wholly funded by the Government through tax revenue and is not part of the Pension Protection Fund.

5.2.2 Funding

The compensation paid to scheme members and the administration costs of the PPF are paid for through a pension protection levy and an administration levy on those pension schemes that could make a claim on the PPF now or in the future.

As at March 2010 the Fund had a funding level of 103 percent compared to a deficit level of 88 percent in the previous year.

[6] PPF 2010

Table1: PPF Financial Position as at March 31, 2010, £ Millions

	Pension Protection Fund	Fraud Compensation Fund
Investments		
Financial Assets	4,108.2	-
Derivatives	511.5	
Current Assets	345.7	4.7
Total Assets	**4,965.4**	**4.7**
Current Liabilities	**(112.1)**	**-**
Non Current Liabilities		
Derivatives	(195.5)	
Actuarial Liabilities	(2,447.0)	
Claims Provision	(1,816.7)	(12.2)
NET Assets	**394.0**	**(7.6)**

PPF also generates income from own investments, taking on the assets of schemes that transfer to the PPF and through recovery of assets from employers whose schemes are taken on. Investments are governed by a Statement of Investment Principles and are done through independent professional fund managers.

Table 2: PPF Investment Allocation

Asset Class	**Strategic Allocation & Range**	**Benchmark**
Cash & Bonds	70.0% (65.0 – 80.0%)	
Cash		FTSE gilt all stocks
UK gilts		JP Morgan Govt bonds
Global Bonds		Barclays global aggregate bond
Public Equity	10.0% (5.0 – 20.0%)	FTSE all-world index
Alternative (including property)	20.0% (10.0 – 25.0%	3 – Month LIBOR

5.2.3 Challenges

The global crisis of 2007 – 2009 came soon after the PPF had started operations and impacted the fund adversely due to the sharp increase in employers being declared insolvent and having their scheme's become eligible for transfer to the PPF and due to the fall in the value of the PPF's own investment. This resulted in the deficit position of £ 1.2 billion in March 2009. The subsequent good performance of the markets, however, saw the Fund return to a surplus position by March 2010.

The Pension Protection Levy is a risk based levy which requires setting a rate based on the risk that a particular scheme will transfer to the PPF. In addition the levy is set on annual basis though the PPF agreed to maintain it stable for the last three years given tough economic circumstances faced by employers. In 2008 the PPF published a long term funding strategy but this was not well received by stakeholders. A revised strategy was published in 2010 but doubts remain whether the long term strategic objective can be achieved without imposing undue burden on the schemes or employers.

5.3 PENSION BENEFIT GUARANTEE CORPORATION - USA

5.3.1 Structure and Objectives

The Pension Benefit Guarantee Corporation (PBGC), a federal corporation, was established by the Employee Retirement Income Security Act of 1974 (ERISA) to protect the pensions of American workers and retirees participating in private sector defined benefit plans.

PBGC administers two insurance programs. The single employer program which by September 30, protected nearly 33.8 million workers and retirees in about 26,100 pension plans and the multiemployer program which protects about 10.4 million workers and retirees in about 1,460 pension plan.

Under the single employer insurance program, PBGC:

- monitors companies with large pension plans for risky corporate transactions, as part of PBGC's
- Early Warning Program;
- enforces section 4062(e) of ERISA (relating to corporate downsizing events);
- protects pensioners and the pension insurance program in plan sponsor bankruptcies;
- acts promptly to terminate plans, when necessary; and
- pursues and defends against claims in litigation.

In the multiemployer program, the event triggering PBGC's guarantee is plan insolvency—the inability to pay benefits when due. Insolvency usually occurs after all contributing employers have withdrawn from the plan, leaving the plan without a source of income. PBGC provides insolvent multiemployer plans with financial assistance sufficient to pay guaranteed benefits and reasonable administration expenses.

5.3.2 Funding

The Corporation has three sources of income: assets transferred from schemes taken over; premiums and investment income. A flat rate premium is payable by all eligible defined benefit plans. The premium rate stood at US$ 35 per participant in 2010 yielding a premium revenue of Kshs 1.2 billion in the year to September 2010[7]. In addition, schemes that are underfunded pay a variable rate premium at rate of US$ 9.0 per US$ 1,000.00 of underfunding. These yielded a total premium income of US$ 1.0 billion in the same year.

The scheme invests in accordance with its Investment Policy and through independent institutional investments firms as at September 30, 2010. Its asset portfolio consisted of:

