PENSION SCHEMES AND PROVIDENT FUNDS INVESTMENT PORTFOLIOS IN KENYA: IMPLICATIONS OF INVESTMENT GUIDELINES UNDER RETIREMENT BENEFITS ACT (1997) AND REGULATIONS (2000)

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BY:

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A MANAGEMENT RESEARCH PROJECT SUBMITTED IN PARTIAL FULFILMENT FOR THE REQUIREMENTS OF THE DEGREE OF MASTER OF BUSINESS AND ADMINISTRATION, UNIVERSITY OF NAIROBI.

OCTOBER, 2001

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DECLARATION

This Management Research Project is my original work and has never been presented for a degree in any other University.

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DEDICATION

To my parents; the late Francis K. Wanyama and Loice A. Wanyama; to my wife Anne; to my daughter Jentrix; to my son Emmanuel Wesley; to my dear brothers, Fredrick, Humphreys and John.

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ACKNOWLEDGEMENTS

Successful completion of this project would not have been possible without the assistance and input of many people, in various ways. I am most sincerely grateful to my supervisor, Mr. Munene M. M'Maithulia, Lecturer, Department of Accounting, for his dedication and valuable pieces of advice throughout the process of preparing this project. I am also greatly indebted to other lecturers in the faculty of commerce who offered valuable suggestions at the inception of the project.

I wish to most sincerely thank the University of Nairobi for granting me a scholarship, without which I would not have been able to realise my dream of pursuing an MBA course. Special thanks go to my employer, for giving me ample time, without which pursuance of the course would have been a nightmare.

I also wish to thank my colleagues who spared their valuable time to read the project and give incisive comments that greatly contributed to the quality of the final output. More specifically, I thank Elijah Chindia of World Bank, Matu Mugo and Edgar Kalya of Central Bank, Joshua Njiru of College of Insurance, Christopher Ngacho of Egerton University and Fredrick Wanyama of Maseno University.

Last but not least, I thank my wife, mother, brothers and sisters whose encouragement gave me much impetus to go on even when the going got tougher. To all of you I say thank you very much for making my studies quite enjoyable.

To all the above mentioned people I say thanks a lot and to the others whose names do not explicitly appear, but in one way or another helped me in my studies and research, I extend a big thank you and best wishes in a very special way.

ABSTRACT

With the level of attention being paid to the provision of adequate retirement benefits for workers around the world increasing, the idea of reforming the retirement benefits sector to deliver intended services to beneficiaries effectively has become a central issue. To be in tandem with global developments, the government of Kenya enacted the Retirement Benefits Act (1997) and the Retirement Benefits Regulations (2000). The main thrust of the Act was the establishment of the Retirement Benefits Authority for the regulation, supervision and promotion of retirement benefits sector and for connected purposes. These were the main missing links in the administration of retirement benefits schemes in the country, currently estimated to hold assets in excess of Ksh. 130 billions or 23% of the country's GDP (RBA n.d, p.15). Major transitions like this give a good reason to pause, take stock of where schemes have been, where they are and where they are headed.

Retirement Benefits Regulations (2000) contain among others, investment guidelines that stipulates maximum investment ceilings in any asset class that schemes have to conform to by 8th October 2001. Prior to this, retirement benefits schemes were at liberty to set their own investment ceilings, as they deemed fit. This led to some schemes investing in a few asset classes or mainly one asset class, thus exposing schemes to diversifiable risks that could be eliminated through adequate diversification as per the rules of portfolio theory.

The main aim of this study was twofold. First, the study sought to identify the current investment portfolio composition of pension schemes and provident funds and on this basis determine the changes that they will have to make on their investment portfolios so as to conform to the investment guidelines. Secondly, the study sought to assess the problems that pension schemes and provident funds will encounter in their efforts to conform to the investment guidelines as stipulated in the Retirement Benefits Regulations (2000).

In achieving the aforementioned objectives, a questionnaire was used to collect primary data from a sample of schemes and all fund managers that had been registered with RBA by end of

May 2001, and Insurance companies that had life departments managing pension funds. It was found out that 70% of the schemes surveyed were not in conformity with investment guidelines and required making drastic changes to their investment portfolios so as to beat the set deadline. The main ways that schemes outlined to come into conformity with the investment guidelines included off-loading excessive investment in an exceeded asset class, postponing further investment in the over invested asset class and on the extreme, where no any other viable alternative exists, dissolving the scheme all together. All these measures had various major implications for schemes that included contending with a depressed property market, illiquidity of the equity market, unremitted contributions by sponsors and a narrow range of corporate instruments.

With 70% of the surveyed schemes being not in conformity with investment guidelines, the study recommends that RBA should give a grace period of at least three years, before fully enforcing the Retirement Benefits Regulations (2000). This grace period is important especially to those schemes that had over invested in immovable property and equity of quoted companies in East Africa. The importance arises from the fact that attempts to off-load excessive holdings in these asset classes currently will result into individual schemes realising excessive losses running into millions of shillings and billions of shillings for the entire retirement benefits sector.

CHAPTER ONE

1.0 INTRODUCTION

1.1 Background

Most companies and practically all government departments have some type of employee pension plan (Brigham and Gapenski 1995, p.961) or provident fund, whose purpose is to provide income to a person who either retires from gainful employment or changes jobs or dies while in employment (Thumbi 1996, p.1). These promised payments constitute a liability to the employer who, to meet this liability, establishes a pension or provident fund and places money in it every month. The purpose of the fund is to avail sufficient assets to meet pension payments as they fall due.

There are numerous socio-economic factors explaining the rising popularity of pension and provident funds. Fabbozi et al (1998) argue that pension funds popularity is due to three main factors. First, they contend that income and wealth have grown steadily after the Second World War, leaving households with more money for long-term savings. Secondly, they argue that the life span of people has increased leading to more expected financial needs for longer retirement periods. Lastly, they argue that pensions are a form of tax-free pay to employees' up to retirement when it ceases. With rising poverty levels and reduced life spans attributed to Aids scourge in developing countries, the first two factors seem to be entirely applicable to developed countries.

Pension schemes in Kenya trace their origin to the colonial era. After the Second World War, multinational companies operating in the country by then set up pension schemes, exclusively for whites that were administered from England (Angima 1985, p.5). However they later realized that it was important to set up a social security scheme similar to the one existing in England by

then, as well as encouraging vigorous development of private company pension plans (Marwa 1992, p 12).

After independence, the retirement benefits sector recorded tremendous growth with many schemes being registered, as well as their total assets increasing. For instance, by the end of 1994, the sector was estimated to hold assets amounting to Kshs.100 billion. Today, the Retirement Benefits Authority (RBA n.d, p.15) estimates the sector to hold assets amounting to Kshs 130 billion or 23 percent of the country's Gross Domestic Product (GDP), with 1,051 schemes registered. This makes the sector a very important player in the country's financial system.

The importance of the retirement benefits sector in a country's financial system is not unique to Kenya. In Chile, it was established that pension funds were the largest institutional investors managing a total of U.S $ 32 billion or 44 % of the GDP by the end of 1997 (Srinivas and Yermo 1999, p.6). In US, another country with well developed pension sector, it was estimated that Pension funds had an aggregate market value of more than $4.4 trillion, and they owned over 25 percent of all U.S stocks and over 40 percent of all corporate bonds (Brigham and Gapenski 1995, p.961).

The portfolio composition of pension schemes and provident fund investment portfolios varies from country to country. Srinivas and Yermo (1999) argue that this depends on the investment regulations and financial development of the country. The composition of pension scheme investment portfolios in Europe and U.S.A are as shown in Table 1 below:

Table 1: Average composition of pension schemes investment portfolios in Europe & U.S.A (in percentage)

	Real estate	Equity	Bonds and T. Bills	Cash and deposits	Off shore	Other
Europe	7	34.2	19.6	4.9	26.5	7.8
U.S.A	1.9	53.1	22.7	4.7	11.1	6.5

Source: R.B.A, Financial Times 10/11/00.

The current investment portfolio composition of Kenya's pension schemes and provident funds is not well known in academic literature. This is due to limited studies conducted in this area. In 1996, Thumbi established the composition of the investment portfolios to be as shown in Table 2 below. At that time, the sector was being run on the basis of various Acts of parliament. They included The Trustee Act, Cap 167 (1929), The Pension Act, Cap 189 (1952), The Provident Fund Act Cap (1951), The NSSF Act, Cap 258 (1965), The Income Tax Act, Cap 470 and the Insurance Act. [(Thumbi 1996, p.7-8, Raichura, S and A. Mureithi 2000, p.7]. These numerous Acts did not serve the interests of all interested parties adequately and empowered schemes trustees to make investment decisions, without reference to any external ceilings.

Table 2: Investment avenues available and percentages of funds invested

	Money markets	Mortgage institutions	Equities	Properties	Off shore investment
Public Pension Scheme	29.96	10.43	13.79	45.91	N/A
Self Administered	50.00	N/A	5.00	35.00	10.00
Insurance companies	60.00	N/A	10.00	30.00	N/A
Investments Fund Managers	58.00	N/A	20.00	22.00	N/A

Source: Thumbi 1996, p. 54

The absence of investment guidelines that schemes had to observe led to some of them concentrating their investments in a few asset classes or mainly one asset class. Such investment practices exposed schemes to diversifiable risks that could be eliminated through adequate diversification as per the rules of portfolio theory. According to the RBA's annual report (June 2000), the investment profile of most schemes reflected a tendency to invest mainly in real estate and bank deposits to some extent. To illustrate this tendency, RBA outlines the average pension scheme investment portfolios of fifty largest non-pool schemes to be as follows: 50.2% in real estate, 11.8% in equity, 16.3% in bonds and treasury bills, 13% in cash and demand deposits, 5.5% in offshore investments and 3.2% in other investments.

Kenya's retirement benefits sector has been for a long time without a specific regulator, despite its important role in the mobilization of savings and resource allocation to various sectors of the economy. In contrast, most countries have their retirement benefits sectors regulated. For

instance, in the US the Employee Retirement Income Security Act (ERISA) of 1974 governs the structure and administration of corporate pension plans (Madura 1995, p.685). In all Latin American countries, there is an independent regulatory agency that oversees the functioning of the retirement benefits sector.

To be in tandem with global developments and out of a need to regulate this vital sector to deliver intended services, the Government of Kenya enacted the Retirement Benefits Act, 1997. The purpose of the Act was to establish a Retirement Benefits Authority for the regulation, supervision and promotion of retirement benefits schemes, the development of the retirement benefits sector and for connected purposes [Kenya Gazette supplement No. 63 (Acts No. 4) 1997, p.339].

