

***The Uganda Retirement Benefits Regulatory Authority
(Members' Rights Guide Booklet) Guideline No.3 of 2016***



MEMBERS' RIGHTS GUIDE BOOKLET

Disclaimer

This handbook is not a legal document nor does it substitute the provisions of the Uganda Retirement Benefits Regulatory Authority Act and the Regulations made thereunder. The handbook should be read together with the URBRA Act, 2011 and the regulations made thereunder.

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**INFORMATION TO MEMBERS OF RETIREMENT
BENEFITS SCHEMES**

1. INTRODUCTION

Members of retirement benefits schemes (schemes) are entitled to certain rights under both statutory and applicable common law of trusts. Most members of schemes do not know those rights and it is incumbent on both the sponsor and the trustees of schemes to clearly communicate and inform members their rights. Further, members of schemes are entitled to information relating to their schemes.

This members' rights guiding booklet provides information which trustees and sponsors must provide to the members of their schemes and also identifies some rights members are entitled under a retirement benefits schemes.

**2. GENERAL INFORMATION ABOUT SAVING
FOR RETIREMENT**

Potential sponsors of schemes and trustees of existing schemes need to inform potential members and members of schemes about the importance of saving for retirement. Old age income security is important when regular earnings in form of salary or business earnings cease. Retirement savings are meant to replace regular earnings, which cease upon retirement from active employment. In order to maintain a good standard of living in old age all retirees require retirement benefits. Taxpayers may not be able to pay retirement benefits to all retired citizens and therefore there is need for those with an earning during their active economic life to plan and save for retirement.

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Employers and other institutions may on a voluntary basis establish a retirement benefits scheme, which upon being licensed by Uganda Retirement Benefits Regulatory Authority (URBRA) may register employees as members or invite members of the public to register as members respectively, to commence saving for retirement.

3. INFORMATION ABOUT THE TYPE OF SCHEME AND IMPLICATION

- a) Members need to be informed about the type of their retirement benefits scheme. There are various types of schemes. There are schemes designed as defined benefits schemes, a hybrid schemes or defined contribution schemes. Some schemes are mandatory and some are voluntary. Most schemes are work-based or occupational schemes while few others are individual saving schemes often targeting the self-employed persons and the informal sector workers. National mandatory schemes are often established under statute by government covering formal workers while most occupational schemes and individual are established under irrevocable trusts.
- b) National Social Security Fund is a mandatory scheme established under a statute. There are other statutory schemes set up by legislation and provide benefits for employees in the public sector or semi-state bodies. A trust is a legal arrangement used to establish a retirement benefits scheme under which trustees hold the assets of the scheme in a trust fund for the benefit of the members of the scheme and their dependants, and for the purpose of providing income in retirement.
- c) The implications of participating in a mandatory scheme and a voluntary scheme need to be communicated to members. At the

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same time the implications of being a member of a defined benefit scheme, defined contribution scheme or a hybrid scheme need to be simplified in a booklet and availed to a member.

- d) Under a defined benefit schemes members are guaranteed benefits determined by an accrual factor, period of service and either final salary or career average earnings. The sponsor who promises the benefit in advance is required to guarantee the payment of the benefits. Accordingly, the sponsor assumes the risks associated with market performance of the scheme assets as well as funding of the scheme. The scheme requires regular actuarial valuations to ascertain its funding solvency.
- e) Under a hybrid scheme, which comprises both the aspect of contributions from the sponsor and members, as well as the promise of a guaranteed benefit at the time of retirement, the contributions of the members and sponsor will constitute the benefit and the members may assume the risk of investment but not below a set floor, which the sponsor guarantees. The risk of investment is shared between the sponsor and the member. There is thus a level of guarantee of the benefits above the set investment performance underpins.
- f) Another form of a hybrid scheme would be in form of an underpin benefit guarantee. At retirement, the member receives a benefit based on whichever calculation provides the better result. The contributions may be shared equally between the sponsor and a member but with a benefit guarantee at retirement, which is already predetermined. The member will be paid a benefit which is not below the guaranteed benefit even when the accrued value of the member's account is below the guaranteed benefit.
- g) A hybrid scheme takes various forms but fundamentally it has

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features of a defined benefit and a defined contribution scheme. Because of that guarantee, like a defined benefit scheme, the funding of the scheme requires continuous actuarial valuation to ascertain the funding solvency of the scheme.