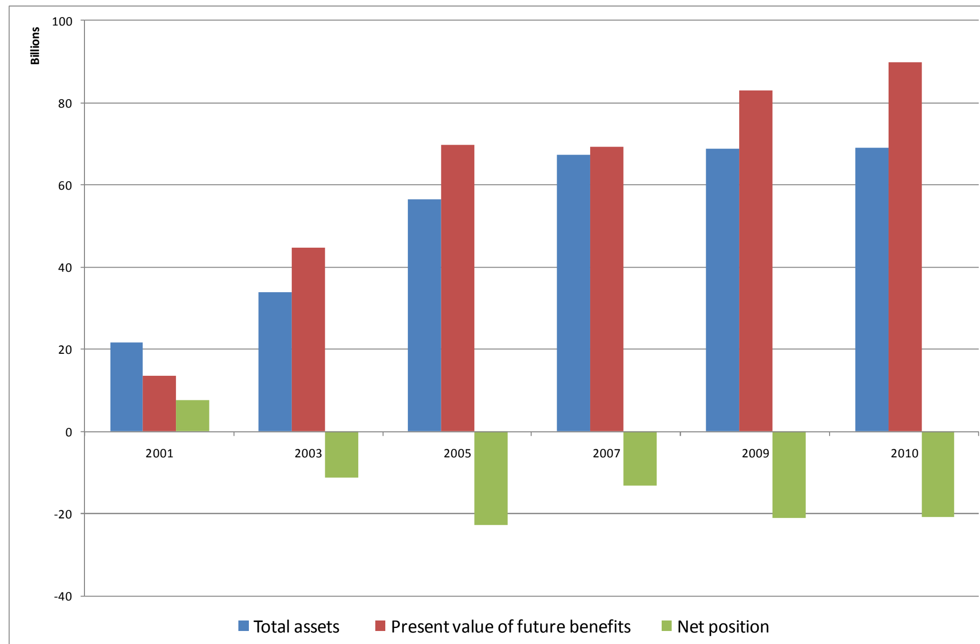
- Cash and fixed income securities at approximately 66 percent of assets;
- Equity securities at 31 percent; and,

[7] PBGC 2010

- Alternative assets (private equity, private debt and real estate) at approximately 3 percent

Due to the large number of bankruptcies of employers with defined benefits schemes such as in the airline and steel industries coupled as well weak investment performance the fund has operated with a deficit since 2001.

Figure1: PBGC Summary Financial Position, US$ Billions



Source: PBGC 2010

5.3.3 Challenges

As indicated above the PBGC has been having a deficit position for almost a decade. In addition to the current deficit, the scheme is exposed to many employers who have likelihood of becoming insolvent in future – such as companies with low credit rating. The PBGC states the cause of the deficit position to be the result of inadequate plan funding, misfortunes that have befallen plan sponsors and insufficient premiums relative to the benefits that PBGC insures.

5.4 PENSION BENEFIT GUARANTEE FUND – ONTARIO CANADA

5.4.1 Structure and Objectives

The Pension Benefits Guarantee Fund (PBGF) is governed by the Ontario Pension Benefits Act and regulations made under the Act. It guarantees pension benefits of Ontario members and beneficiaries under a covered single-employer defined benefit plan, up to a specified maximum and subject to specific exclusions, in the event of the insolvency of the plan sponsor. Currently, the PBGF covers over 1,500 defined benefit plans with members and beneficiaries in Ontario.

It is the only fund of its kind in Canada and is administered by the Superintendent of Financial Services for the Financial Services Commission of Ontario. The PBGF currently guarantees specified benefits up to Canadian dollars 1,000 per month for members who meet certain age and service criteria for service while employed in Ontario.

5.4.2 Funding

The fee structure includes both a per member fee and a risk based fee. The PBGF per member fee is set at CAN$ 1.0 per member while the risk based fee is levied on underfunded plans, based on a sliding scale. A scheme underfunded by 10 percent would pay a fee of 0.5% of the deficiency with the fee rising to 1.5% of deficiency for schemes with over 20 percent underfunding

5.4.3 Challenges

As at March 2009 the PBGF had assets of CAN$ 146 million and a deficit of CAN$ 47 million. Projections are that the fund will be depleted in a few years unless drastic reforms are undertaken either in the funding or benefit structures.

6.0 CASE FOR A RETIREMENT BENEFITS PROTECTION FUND IN KENYA

6.1 RATIONAL FOR RETIREMENT BENEFITS PROTECTION

In funded systems such as In Kenya and the case study countries above, it is in theory not necessary to have a retirement benefits protection scheme. This is because funding in itself insures against this risk of the sponsor being unable to pay as, in the event of bankruptcy, the pension fund is used to pay out what is due to the pensioners. In a book reserve system, for example in Germany, only the remaining assets of the sponsor can be used to service pension obligations hence making a stronger case for insurance.

Nevertheless, it has still been found necessary in the case study countries above to have a benefit guarantee schemes in place for the following reasons:

i) **Political Reactions** - Many retirement benefits protection schemes were put in place as a result of political reactions to adverse events leading to loss of benefits for workers. In the USA and Germany, the putting place of the schemes is often related to collapses of major auto manufactures in these countries namely the Studebaker Company in the USA and the Borgward Company in Germany[8]. In the UK, the creation of the Pension Protection fund is often traced as far back as to the Maxwell scandal. In the Maxwell case the pension scheme of the company had diverted a significant portion of its assets into investments in the sponsor and these funds were lost when the parent company went under. As a result, thousands of workers not only lost their jobs but most of their pension benefits. High profile company closures since then coupled with the "mis-selling" and other scandals are said to have put pressure on the UK Government to put in place a protection fund.