The enactment of Retirement Benefits Act (1997) was followed by the gazettement of Retirement Benefits Regulations (2000). The regulations contain among others, investment guidelines that provide maximum investment ceiling in any asset class that schemes have to adhere to. Table three below outlines the set limits as stipulated by the regulations:

Table 3: Investment guidelines

Item	Column 1	Column 2
	Categories of Assets	Maximum percentage of aggregate market value of total assets of scheme or pooled fund
1.	Cash and Demand Deposits in institutions licensed under the Banking Act of Republic of Kenya	5%
2.	Fixed Deposits, Time Deposits and Certificates of Deposits in institutions licensed under the Banking Act of the Republic of Kenya	30%
3.	Commercial Paper, Corporate Bonds, Mortgage Bonds and loan stocks approved by the capital Markets Authority and collective investment schemes incorporated in Kenya and approved by the Capital Markets Authority reflecting this category	15%
4.	Kenya Government Securities and collective investment schemes incorporated in Kenya and approved by the Capital Markets Authority reflecting this category	70%
5.	Preference shares and ordinary shares of companies quoted in a stock exchange in Kenya, Uganda or Tanzania and collective investment schemes incorporated in Kenya and approved by the Capital Markets Authority reflecting this category	70%
6.	Unquoted shares of companies incorporated in Kenya and collective investment schemes incorporated in Kenya and approved by the Capital Markets Authority reflecting this category	5%
7.	Offshore investments in bank deposits , government securities, quoted equities and rated Corporate Bonds and offshore collective investment schemes reflecting these assets	15%
8.	Immovable property in Kenya and units in property Trust Schemes incorporated in Kenya and Collective investment schemes incorporated in Kenya and approved by the Capital Markets Authority reflecting this category	30%
9.	Guaranteed Funds	100%
10.	Any other assets	5%

Source: Retirement Benefits Regulations 2000, p. 451.

The introduction of investment guidelines at the moment when the economy is depressed posses a great challenge to schemes. The real estate market where most schemes have invested most of their funds is particularly the worst hit in this economic depression. The RBA requires schemes

to have conformed to the regulations by 8th October 2001. This will require schemes to make drastic investment portfolio changes in asset classes that they have exceeded the maximum ceilings set. This is indeed a great challenge to most schemes and it remains to be seen how well they will adjust in the prevailing economic situation.

1.2 Statement of the Problem

Funds of retirement benefits schemes come from either the employer and/ or the employee. These funds are invested in various assets that provide a return to enable the schemes meet their obligations as and when they fall due. Investment of scheme funds is an onus of trustees who formulate investment guidelines, specifying which assets to invest in and the maximum limits.

Prior to the enactment of Retirement Benefits Act (1997) and Retirement Benefits Regulations (2000) there were no set ceilings in investments in a particular class of assets that schemes had to observe. It was up to the scheme trustees to decide on their own, ceilings, as they deemed fit, so long as the investment criteria met their set objectives. The possession of such immense powers led to the well-documented cases of dubious investments made by some schemes (RBA n.d, p.5). In certain instances, some schemes were exposed to diversifiable risks by way of investing in a few asset classes or majorly one asset class whose inherent risk could be eliminated through adequate diversification.

To overcome the above mentioned problem among others, the Minister for Finance gazetted the retirement benefits regulations (2000) as mandated by section 55 of the Retirement Benefits Act (1997). The regulations, which become effective on 8th October 2001 contain investment guidelines that stipulate limits on the proportion of a scheme's assets that can be invested in a

particular asset class, as outlined in Table 3. The rationale of these restrictions is mainly to enhance diversification of scheme investments.

Investment guidelines contained in Retirement Benefits Regulations (2000) were published at the time when the tendency of most schemes were towards investment in real estate and bank deposits, as evidenced by the RBA annual report of July 1999- June 2000. This is a pointer to the fact that not all Retirement Benefits Schemes have their investment portfolios conforming to the investment guidelines. This study therefore seeks to answer the following questions:

1. How do current investment portfolios of Pension schemes and provident funds stand vis – a vis the investment guidelines of Retirement Benefits Regulations (2000)?
2. What changes will be required to be effected on the current investment portfolios of Pension schemes and provident funds so as to conform to the investment guidelines of Retirement Benefits Regulations (2000)?
3. What problems will the schemes encounter in striving to conform to the investment guidelines of Retirement Benefits Regulations (2000)?

1.3 Objectives of the study

1. To identify the current investment portfolio composition of Pension schemes and provident funds and determine the changes that they will have to make on their investment portfolios so as to conform to the investment guidelines as stipulated in the Retirement Benefits Regulations (2000).

2. To assess the problems that pension schemes and provident funds will encounter in their efforts to conform to the investment guidelines as stipulated in the Retirement Benefits Regulations (2000).

1.4 Importance of the study

1. The study will indicate to interested parties such as trustees, beneficiaries and the government among others the most preferred investment Portfolios for pension schemes and provident funds.

2. The study will be of use to the Retirement Benefits Authority in understanding the problems that schemes will go through while effecting investment portfolio changes. On this basis, a grace period can be given to those schemes that face serious problems.

3. The study will avail information on the current stewardship of scheme funds.

4. The study will form a basis for further research in this area.

CHAPTER TWO

2.0 LITERATURE REVIEW

2.1 Introduction

According to a World Bank survey (1994), systems providing financial security for the old are under increasing strain throughout the world. This according to the survey can be attributed to the rapid demographic transitions caused by rising life expectancy and declining fertility. In aggregate, this results into the number of old people increasing rapidly.

While the number of old people has been increasing, job opportunities available to them have been declining. This is mainly due to the transition from an agrarian and essentially rural economy to an industrial and predominantly urbanized economy, which prefers utilizing the young energetic population. This means that old people have difficulties raising any income from formal employment. Their only source of income has to come from personal savings and investment made during active working life. This however can prove to be very elusive owing to the technological changes that take place during such period, the general rise in personal and corporate income taxes and corrosive influence of inflation. A major consequence of these factors is that old people have to be dependants.

In Africa and parts of Asia it has been the responsibility of the extended family, mutual aid societies, among others to take care of old people until recently when urbanization, mobility, wars and famine weakened the family and communal ties to take care of the old (World bank 1994, p.6). This clearly calls for alternative arrangements. With society looking increasingly to governments and employers for old age support, the challenge that the concerned people face is enormous and requiring immediate attention in the way of providing old age maintenance.

Most employers including government and quasi -government bodies have responded to these challenges by setting up pension plans or provident funds (generally referred to as retirement benefit schemes) for their employees. The main purpose of retirement benefit schemes is to provide income when an employee retires from gainful employment at old age. However, the schemes also have a subsidiary purpose of providing income to employees who change jobs or to dependants of employees who die while still in employment, subject to the pension benefits having vested.

While setting up pension plans and or provident funds, employers make a promise to employees; to provide income to them on either attaining retirement or leaving employment, but after benefits have vested. This creates a liability for the employer, who in turn is required to establish a pension or provident fund and make periodic deposits in it, so as to have sufficient assets to meet promised payments as they fall due (Brigham and Gapenski 1995, p.962). The contributions to the fund come from the employer and /or the employee (Madura 1995, p.678), where the scheme is contributory or from the employer only, where the scheme is non-contributory. The deposit into the fund must be invested well for the fund to yield adequate returns and sustain itself, to meet promised retirement benefits easily.

2.2 Reforms in the Retirement Benefits Sector in the World

The idea of reforming the retirement benefits sector to deliver intended services to beneficiaries effectively has become a central issue around the world as its population ages (Wickramanayake 1998, p.435). This arises from the rapidly aging population world wide, resulting into enormous pressure on pension systems, inter alia, that retirement benefits schemes in their current form and set up cannot cope up.

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Vittas (1995) argues that for both economic and regulatory reasons most developing countries have underdeveloped pension funds and insurance sectors, while their social security systems face many financial and organizational problems. For these reasons, he presents a strong case for reforming these sectors.

Arrau and Klaus (1995) observed that pension reform is a major policy initiative offered by governments to aging population fed up by failing old-age security arrangements. The researchers predict that there will be an exponential growth of pension reform in the next few years, with a conservative estimate of thirty major countrywide pension reforms having started by the year 2000.

While carrying out pension reforms, the "three -pillar approach", has become the standard model for developing countries (World Bank 1994, p 14). The first pillar consists of a publicly managed system with mandatory participation and the limited goal of reducing poverty among the old. (In our Kenyan case, this could be the equivalent of N.S.S.F). The second pillar comprises a privately managed, mandatory savings system and finally a voluntary savings pillar for additional retirement savings beyond the mandated minimum.

2.3 Merits of Reforms in the Retirement Benefits Sector

Reforms in the retirement benefits sector have been carried out with the aim of producing desirable economic and social effects that were largely missing, especially in developing countries. Vittas (1995) outlines the following benefits:

2.3.1. Security Benefits

According to the researcher, the most important benefit is probably the ability to avert a financial insolvency, of the social security system and to continue the provision of pension and other long-term benefits. The researcher further contends that a reformed social security and pension system will be better able to provide adequate but affordable and therefore sustainable benefits. All these arguments are made possible via imposition of rules and regulations on scheme funding, investment, and management, among others that ensures attainance of all the mentioned benefits.

2.3.2. Funding and Aging

The researcher argues that retirement benefits sector reform promotes well managed funded schemes that will be able to cope with the problems of progressive demographic aging. However, this claim suffers a set back in that funding on its own cannot provide a full answer to the problems caused by aging as no one can guarantee that real rates of return will remain higher than growth rates of real earnings with progressive demographic aging.

2.3.3. Impact on Saving

The researcher argues that reforming this sector results in an increase in the rate of saving that may accompany a move from an unfunded to a largely funded system (or to a system with a large funded second pillar). However, there is mixed evidence in support of this argument with some countries having high levels of pension funding but very low saving rates, while others have both high levels of funding and high saving rates and more surprisingly some countries with unfunded schemes having high saving rates.

2.3.4. Impact on Capital Markets

According to the researcher pension reform and the promotion of funded schemes causes a large shift in favour of long-term financial savings. Reforming the retirement benefits sector compels people to start saving at a tender age, thus availing funds for long term investment. This availability of funds compels embryonic capital markets, especially in third world countries to think of modernizing their capital markets, carry out financial renovation to avail long term saving instruments (Raichura, S and A. Mureithi August 2000, p 8).

2.3.5 Implications for Insurance Markets

The researcher contends that there is a connection between pension reform with insurance reform, stemming from the fact that pension reform often involves an increased demand for term life and disability insurance as well as for various forms of life annuities. This therefore calls for restructuring and modernizing the life insurance industry arising from the derived demand of the reformed pension sector.

2.4 Pensions Reform in Latin America

Pension reforms have been going on at a growing speed around the globe (Arrau and Klaus 1995, p.1). Latin America has recorded one of the most successful Pension reforms in the world with reforms having been done in Chile (1981), Mexico (1991), among others. Due to the success recorded in these countries, other countries wishing to pursue pension reforms have been using them as a point of reference (Srinivas and Yermo 1999, p.3).

Srinivas and Yermo (1999) observe that most of the countries in Latin America are replacing pay –as –you – go (PAYG) defined benefit and unfunded systems with some versions of a three pillar approach which comprise of:

1. A subsistence level, defined first pillar providing benefits for all or a large portion of the population , usually financed from general government revenues;
2. A mandatory, individual account-based privately managed defined contribution second pillar, and
3. A third pillar that allows for additional voluntary savings over and beyond the first two pillars.

