STATUTORY INSTRUMENTS
SUPPLEMENT No. 11 17th April, 2014

STATUTORY INSTRUMENTS SUPPLEMENT

to The Uganda Gazette No. 21 Volume CVII dated 17th April, 2014

Printed by UPPC, Entebbe, by Order of the Government.

STATUTORY INSTRUMENTS

2014 No. 44.

THE UGANDA RETIREMENT BENEFITS REGULATORY AUTHORITY (INVESTMENTS OF SCHEME FUNDS) REGULATIONS, 2014

ARRANGEMENT OF REGULATIONS

PART IV—RESTRICTIONS ON INVESTMENT OF SCHEME FUNDS

PART V—REPORTING AND DISCLOSURE REQUIREMENTS

SCHEDULES

S T A T U T O R Y   I N S T R U M E N T S

2014 No. 44.

The Uganda Retirement Benefits Regulatory Authority (Investments of Scheme Funds) Regulations 2014

(Under sections 67, 68(1) (g) and 91(1),(2) (g) of the Uganda Retirement Benefits Regulatory Authority Act 2011, Act No.15 of 2011.)

IN EXERCISE of the powers conferred on the Minister by section 67, 68 (1) (g) and 91(1), (2) (g) of the Uganda Retirement Benefits Regulatory Authority Act, 2011, these Regulations are made this 30th day of January, 2014.

PART I—PRELIMINARY

1. Title.

These Regulations may be cited as the Uganda Retirement Benefits Regulatory Authority (Investment of Scheme Funds) Regulations, 2014.

2. Interpretation.

In these Regulations, unless the context otherwise requires—

"Act" means the Uganda Retirement Benefits Regulatory Authority Act, 2011;

"Actuary" has the meaning given to it under the Act;

"Authority" means the Uganda Retirement Benefits Regulatory Authority;

"benchmark" means a standard against which the performance of an investment can be measured;

"collective investment scheme" has the meaning given to it in section 3 of the the Collective Investment Schemes Act 2003;

"currency point" has the value given to it in Schedule 1 to these Regulations;

"fair value" has the meaning given to it in International Financial Reporting Standards;

"fund manager" has the meaning given to it under the Act;

"investment policy statement" means a document containing principles governing decisions on investment of scheme funds, a description of a scheme's general investment philosophy and objectives as determined by the scheme's liability profile and risk appetite;

"private equity" means an asset class consisting of equity securities in operating companies that are not publicly traded on a stock exchange;

"scheme" has the meaning given to retirement benefits scheme under the Act.

PART II—INVESTMENT POLICY OF A RETIREMENT BENEFITS SCHEME

3. Contents of investment policy statement of a retirement benefits scheme.

(1) The Board of trustees of a retirement benefits scheme shall cause to be prepared and maintained a written investment policy statement of the scheme in accordance with the Act and these Regulations.

(2) The investment policy statement shall contain—

(a) the investment objectives;

(b) the types of investments to be held by the scheme;

(c) the percentages of the total fair value of the assets of the scheme invested in accordance with the asset classes and percentages prescribed in Schedule 2;

(d) the level of risk and volatility of returns which the Board of trustees considers appropriate in connection with the investments of the scheme;

(e) the desired level of liquidity for the retirement benefits scheme;

(f) the realisation of investments;

(g) asset liability matching;

(h) the desired investment outcome for the retirement benefits scheme;

(i) the performance benchmarks for the returns that the Board of trustees seeks to achieve;

(j) the diversification to be made within asset classes and between asset classes;

(k) any restrictions and prohibitions on investing in a particular asset class;

(l) any restrictions on the retirement benefits scheme holding investments in a single entity or group;

(m) any minimum liquidity standards for a particular category of investments;

(n) the criteria used to monitor and review the performance of the fund manager;

(o) the procedures adopted to monitor the investments of the retirement benefits scheme and actions taken accordingly;

(p) the procedures adopted to prepare or review the investment policy of the retirement benefits scheme;

(q) any factors which are peculiar to the retirement benefits scheme; and

(r) any other matters as may be prescribed by the Authority.

(3) The investment policy statement of a scheme shall not require that a decision to make an investment shall be subject to the consent of the sponsor.

(4) The investment policy statement shall be signed by all the trustees of the retirement benefits scheme.

(5) A certified copy of the investment policy statement of the scheme shall be submitted to the Authority.