[8] Gerke et al 2006

ii) **Market Failure** –If pensions are viewed as deferred wages then in a perfect market with full information, workers in poorly funded schemes or near bankrupt employers would not grant wage concessions as they would have low expectation of future pensions[9]. They would thus be compensated for future bankruptcy or loss of pension through higher current wages. Given imperfect markets and information a pension guarantee scheme is justified to compensate workers against information asymmetry. This provides confidence to workers and may indeed work to prevent self fulfilling prophesy of bankruptcy arising from higher wage demands.

iii) **Diversification** – Workers are often exposed to double jeopardy of losing both their jobs and their retirement benefits in the event of insolvency of the employer. This is certainly the case in the event of bankruptcy of a company with underfunded defined benefits schemes. Even where schemes are funded or defined contribution, the relative small size of a particular scheme could expose the scheme to assets whose fate is highly correlated to the fate of the sponsoring company. A pension guarantee fund by securing the benefits, even if only in part, protects members from such double jeopardy by in effect diversifying both the assets and the potential liabilities over a wide spectrum of industries.

iv) **Fraud -** Even though a funded pension system can protect the workers from sponsor insolvency risk by keeping the pension assets separate from the sponsor, it may not protect the workers from outright fraud and misappropriation of their pension assets. Corrupt trustees may divert pension assets to the detriment of the scheme members or service providers may fail to live up to their obligations leading to loss of pension assets. A good, example,

[9] Stewart 2007

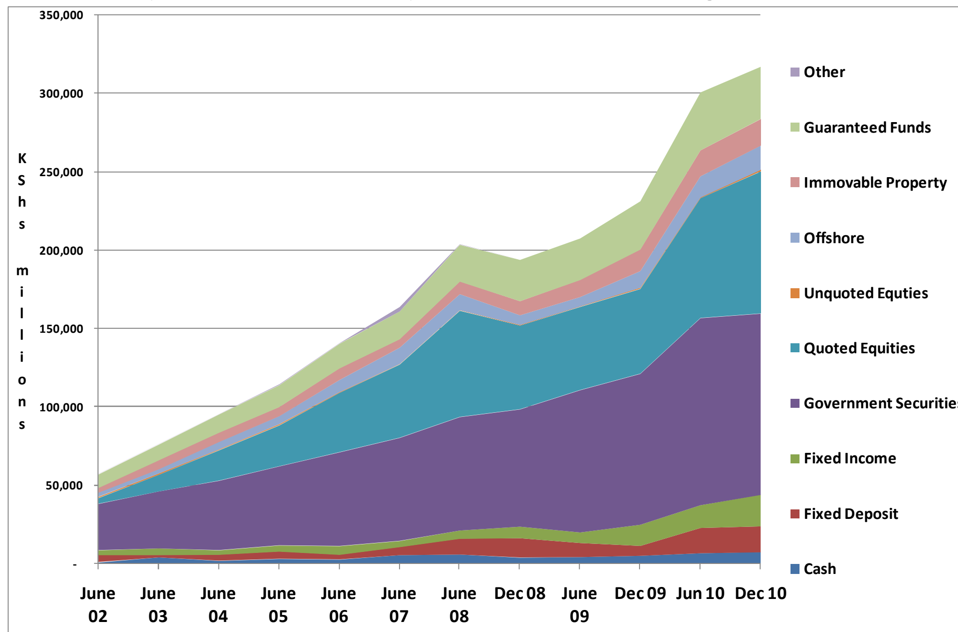
being when the National Social Security Fund, lost assets through Discount Securities Ltd[10].

In examining the case for having such a scheme in Kenya it is important to analyse the structure of the Pension Industry in Kenya.

6.2 STRUCTURE OF PENSION INDUSTRY IN KENYA

The Pension industry in Kenya is relatively large by sub-Saharan Africa standards and has experienced significant growth since the enactment of the Retirement Benefits Act and the creation of the Retirement Benefits Authority. The industry has a relatively well diversified asset mix in line with international standards save for the absence of investments in alternative assets such as private equity, hedge funds and derivatives. The industry has, however, exhibited some volatility particularly during the global financial crisis of 2008 – 2009[11].

Figure 2: Kenya Pension Industry Assets Under Management

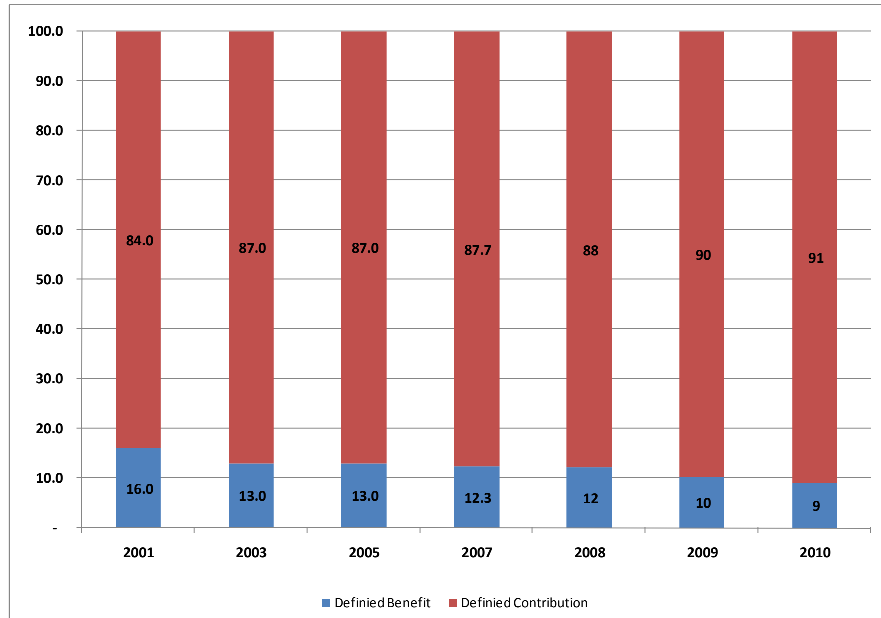


Source: RBA 2011

[10] The East African (October 2008)
[11] Mutuku 2010

As noted above, most retirement benefits guarantee schemes target only defined benefits schemes. In Kenya the ratio of Defined Benefits Schemes as compared to Defined Contribution schemes has been declining over the years and now stands at only 9 percent of total schemes compared to 16 percent in 2001. Even though defined benefits schemes constitute only 9 percent of the total number of schemes they hold around 30 percent of industry assets.