While observing that there are slight differences in individual pension reform models among countries in Latin America, Srinivas and Yermo (1999) identify the following characteristics of the Pension reforms:

2.4.1 Overall Structure and Supervision

All countries that have undertaken pension reform are characterized by the emergence of a separate and new pension fund industry whose purpose is to administer and invest workers' contributions to the second pillar. This, the researchers observe, has shown an impressive growth pattern mobilizing large amounts of assets. For instance, Chile having the largest pension system in the region with pension funds being the leading institutional investors, had pension funds managing a total of US $ 32 billion at the end of 1997 or 44% of GDP.

As regards supervision and regulation of the industry, the researchers observe that there is an independent, regulatory agency that oversees the functioning of the system and ensures that the

pension fund administrators fulfil the many requirements they are subject to. They include minimal capital requirements, reporting requirements and rules governing transfer of participants between administrators.

2.4.2 Prudential Regulations

In all Latin American countries Pension funds are subject to a set of prudential controls, designed to mitigate or effectively ensure against agency problems and systemic risks. This regulatory framework includes a set of prudential standards and rules to avoid fraud, reduce over exposure to specific risks, mitigate conflicts of interest and limit market power.

As an example of specific prudential controls, Chile has established the following:

(i) There are approved securities by the regulator in which pension funds can only invest

(ii) All investable securities must be rated with the minimum risk- rating for fixed income securities being grade BBB or equivalent.

(iii) To limit concentration of ownership, ceilings are set on the portion of a specific bond issue or a firm's equity that any fund can hold, at 20% and 7% respectively. In addition to this, minimum diversification requirements specify that fixed-income securities and equity may not represent more than 7% and 5% of the funds total assets respectively.

2.4.3 Draconian Regulations

Srinivas and Yermo (1999) define "Draconian" regulations as specific controls imposed on the structure, conduct and performance of the pension fund industry in addition to the minimum standards of prudential regulation.

2.4.3.1 Industry Structure Regulation

In all Latin American countries, the following restrictions on industry structure have been imposed;

(i) There is a single investment instrument in the second pillar, the specially created private pension fund accounts. The motive of the regulation is to avoid the complexity of regulating and supervising a multi-instrument industry. The limitation of this industry design is that it restricts competition and raises administrative costs for participants.

(ii) Administration of Pension funds is restricted to companies exclusively dedicated to providing pension services, while associated services such as custody of assets and the provision of life and disability insurance, are carried out by separate institutions. With all these, it is hoped that conflicts of interest are eliminated and ease of regulation enhanced.

(iii) The administrators may manage only one fund each. This is aimed at mainly eliminating the moral hazard problem since workers can only choose one fund manager. There is therefore no question of fund managers taking "excessive risks".

2.4.3.2 Investment Regulations

Portfolio limits have been introduced in all Latin American countries with restrictions varying from country to country, as can be illustrated by Table 4 below:

Table 4:Legislated Portfolio Limits in Argentina, Chile, and Bolivia

Portfolio limits	Argentina maximum	Chile		Bolivia	
		Minimum	Maximum	Minimum	Maximum
Government securities	n.a	35	50	$180mn min	100
Federal government securities	50				
Provincial and municipal securities	30			0	10
Central Bank securities					
Corporate bonds		30	50	30	45
Corporate bonds, long term	40				
Corporate bonds, short term	20				
Corporate bonds, convertible	40	10	15		
Corporate bonds, privatized firms	20				
Bank bonds				50	50
Mortgage- backed securities		30	50	30	50
Letters of credit		35	50		
Fixed –term deposits	20	30	50	50	50
Short –term margin loans					
Repurchase agreements					
Shares. PLCs	50	30	40	50	90
Shares ,worker's companies					
Shares , real estate companies		10	20		
Shares , preferred share certificate					
Shares , privatized firms	20				
Stock index instruments					
Securitized instruments					
Primary issues, new ventures					
Mutual funds	20	5	10	5	15
Real estate funds		10	20		
Venture capital funds		2	5		
Securitized credit funds		5	10		
Direct investment funds	10				
Foreign securities	10	6	12	10	50
Foreign government securities	10				
Foreign corporate bonds and shares	10				
Foreign assets, fixed income		6	12		
Foreign assets, variable income		6	6		
Hedging instruments	10	5	15		

n.a = data not available
PLCs = Public limited companies
Source: Srinivas and Yermo (1999) p. 48.

Whereas the investment guidelines applicable to pension funds have been changing, towards liberalization of the investment regime, Srinivas and Yermo (1999) argue that this has been in line with the experience of the regulators and development of the domestic financial markets. The changes have been generally towards increasing the proportion of investments allowed in stocks, foreign assets, types of bonds and investments in less liquid asset classes such as real estate and venture capital. Table 5 below gives an illustration of the changes by presenting the evolution of the investment regime in Chile from 1981 to 1998.

Table 5:Evolution of Portfolio Regulation-Chile, 1981-1998

Portfolio limits	1981	1982	1985	1990	1992	1995	1996	1997	1998
Government securities	100	100	50	45	45	50	50	50	50
Corporate bonds	60	60	40	40	40	40	45	45	45
Corporate bonds, convertible	0	0	10	10	10	10	10	10	10
Mortgage-backed securities	70	40	40	50	50	50	50	50	50
Letters of credit	70	40	40	50	50	50	50	50	50
Fixed-term deposits	70	40	40	50	50	50	50	50	50
Shares , PLCS	0	0	30	30	30	37	37	37	37
Mutual funds	0	0	0	10	10	10	5	5	5
Real estate funds	0	0	0	10	10	10	10	10	10
Venture capital funds	0	0	0	0	0	0	5	5	5
Securitized credit funds	0	0	0	0	0	0	5	5	5
Foreign securities	0	0	0	0	3	9	9	12	12
Foreign assets, fixed income	0	0	0	0	0	9	9	12	12
Foreign assets, variable income	0	0	0	0	0	4.5	4.5	6	6
Futures and options	0	0	0	0	0	9	9	9	12

PLCs = Public limited companies

Source: Srinivas and Yermo (1999) p. 49.

2.5 Pension Schemes Investment Portfolios in Europe and U.S.A

There are many studies that have been carried out on investment of pension scheme funds in Europe and U.S.A. The studies show different portfolio compositions. Table 1 shows the average composition of pension schemes investment portfolios in Europe and U.S.A.

The differences observed could be due to the differences in regulation of portfolio distributions. In the United States, Pension funds are subject to a "Prudent man rule" which requires the managers to carry out sensible portfolio diversification. There are no limits on portfolio distributions other than a 10% limit on self-investment for defined benefits funds (Davis 1993, p.14). The "Prudent man rule" compels pension fund trustees to use the care of a reasonably prudent person to acquire and use the information that is pertinent to making an investment decision (Fabozzi et al 1998, p.163). Consequently an investment decision will be made on the basis of rate of return and risk associated with a particular asset class.

In Europe, quantitative regulation of portfolio distributions varies from country to country. In U.K for instance, the "prudent man" concept is followed with the only limitation being a 5% limit on self-investment. In Germany Pension funds are subject to a 10% self investment limit, 4% limit on foreign asset holdings, 20% limit on equities and 5% limit on property. In Switzerland, pension funds are subject to a 30% limit on shares, 50% for real estate and 20% on foreign assets. These differences in regulations explain the differences in portfolio composition outlined in Table 1.

The studies carried out on investment portfolios of Pension schemes in Europe and the US contend that there have been shifts in these portfolios over the years. The shifts reflect portfolio

regulations existing in the country and the nature of domestic financial markets (Davis 1993, p.26). Ennis and Burik (1991) on the other hand argued that the shifts are principally due to the differential rates of return earned by the various asset classes. This means that pension funds assess the rate of return from each asset class before making any portfolio changes.

2.6 Background of Kenya's Retirement Benefits Sector

The provision of retirement benefits in Kenya dates back during the colonial period, mainly after the Second World War, when the Pensions Act (Cap 189) of 1946 came into place. Even with the Act in place, there were no formal pension plans, as those that existed were discriminatory along racial lines and largely operated from England (Omondi 1988, p.12).

After attaining independence, the discrimination witnessed during the colonial era came to an end, ushering in more formal pension plans. However as Omondi (1988) notes, provident funds predominated pension plans. The National Social security Fund (N.S.S.F.) is an example of a provident fund that was established by the National Social Security Fund Act (chapter 258) of 1966. This became a compulsory retirement benefit plan for employees who do not qualify for pension plans provided by their employees.

Regulation of the Retirement Benefits sector has for a long time been under numerous Acts of parliament. According to Thumbi (1996) and Raichura, S and A. Mureithi (August 2000) these numerous Acts include; The Trustee Act Cap 167 (1929), The Pension Act, Cap 189 (1952), the Provident Fund Act (1951), The N.S.S.F Act cap 258 (1965), the Income Tax Act, cap 470 and the Insurance Act. These numerous Acts, each serving a different purpose, did not address the needs of all interested parties adequately. Employees could for instance retire from their jobs and

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complete many years before getting their benefits (East African Standard May 28, 2001). The administration of scheme and scheme funds was in most cases wanting, with dubious investment policies being pursued (RBA n.d, p.5). Public confidence in this sector was generally not there. To address these shortcomings, the Government of Kenya enacted the Retirement Benefits Act (1997) with the Minister for Finance coming up with the Retirement Benefits Regulations (2000) to steer this important sector to greater heights.

2.7 Retirement Benefits Sector Reforms in Kenya

Beset by problems in the Retirement Benefits Sector, Kenya enacted the Retirement Benefits Act (1997) and Retirement Benefits Regulations (2000) to lay a solid foundation for the industry in the country (RBA, Annual Report, July 1999- June 2000). According to the RBA (n.d), the main problems of concern to beneficiaries were denied or delayed payments, diversion of scheme funds into sponsors business, and questionable investments. Other problems included, misappropriation of schemes funds, under funded schemes that cannot meet their obligations, lending of scheme funds to trustees or senior managers at uneconomic rates and many other problems that are generally to the detriment of the ordinary member.

The main objective of the Retirement Benefits Act is to establish a Retirement Benefits Authority for the regulation, supervision and Promotion of retirement benefits schemes, the development of the retirement benefits sector and for connected purposes (Kenya Gazette supplement No. 63 (Act No. 4) 1997, p.339). Introduction of this Act and the attendant regulations bring into harmony the supervision of the retirement benefits sector that was hitherto scattered under numerous Acts.

To summarize all the functions earlier on contained in numerous Acts, the Retirement Benefits Act and Regulations have many provisions. Key among them are:

2.7.1 Establishment of Retirement Benefits Authority

The Act under section 3 authorizes for the establishment of Retirement Benefits Authority, whose object and functions as outlined in section 5, inter alia, includes,

1. Regulate and supervise the establishment and management of retirement benefits scheme;
2. Protect the interests of members and sponsors of retirement benefits schemes;
3. Promote the development of the retirement benefits sector.

With a regulator now in place, previous complaints such as dubious investments made by schemes, non-payment of benefits, among others are likely to come to an end via enforcement of regulations governing operations of retirement benefits schemes, by the regulator.

2.7.2 Registration of Retirement Benefits Schemes and Managers

The Act Provides for the registration of all retirement benefits schemes and managers of scheme funds in section 22 and imposes a fine for failure to abide by this requirement. Section 23 empowers the Retirement Benefits Authority to receive, consider and accept or reject applications. 1051 schemes, had so far been registered as at the end of May 2001.