- h) The most common schemes in Uganda are defined contribution schemes. Under these schemes, benefits are promised and hence the sponsor does not guarantee benefits. The obligations of the sponsor are limited to the payment of contributions on behalf of a member which contributions are invested until retirement. The value of funds in a member's account at retirement will constitute the benefit. Under defined benefits schemes, members and not the employer assume the risk of investment performance.

4. MEMBERSHIP IN A SCHEME

- a) Employers and potential sponsors of retirement benefits schemes in Uganda are not under any statutory obligation to establish occupational schemes for workers. However, once established, the schemes is required to comply with the URBRA Act and Regulations.
- b) An employer of five or more employees is under a statutory obligation to register and contribute on behalf of their employees to the mandatory National Social Security Fund..
- c) Civil servants, the military and employees in local authorities are members of the public service pension schemes by virtue of statutory provisions.
- d) The rules of an occupational retirement benefits scheme should provide for eligibility for membership. Being a condition of employment it is expected that all workers

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should be eligible for membership in the scheme unless special and justifiable reasons are stated in writing why some workers may be excluded from membership.

- e) Membership in an individual saving scheme is voluntary and self-employed persons or workers in the informal sector are free to apply for membership on their own wish.

5. CONTRIBUTIONS AND FUNDING THE SCHEME

- a) Except the public service scheme, all other retirement benefits schemes are required under the law to be funded. The funding of the scheme is dependent on the type of scheme.
- b) For defined contribution schemes, like the majority of the occupational schemes and the mandatory National Social Security Fund, funding is dependent on the monthly contributions of the employer and employees.
- c) Members need to clearly know the rate of contributions made to the scheme, the regularity of those payments and the implications when contributions are not made on time or at to the scheme. The law requires contributions to be made by the 15th day of the following month. Under URBRA Act, it is an offence for an employer not to remit contributions to the scheme and besides a penalty interest charge of not less than 10% of the unpaid contributions applies.
- d) In the case of individual saving plans, members make their own contributions, which constitute the assets that will provide a benefit at retirement or as agreed in the scheme trust deed. The contributions made to the scheme pre-fund

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the benefits anticipated at the time of retirement.

- e) However for Hybrids and defined benefits schemes, where the sponsor guarantees benefits to the employees at the time of retirement, funding is critical as the sponsor is required to ensure that the scheme is fully funded to meet the obligations arising from the promised benefits.
- f) In the case of the Public Service Scheme, benefits are funded by general tax revenue of government. Government of Uganda shoulders the risk of funding of the scheme, and although no special fund is set aside for this purpose, benefits are assumed to be funded when they fall due.

6. INVESTMENT OF THE ASSETS OF THE RETIREMENT BENEFITS SCHEME

- a) Members are entitled to know how the scheme assets are invested. The scheme is required under section 67 of URBRA Act to develop a prudent investment policy. The trustees of the scheme being legal owners of the scheme assets shall develop an investment policy to guide the investment of scheme assets as if the assets were their own. In so doing trustees are expected to know the needs of the members and beneficiaries, regular income expectation, preservation of scheme assets and effectively manage risks associated with investments.
- b) Members are entitled to a summarized version of the investment policy besides the right to be furnished with a copy of the investment policy upon formal request.
- c) During annual general meetings of the scheme, the fund manager should make a clear presentation to members on

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the investment performance of the scheme in the past year and members are entitled to ask questions which the trustees or the fund manager should respond to. It should always be remembered that the views of members in an annual general meeting are only recommendations which trustees, in their meetings, may consider but they are legally binding on them. Prudence in processing members' views is expected from trustees.

