Retirement Benefits Authority

"A dynamic and secure retirement benefits sector"

UKRAINE – SELF ASSESMENT OF COMPLIANCE WITH THE IOPS PRINCIPLES OF PRIVATE PENSION SUPERVISION FOR SYSTEM OF NON-STATE PENSION PROVISION

COMMENT BASED ON KENYAN EXPERIENCE

JUNE, 2018

AREAS OF COMMENT

- RBA concurs with Ukraine's Self Assessment on the Principles & will comment of five key Principles: -

Principle	Assessment of implementation			
	Fully	Broadly	Partly	Not
1: Objectives	✓			
2: Independence			✓	
3: Adequate Resources				✓
4: Adequate Powers			✓	
5: Risk Orientation				✓
6: Proportionality and Consistency				✓
7: Consultation and Cooperation			✓	
8: Confidentiality		✓		
9: Transparency		✓		
10: Governance		✓		
TOTAL			✓	

PRINCIPLE 1 – CLEAR OBJECTIVES/ASSIGNMENT

- Ukraine has fully implemented the Principle
  - Ukraine faces a challenge in the fragmented legislative framework - separate regulators and laws; this hamper's the regulator's ability to quickly address supervisory gaps owing to the need to cross check with other agencies
  - Kenya found a solution to this by having a primary regulator doing licensing – Capital Markets Authority for Fund Managers and Central Bank of Kenya for Custodian; RBA focus on supervision of Market Conduct and reporting issues and compliance with investment guidelines

PRINCIPLE 2 – REGULATOR INDEPENDENCE

- Ukraine has made major strides to partially implement the Principle
- Key Challenges noted are
  - Lack of a levy/fee collection and reliance of the exchequer, which hinders operational independence
  - Lack of indemnity against prosecution for the Authority's directors and staff hinder their ability to fully carry out their supervisory role for fear of litigation
  - These and other gaps result from the genesis of a pension regulator as a spin-off from other regulators and lack of understanding of the new regulator's role
- Solution: Lobbying and sensitization of legislators and government for gradual amendment to the law over time for independent funding and to address other gaps;
- Build appreciation of industry and members of value addition by the supervisors through development mandate

PRINCIPLE 3 – ADEQUACY OF RESOURCES - I

- Resources are ever scarce but effort must be made as to their adequacy but;
- Key challenges Ukraine faces are: -
  - Lack of own funding
  - Staff hire, training and retention (related to funding)
  - No Secondment of staff to jurisdictions where they can build their skills - a low lying fruit

PRINCIPLE 3 – ADEQUACY OF RESOURCES - II

- Solutions:
  - Innovate to enhance efficiency, e.g. RBSS, on-line submission of returns to reduce transactions costs for regulator & the licensees.
  - Outsource non-core services but manage costs & ensure regular rotation
  - Collaborate with other regulators for joint efforts in research, training, data utilisation
  - Explore donor funding e.g. World Bank funding for capacity building

PRINCIPLE 4 – ADEQUATE POWERS

- Ukraine has partly implemented the Principle
- Key Challenges Ukraine faces:
  - Limits in law on the extent of its supervisory powers
  - No powers over funding and capital adequacy
  - No powers to appoint new management of NPF
- Solutions:
  - Lobby the amendment of the law by indicating the risk to scheme and broader financial system stability where supervisory powers are limited;
  - Introduction of RBSS will allow exercise of powers within existing limits as it exposes areas of risk to focus on

PRINCIPLE 5 - RISK-BASED SUPERVISION

- Ukraine has not implemented RBSS but has commenced staff training and stakeholder sensitization

- Key Challenges Ukraine faces:

  - Lack of legal backing to such a regulatory approach

  - Lack of independent funding hampers quick adoption of RBSS

  - No administrative framework in place for effective RBSS

- Solutions: RBSS allows for efficient utilization of scarce resources directing them where they are most needed; however, its adoption is a gradual process starting with necessary legislation then training and sensitization

RBA AREAS OF IMPROVEMENT

- Kenya shares some challenges faced by Ukraine, including: -
  - Fragmented Policy & Legal framework for Schemes
  - Conduct Supervision only recently separated from prudential slow legislation & capacity building process
  - Investment guidelines limitations & the need to extend the choice of asset classes
  - Low innovation in the sector while RBA does not wish to overregulate product, service or process innovation
  - Cross-border issues e.g. portability of benefits, treatment of cross border investments in an economic zone, etc.

THANK YOU

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