The aim of requiring schemes to register is to have all of them established under an irrevocable Trust and the funds maintained separately from any other funds. This is in turn aimed at

protecting the interest of members of the scheme by preventing access to the scheme funds by the employer or any other party (Institute of Certified Public Secretaries March 2000, p.16).

2.7.3 Requirements for Registration of Managers.

To safeguard scheme funds, section 25 of the Act imposes stringent requirements for registration of fund managers. It requires among others that a fund manager;

1. Is a limited liability company incorporated under the companies Act whose liability is limited by shares and whose main objective is to manage scheme funds;
2. Has such minimum paid up share capital as may be prescribed, currently standing at ten million shillings;
3. Is capable of meeting the obligations to members and sponsors specified in the scheme rules;
4. Has the professional capacity to manage scheme funds;
5. Has never been involved in the management of the scheme fund of any scheme, which was deregistered due to any failure on the part of the management.

2.7.4 Requirements with regard to Trustees

To hold trustees responsible for their actions on management of scheme affairs, forestall abuse of scheme assets and avoid corrupt or incompetent people being elected as trustees, section 26 of the Act lays down stringent conditions for one to qualify as a trustee of a scheme. It among others prohibits the following persons from being elected trustees:

1. A person adjudged bankrupt

2. A person who was previously involved in the management or administration of a scheme which was deregistered for any failure on the part of the management or the administration thereof.

Rocha et al, (2001), argue that clear rules on board composition, voting rights and duties and responsibilities of board members can help improve fund governance and minimize agency risks. Stringent regulations for trustees are essential since they are the linch-pin of schemes (Raichura, S and A. Mureithi August 2000, p.6). They are responsible for, among others ensuring the scheme is at all times managed in accordance with the Act, Retirement Benefits Regulations, scheme rules and any directions given by the Chief Executive officer of Retirement Benefits Authority.

2.7.5 Scheme Funds and Restrictions on their Use

Section 32 (1) of the Act requires every scheme, except for one funded out of the consolidated fund to have a scheme fund into which all contributions, investment earnings, income and all other moneys payable under the scheme rules or the provisions of the Act shall be paid. This will in effect ensure proper monitoring of scheme funds, its usage and restricting access to scheme funds by the scheme only and not any other external party, such as the sponsor.

Section 38(1) on the other hand clearly stipulates the restrictions on use of scheme funds to make direct or indirect loan to any person. In the past, this has been the practice with some schemes secretly loaning either the scheme sponsors or trustees for their personal businesses. The section further directs that scheme fund be invested in accordance with guidelines prescribed for that purpose.

2.7.6 Annual Report and Accounts

The Act places responsibility of proper maintenance of books of accounts and records on trustees, who will ensure among others that audited accounts are furnished to the Retirement Benefits Authority, four months after end of each financial year. This will ensure transparency and accountability in the running of schemes that was hitherto this lacking.

2.7.7 Investment Of Scheme Funds

Section 37 requires every scheme to have a prudent investment policy, which is to be implemented subject to the provisions of any regulations made by the Minister for Finance as empowered in section 55. To have greater diversification of scheme investments and act to kick-start the country's flagging capital markets (RBA annual report, July 1999- June 2000), regulation 38 impose strict investment guidelines for scheme funds (see table 3). Poor investment policies have been the major undoing of most schemes for a long time, where poor investment decisions have been made leading to low returns. With most schemes having invested their funds largely in real estate and bank deposits (RBA annual report, July 1999- June 2000), implementation of the regulations will see major shifts in the investment portfolios of most schemes

2.8 Investment Portfolios of Kenya's Pension Schemes and Provident Funds

Limited studies have been done on the investment portfolios of Kenya's Pension schemes and provident funds. Thumbi (1996) carried out a survey whose findings are as shown in Table 2.

At the time of Thumbi's survey, there were no investment regulations. The pensions Act at that time merely stipulated the investment vehicles allowed and left it upon the schemes trustees to

establish their portfolio composition. From October 8, 2001 trustees of schemes will have to contend with the investment guidelines while selecting their investment vehicles. The investment guidelines stipulate the maximum limits that a scheme may invest in a particular asset class and does not compel a scheme to invest in any particular asset class.

An analysis of Thumbi's findings on the investment of pension and provident funds shows mixed effects if the regulations were to be applied on them. The public pension scheme and self administered schemes had invested 45.91% and 35% of their funds in properties respectively. The maximum ceiling provided by the investment guidelines for this particular asset class, is 30%. Consequently, these schemes would have to sell off some of their holding in properties to reduce it to the maximum percentage allowed. Off- loading properties in the market currently is not easy due to the recession that has hit the properties market (The Financial Standard, Tuesday May 15, 2001). This means that the properties would have to be off-loaded at a loss. For funds managed by Insurance and Investment Fund Managers, no action would be necessary on their holdings in properties, as they are within the set limits.

Thumbi's survey further revealed that a big percentage of funds were held in money market instruments. Applying the investment guidelines to assess if they fall within the guidelines will require decomposing or rather specifying, which money market instruments they are. However, unquoted shares would be generally difficult to off-load owing to their illiquidity.

In his critique of pension management in Kenya, Thumbi (1996) highlighted the following major shortcomings:

1. That most trustees had wide powers than the Trustee Act allowed. They could thus invest scheme funds the way they deemed fit, an act that definitely puts scheme funds at risk. The investment guidelines come in handy in addressing this problem.
2. Self-administered schemes faced numerous problems, among them being poor investment decisions due to lack of skills. Abolition of In-house management of scheme funds by the Act and requiring schemes to appoint professional fund managers will address this problem.

Implementation of the Act and Regulations will therefore in general address the plethora of problems that have faced pension schemes and provident funds. This will ensure diversity of their investments, adequate return on investments, among other benefits.

2.9. The Role Of Investment Regulations

Rocha et al (2001) argue that the stated objective of investment regulations in most countries is to ensure diversification and minimize agency, systematic and, especially, portfolio risks. Investment regulations stating ceilings on holdings by asset class have generally been referred to as "draconian". Draconian regulations are pursued by all Latin American countries. They are also applied to private Pension funds in Belgium, France, Norway, Switzerland, Portugal, among others.

Other countries do not impose investment restrictions by asset class, other than the prescription, that the portfolio be managed prudently. The regulatory framework in these countries is said to follow "the prudent man Rule" or "prudent investor's Rule" (Rocha et al 2001, p.187, Srinivas and Yermo 1999, p.8). Rocha et al (2001), argue that the regulatory framework in this case requires those responsible to make investment decisions while exercising diligence and considering the specific circumstances of the fund.

2.9.1 Justification of Investment Regulations

Srinivas and Yermo (1999) justify Portfolio limits by presenting the following arguments:

(i) Lack of experience in fund management and, in particular, absence of adequate risk assessment models may lead pension funds to take "excessive risks".

It can be argued convincingly then that the restrictions might be necessary at the beginning of pension reform when there is a lack of qualified asset managers and capital markets lack strength and transparency. Once all these are realized, investment restrictions will then not be necessary.

(ii) Fragile financial markets may put at risk the sustainability of the pension reform. Any crisis in the financial market will have an impact on the pension sector as an investor. Curtailing this occurrence is therefore necessary by way of imposing investment restrictions and removing them only after markets have matured.

2.9.2 Shortcomings of Investment Regulations

Srinivas and Yermo (1999) argue that placing external limits on investments in specific asset classes can have the following shortcomings: -

(i) Portfolio diversification is limited, creating non-systematic or diversifiable market risk. However, this becomes a serious problem when the investment regulations are too restrictive, specifying a few asset classes relative to the available asset classes. Non-systematic risk will thus be eliminated when a variety of assets are allowed and no minimum limits are given, thus tending toward the prudent man rule.

(ii) Pension funds control disproportionate shares of some of the markets for those securities in which they are allowed to invest. Consequently, their trading in these markets will affect prices. This holds, as price is a function of demand and supply. With pension fund

controlling huge resources they are able to demand a bigger percentage of the market offering and thus push up market price. However, this will be to the advantage of most developing countries as most of their capital markets are dormant. Stimulating demand for capital market instruments will reactivate them.

CHAPTER THREE

3.0 RESEARCH DESIGN

3.1 Population

In this study the population was all registered retirement benefits schemes as at the end of May 2001 that stood at 1,051, and fund managers, that were 7. The registration function vests with the Retirement Benefits Authority and any scheme or fund manager not registered with the authority was excluded.

Insurance companies manage a substantial number of pension schemes and provident funds in this country. Although insurance companies are not obliged to observe the investment guidelines as laid down in the Retirement Benefits Regulations (2000), they were included in the study to enrich information on pension schemes and provident funds investment portfolios in Kenya. There are about 18 insurance companies with life departments managing pension and provident funds.

3.2 Sample

The population of retirement benefits schemes was stratified into provident funds and pension schemes. There were 979 pension schemes and 172 provident funds. From the population given, judgmental sampling was used to arrive at a sample of 60 schemes, selected from pension schemes and provident funds proportionally. This was done while looking into diverse characteristics of schemes such as size (number of employees catered for and funds), sector in which the scheme is found (e.g. public, parastatal, private) and history of the scheme. This was

aimed at having a diverse sample of schemes in the study. For fund managers, a total enumeration was taken, due to the small number so far registered.

To enrich information on pension schemes and provident funds investment portfolios, a sample of 5 large insurance companies managing pension and provident funds was taken.

3.3 Data Collection

The study utilized both primary and secondary data. To obtain primary data, different sets of questionnaires for schemes, fund managers and insurance companies were used (see appendices I, II and III respectively).

To obtain secondary data, the researcher made use of the latest audited accounts and Trust Deeds of retirement benefits schemes. This was aimed at getting an account of current investments made by the schemes and investment guidelines that the schemes had to abide by as contained in the Trust Deeds.

3.4 Data Analysis

A comparison of the current portfolio standing, in percentages, of the schemes was made to the investment guidelines. Deviations in percentages of the schemes' current portfolio standing from the investment guidelines were used to indicate what changes were necessary to adhere to the regulations. Where the portfolio holding in a certain asset class exceeded the maximum portfolio holding provided for, changes were required to reduce it to the provided limit. No action was necessary on the investment portfolio holding, in the situation where the current percentage held was less than the maximum ceiling provided for by the investment guidelines.

Various steps that schemes outlined to conform to the investment guidelines of retirement benefits regulations (2000) and the attendant problems that schemes will encounter in their efforts to conform were summarised to arrive at the most prevalent ones. They were then analysed using Percentages and tables.

CHAPTER FOUR

4.0 DATA ANALYSIS, RESULTS AND FINDINGS

4.1 Introduction

Pension schemes and provident funds trace their origins to the colonial period when multinational corporations in the country decided to give their employees similar benefits to those they were giving other employees back at home. The first provident fund to be registered of Kenyan origin was the National Social security Fund (N.S.S.F) in 1996. Since then, other schemes have continued to be registered and currently, there are over 1, 000 retirement benefits schemes registered with the Retirement Benefits Authority (RBA).

