

"I am an upwardly mobile, 24 year old living on the fast lane enjoying the road to retirement"

The Challenges of Being a Regulator of Retirement Benefits Schemes



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GENESIS OF RBA

- 1997: Enactment of the Retirement Benefits Act
- 1997: Subsequent formation of the Retirement Benefits Authority
- 2000: Gazettement of Regulations
- 2001: Full Commencement of the Act and Regulations and Operations of the Authority
- Reasons for formation:
 - x Members were denied benefits – lacked protection
 - x Scanty, scattered and disharmonized benefits legislation
 - x Imprudent investments of scheme funds
 - x Poor management of schemes- no required accountability
 - x Scheme funds formed part of sponsors capital funds



Role of the Authority

- Regulate and supervise the establishment and management of retirement benefits schemes;
- Protect the interest of members and sponsors of retirement benefits schemes;
- Promote the development of the retirement benefits sector;
- Advise the Minister for Finance on the national policy to be followed with regard to the retirement benefits sector;
- Implement all government policies relating thereto.



Challenges – Sponsor Interference

- Sponsor interest in scheme strong even though schemes are recognized as separate legal entity
- Sponsor interference intimidates trustees from performing their roles effectively
- Sponsors threaten trustees of loss of jobs
- Trustees cannot follow on un-remitted contributions from sponsor/employer



■ The role of the sponsor.



RESOLUTION

- To begin with, the sponsor (employer) should resolve to start the scheme.
- In the case of a limited company, a board resolution is required.
- It is important that the employer originates the idea or at least buys the idea from the employees because of the financial obligations on the employer.



■ TRUST DEED & RULES

- Secondly, schemes should be established by an irrevocable trust and that the scheme documents be professionally prepared.



- A scheme will therefore be a "trust" which can be defined as "an equitable obligation, binding a person (a trustee) to deal with property over which he has control (the trust property) for the benefit of persons (beneficiaries) of whom he may himself be one".



- The trust deed and rules is the document that created the trust and can be considered to be the constitution of the scheme.
- If possible, this document should be summarized into a small booklet and distributed to members at the inception of the scheme.



APPOINTMENT OF TRUSTEES

- After the preparation of the trust deed, the sponsor (employer) can now appoint trustees,
- One half of the trustees must be nominated by the members.
- The regulations provide that there should be at least 3 trustees (unless a corporate trustee is appointed).



THE SCHEME TRUSTEES AND THE SPNSOR;

- Once the Trustees have been appointed they are required to take charge of the scheme in full compliance of the RBA act the Regulations and the Scheme Trust deed.
- The employer is not permitted to run the scheme



THE END

Asante

QUESTIONS

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