Retirement Benefits Authority

SUPERVISION OF PENSIONS - KENYAN EXPERIENCE

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THE STRUCTURE OF KENYA'S RETIREMENT BENEFITS INDUSTRY

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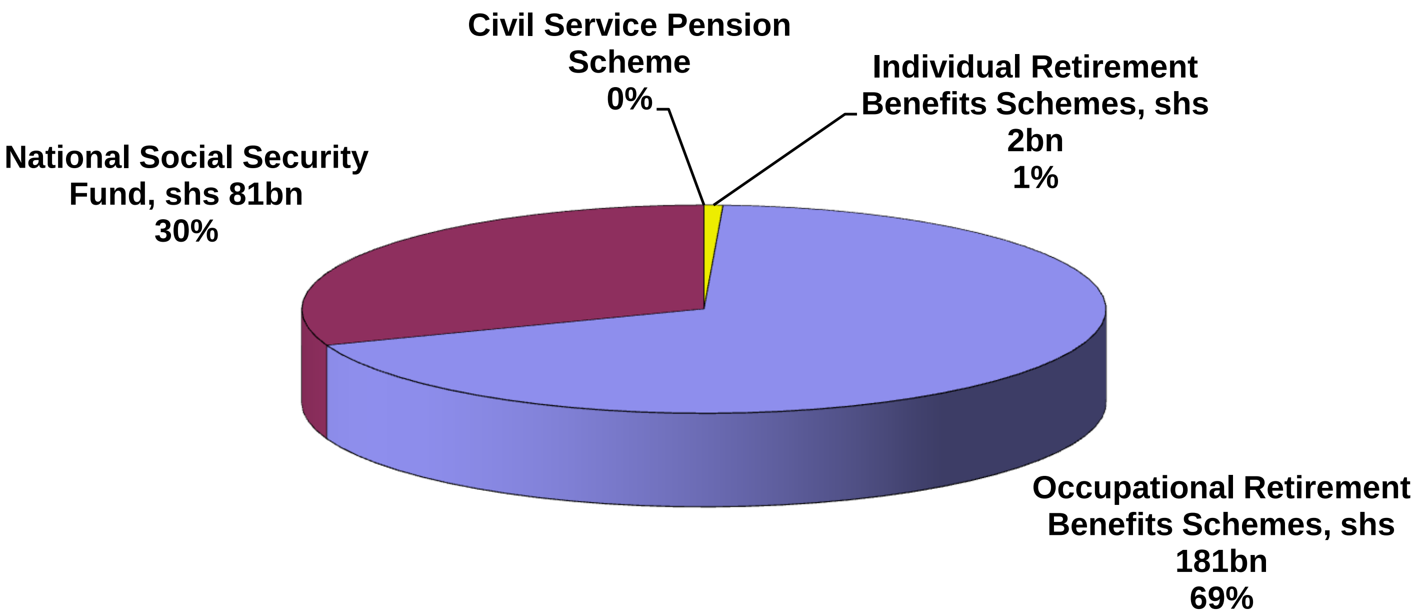
	Civil Service Scheme	National Social Security Fund	Occupational Schemes	Individual Schemes
Legal Structure	Act of Parliament	Act of Parliament	Trust Deed	Trust Deed
Membership	all civil servants and teachers	-formal sector workers in companies	formal sector workers in companies that have schemes	individuals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

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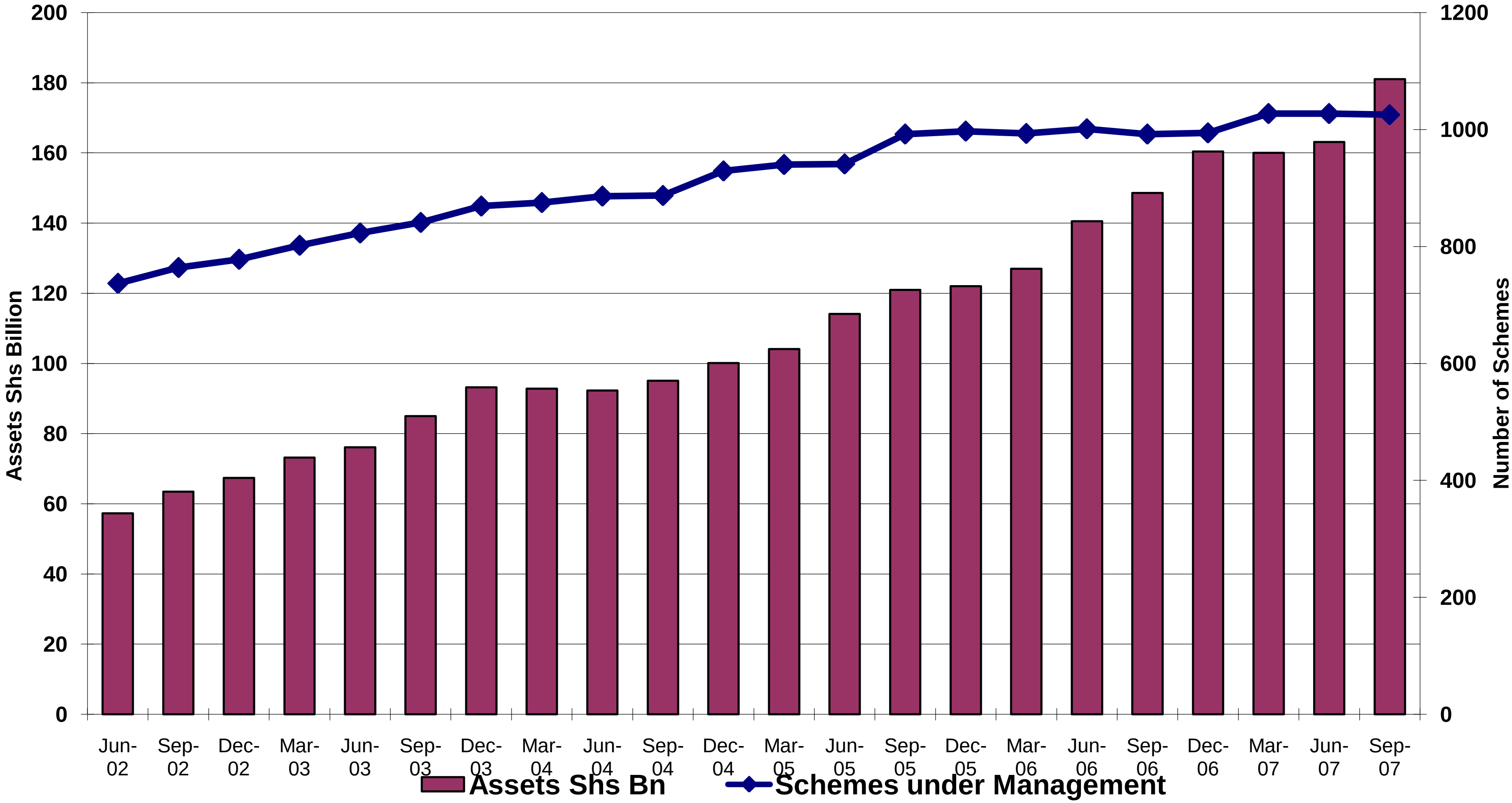

Excluding NSSF

SCHEMES IN UNREGULATED ENVIRONMENT

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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

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- 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

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- 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

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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

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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

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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)

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- 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

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- **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

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

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

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

www.rba.go.ke