There are two broad types of retirement benefits schemes namely; Pension schemes and provident funds. A pension scheme is an arrangement (other than accident insurance) to provide pension and/ or other benefits for members on leaving service or retiring and, after a member's death, for his/her dependants (BPP, ICSA STUDY TEXT 1988, p.213). Pension schemes are further subdivided into defined benefit and defined contribution schemes.

A defined benefit scheme is a pension scheme in which the rules specify the benefits to be paid and the scheme is financed accordingly. A defined contribution scheme on the other hand is one in which the benefits are directly determined by the value of contributions paid in respect of each member. Normally the rate of contribution is specified in the rules of the scheme (BPP, ICSA STUDY TEXT 1988, p.249). In defined contribution schemes, both the employer and the employee contribute, with the contributions being fixed as a percentage of the employee's earnings. In defined benefit schemes on the other hand, only the sponsor contribute with the

contributions being based on an actuary's calculations of scheme income and liabilities (BPP, ICSA STUDY TEXT 1988, p.248).

Provident funds are schemes where the member's contributions and those of the employer are invested and the total accumulated in his account is paid to him in a cash lump- sum after deduction of tax. They take either of the two forms described above of defined benefit or defined contribution (RBA).

Out of the 45 schemes that responded 88% were pension schemes while the rest were provident funds. Most of the schemes that responded were of the defined contribution type (73%). The preference of most schemes sponsors for defined contribution schemes over defined benefit schemes could be due to the fact that the sponsor does not promise a specific level of future benefits, thus reducing the level of risk exposure. The employees bear the risk of investment performance: benefits will be high if the contributions are invested well; poor investments result in lower benefits (White, G.I et al, 1997, p.596).

Provident funds generally account for 4% of all registered schemes. This reflects the predominance of pension schemes over provident funds.

4.2 Management of Pension and Provident Funds

Until the advent of RBA, Pension and provident funds were managed mainly through three ways namely: - in–house, investment managers and insurance companies. In – house (internal) management of funds entails the sponsor making use of internal skills and talents to make all decisions relating to the operations of Pension and Provident funds. This has been the practice of

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many large pension and provident funds. However the Retirement Benefits Act (1997) and Regulations (2000) prohibits internal management of pension and provides funds, and only allows investment managers and insurance companies (Guaranteed funds) to manage such funds. This research found out that by the end of August 2001, 243 schemes had their funds managed by the 7 registered fund managers. This represents 23% of the schemes that had been registered with RBA by the end of May 2001. A survey of 5 major insurance companies revealed that 900 schemes had their funds managed by them, some of which had not yet registered with RBA.

Whereas the use of fund managers is recent in management of Pensions funds, the use of insurance companies dates back many years. Of the seven fund managers surveyed, the oldest was registered as a fund manager 25 years ago, while the oldest insurance company was registered over 37 years ago. This partly explains why insurance companies have a lion's share of schemes under their management. However, with the RBA requiring schemes to have appointed fund managers by October 8th 2001, the scenario is likely to change, although RBA allows schemes to have 100% of their funds invested in guaranteed funds, a domain of insurance companies.

4.3 Investment of Pension Funds

Investment generally entails foregoing present consumption of funds so as to increase the total funds that can be consumed in the near future. This is very essential for pension schemes and provident funds as their promised payments to employees upon retirement constitute a liability that the employer has to meet. Imprudent investment of pension funds will hinder an employer from meeting this liability.

The research found out that 49% of the schemes that responded used to make investment decisions through trustees, while 40% through investment committees. 11% of the respondents made their investment decisions through trustees in consultation with investment advisors. It is vital to note that how and who makes investment decisions affects the quality of investments fundamentally.

However, with the Retirement Benefits Act (1997) and Regulations (2000) now in place, schemes will be required to seek professional advice in making investment decisions. In making investment decisions, the research found out that the following factors were being considered:

Return

All respondents considered return as the most important factor. The higher the return the higher the funds were allocated to that particular asset class.

Risk

All respondents considered risk in making investment decisions, with the consideration being that an investment with lower risk was given more preference to one with higher risk. However risk and return move in tandem and there is no investment that promises higher return and lower risk. What is important, therefore, is a trade off between return and risk.

Amount involved

90% of the respondents considered the amount involved in an investment as an important factor in making investment decisions. The argument was that there are certain investments that require

substantial amounts of money compared to the available funds. Such investments could be put on a waiting list until funds available were sufficient.

Preference of Decisions makers

80% of the respondents considered this as an important factor in making investment decisions. The argument was that there are certain investments that decision-makers like, while others cannot be considered in spite of the return that they promise.

Other factors that were being considered in making investment decisions included liquidity of the investment, age profile of scheme members and investment opportunities available.

4.4 Investment Ceilings

Investment ceilings have recently been introduced by RBA through the Retirement Benefits Regulations (2000). Until then, schemes were not obliged to have investment ceilings nor were there any investment ceilings that they had to adhere to. However, some schemes found it necessary to have investment ceilings.

The research found out that 52% of the respondents had formulated their own investment ceilings that they were obliged to observe. However, the research found out that 10% of those that had investment ceilings allowed 100% in one asset class (government securities), while another 10% prohibited investment in property and offshore investment. The research also found out that 10% of the respondents had their investment ceilings within the constraints of the current investment guidelines given under Retirement Benefits Regulations (2000).

To conform to the regulations issued by RBA, schemes with investment ceilings that are not consistent with those of RBA will have to revise them. This will be done through establishment of an investment policy, which every retirement benefit scheme is supposed to have. An investment policy has to be formulated while taking into consideration the investment guidelines.

Even though some schemes had investment ceilings, they did not strictly adhere to those ceilings. 25% of the respondents with investment ceilings were found to have flouted the same ceilings that they had set. This being the case, it can be argued that such schemes will then find it very difficult to conform to the RBA investment guidelines.

4.5 Investment Portfolios

In the context of this study, investment portfolios refers to the combination of various asset classes that pension schemes and provident funds have invested in, i.e. the investment vehicles that schemes have used to channel out their funds.

The retirement benefits sector in this country is estimated to hold assets amounting to Ksh. 130 billion (RBA n.d, p.15). The research covered Ksh. 66,950,772,142 in the hands of internally managed schemes, Ksh 58, 061, 701, 697 with fund managers and Ksh. 8, 922,753, 318 with insurance companies. The average investment portfolios of these funds is as given in Table 6 below;

Table 6: Average Composition of Pension schemes and Provident Funds Investments portfolios in percentages

Investment Vehicle	Internally Managed Funds	Investment Managers	Insurance Companies
Cash and Demand deposits in banks	3.87	1.48	6.96
Fixed deposits	5.78	8.46	9.83
Short Term Money Market Instruments	0.83	10.41	2.15
Kenya Government Securities	22.96	50.76	43.68
Equity of quoted companies in E. Africa	5.86	11.41	8.98
Unquoted shares in Kenya	0	0	0
Off-shore Investments	0.05	8.14	0
Immovable Property in Kenya	59.25	8.76	28.4
Any Other Asset	1.4	0.58	0

Source: Research Data

The Retirement Benefits Regulations (2000) introduced investment guidelines, stipulating clearly the maximum limits beyond which schemes are not supposed to invest in a particular asset class. Table 3 on page 5 shows these investment guidelines. Until the introduction of these regulations, schemes were at liberty to invest their funds in the manner they deemed fit, without reference to any investment ceilings imposed externally.

4.6 Implications of Investment Guidelines

The introduction of investment guidelines requires schemes to align their investment portfolios to the stipulated maximum ceilings per asset class. However, pension and provident funds under

management of insurance companies are excluded from this requirement, leaving the attention of this discussion to internally managed funds and funds managed by investment managers.

A comparison of the average composition of Pension Schemes and Provident Funds investment portfolios in table 6 with the investment guidelines in table 3 shows that internally managed schemes have on average over invested in property by 29.25%. This means that internally managed schemes have to shed off excess holding in property before expiry of the set deadline. However, schemes managed by investment managers on average are in conformity with investment guidelines.

A close scrutiny of the individual respondents per asset class however showed different results from the averaging situation discussed in the foregoing paragraph.

4.6.1 Cash and demand deposits in banks

The average investment in this asset class was found to be 3.87% and 1.48% for internally managed funds and funds managed by investment managers respectively. However, 22% of the respondents whose funds were internally managed were found to have over invested in this asset class (see appendix IV). The immediate implication for the affected schemes is that they have to transfer the excess holding to other asset classes. This has no serious consequence for the concerned schemes, if the cash deposits are on a non interest earning current account, as looking for a new home for idle cash will occasion no loss.

4.6.2 Fixed Deposits

Internally managed funds and investments managers had on average invested 5.78% and 8.46% respectively in this asset class against a maximum of 30% allowed by the investment guidelines. However 16% of the respondents whose funds were internally managed had over invested in this asset class, with the worst hit scheme having over invested by 65% (see appendix IV). The implication of this excess investment is that affected schemes have to call off their fixed investment to beat the deadline even if the maturity date has not been reached. This will result into loss of interest that would have been earned due to recalling investments prematurely.

4.6.3 Short Term Money Market Instruments

This asset class was found to be more preferred by investment managers than internally managed funds with the average investments being 10.41% and 0.83% respectively, against a maximum of 15%. Internally managed funds and investment managers had 16% of their respondents exceeding the maximum limit allowed in this asset class (see appendices IV and V). To meet the set deadline, the affected schemes have to offload the excess holding in this particular asset class. However to avoid losses such schemes should be given time for the investments to mature before divesting from this asset class.

4.6.4 Kenya Government Securities

This is a very popular asset class with schemes due to a high return that it promises. Some schemes preferred to invest 100% of their total funds to this particular asset class. 7% of the respondents whose funds were internally managed were found to have exceeded the maximum holding allowed in this asset class, while 1% of the schemes whose funds were in the hands of

investment managers had also exceeded the set ceiling (see appendices IV and V). Since investment in government securities is normally for a short period of time, schemes should be given time up to maturity of the securities before adjusting the holding in this asset class.

4.6.5 Equity of quoted companies in East Africa.

The research found out that 7% of the respondents managing their funds internally were found to have exceeded the maximum ceiling allocated for this asset class (see appendix IV) representing Kshs 150,000,000. To abide by the investment guidelines the concerned schemes are therefore supposed to offload the excess holding in equity. Fund managers on the other hand had no scheme that had over invested in this asset class (see appendix V).

Off loading shares at the Nairobi Stock Exchange currently will be at a great loss to the affected schemes. This arises from the fact that since 1997, the NSE-20-share index has been on a declining trend. As at the close of 1997, the NSE 20- share index stood at 3,115 points. This declined to 2,962, 2,303 and 1,929 points at the close of 1998, 1999 and 2000 respectively (see appendix VI). At the end of June 2001, the index had declined to 1,657 points (CMA, Annual Report 2000, p.17, 124). This trend reflects a decline of 48.8% in the NSE-20 share index. Since the index is an indicator of the value of a share at the bourse, it means that on average schemes that had bought shares in 1997 and have held on them up to now stands to loose 46.8% of the original value should they decide to sell now. This can result into schemes loosing millions of shillings if they are compelled to sell excess holding in shares. Consequently, RBA should give schemes ample time to readjust their holding in equity.