4. Preparation of investment policy statement.

The investment policy statement shall be prepared in such a way that—

(a) it is capable of being clearly communicated to the members or prospective members of the scheme;

(b) the members or prospective members of the scheme are able to understand the objectives set for the fund manager and to reconcile these objectives with the overall investment policy set by the Board of trustees; and

(c) the members or prospective members can understand the manner in which the investment performance and management of the scheme is measured.

5. Review of investment policy statement.

(1) The investment policy of the scheme shall be reviewed at least once every three years, and submitted to the Authority.

(2) Notwithstanding subregulation (1), the Board of trustees may review the investment policy of the scheme on an annual basis where there is a material change to the scheme or in anticipation of a major change or where such change does not occur.

(3) For the purpose of subregulation (2), a material change to the scheme may result from—

(a) a significant change in the membership of the scheme;

(b) a significant change in the benefit structure;

(c) a significant change in the asset or liability values caused by market movements;

(d) the transfer or amalgamation of assets or liabilities between schemes; or

(e) a change in the actuarial valuation assumptions which results in a material change to the actuarial values of either the assets or the liabilities of the retirement benefits scheme.

6. Circumstances to consider in preparing or reviewing a scheme's investment policy statement.

The Board of trustees shall, in preparing or reviewing the scheme's investment policy statement—

(a) seek and take into account the professional advice of a qualified actuary or financial analyst; and

(b) take into account all the circumstances of the retirement benefits scheme including—

(i) the risk involved in making, holding and realising investments of the retirement benefits scheme;

(ii) the likely returns from the retirement benefits scheme's investments having regard to its objectives and its expected cash flow requirements;

(iii) the funding methods used in the scheme, including, in the case of a defined contribution scheme, any smoothing of investment returns accrued to individual member accounts;

(iv) the composition of the retirement benefits scheme's investments as a whole including the extent to which the investments are diverse or involve the scheme being exposed to risks from inadequate diversification;

(v) the liquidity of the retirement benefits scheme's investments having regard to its expected cash flow requirements;

(vi) the ability of the scheme to discharge its existing and prospective liabilities;

(vii) the membership profile of the retirement benefits scheme including the age distribution of the members;

(vii) the reasonable expectations of the members;

(viii) the nature and expected timing of the members' entitlements;

(ix) the size of the retirement benefits scheme;

(x) tax considerations affecting the scheme;

(xi) the likelihood of future support from employers, where appropriate;

(xii) any limitations and constraints on investments imposed by the Act, these Regulations, the trust deed or the scheme's rules;

(xiii) any reports from experts or other qualified professional advisers;

(xiv) disclosure of any actual or potential conflict of interest involving the trustees, the fund manager or an associate of the trustee or the fund manager; and

(xv) disclosure of any benefit that will be derived as a result of the actual or potential placement of the investments of the scheme.

7. Investment policy statement of a defined benefits scheme.

(1) An investment policy statement for a defined benefits scheme shall be prepared on the advice of an actuary, in accordance with the Act and these Regulations.

(2) An actuary of a defined benefits scheme shall issue a written confirmation that the investment policy statement is consistent with the objectives of the scheme.

8. Investment of scheme funds and assets.

(1) The fund manager of a retirement benefits scheme shall ensure that all the investments of the scheme are made in accordance with the scheme's investment policy statement.

(2) The Board of trustees shall monitor the performance of the fund manager to ensure compliance with the scheme's investment policy statement.

(3) Where the investments of a retirement benefits scheme cease to be consistent with the scheme's investment policy statement, the fund manager shall as soon as possible but not later than three months, notify the trustees and the Authority.

PART III—PERCENTAGES AND ASSET CLASSES FOR INVESTING OF SCHEME FUNDS

9. Asset classes and percentages for investment of scheme funds.

(1) The funds and assets of a scheme shall be invested, in accordance with the percentages and asset classes prescribed in Schedule 2 or any other investment approved by the Authority.

(2) The Authority may, in writing, give a new scheme a grace period of twenty four months to enable the scheme to comply with the asset classes and percentages prescribed in Schedule 2 to these Regulations.

(3) Any scheme which is unable to comply with subregulation (1) may apply to the Authority for guidance on a remedial plan to enable the scheme to comply with the asset classes and percentages prescribed in Schedule 2 to these Regulations.

(4) All the funds and assets of a scheme may be invested in a collective investment scheme or a pooled fund, which complies with the asset classes and percentages prescribed in Schedule 2.

10. Variation of percentages.

(1) The percentages imposed in Schedule 2 may, with the approval of the Authority, be temporarily varied for the purpose of asset revaluation.

(2) Notwithstanding subregulation (1), where such variation results from market appreciation in the value of securities or any other factors, the trustees and fund manager shall within three months notify the Authority.