- d) The fund manager is under a dual obligation to comply with the investment policy and also the provisions of the URBRA Act and the Investment guidelines under the act. In case of a conflict between the two, the Act and regulations take precedence.
- e) As the market develops, the need for member choice may arise. It is incumbent upon trustees to furnish all the information a member requires in order to make prudent decisions on these life cycle funds. The fund manager will then prudently invest the various funds within the scheme respecting choices of members.

7. COST OF SCHEME ADMINISTRATION

- a) Members of schemes are entitled to information relating to the cost of administering the scheme. Schemes incur costs on trustees allowance, service providers and investment transactions etc. There are statutory payments such as compulsory levies and taxes. Trustees must demonstrate to members that costs and charges are value for money. Trustees will be expected to provide members with a summary report during annual general meetings showing the features of the scheme, scheme's clear objectives and the cost

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intended to achieve those objectives.

- b) Disclosure of scheme administration costs has shown to build member confidence, which supports enhanced performance.

8. TAXATION OF PENSION FUNDS

Taxation policy of retirement benefits schemes does have an implication on the extent of participation in retirement savings by employers and members. Members need to be informed of the tax applicable to their contributions, investment income and benefits payment. Taxation policy can be an incentive or disincentive to saving for retirement. The need for member information on applicable taxes helps members to realistically plan for their retirement by either enhancing contributions or demanding for improved investment strategies to cover against the tax obligations at retirement.

9. BENEFITS PAYMENT PHASE

- a) The benefits payment phase is the core aim of a retirement benefits scheme. People save for long to secure an income in old age when other sources of income have ceased. The expectation of members approaching retirement is always high and trustees of a scheme should avail sufficient information relating to benefits accumulated, the various ways a member can access the benefits. Trustees should organize meetings with scheme members who are about to retire and share information on retirement and respond to anxieties retiring members may have related to their retirement.

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- b) The manner in which a member may access benefits upon retirement depends with the provisions of the scheme rules. Some schemes provide for pensions, which may be issued internally by the scheme or may require a member to buy an annuity from a provider of his or her choice. Some schemes provide for lump sum pay such as the mandatory NSSF and trustees need to help members on how to utilize the funds during retirement years.

10. DISPUTE RESOLUTION MECHANISM

Trustees should ensure that the scheme rules provide for the procedures of resolving disputes between parties to the scheme. The procedure should be accessible to all with least complications and fair. It is important that trustees inform members of the process of resolving disputed works.

11. MEMBER RIGHTS UNDER THE ACT

Uganda Retirement Benefits Regulatory Authority Act makes explicit rights to members and some rights are inferred from common law of trusts that to some extent applies in this jurisdiction.

- i. Members have a right to a booklet, which summarizes accurately the provisions of the trust deed and rules. This booklet should be regularly revised as the scheme rules are revised.
- ii. The obligation on trustees to comply with the Act and Regulations is for the benefit of members and members have a right to see that trustees are complying with the Act and Regulations.
- iii. It is a member's right for the investment of assets of the scheme to be executed prudently.

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- iv. The payment of benefits to members should be effected without delay and accurately.
- v. Member records and scheme financial records should always be kept properly and accurately.
- vi. Accrued member benefits are not liable for execution or attachment in the event of judgment order against the member.
- vii. Members have a right to annual membership statements and summary of scheme financial statements.
- viii. Members have a right to be furnished with accurate written summary of the scheme's investment policy and performance of scheme assets.

12. CONCLUSION

Trustees will contribute to building confidence in the pension system if they prudently govern retirement benefits schemes, make sufficient disclosures to members, protect member rights and furnish members with necessary scheme documents detailing the functioning of schemes. It is expected that trustees will provide regular information to members as part of good governance of their schemes.

Signed



Date: 15TH December, 2016

David Nyakundi Bonyi

CHIEF EXECUTIVE OFFICER