4.6.6 Immovable Property in Kenya

The research found out that 16% of schemes managed internally had their investment portfolios exceeding the set limit for this asset class. Investment managers on the other hand had 5.3% of schemes under their management violating the set limit on this asset class. The combined excess funds in this asset class for both internally managed schemes and funds managed by investment managers were found to be over Ksh. 22 billion.

The property market is currently depressed and should the affected schemes decide or be compelled by RBA to off load their excess holding, the supply in property will over stretch the demand, resulting into a further price reduction and dampening of the property market. Consequently, affected schemes will make loses running into millions of shillings and billions of shillings for the entire retirement benefits sector.

4.6.7 Off- Shore Investment.

The research found out that there were some schemes whose funds were managed by investment managers that had exceeded the maximum ceiling allowed for this asset class.12.75% of the schemes were found to have violated the set limit (see appendix V).

With a depressed global economy currently, the affected schemes will have a problem realizing their foreign investment in shares to align their investment portfolios to the investment guidelines, with out incurring a loss. This will therefore require RBA giving such schemes more time to re-align their investment portfolios, so as to avoid making loses.

4.6.8 Any other asset

The research found out the specific composition of this asset class for internally managed schemes to include staff loans (0.07%), accounts with institutions that were under liquidation (0.25%) and loan to sponsor (1.08%). This affected 7% of the respondents whose funds were internally managed (see appendix IV), with over Ksh. 600 million in such investments.

4.7 Transition To Investment Guidelines

This research found out that 88% and 25% of Pension schemes and provident funds that were internally managed and managed by investment managers respectively were found not to be in conformity with investment guidelines (see appendix IV and V).

To conform to the investment guidelines, the schemes outlined various steps as summarised in table 7 below and discussed in subsequent subsections.

Table 7: A summary of Steps that Schemes will take to Conform to Investment Guidelines

Steps	Number Of Schemes	Percentage
Off load excessive investment in an exceeded asset class	11	27.5
Postpone further investment in the over invested asset class	14	35
Dissolve the scheme	2	5
Seek professional advice	13	32.5
TOTAL	40	100

Source: Research Data

4.7.1 Off –Load Excessive Investments In An Exceeded Asset Class

This step entails selling off excessive assets held in a particular asset class. 27.5% of the respondents not in conformity with investment guidelines were found to be in favour of this option. This is easier for those schemes, which have exceeded their investment in government securities than in property and shares. This is because with a depressed market for property and shares, both locally and internationally, schemes will only off-load the excessive investments at a loss. This is therefore not a very favourable option for most schemes that had over invested in property and shares.

4.7.2 Postpone Further Investment In The Over Invested Asset Class

This option will entail schemes, which have over invested in a particular asset class deferring further investment in that asset class. 35% of the respondents outlined this as their way of conforming to the investment guidelines. This option is more favourable for schemes that have

over invested in property and equity, as the market for these classes of assets are currently depressed and will take time to pick up.

If this option is adopted, it will mean that the affected schemes stop with immediate effect further investment in the affected asset class and utilizes the monthly contributions and returns from the over invested asset class to invest in other asset classes. This will eventually bring down the percentage held in the over invested asset class.

The major shortcoming of this option is that it requires many years to conform to the investment guidelines, especially for those schemes that had invested over 70% of their funds in property and shares.

4.7.3 Dissolve the Pension scheme

This option, sad as it is, entails winding up the pension scheme and sharing out benefits to employees. This is an anti-climax sort of option not expected by employees, as employees upon retirement expect benefits. 5% of the respondents not in conformity with investment guidelines were in favour of the option and they felt that conforming to the investment guidelines and other requirements of the Retirement Benefits Act would be too costly.

4.7.4 Seek Professional Advice

The research found out that 32.5% of the respondents were in favour of seeking professional advice to conform to the investment guidelines. The professional advice in this case will come via a scheme appointing a fund manager, who will in turn guide the affected scheme through various ways of conforming to the investment guidelines.

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The most popular step with schemes as regards conforming to the investment guidelines was postponing further investment in the over invested asset class. This will require RBA allowing schemes more time to conform rather than sticking to the 8th October 2001 deadline.

4.8 Problems That Schemes Will Encounter In Conforming To The Investment Guidelines

According to the Retirement Benefits Regulations (2000) schemes are supposed to conform to the issued regulations by 8th October 2001, in all respects. This includes aligning their investments as per regulation 37. Schemes had in the past carried out their investment activities without recourse to any published regulations or restrictions. This led to the schemes having various investment portfolio patterns with some investing mainly in one asset class.

Conforming to the investment guidelines will not be easy for most schemes that are currently in violation of them. Table 8 below gives a summary of the problems that schemes not in conformity with investment guidelines will face.

Table 8: Problems That Schemes Will Encounter in Conforming to the Investment Guidelines

Problem	No. of Schemes	Percentage
Depressed property market	7	17.5
Illiquidity of the equity market	3	7.5
Unremitted contributions	3	7.5
Narrow range of corporate instruments	5	12.5
Ongoing retrenchment	4	10
Increased costs	6	15
Short notice to comply	7	17.5
None	5	12.5
TOTAL	40	100

Source: Research Data

4.8.1 Depressed Property Market

The research found out that 17.5% of the respondents will be faced with the problem of a Property market that is currently depressed. This has resulted into little or no interest in properties put up for sale. The implication of this scenario is that schemes, which wish to sell-off their property, cannot get a ready buyer or if they do, they can only sell at a loss. It is for this reason that most schemes that had over invested in property were opting for more time to gradually reduce their holding in property.

4.8.2 Illiquidity of the Equity Market

7.5% of the respondents highlighted illiquidity of the equity market as a problem they will encounter in their efforts to conform to the investment guidelines. The equity market has witnessed unprecedented decline in share prices over the last four years. The Nairobi stock exchange Index has been going down since 1997 as a result of a decline of share prices of major securities traded on the bourse (see appendix VI). The implication of this trend is that the schemes that had over invested in shares at the Nairobi stock exchange stand to loose if they opt to sell-off their over investment due to the low prices shares are currently fetching.

On the international scene, the economic scenario is not any better than the one witnessed at the local bourse. The implication is that those schemes that had over invested in off-share equity market can only be able to off-load their excessive holding at a loss, unless more time is given to schemes

4.8.3 Unremitted Contributions

Schemes operate in such a way that the sponsor effects deductions on the payroll from employees and forwards the total deductions in addition to the sponsor's contribution, in the case where it is contributory. In the case where it is non-contributory, the sponsor periodically sets aside a certain sum of money, which is forwarded, to the scheme for investment purposes.

However, there are some sponsors that have failed to remit contributions to the schemes or are in arrears. This problem was cited by 7.5% of the respondents. The involved sum of money runs into hundreds of millions of shillings for some schemes. Re-aligning investments to investment

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guidelines for such schemes is a big problem and requires the remission of such outstanding contributions.

4.8.4 Narrow range of Corporate Instruments

12.5% of the respondents were of the view that the corporate instruments into which schemes can invest their idle funds are quite limiting. This does not give schemes many options and has led some of the schemes having excessive funds in cash and demand deposits in banks. However, the recent reorganization of the bourse into four segments will see new instruments coming up.

4.8.5 Ongoing Retrenchment

Some of the schemes had their sponsors engaged in retrenchment exercises. This required such schemes to invest a substantial sum of their funds in liquid assets, in readiness for paying retrenched employees. 10% of the respondents cited this as a problem that will affect their efforts to conform to the investment guidelines. This is however a temporary problem and once the retrenches get paid the affected schemes should be able to re-align their investment portfolios to the required ceilings.

4.8.6 Increased Costs

15% of the respondents were of the view that adhering to the investment guidelines will result into increased costs. The Retirement Benefits Regulations (2000) requires among others, schemes dealing with many professionals. For investment purposes, a scheme ought to have a fund manager and custodian for safe custody of investment documents. All these professionals have to be paid by schemes. This results into increased costs for schemes.

4.8.7 Short Notice to Comply

17.5% of the respondents felt that the time given to schemes to comply was short. This is especially more so for schemes that had over invested in property and shares, since the markets for these categories of assets are currently depressed and will take time to pick up.

With the above mentioned problems weighing heavily on schemes, more time will be required for them to fully comply with all the provisions required by the Retirement Benefits Act (1997) and Retirement Benefits Regulations (2000). However, 12.5% of the respondents not in conformity with investment guidelines showed that they will not face any of the above outlined problems. The research found out that to fully comply with investment guidelines a grace period of 1-3 years should be given to schemes with various difficulties.

4.9 Merits of Investment Guidelines

Pension schemes and provident funds in this country have operated without investment guidelines since inception. However, the enactment of the Retirement Benefits Act (1997) and Regulations (2000) has ushered in the investment guidelines. Although some schemes had their own investment guidelines that guided their investment activities, the research found out that the explicit documentation of investment guidelines that all schemes have to abide by have the following merits, as outlined in table 9 and discussed in the subsequent sub-sections.

Table 9: Merits of Investment Guidelines

Merit	No. of Schemes	Percentage
Portfolio diversification and risk mitigation	45	100
Limits abuse of power	15	33
Guides investment decisions	5	11
Improved corporate governance	4	9

Source: Research Data

4.9.1 Portfolio Diversification and Risk Mitigation

All respondents contended that the major merit of the investment guidelines is their focus to compel schemes to diversify investments. Portfolio diversification has been proved in the theory of finance to be the best way to optimize risk and return. Schemes will therefore immensely benefit from better returns and risk mitigation, especially for those that had majorly invested in one asset class.

4.9.2 Limits Abuse of Power

The power to invest scheme funds is bestowed upon trustees on behalf of beneficiaries. 33% of the respondents were of the view that some trustees could have in the past abused investment powers, by investing in worthless assets that do not provide a return to members, for instance, awarding themselves interest free loans. By imposing maximum ceilings, the extent of abuse of the powers is limited and transparency brought in.

4.9.3 Guides In Investment Decisions

The investment guidelines serve as a guide, to some schemes, how to invest their funds. 11% of the respondents contended that by examining the maximum ceilings allowed per asset class, schemes are able to construct a well-diversified portfolio.

4.9.4 Improved Corporate Governance

9% of the respondents were of the view that the ushering of investment guidelines will result into improved corporate governance. Investment guidelines allow schemes to invest up to 70% of their total funds in equity of quoted companies in East Africa. For large schemes, this could translate into a substantial holding of the equity of a company to enable the scheme have influence in decision making. Where schemes are endowed with good managerial skills, this will result into improved corporate governance in our companies.

4.10 Shortcomings of Investment guidelines

Despite the merits that the respondents were convinced investment guidelines provide they were also of the opinion that various shortcomings accompany them. Table 10 below outlines a summary of the shortcomings of investment guidelines as given by respondents.