11. Allocation to take into account liquidity requirements.

The actual allocation of scheme funds or assets, shall make allowance for the liquidity requirements necessary to meet the maturing obligations of the scheme.

PART V—RESTRICTIONS ON INVESTMENT OF SCHEME FUNDS

12. Restriction on investment in certain activities.

(1) The Authority may from time to time impose restrictions on investment in particular activities.

(2) Where a decision is made under subregulation (1), the Authority shall publish a list of the restricted activities in the Gazette and a newspaper of wide circulation.

(3) The Authority may, in writing, give a scheme a grace period not exceeding twelve months to enable the scheme to comply with subregulation (1).

(4) Any scheme which is unable to fulfil the requirements of this regulation may apply to the Authority for guidance on a remedial plan to enable the scheme to comply.

13. Sale, purchase or disposal of scheme assets to be at arm's length.

The sale, purchase or disposal of scheme assets shall be in a manner that is fair, transparent, at arm's length and in the best interest of the scheme.

14. Restrictions on borrowing and lending of securities.

(1) There shall be no borrowing or lending of the securities of a scheme either for speculative investments or any other purpose.

(2) The securities of a scheme shall not be used as collateral for any borrowing.

15. Requirement to report large exposures.

Where 10% or more of the value of the scheme's assets consists of investments in a single entity or a single group, the fund manager for the retirement benefits scheme shall make a report in writing of the investments to the trustees and the Authority within thirty days.

16. Report on investments of the scheme.

The trustee shall within thirty days after the end of each calendar quota, submit to the Authority a report of the investments of the scheme indicating—

(a) the split of assets of the scheme in the asset classes and percentages prescribed in Schedule 2 to these Regulations and indicating the geographical location of the assets;

(b) an explanation in case the asset composition is not in accordance with the scheme's investment policy;

(c) the performance of the investments stating whether the investments are being managed in accordance with the scheme's investment policy, including a confirmation that the trustees are monitoring the performance of the fund managers;

(d) additions to and withdrawals from the assets during the period;

(e) the value of the assets at the beginning and end of the period;

(f) an attribution of performance analysis and an investment summary;

(g) confirmation that the trustees prepared or reviewed the scheme's investment policy together with the scheme's fund manager; and

(h) confirmation that the Board of trustees has ascertained that the fund manager complied with the scheme's investment policy statement.

17. Disclosure of investment policy to scheme members.
The Board of trustees of a retirement benefits scheme shall cause to be prepared an accurate written summary of the retirement benefits scheme's investment policy and performance of investments to be included in the annual report of the scheme to members or prospective members.

18. Penalty for non-compliance.
(1) A fund manager or a trustee who contravenes these Regulations commits an offence and is liable on conviction to a fine not exceeding seventy five currency points and in case of a continuing contravention, an additional penalty of fifty currency points in respect of each day on which the offence continues.

(2) In addition to the penalty specified under subregulation (1) if there is a loss as a result of the investment, the fund manager shall be surcharged with the loss.

19. Administrative sanctions.
The Authority may impose administrative sanctions on any person who contravenes these Regulations.

SCHEDULE 1

Regulation 2, 18 (1)

CURRENCY POINT

One currency point is equivalent to twenty thousand Uganda shillings.

SCHEDULE 2

Regulations 9, 10(1), 16(1)

ASSET CLASSES AND PERCENTAGES FOR INVESTING OF SCHEME FUNDS

Item	Categories of Assets Classes	Maximum percentage of aggregate market value of total assets of funds of the scheme
1.	Cash and demand deposits in institutions licensed under the Financial Institutional Act 2003 or other similar institutions licensed in the East African Community.	5%
2.	Fixed deposits, time deposits and certificates of deposits in institutions licensed under the Financial Institutions Act 2003 or other similar institutions licensed in the East African Community.	30%
3.	Commercial paper, corporate bonds, mortgage bonds and asset backed securities and collective investment schemes approved by the Capital Markets Authority.	30%
4.	Government securities in the East African Community	80%
5.	Shares of companies quoted in a stock exchange in East Africa and collective Investment Schemes approved by the Capital Markets Authority.	70%
6.	Immovable property in Uganda; real estate investment trusts and property unit trust approved by the Capital Markets Authority.	30%
7.	Private equity in the East African Community	15%
8.	Any other assets classes approved by the Authority	5%

FRED J. OMACH,
Minister of State for Finance Planning and Economic Development
(General Duties) &
Holding the Portfolio of the Minister of Finance, Planning
and Economic Development.