



# Ideal Regulatory and Supervisory Powers

**Jeffrey Carmichael**

IOPS Workshop  
Senegal  
5-6 February 2008

# Outline

1. Foundation of Authority
2. Licencing
3. Policy
4. Supervision
5. Enforcement
6. Winding Up

# 1. Foundation of Authority

- Primary legislation
- Should establish administrative framework for pensions:
  - Legal form and types of funds
  - Separation of roles
  - Fund administration
  - Preservation, portability, etc
  - Restrictions on investments, etc
- Should also establish regulatory agency, objectives, and powers to meet objectives

## 2. Control

- Power to licence/register/authorize:
  - Funds
  - Fund administrators
  - Asset managers
  - Custodians
  - Advisors/brokers/associated professionals
- Power to set conditions on a licence/
- Power to vary conditions on a licence/
- Power to de-licence/

## 3. Making Policy

- Right to make policy is delegated and is often shared – sensitive issue
- Ideal – laws sets out principles, agency establishes details through sub-ordinate instruments: regulations, standards, directives, decrees, .....
- Should cover at least:
  - Administrative matters
  - Governance/codes of conduct
  - Business conduct, including disclosure
  - Capital/solvency
  - Valuation rules
  - Risk management (OpRisk)

## 4. Supervision

- Reporting obligations/information gathering
- Information sharing
- Monitoring and surveillance
  - Production of documents
  - Inspect and copy documents
  - Test compliance with laws/standards
- Investigation
- Authorization of SROs

## 5. Enforcement

- Directions
- Suspend operations
- Remove directors
- Require replacement of auditors
- Freeze assets
- Administrative fines

## 5. Enforcement (cont.)

- Publication of corrective material
- Terminate or unwind transactions
- Enforceable undertakings
- Statutory/Judicial management
- Prosecution
- Revoke registration

## 6. Winding Up

- Transfers of engagements:
  - Voluntary
  - Forced
- No licenced fund/entity to be wound up without regulator's approval



# Discussion