Figure 3: Kenya Pension Industry – Scheme Design, %



Source: RBA

However, the Government of Kenya on November 24, 2010 issued a directive for all state corporations to convert their schemes from Defined Benefit to Defined Contribution by July 2011. Since the majority of remaining defined benefit schemes are for state corporations, it is clear that very few defined benefits schemes will remain by the end of 2011.

6.3 PROTECTION MEASURES IN PLACE IN KENYA

The main risks faced by pensions schemes in Kenya can be categorized as:

1. **Counterparty Default Risk**: Risk of loss from the failures of a counterparty to meet its obligations

2. **Market Risk**: Risk of losses due to movements in interest rates and other market prices

3. **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

4. **Liquidity Risk**: The risk that an institution will not be able to meet its payment obligations as they fall due without excessive cost

5. **Legal and Regulatory Risk**: The likelihood of adverse consequences arising from the failure to comply with all relevant laws and regulations

6. **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

7. **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.

8. **Actuarial risk** – risk that assumptions made in determining liabilities, for example life expectancy, prove to be incorrect resulting in higher than planned for liabilities.

In the Kenyan scenario, a number of measures have been put in place to protect members against the above risks these include:

- Risk based supervision regulatory framework including reporting requirements and enforcement powers;
- Requirement for 100 percent funding of all schemes;
- Written Investment policy prepared with help of professional investment advisor;
- Mandatory use of fund managers and custodians for schemes engaging in segregated investments;

- Investment guidelines that enforce diversification;
- Restrictions on self investment by schemes in the assets of the sponsor; and,
- Scheme governance requirements, including:
    - Member nominated trustees
    - Annual audited accounts
    - Annual general meetings for members
    - Annual membership statements for members

In order to establish whether these measures are adequate to mitigate the identified risks it is instructive to examine schemes that have been wound up or placed under interim administration in Kenya to attempt to relate whether it was a failure to mitigate the risks that led to the winding up.

The table below shows schemes that have found up in the recent past and the reasons for winding up.

Table 3: Wound-up Schemes From March 2011 – June 2011

	REG. NO	SCHEME NAME	DATE WOUND UP	REASON
1	816	Kenya Flourspar (DB)	March 29,2011	CLOSED OLD SCHEME . Funds transferred to New scheme(DC) Deficit paid into new scheme
2	1430	Computer Associates SRBS	April 20, 2011	Draft of TD & R done but sponsor opted not to start scheme
3	773	The Kenya Conservatoire of Music SRBS	March 2, 2011	Joined IPP
4	501	ARSO-African Regional Org. for Standardization Staff Pension Scheme	May 20, 2011	Converted to IPP
5	1116	PEUGEOT Sacco SRBS	May 23, 2011	Converted to IPP
6	697	African Tours & Hotels Ltd SRBS	May 20, 2011	Transferred funds to Trust fund
7	775	African Retail Traders (K) Ltd SRBS	May 23, 2011	Transferred funds to Trust fund
8	1122	Masaba Hospital SRBS	May 30, 2011	Beneficiaries paid except 9 who

				could not be traced who have been transferred to Trust Fund.
9	1320	Kenya Baptist Theological College Staff RBS	June 13, 2011	Transferred to other schemes
10	1527	Utabibu Co-op Savings & Credit Soc. SPF &Life Ass	June 13, 2011	Transferred to IPP
11	1420	Gragaab Agencies Staff Retirement Benefits Scheme	June 16, 2011	Members paid and the sponsors benefits for the members transferred to IPP
12	1461	Meru Mwalimu Co-operative Savings & Credit Society Ltd SPF	June 16, 2011	Transferred to IPP
13	637	Nyasare Water Supply Ass. SRBS	June 16, 2011	Fund not set for pension purposes
14	1609	Kima Integrated Comm. Base SPF	June 16, 2011	Fund not set for pension purposes

Source: RBA

From the list, it appears most schemes that are winding up recently do so for purposes of transferring to an Individual Retirement Benefits Scheme. This trend has arisen because some employers, particularly in small firms, prefer to outsource the retirement arrangement to the Individual Schemes as opposed to having a separate Occupational Scheme for the company. This is largely as a result of not wanting to take responsibility for the various scheme compliance requirements that came into place with the Retirement Benefits Act as detailed above. In such cases of transfer, the members are not affected by the winding up of the occupational scheme as their contributions together with those of the employer continue to be accumulated thorough the outsourced arrangement. Clearly the recent history of wind-ups does not make a strong case for a benefit protection funds as none of the cases would require benefit protection.

The table below considers a stage prior to a winding-up, which is placement of a scheme under interim administration. A scheme is placed under interim administration by the Retirement Benefits Authority when the Authority feels that members' benefits are at risk as a result of action or inaction by the scheme Trustees. It is, therefore, again worth considering as to whether need

for this enforcement action points to a failure to mitigate risks and thus if a benefit protection fund may be needed.

