



**“A dynamic and secure
retirement benefits
sector”**

MARKET CONDUCT REGULATION IN KENYA

JUNE, 2018

TOPICS

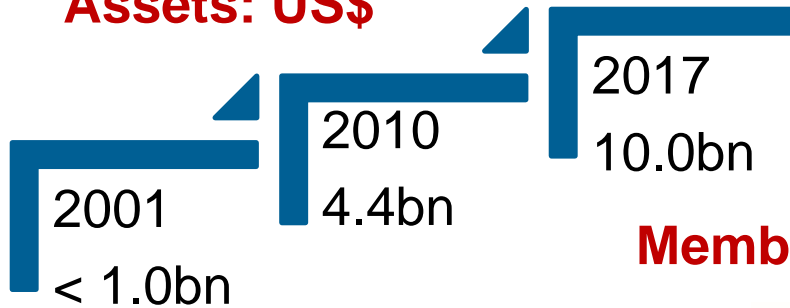
- **KENYA RB REGULATORY FRAMEWORK**
- **WHAT IS MC REGULATION?**
- **RBA MC REGULATION**
- **CHALLENGES IN INTRODUCING MC REGULATION**
- **PROPOSED FINANCIAL CONDUCT AUTHORITY**

KENYA RB REGULATORY FRAMEWORK - I

	Social Pension	NSSF	Civil Service RBS	Occupational/Umbrella Schemes	Individual Schemes
Pillars	Zero, NC	One, C	Two, NC	Two, C	Two, C
Legal Structure	Act of Parliament Benevolent	Act of Parliament Mandatory	Act of Parliament Mandatory	Trust Deed; some Statute	Trust Deed
Membership	Over 65 years, Means tested	Formal/informal sector	Civil service, teachers etc.	Formal sector Voluntary,	Individuals formal & informal voluntary
Funding	Exchequer	Funded DC Provident	PAYGO DB (Most)	Funded DB & DC	Funded DB & DC
RBA Regn	Exempt, Non Contb	Yes, Contb	Exempt, Non Contb	Yes, Contb	Yes, Contb

INDUSTRY PERFORMANCE

Assets: US\$



Members: 3.0 Million



Registered Service Providers

2001

Managers: 11
Custodians: 10:
Administrators: -

2017

Managers: 21
Custodians: 11:
Administrators: 31

Schemes: 1,300



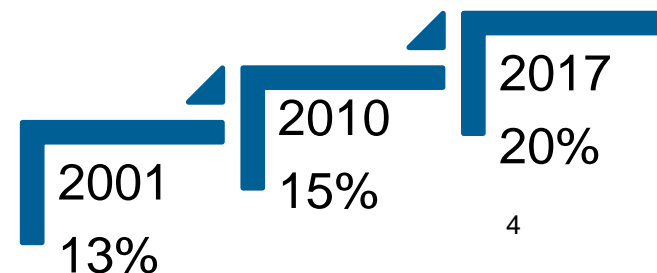
Trustees:

DC – Min 4; Max 9

DB – 3 to 9

Over 6000 Trustees

Coverage: % of Labour Force



WHAT IS MC REGULATION

- **Market conduct regulation is concerned with: -**
 - promoting consumer confidence,
 - the way firms treat consumers rather than their ability to manage financial risk (Prudential Regulation)
 - Availability of information to consumers
 - Dispute resolution
 - Fair competition

WHAT IS MC REGULATION - II

■ Conduct Regulation is necessary because of: -

1. Complexity of financial products
 - Hence continuous consumer education necessary
2. Different ways consumers & Financial Service providers interact
 - Pre-sale advisory process
 - Point of sale advice/delivery
 - During contract duration
 - Amendments to the terms of the contract
 - Redemption/Pay-out phase
 - Consumer dispute resolution (long tail)

PRUDENTIAL VS MC REGULATION

PRUDENTIAL SUPERVISION **(Financially Sound Instn)**

Registration of Schemes

Registration/Licensing of Trustees &
Service Providers (SP)