Table 10: Shortcomings of Investment Guidelines

Shortcoming	No. of Schemes	Percentage
Limitation on off-shore investment	27	60
Failure to recognize size of schemes	13	26
Investment in risky asset classes	3	6.67
Restriction on short term money market instruments	5	11
Clustering of all corporate debt instruments in one category	2	4

Source: Research Data

4.10.1 Limitation on off-shore investment

The investment guidelines restrict offshore investment to 15% of the total funds of a scheme. 60% of the respondents felt that this is too restrictive owing to the profitable opportunities available offshore. Such respondents thus contend that the restriction is a sure way of denying scheme members better returns. They recommend that the limitation be pushed upwards to 25%.

The restriction on off-shore investment is however justified on the ground that funds mobilized locally should be utilized to develop the local economy first before going out. In fact, Chile a country with a successful story of pension reform at the inception of its pension reforms disallowed foreign investments up to 1992 when it allowed only 3% investment in foreign securities.

4.10.2 Failure to recognize size of Schemes

Another major shortcoming the research found out was the failure of the investment guidelines to recognize fund size of schemes. 26% of the respondents felt that this was a major shortcoming that ought to be addressed by RBA. Small schemes, for instance, a scheme with annual contribution by members below Ksh. 100, 000 and has just commenced will find it difficult to apportion its funds to various asset classes. The respondents argued that for such schemes, they should be allowed to invest 100% in some asset classes apart from guaranteed funds.

4.10.3 Investment in Risky asset classes

6.67% of the respondents argued that the maximum investment allowed in risky asset classes such as equity to 70% was too large. Suggestions were made that it be brought down to 40%. However, the investment guidelines only gives the maximum exposure allowed and does not compel a scheme to invest in any asset class. Those who view a certain asset class as being risky can always avoid it.

4.10.4 Restriction on Short term money market instruments

Investment in short term money market instruments do not go beyond three years and includes investment in commercial paper, corporate bonds, mortgage bonds and loan stocks. 4% of the respondents argued that restricting investment in this asset class to 15% is not justifiable, considering that corporate bonds offers a good return in the market currently. The corporate bond market in Kenya is just developing with only a few issues in the market currently. Probably the limit could be pushed up soon after the market picks up.

4.10.5 Clustering of all corporate debt Instruments in one category

An asset class comprises of various assets with the same risk and return characteristics. Some respondents argued that classifying commercial paper and corporate bonds in one asset class assumes that they are of the same risk, yet different instruments issued by different companies will have different maturity profiles and the risks of each type will be different.

CHAPTER FIVE

5.0 SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

As argued out by Wickramanayake (1998), the idea of reforming retirement benefits sector to deliver intended services effectively has become a major concern to all nations around the world. Kenya has not been left behind in these reforms as witnessed by the enactment of the Retirement Benefits Act (1997) and Retirement Benefits Regulations (2000), with the latter becoming effective on 8th October 2001.

Retirement benefits schemes hold substantial sums of money and play a pivotal role in financial systems and economic development of most developed and developing countries. A starling example of such a pivotal role played by the retirement benefits sector is in Chile where pension funds were the largest investors, managing a total of US $ 32 billions or 44% of the GDP by the end of 1997. This was after the country instituted major pensions reforms that commenced in 1981.

Today, RBA estimates the retirement benefits sector to hold assets in excess of Ksh 130 billion or 23% of the country's GPD. With proper management and supervision by RBA, this sector can grow to reach the coveted heights of Chile.

The retirement benefits sector in this country has operated for a long time without a specific regulator. This led to abuse of power by scheme sponsors by way of failing to remit deductions effected on employees as contributions to schemes. Another way the sponsors abused their powers is through getting loans from the schemes and failing to repay back. This has resulted

into the affected schemes forfeiting viable investment opportunities that could have benefited members. Trustees on the other hand abused their powers via dubious investment that resulted into huge losses running into millions of shillings for some schemes and awarding themselves loans. Indeed, effective supervision of this sector will result into faster growth of the funds under control of schemes. These funds can be channeled to productive sectors of the economy through viable investments. Investment guidelines will be of great help in alleviating abuse of power to arbitrarily invest scheme funds, and result into well thought out, constructive portfolios. It remains to be seen how RBA will go about its regulatory responsibility.

5.1 Recommendations

A new era in the running of retirement benefits schemes is dawning in Kenya. Schemes are supposed to conform to the retirement benefits regulations (2000) by 8th October 2001. However, this is not an easy task for most schemes which had inevitably over invested in property, shares and offshore. Attempts to off-load these investments will result into schemes realizing substantial losses running into millions of shillings and billions of shillings for the entire retirement benefits sector. In view of this, RBA should consider offering a general amnesty for schemes experiencing difficulties in conforming to the investment guidelines and extend the dead line for them to comply.

Retirement benefits schemes differ in terms of fund size among other attributes. The fund size determines to a great extent the type of investments that a scheme can make and the returns that can be realized. RBA should take this into account and allow at least one more asset class to be invested in 100%, for instance government securities, as was the case in the Chile for the first two years. This will allow the small schemes time to expand their fund size.

The number of employers in this country is far much more than the registered schemes. This implies that there are many employers without benefits plans for their employees. RBA should more aggressively market the idea of starting up retirement benefits plans to such employers. While doing this, RBA should also aggressively market the idea of individual retirement benefits schemes, which is unknown to most people in this country.

5.2 Problems encountered in the Study

1. Information relating to pension investments seems to have been a guarded secret in most organizations, with only a few individuals with access to it. For this reason, it was very difficult to access data especially in cases where the responsible person was away.

2. Getting permission to conduct research in some organizations was not easy, with some international companies requiring clearance from their headquarters oversees.

3. In some organizations the responsible people could not understand the issues clearly and thus requiring more time to explain to them. For instance, some could not differentiate the various asset classes available.

4. There was a lot of suspicion in some organizations, with some asking for whom I was working. This made it difficult for some of the organizations to voluntarily give out information, suspecting that I could be working for RBA at the time when they had not fully complied with all the required provisions.

5. Some organizations declined to be included in the study and thus reduced the number of respondents. Out of the 60 schemes that were sampled, only 45 responded, reflecting a 75% response rate.

5.3 Areas For Further Research

Regulation of the retirement benefits sector is very recent in this country and more research will be required in this area. Future researches in this area could cover the following areas:-

1. Factors that schemes consider in selecting fund managers, custodians, actuaries and other professionals required in providing services to schemes by the retirement benefits act (1997) and retirement benefit regulations (2000).

2. Election of Trustees: Practical considerations that are taken into account.

3. Return on investment: Is there a significant difference between funds invested by fund managers and in guaranteed funds.

4. Return on investment: Do investment guidelines improve or worsen reported returns by retirement benefits schemes?

APPENDICES

APPENDIX I: QUESTIONNAIRE FOR SCHEMES

Pension schemes and provident Funds Investment Portfolios in Kenya: The Impact of Investment Guidelines Under Retirement Benefits Act (1997) and Retirement Benefits Regulations (2000)

Background information:

1. In which of the following positions do your roles belong in the scheme?

   [ ] Trustee

   [ ] Administrator

   [ ] Specify if non of the above

....

2. When did the scheme commence?

....

3. For how many members does the scheme cater for?

....

4(a) Which type of scheme do you operate?

[ ] Pension scheme

[ ] Provident fund

(b) Which type of the following types of schemes do you operate?

   [ ] Defined contribution

   [ ] Defined benefit

   [ ] Other. (Please specify)

....

Management before publication of Retirement Benefits Act (1997) and Retirement Benefits Regulations (2000).

5. How were scheme funds managed before publication of the Act and Regulations?

   [ ] Internally managed

[ ] By investment managers

[ ] By insurance companies

[ ] Others. Please specify

....

6. Who used to make investment decisions?

[ ] Trustees

[ ] Investment committees

[ ] Others. Please specify

....

7. Were the following factors being considered in making investment decisions

	YES	NO
Return	[ ]	[ ]
Risk	[ ]	[ ]
Amount involved	[ ]	[ ]
Preference of decision makers	[ ]	[ ]
Any other. (Please specify)		
....	[ ]	[ ]
....	[ ]	[ ]
....	[ ]	[ ]

8. (a) Were there investment ceilings in any asset class that the scheme had to observe?

[ ] Yes

[ ] No

(b) If yes, please specify the investment ceilings.

....

....

....

....

....

(c) Who used to set the investment ceilings?

....

Investment Portfolios.

9. Please outline the current investment Portfolio composition in percentages as follows:

Investment Vehicle	Current Investment in Percentage(%)
(i) Cash and Demand deposits in Banks:	
(ii) Fixed deposits	
(iii) Short term money market Instruments:	
Commercial paper	
Corporate bonds	
Mortgage bonds	
Loan stocks	
(iv) Kenya Government Securities :	
T. Bonds	
T. Bills	
(v)Equity of quoted Cos. in. E.Africa:	
Preference shares	
Ordinary shares	
(vi) Unquoted shares in Kenya	
(vii) Off-shore investments:	
Bank deposits	
Govt. Securities	
Quoted shares	
Rated corporate bonds	
Collective investment schemes	
(viii) Immovable property in Kenya:	
Land	
Buildings	
Units in property Trusts	
(ix) Guaranteed Funds	
(x) Any other asset (please specify)	
Total funds invested (Kshs.)	

Transition to investment Regulations

10 What steps will you take to conform to the investment guidelines as given by the Retirement Benefits Regulations? (If not within)

....

....

11. What are the difficulties that you may encounter as you change over to the investment regulations as laid down?

12. How long do you envisage it will take you to be within the investment guideline ceilings (if not within)?

13. What in your opinion are the merits of the investment guidelines in running schemes?

14. Are there any shortcomings of investment guidelines? Please explain.

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THANK YOU VERY MUCH FOR YOUR COOPERATION

APPENDIX II: QUESTIONNAIRE FOR INVESTMENT MANAGERS

Pension schemes and provident Funds Investment Portfolios in Kenya: The Impact of Investment Guidelines Under Retirement Benefits Act (1997) and Retirement Benefits Regulations (2000)

Background information

1. What is your position in the firm?

....

2. When did the firm commence operations as a pension funds manager?

....

3. For how many schemes do you manage funds currently?

....

Investment Portfolios

4 Please give the aggregate investment portfolios of scheme funds (in percentages) that you manage as follows:

Investment Vehicle	Current Investment in Percentage(%)
(i) Cash and Demand deposits in Banks:	
(ii) Fixed deposits	
(iii) Short term money market Instruments:	
Commercial paper	
Corporate bonds	
Mortgage bonds	
Loan stocks	
(iv) Kenya Government Securities :	
T. Bonds	
T. Bills	
(v)Equity of quoted Cos. in. E.Africa:	
Preference shares	
Ordinary shares	
(vi) Unquoted shares in Kenya	
(vii) Off-shore investments:	
Bank deposits	
Govt. Securities	
Quoted shares	
Rated corporate bonds	
Collective investment schemes	
(viii) Immovable property in Kenya:	
Land	
Buildings	
Units in property Trusts	
(ix) Guaranteed Funds	
(x) Any other asset (please specify)	
Total funds invested (Kshs.)	

5.(a) Are there any schemes whose funds you manage not in conformity with investment guidelines?

[ ] Yes

[ ] No

(b) If yes what are the problems that such schemes will encounter as they strive to conform to the investment guidelines?