Table 4: List of Schemes Under Interim Administration as at June 2011

	Name of Scheme	Reason for Interim Administration
1.	Kenya Medical Research Institute (KEMRI) Pension Fund	Noncompliance – Fraud – loss of assets
2.	The Modern Business Communications Limited Retirement Benefits Scheme	Failure to recover unremitted contributions from the sponsor.
3.	Stallion Insurance Management Staff Retirement Benefits Scheme	Trustees' failure to pay members' benefits
4.	Blue Shield Insurance Co. Ltd Staff Retirement Benefit Scheme	Failure by the trustees to recover unremitted contributions from the sponsor
5.	Mbuni Drycleaners Staff Retirement Benefits Scheme	No trustees in the scheme; Sponsor unwilling to reconstitute board of trustees; Failure to pay members' benefits
6	KCC Junior Staff Pension Scheme	Failure to pay benefits as directed by Retirement Benefits Appeal Tribunal

Source: RBA

From the above it is apparent that members are indeed exposed to counterparty default and fraud risks. In some of the above cases, in the event the interim administrator is unable to recover lost or unremitted funds, the members may bear the loss. In such a scenario a retirement benefits guarantee fund covering such risks would be beneficial.

6.4 SURVEY FINDINGS

To broaden the knowledge base informing this research paper, a survey questionnaire was developed and sent to 55 experts in the retirement industry in Kenya including: administrators, managers, custodians, trustees, industry groups and other deposit protection funds in the financial sector:

The questionnaire was sent to respondents through an email with a link to a website where the questionnaire was hosted. The Lime Survey software used

to host the questionnaire also did the analysis and provided summary statistics. A total of 39 respondents completed the survey reflecting a response rate of 70.9 Percent was achieved. The research questionnaire is appended to this paper as Annex 1.

The survey respondents reflected a wide array of occupations as well as a good mix between the private sector and public sector. In addition, most of the respondents had significant experience in the pensions industry.

Table 5: Respondent Category

Category	Percentage
Scheme Administrator	30.77%
Sponsor Elected Trustee	25.64%
Member Elected Trustee	10.26%
Other	10.26%
Scheme Custodian	5.13%
Scheme Manager	2.56%

Table 6: Respondent Organization

Category	Percentage
Private Company	48.72%
Quasi- Government Organization	20.51%
Public Company	15.38%
No answer	15.38%

Table 7: Respondent Length of Experience in Pensions Industry

Category	Percentage
More than 7 years	53.85%
4- 6 Years	20.51%
No answer	15.38%
1- 3 Years	10.26%
Less than 1 Year	0.00%

In terms of risks, the risks that most concerned the survey respondents were Market risk, Operational risk, Sponsor Insolvency risk and Counterparty Default/Fraud risk all of which had more than 70 percent of respondents classifying them as important or very important.

Table 8: Ranking of Risks

Risk Rating	SPONSOR INSOLVENCY RISK	COUNTERPARTY DEFAULT OR FRAUD RISK	MARKET RISK
Not important	0.00%	6.45%	3.23%
Somewhat important	16.13%	6.45%	0.00%
No opinion	9.68%	16.13%	16.13%
Important	19.35%	29.03%	12.90%
Very Important	54.84%	41.94%	67.74%
No answer	0.00%	0.00%	0.00%
Risk Rating	**OPERATIONAL RISK**	**LIQUIDITY RISK**	**LEGAL AND REGULATORY RISK**
Not important	0.00%	0.00%	0.00%
Somewhat important	12.90%	25.81%	19.35%
No opinion	12.90%	12.90%	19.35%
Important	41.94%	16.13%	22.58%
Very Important	32.26%	45.16%	38.71%
No answer	0.00%	0.00%	0.00%
Risk Rating	**STRATEGIC RISK**	**CONTAGION AND RELATED PARTY RISK**	**ACTUARIAL RISK**
Not important	3.23%	3.23%	0.00%
Somewhat important	19.35%	19.35%	16.13%
No opinion	9.68%	9.68%	12.90%
Important	48.39%	48.39%	32.26%
Very Important	19.35%	19.35%	38.71%
No answer	0.00%	0.00%	0.00%

The survey indicates strong support for a retirement benefits protection scheme in Kenya with 85.2 percent of respondents agreeing with the statement that "We have protection schemes for banks, capital markets and

insurance we need one for pensions also". 74.1 percent of respondents feel that such a scheme is viable for Kenya and 66.7 percent agree that it will encourage more saving for retirement in Kenya.

Table 9: Question: We have protection schemes for banks, capital markets and insurance, we need one for pensions also?

Answer	Percentage
Totally Agree	62.96%
Somewhat Agree	22.22%
Totally Disagree	11.11%
Neither Agree nor Disagree	3.70%
Somewhat Disagree	0.00%
No answer	0.00%

Table 10: Question: A Pension Benefit Protection Scheme is viable in Kenya?

Answer	Percentage
Totally Agree	51.85%
Totally Disagree	22.22%
Somewhat Agree	18.52%
Somewhat Disagree	3.70%
Neither Agree nor Disagree	3.70%
No answer	0.00%

Table 11: Question: A Pension Benefit Protection Scheme will encourage people to save more for retirement?

Answer	Percentage
Totally Agree	48.15%
Somewhat Agree	18.52%
Neither Agree nor Disagree	14.81%
Somewhat Disagree	11.11%
Totally Disagree	7.41%
No answer	0.00%

When asked outright if a Benefit Protection fund should be established in Kenya 85.2 percent of respondents answered in the affirmative with 70.4 percent of the view that the scheme should cover both Defined Benefit and Defined Contribution schemes. Cross tabulation with respondent category shows all trustees, managers and custodians were in favour of establishing the scheme and for it to cover both types of schemes.