Continuous supervision of the safety
and soundness of schemes & SP

Mitigation of Systemic Risk in
Retirement Benefits Sector

MARKET CONDUCT **(Behaviour of Instn)**

Early Identification of MC Risk

Ensure responsible services providers
conduct – Governance, TCF

Ensuring adequate info availed to
consumers for informed decisions

Effective assistance & redress -
(Complaints & Dispute management)

RBA MC REGULATION - I

- ❑ **RBA Focus, until 2016,** was on Prudential Regulation – RB Schemes' ability to manage financial risk
- ❑ **Consumer Protection** in RB Sector was mentioned in sections of the law and regulation – Guidelines required
- ❑ **Guidelines** developed to expound on the legal provisions = tailored to the needs in the Kenya RB Industry
- ❑ **Consultation** with Stakeholders; not to overregulate

DEPARTMENT BUSINESS FLOW

MARKET CONDUCT DEPARTMENT

CONSUMER EDUCATION

1. Retirement Planning
2. Members Days, Other Member Fora
3. Education Outreach - New Sponsors, Trustees, & Service Providers
4. Financial Info Sensitization –
5. Media, Website Info updates

SECTOR GOVERNANCE

1. TDPK- Trustees
2. Good Gov Guide
3. Treating Customers Fairly (TCF)
4. Remuneration and Incentives
5. Fit & Proper – Vet Trustees & SP
6. Risk Management

CONSUMER PROTECTION

1. Complaints Management
2. Dispute Resolution
3. Whistle Blowing
4. Access to Information
5. Tribunal Liaison (with Legal Dept.)

RBA MC REGULATION - III

In Place/Under Development

1. Trustee Development Programme Kenya (TDPK) – Review
 - ✓ Curriculum Review, Capacity Buididing
2. Guideline on Good Governance for RBS – includes Conflicts of interest – under development; 1 July 2018
 - ✓ Aligned to King IV, Tailored to RBS, Exposure phase
3. Guideline on Treating Customers Fairly (TCF)
 - ✓ – 6 Ouctomes

RBA MC REGULATION - IV

Upcoming next two Years: -

4. Guideline on Remuneration and Incentives for Trustees & Service Providers
 - ✓ Members' approval required
5. Guideline on Fit & Proper vetting of Trustees & Key Persons of Service Providers
 - ✓ Existing and new
6. Risk Management/Fraud Protection mechanisms
 - ✓ Standardize the approach

RBA MC LEGISLATION - CHALLENGES

- ❑ Getting common understanding of MC Regulation
 - ✓ Sector players have different approaches
- ❑ Overcoming fear of over-regulation
 - ✓ Continuous sensitization, engagement
 - ✓ Emphasize that MC regulation is not new
- ❑ Fragmented Policy framework – NRB Policy
- ❑ Integration of Financial markets without common regulation - Exploring Twin Peaks

FINANCIAL MARKET CONDUCT - I

- ❑ Financial Markets Conduct Bill, 2018 (FiMCA 2018) - Proposed
- ❑ Consultative process & Bill development ongoing
- ❑ Twin Peak Regulatory structure
 - ✓ Prudential: 5 Agencies
 - ✓ CBK, CMA, IRA, RBA, SASRA
 - ✓ Conduct: FiMCA & 3 related agencies/units
 - ✓ Financial Markets Conduct Authority
 - ✓ Financial Sector Ombudsman
 - ✓ Financial Sector Tribunal
 - ✓ Conduct Compensation Fund Board

FINANCIAL MARKET CONDUCT - II

❑ FiMCA Role

- ✓ promote a fair, non-discriminatory access
- ✓ Establish uniform market conduct practices and standards; including regulating the cost of credit
- ✓ Promotion and maintenance of a fair and efficient financial sector in Kenya, and for connected purposes
- ✓ Regulate access and cost of credit, lending practices
- ✓ Promote informed choices through information access
- ✓ Promoting financial literacy

THANK YOU

Q & A