....

....

....

....

....

....

6. How long do you envisage it will take on average for schemes not in conformity with investment guidelines currently to conform?

....

7. What in your opinion are the merits of the investment guidelines in running schemes?

....

....

....

....

.... Are there any shortcomings of the investment guidelines? Please explain.

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THANK YOU VERY MUCH FOR YOUR COOPERATION

APPENDIX III: QUESTIONNAIRE FOR INSURANCE COMPANIES

Pension schemes and provident Funds Investment Portfolios in Kenya: The Impact of Investment Guidelines Under Retirement Benefits Act (1997) and Retirement Benefits Regulations (2000)

Background information

1 What is your position in the firm?

....

2. When did the firm commence operations as a pension funds manager?

....

3. For how many schemes do you manage funds currently?

....

Investment Portfolios

4. Please give the aggregate investment portfolios of scheme funds (in percentages) that you manage as follows:

Investment Vehicle	Current Investment in Percentage(%)
(i) Cash and Demand deposits in Banks:	
(ii) Fixed deposits	
(iii) Short term money market Instruments:	
Commercial paper	
Corporate bonds	
Mortgage bonds	
Loan stocks	
(iv) Kenya Government Securities :	
T. Bonds	
T. Bills	
(v)Equity of quoted Cos. in. E.Africa:	
Preference shares	
Ordinary shares	
(vi) Unquoted shares in Kenya	
(vii) Off-shore investments:	
Bank deposits	
Govt. Securities	
Quoted shares	
Rated corporate bonds	
Collective investment schemes	
(viii) Immovable property in Kenya:	
Land	
Buildings	
Units in property Trusts	
(ix) Guaranteed Funds	
(x) Any other asset (please specify)	
Total funds invested (Kshs.)	

THANK YOU VERY MUCH FOR YOUR COOPERATION

APPENDIX IV: INTERNALLY MANAGED SCHEMES IN VIOLATION OF INVESTMENT GUIDELINES

Asset Class	No. of Schemes	Percentage (%)
Cash and Demand Deposits	10	22
Fixed Deposits	7	16
Short Term Money Market Instruments	7	16
Kenya Government Securities	3	7
Equity of Quoted Companies in E. Africa	3	7
Unquoted Shares in Kenya	0	0
Off-shore Investments	0	0
Immovable Property in Kenya	7	16
Any other Asset	3	7
TOTAL	40	88

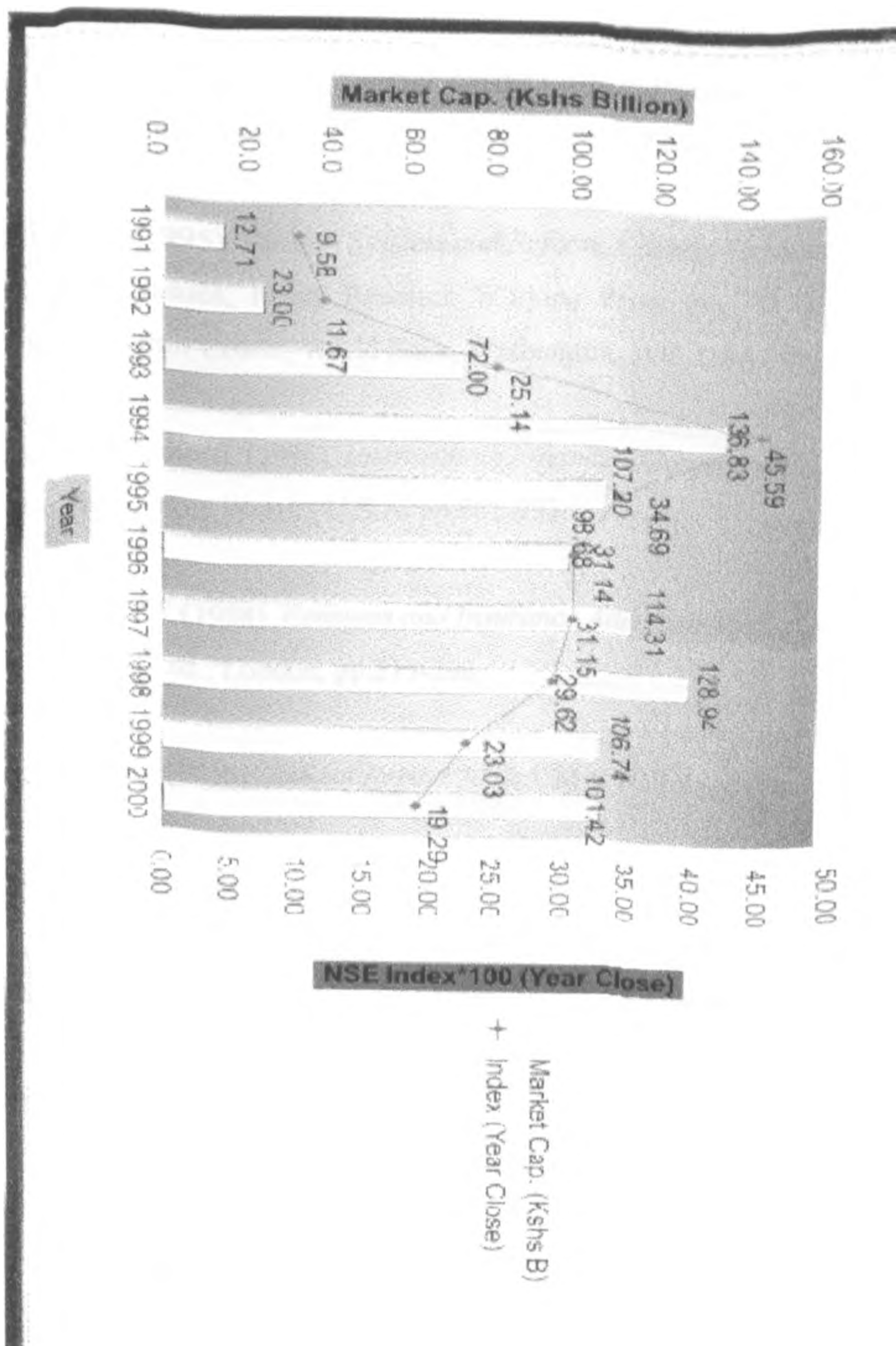
Source: Research Data

APPENDIX V: SCHEMES MANAGED BY INVESTMENT MANAGERS IN VIOLATION OF INVESTMENT GUIDELINES

Asset Class	No. of Schemes	Percentage (%)
Cash and Demand Deposits	0	0
Fixed Deposits	0	0
Short Term Money Market Instruments	13	5
Kenya Government Securities	3	1
Equity of Quoted Companies in E. Africa	0	0
Unquoted Shares in Kenya	0	0
Off-shore Investments	31	13
Immovable Property in Kenya	13	5
Any other Asset	0	0
TOTAL	60	25

Source: Research Data

APPENDIX VI: MARKET CAPITALIZATION AND NSE 20-SHARE INDEX



SOURCE: CMA ANNUAL REPORT 2000. p. 95

BIBLIOGRAPHY

Angima, J.N.M (1985). *"Employers' Accounting for the Costs of Pension Schemes in Kenya"*, Unpublished M.B.A Project, University of Nairobi, Kenya.

Arrau, P and S.H Klaus. (1995). *Pension Systems and Reform,* Country Experiences and Research Issues, Policy Research Working Paper No. 1470, Policy Research Dissemination Center, World Bank, Washington, D.C, USA.

Brigham, E.F and L.C Gapenski. (1995). *Intermediate Financial Management,* 5th ed. Dry den Press, Fort Worth , U.S.A, pp.961-993.

BPP, ICSA STUDY TEXT.(1988). *Pensions and Insurance Administration,* 1st ed. BPP Publishing Ltd., London, pp.213-298.

Capital Markets Authority.(2000). *Annual Report 2000*, CMA, Nairobi, Kenya.

Davis, E.P (1993). *The Structure, Regulation and Performance of Pension Funds in Nine Industrial countries,* Policy Research Working paper No. 1229, Policy Research Dissemination Center, World Bank, Washington D.C. U.S.A

Ennis, R.M and Paul Burik. (1991). "Pension Funds Real Estate Investment Under Simple Equilibrium Pricing Model". *Financial Analysts Journal* (May/ June, 1991), pp.20-29.

Fabozzi, F.J, F Modigliani, and M.G Ferri.(1998). *Foundations of Financial Markets and Institutions,* Prentice Hall International Inc. USA, pp.125-129.

Institute of Certified Public Secretaries.(March 2000). *RBA Rules: For Whose Benefit?* Professional Management, The Journal of the Institute of Certified Public Secretaries, March 2000, pp16-17.

Kenya Gazette supplement No. 63 (1997). *Retirement Benefits Act, 1997*

Kenya Gazette supplement No. 72 (2000). *Retirement Benefits Regulations.*

Madura , J (1995). *Financial Institutions and Markets*, West Publishing Company, New York, U.S.A, pp.677-693.

Marwa, S.M, (1992) *Actuarial Costing methods used in Insured Schemes in Kenya,* Unpublished M.B.A Project, University of Nairobi, Kenya

Omondi, G. (1988). *The Insurance of Old Age Needs,* Unpublished M.B.A Project, University of Nairobi, Kenya.

Raichura, S and A. Mureithi. (2000). *" Potential impact of the Retirement Benefits Act"*, in Market Intelligence, the business and finance journal, August 2000, pp.6-8.

Retirement Benefits Authority (2000). *Annual Report, July 1999-June 2000*, R.B.A, Nairobi, Kenya

Retirement Benefits Authority (n.d). *The role and objectives of the Retirement Benefits Authority;* Frequently Asked questions, R.B.A, Nairobi, Kenya.

Rocha, R., R. Hinz, and J. Gutierrez. (2001). *Improving the Regulation and Supervision of Pension Funds: Are there lessons from the Banking Sector?* In Robert Holzmann and Joseph E. Stiglitz (ed), New Ideas About Old Age Security, The World Bank, Washington, D.C, U.S.A, pp.171-212.

Srinivas, S.P and J. Yermo, (1999). *Do investment Regulations Compromise Pension Fund Performance?* Evidence from Latin America. The World Bank, Washington, D.C, U.S.A.

Thumbi, M.P. (1996). *An Evaluation of Pension Schemes and Provident Funds Investments Portfolios in Kenya,* Unpublished M.B.A Project, University of Nairobi, Kenya.

Vittas, D. (1995). *Sequencing Social Security, Pension, and Insurance Reform*, Policy Research Working paper No. 1551, Financial Sector Development Department, World Bank, Washington, D.C, USA.

White, G.I, A.C, Sondhi and D. Fried. (1997). *The Analysis and Use of Financial Statements*, 2nd ed., John Wiley and Sons, Inc., U.S.A, pp.591-669.

Wickramanayake, J. (1998). "Central Provident Fund and Savings in Singapore: An Empirical Analysis": - *Savings and Development*, Quarterly Review No. 4- 1998-XXII, p.435.

World Bank (1994). *Averting the Old Age Crisis*, World Bank Policy Research Report New York: Oxford University Press, Inc. U.S.A

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