Table 12: Question: Should a Pension Benefit Protection Fund be established in Kenya?

Answer	Percentage
Yes	85.19%
Comments	74.07%
No	11.11%
No Opinion/don't Know	3.70%
No answer	0.00%

Table 13: Cross Tabulation - Question: Should a Pension Benefit Protection Fund be established in Kenya?

RESPONDENT CLASSIFICATION	Yes	No	NO OPINION
Scheme Administrator	66.67%	11.11%	22.22%
Sponsor Elected Trustee	100.00%	0.00%	0.00%
Member Elected Trustee	100.00%	0.00%	0.00%
Other	66.67%	33.33%	0.00%
Scheme Custodian	100.00%	0.00%	0.00%
Scheme Manager	100.00%	0.00%	0.00%

Table 14: Question: Which type of schemes should a Pension Benefit Protection Fund in Kenya cover?

Answer	Percentage
Both	70.37%
No answer	14.81%
Defined Benefit Schemes	7.41%
Defined Contribution Schemes	7.41%

Table 15: Cross Tabulation - Question: Which type of schemes should a Pension Benefit Protection Fund in Kenya cover?

RESPONDENT CLASSIFICATION	DB	DC	Both	NO ANSWER
Scheme Administrator	11.11%	11.11%	44.44%	22.22%
Sponsor Elected Trustee	11.11%	11.11%	66.67%	11.11%
Member Elected Trustee	0.00%	0.00%	100.00%	0.00%
Other	0.00%	0.00%	66.67%	33.33%
Scheme Custodian	100.00%	0.00%	0.00%	0.00%
Scheme Manager	0.00%	0.00%	100.00%	0.00%

As would be expected, a large number of respondents felt that a benefit protection fund should cover sponsor insolvency risk as well counter party default/fraud risk. However, more surprisingly, liquidity risk and actuarial risk which had not been identified amongst the most important risk scored relatively highly in terms of risk to be covered. Cross tabulation does not indicate any clear trend of importance of risks when respondent category is taken into account.

Table 16: Question: Which type of risks should a Pension Benefit Protection Fund in Kenya cover?

Answer	Percentage
Sponsor Insolvency	51.28%
Counterparty Default or Fraud Risk	41.03%
Liquidity Risk	38.46%
Actuarial risk	35.90%
Market Risk	33.33%
Operational Risk	33.33%
Strategic Risk	25.64%
Contagion and Related Party Risk	23.08%
Other	0.00%

Table 17: Cross Tabulation - Question: Which type of risks should a Pension Benefit Protection Fund in Kenya cover?

RESPONDENT CLASSIFICATION	Sponsor Insolvency	Counterparty Default/ Fraud	Market	Operational	Liquidity	Strategic	Contagion and Related Party	Actuarial	Other	NO ANSWER
Scheme Administrator	66.67%	44.44%	66.67%	33.33%	33.33%	22.22%	22.22%	66.67%	0.00%	22.22%
Sponsor Elected Trustee	88.89%	77.78%	44.44%	66.67%	66.67%	55.56%	33.33%	44.44%	0.00%	0.00%
Member Elected Trustee	66.67%	66.67%	66.67%	66.67%	33.33%	66.67%	66.67%	66.67%	0.00%	0.00%
Other	66.67%	0.00%	0.00%	0.00%	33.33%	0.00%	0.00%	0.00%	0.00%	33.33%
Scheme Custodian	100.00%	100.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Scheme Manager	100.00%	100.00%	0.00%	100.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%

In terms of how to set up the Fund, most respondents favoured the Fund being set up as department of RBA with funding drawn from the Retirement Benefits Levy that schemes pay to fund the Authority's operations. Looking at the respondent category, trustees are more inclined to the Fund being a department of RBA while service providers prefer an independent organization. Scheme administrators preferred that the Levy be used as a source of funding, while member nominated trustees preferred it to come from the Employer.

Table 18: Question: How could a Pension Benefit Protection Fund be funded in Kenya?

Answer	Percentage
From the RBA Levy	51.28%
Premiums paid by employers	20.51%
Premiums paid by members	15.38%
From Tax Revenues	10.26%
Other	2.56%

Table 19: Cross Tabulation - Question: How could a Pension Benefit Protection Fund be funded in Kenya?

RESPONDENT CLASSIFICATION	Premium by Members	Premiums by Employers	From RBA Levy	From Tax revenues	Other	NO ANSWER
Scheme Administrator	11.11%	0.00%	77.78%	11.11%	11.11%	22.22%
Sponsor Elected Trustee	33.33%	44.44%	55.56%	11.11%	0.00%	0.00%
Member Elected Trustee	33.33%	100.00%	66.67%	0.00%	0.00%	0.00%
Other	0.00%	0.00%	66.67%	0.00%	33.33%	0.00%
Scheme Custodian	0.00%	0.00%	100.00%	0.00%	0.00%	0.00%
Scheme Manager	100.00%	100.00%	100.00%	100.00%	0.00%	0.00%

Table 20: Question: How should a Pension Benefit Protection Fund be set up in Kenya?

Answer	Percentage
As a department of RBA	51.85%
A new institution	29.63%
As part of existing financial sector protection funds eg. DPF	11.11%
Other	7.41%
No answer	0.00%

Table 21: Cross Tabulation - Question: How could a Pension Benefit Protection Fund be funded in Kenya?

RESPONDENT CLASSIFICATION	As a new institution	As part of existing fin sector protection fund e.g. DPF	As a dept of RBA	NO ANSWER
Scheme Administrator	55.56%	33.33%	11.11%	0.00%
Sponsor Elected Trustee	11.11%	11.11%	77.78%	0.00%
Member Elected Trustee	33.33%	0.00%	66.67%	0.00%
Other	0.00%	66.67%	33.33%	0.00%
Scheme Custodian	0.00%	100.00%	0.00%	0.00%
Scheme Manager	0.00%	100.00%	0.00%	0.00%

Other general comments made by respondents included:

- *"go ahead"*
- *"it is long overdue"*
- *"the best way to protect citizens is for the regulator to be more vigilant in fulfilling its regulatory and supervisory mandate"*
- *"imposing an extra cost to members via a protection fund is simply throwing money to the problem"*
- *"though it should be set up as a department of RBA, it should be accountable to the sources who contribute into the fund in terms of returns and management in order to ensure total transparency. Efforts such as publishing the annual accounts and any changes to the fund should be made public"*
- *"the cover should be different for public and private schemes depending on the amounts or formula for payment of benefits under each scheme and this may finally make it difficult to determine the amounts payable under the Pension Benefit Protection Fund. It is good to look into all these matters since we have Schemes offering very different benefits"*
- *"the protection fund can be set up borrowing from the UK model"*

7.0 PRINCIPLES OF BEST PRACTICES FOR BENEFIT PROTECTION SCHEMES

There are no best practice principles to govern retirement benefits guarantee schemes given the paucity of such schemes in the world. However, core principles have been developed by the Basel Committee on bank supervision and the International Association of Deposit Insurers[12] for deposit protection schemes in banking.

These principles can guide on the practicability of achieving an effective benefit protection scheme for Kenya.

The principles are:
Public policy objectives – need for clear principal objectives for the scheme.
Mitigating Moral hazard – ensuring schemes or scheme members do not take unnecessary risks due to the underlying protection.
Mandate and powers – should be clear and adequate.
Governance – operational independence, transparency, accountability and insulation from political pressure.
Relationship with other safety nets – information sharing and coordination.
Cross border issues – catering for labour mobility in the region.
Compulsory membership.
Coverage – should be limited but credible.
Funding – should be risk adjusted in a transparent manner.
Public awareness – on both benefits and limitations of the system.
Legal protection and redress- protection for staff and ability to seek redress for those at fault for benefits loss.
Early detection and intervention – determination and recognition of likely financial difficulty in advance.
Effective resolution processes.
Prompt payment – when an eligible event occurs payment should be prompt and transparent.
Recoveries - the fund should share in proceeds from the estate of the failed institutions.

[12] IADI 2009

Thus any retirement benefits protection scheme should attempt to fall within these principles.

8.0 CONCLUSIONS

This paper has attempted to examine the viability of a benefit protection fund for a retirement benefits schemes in Kenya. This has been done through systematic exploration of the secondary objectives of the paper namely:

- To examine the case for and against benefit protection funds for retirement benefits
- To examine the experience of benefit protection funds in other jurisdictions
- To examine the current protection mechanisms for retirement benefits in Kenya
- To analyze the need and practicability of establishing a benefit protection fund for the retirement benefits industry in Kenya.

The case for benefit protection funds in funded systems such as Kenya was identified as politics, protection against fraud, market failure and diversification.

On the other hand, an examination of the existing protection funds in the financial sector in Kenya identified the following challenges:

- Insufficient funding leading to potential liabilities far outweighing assets or promised benefits being too low to adequately compensate the beneficiaries.
- Lack of institutional and/or operational autonomy which has arisen to challenges in staffing, institutional memory and legal structures. There appears to be a conflict of interest when the regulator who is supposed to ensure schemes are adequately governed to prevent failure is also administering the fund that compensates in event of that very failure. In addition, any governance weaknesses in the regulator may be replicated in the protection fund.

- Difficulties in liquidating assets due to delays in the legal processes.

Similarly, examining retirement benefits protection funds in other jurisdictions found an absence of such funds in developing countries with the few case studies available coming from developed economies, albeit, with pension frameworks similar to Kenya. The main challenges in these schemes are:

- Doubts as to their long term viability
- Difficulty in charging adequate premiums
- Systematic risks whereby the protection funds face risks highly correlated to the risk faced by the companies and schemes they are insuring.
- Moral hazard whereby companies fail to provide adequately for the pension schemes knowing the same are covered by protection fund
- Adverse selection whereby sponsors who feel they have least likelihood of drawing from the guarantee seeking ways to avoid contributing. For example converting defined benefits schemes to defined contribution schemes.

Examining the structure of the pension industry in Kenya shows rapid decline in the number of defined benefits schemes and this trend is expected to accelerate in the near future meaning there will be little justification for introducing the traditional retirement benefits fund that covers sponsor insolvency risk in defined benefits schemes.

On the other hand, the survey of industry experts shows strong support for introduction of a benefit protection fund to be set up within the RBA and to cover key risk in both defined benefit and defined contribution schemes. This view is reinforced by examination of schemes under interim administration where it is clear members are exposed to loss of benefits particularly as a result of counter party default and fraud risks.

9.0 POLICY RECOMMENDATIONS

The following policy recommendations can be drawn from the above conclusions:

i. Kenya should establish a retirement benefits protection fund under the Retirement Benefits Act. The Fund should be limited to covering loses arising from counterparty default or fraud on the part of trustees and service providers registered under the Retirement Benefits Act. The fund should cover both defined benefit and defined contribution schemes. The Fund should only cover defaults not covered by existing protection funds in the financial sector.

ii. The fund should be modeled on best practices in benefit protection including:
    - Risk based premiums – Schemes at higher risk of recourse to protection fund should be required to pay a higher premium. This will incentivizes schemes to have a lower risk score;
    - Mitigation of moral hazard including making contributions to the fund compulsory for all schemes. This also incentivizes the industry to self regulate to ensure premiums are kept low;
    - Share in recovered assets from failed schemes and service providers in the fund itself;
    - Effective and efficient resolution processes to avoid long delays in restitution; and,
    - Institutional autonomy from the regulator so as to ensure that any governance weaknesses in the regulator are not replicated in the fund and also remove the moral hazard of the same institution controlling a safety net for what may be perceived as its own failures of regulation.

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ANNEX 1: QUESTIONNAIRE

A. GENERAL INFORMATION

1. Name (optional) ________________________________

   Organisation (optional) __________________________

   Email (to receive final paper) ______________________

2. You are a?
   - Member Elected Trustee [ ]
   - Sponsor Elected Trustee [ ]
   - Corporate Trustee [ ]
   - Scheme Administrator [ ]
   - Scheme Manager [ ]
   - Scheme Custodian [ ]
   - Scheme Actuary [ ]

   Other (specify) __________________________________

3. Is your organization a
   - Private Company [ ]
   - Public Company [ ]
   - Quasi- Government Organization [ ]

4. How long have you been in the pensions industry
   - Less than 1 Year [ ]
   - 1- 3 Years [ ]
   - 4- 6 Years [ ]
   - More than 7 years [ ]

5. What would you consider to be your area of expertise, and your particular skill with regard to the pensions industry in Kenya?

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B. PENSION SCHEMES

6. Please rate the importance of the following risks to a Pension scheme in Kenya using a 1 – 5 scale where 1 indicates Least important and 5 indicates very important.

Risk	Least important				Very important
Sponsor Insolvency Risk – Risk of the employer becoming insolvent or being unable to meet obligations to the scheme	1	2	3	4	5
Counterparty Default Risk: Risk of loss from the failures of a counterparty eg. Service provider to meet its obligations	1	2	3	4	5
Market Risk: Risk of losses due to movements in asset prices or interest rates	1	2	3	4	5
Operational Risk: The risk of losses resulting from inadequate internal processes, people and systems	1	2	3	4	5
Liquidity Risk: The risk that the scheme will not be able to meet its payment obligations as they fall due without excessive cost	1	2	3	4	5
Legal and Regulatory Risk: The likelihood of adverse consequences arising from the failure to comply with all relevant laws and regulations	1	2	3	4	5
Strategic Risk: Risks to the continued viability of the scheme as a result of change in the operating environment	1	2	3	4	5
Contagion and Related Party Risk: Risk to an schemes operations as a result of close association with another entity	1	2	3	4	5
Actuarial risk – risk that assumptions made in predicting liabilities, for example life expectancy, prove to be incorrect resulting in higher than planned for liabilities	1	2	3	4	5

C. PENSION BENEFIT PROTECTION SCHEME

7. Please indicate your level of agreement with the following statements with regard to a Pension Benefit Protection Scheme (similar to the Deposit Protection fund Board for Bank deposits) for Pensions in Kenya using a 1 – 5 scale.

Statement	Totally Disagree	Somewhat Disagree	Neither Agree nor Disagree	Somewhat Agree	Totally Agree
"We have protection schemes for banks, capital markets and insurance we need one for pensions also"	1	2	3	4	5
"A Pension Benefit Protection Scheme is viable in Kenya"	1	2	3	4	5
" A Pension Benefit Protection Scheme will encourage people to save more for retirement"	1	2	3	4	5

8. Should a Pension Benefit Protection Fund be established in Kenya? Tick one.

   Yes ☐
   No ☐
   No Opinion/don't Know ☐

   Reason for your answer: ______________________________________
   ____
   ____
   ____

   If answer to Question 7 is "NO" go to Question 12

9. Which type of schemes should a Pension Benefit Protection Fund in Kenya cover? Tick one.

   Defined Benefit Schemes ☐
   Defined Contribution Schemes ☐
   Both ☐

10. Which type of risks should a Pension Benefit Protection Fund in Kenya cover? Tick all applicable

    Sponsor Insolvency ☐
    Counterparty Default Risk ☐
    Market Risk ☐
    Operational Risk ☐
    Liquidity Risk ☐
    Strategic Risk ☐
    Contagion and Related Party Risk ☐
    Actuarial risk ☐
    Other (Specify)________________________________ ☐

11. How could a Pension Benefit Protection Fund be funded in Kenya? Tick all applicable
    Premiums paid by members ☐
    Premiums paid by employers ☐
    From the RBA Levy ☐
    From Tax Revenues ☐
    Other (Specify)________________________________ ☐

12. How Should a Pension Benefit Protection Fund be set up in Kenya? Tick one.
    A new institutions ☐
    As part of existing financial sector protection funds eg. DPF ☐
    As a department of RBA ☐

    Other (Specify)___________________________ ☐

13. Any other comments with regard to a Pension Benefit Protection Fund in Kenya

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