CHALLENGES FACED BY INSURANCE FIRMS IN THE MANAGEMENT OF PENSION FUNDS IN KENYA

BY

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DECLARATION

This research project is my original work and has not been presented for a degree award in any other university.

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TABLE OF CONTENTS

ABSTRACT

The Insurance industry manages pensions funds together with other administrators for the basic objective of retirement benefits for members. The management of these pension funds is regulated by the Retirement Benefits Authority (RBA) and the tax implications controlled by Kenya Revenue Authority (KRA). The establishment of the Retirement Benefits Act and subsequent formation of the Retirement Benefits Authority (The Authority) in Kenya in 1997 (Retirement Benefits Act, 1997) was aimed at addressing the challenges that plagued the industry at the time and in addition, to enable Kenya gain benefits of a functioning retirement benefit industry that is evident in more developed countries. It is since this time that the insurance industry has undergone numerous changes in compliance of the rules set by the RBA. This study therefore tries to establish some of the challenges posed in the insurance industry in the management of pension funds in regard to the Retirement Benefits Authority.

The study applied descriptive data analysis to establish the challenges and analysis the causes of these impediments in management of pension funds. Data was collected form eleven insurance companies who perform pension funds administration and are registered with RBA therefore authorized/complied to transact this kind of business. Frequency distribution and percentages are used to record the number of times a score is observed and the extent of occurrence of the particular observation. The challenges were evaluated using factors analysis using principal component analysis by grouping together the key variables that operationarize those measures used to assess the challenges.

The results have revealed that the overall sector faces numerous challenges in the pension management specifically arising from the frequent budget changes that affect the pensions sector. Moreover, the service providers also pose hurdles for the insurance industry especially the schemes' trustees. These findings would provide policy planners with information to determine the measures possible to sustain and control these challenges. Policy makers need to formulate and implement strategies to guide the industry and other sectors allocate the optimal inputs for efficient and maximum benefits to Kenyans at their retirement age.

CHAPTER ONE – INTRODUCTION

1.1. Background

1.1.1. Retirement Benefits Industry in Management of pension Funds

The Retirement Benefits Sector in Kenya consists of four distinct schemes. These are the Civil Service Pension Schemes for government employees, the National Social Security Scheme mandatory scheme for employees in the private sector institutions with five and over staff, Occupational Retirement Benefits Schemes voluntarily established by employers for their employees and Individual Schemes established by insurance companies and financial institutions for the general public.

The Civil Pension Scheme is a PAYG (Pay As You Go) scheme. It is non – contributory and non - funded. The government funds this scheme. Each financial year the government budgets for Kshs. 17 billion to pay pension to the retired civil service employees. The other three are contributory and funded.

The Occupational Retirement Benefits schemes account for 61% of total industry assets of Ksh179 billion, the NSSF 38% and the individual retirement benefits schemes 1%. Whereas the Occupational Retirement Benefits Schemes account for the highest funding levels, only 11% of the total workforce covered are members of these schemes. The NSSF accounts for 67% and the Civil service 22%. The rest are members of Individual Retirement Benefits Schemes.

The Retirement Benefits Authority is involved in the management of the occupational and individual schemes in Kenya. The insurance industry in Kenya controls 70% of the pension funds and approximately 12% of the total asset base in the sector (Ernest and Young, Budget analysis June 2007).

1.1.2. The challenges in Administration of Pensions Fund

Despite the various significant achievements, it has not been without challenges. The challenges range from historical situations confronting schemes to social factors beyond the Authority's control that hindered continued progress.
The primary and legitimate role of the Authority is to regulate and supervise the retirement benefits schemes. This necessitates that the Authority oversee schemes compliance with the retirement benefits regulations. Following the implementation of the retirement benefits regulations in October 2000, scheme trustees were granted a transitional period through during which they were expected to bring their schemes into compliance with the regulations. All other Schemes save for the National Social Security Fund (NSSF) were required to comply within one year. The NSSF, because of its size and spread was given three years. Unfortunately after the lapse of one year, majority of the occupational schemes had not complied with rules and regulations. Like the others, NSSF too failed to be compliant within initial first three years. Even with an extension of additional three years, NSSF has still not complied. By the December 2007, a dismal number of 156 schemes out of 1357 were not fully compliant with the law which is 19% (RBA Budget analysis, 27th June 2008) compared to 2005, where only 60% of all the schemes were compliant. Bringing schemes to compliance has been an onerous task due to various factors:

a) Un-remitted Contributions

The Authority inherited the retirement benefits industry with its ills. Among the ills were the problems of un-remitted contributions, which have posed a challenge to date. Since sponsors and scheme assets were not separated, sponsors made contributions deductions from members but failed to insure the same for the members; preferring instead to plough back into the sponsors' businesses. This problem applied to both the private and public sectors, the latter however suffers from this problem more. While affected schemes have remedial strategies of repaying the un-remitted contributions, the success of repayment is dependent on the business performance of the sponsors. Unfortunately employers have suffered liquidity problems and closed down without making good on these strategies. In some cases, even where the Authority has put effort to address these problems, by appointing interim administrators, it has not always been successful. Consequently, members of schemes have had to bear the double jeopardy of painfully losing their employment and their many years' savings. From records of Schemes under interim administration, un-remitted related contributions put together account for 33% of the reasons why schemes are placed under interim administration. Of the 33%, 14% are cases of employers who have closed down without remitting contributions.

b) Schemes under interim administration

Reasons for placing Schemes under interim administration	**Frequency**	**Percentage**
Failure to comply with registration requirements	**5**	**24%**
Failure to recover non remitted contributions (scheme closed down)	**3**	**14%**
Failure to pay retrenched employees	**1**	**5%**
Non Remittance of contributions	**4**	**19%**
Misallocation of scheme assets	**2**	**10%**
Sponsor under Receivership	**1**	**5%**
Funding level unclear	**1**	**5%**
Trustees failure to act	**1**	**5%**
Resolved Cases	**3**	**14%**
Total	**21**	**100%**

**A scheme may have more than one reason.*

To date, the problem of un-remitted contributions persists despite the presence of regulations governing the schemes. Employers have continued failing to remit contributions in good time or fail to remit at all. Failing to remit the contributions denies the members the earliest opportunity to earn returns from investments.

c) Under funding

The Retirement Benefits Act requires schemes to attain a minimum funding level of 80% and in particular defined benefit schemes. Public related schemes suffer more from the problem of under funding than the private schemes. Taking into account the latest actuarial valuation reports submitted to the Authority by defined benefit schemes, 47% of public defined benefits schemes have fund values less than 80% compared to 9% in the private sector. Due to past failures to conduct periodic actuarial reviews, schemes failed to make the necessary adjustments under the prevailing circumstances at a time that would have enabled schemes adjust either pension factors or contributions or investment policy. In particular, pension factors were not reviewed in tandem with the salary adjustments. As such schemes were caught in situations where their funding levels fell significantly below liabilities.

d) Scheme Administration

Scheme trustees though fully liable to the scheme operations, have the option to appoint external administrators to administrate schemes' daily operations. However, administrators do not directly shoulder scheme failures. This has afforded, external administrators the luxury of being complacent, compromising and slow in assisting schemes under their administration to comply. In addition, external administrators, often lack the required understanding and capacity to steer the schemes to full compliance. As such they have contributed towards slow compliance of many schemes. The Authority has not been able to address this problem since it does not regulate administrators. However with effect from

February 2008, the Retirement Benefits Authority implemented regulatory procedures and requirements for all pension funds administrators in effort to hasten compliancy. In the absence of regulations for administrators, many companies offering scheme administration services some of which are of questionable ability and capacity have mushroomed. Currently there are 44 companies in the market known to be administrators. Rationally, these are too many to cater for a population of 1,357 schemes out of which 776 use the services of external administrators.

e) Sponsor Interference

Sponsors of scheme funds have not easily let go the schemes that were once in their charge even though schemes' assets and those of the sponsors' themselves are clearly separated and recognized as different legal entities. Interference from the sponsors has often played the role of intimidating the confidence of trustees. The Authority has received several reports of trustees who have been threatened with loss of jobs by their employers while performing their trustee roles. For instance, trustees have failed to follow up sponsors who fail to remit contributions.

f) Investments of scheme funds

Prior to the retirement benefits sector reform, scheme investments were rarely done prudently. Whereas the investment environment was partly to blame because the market consisted of very few options for long term investments suitable for retirement benefits funds, selection of those available were done inappropriate. Property investments were common because they matched the liability cycle of retirement benefits funds however, selection was done inappropriately. There are however other investment challenges emerging in the after reform period. The investment market is not developing fast enough to absorb mobilized funds through retirement benefits schemes. The equity market has been growing slowly and the corporate bonds market has even been slower. As a result, scheme investments are now concentrated in government securities. The lack of investment avenues has resulted in over 45% of total scheme funds investments in government securities. Whereas this is an improved investment outlook from the pre-reform period, rather than being diversified the scheme investments are concentrated. Recently introduced equities in the market have worked negatively for institutional investors. The Kengen Initial Public Offer, the largest offer in the Kenyan history to raise kshs 7.7 billion, through issuance of 649,000 shares limited the number of shares to 10,000 for both individuals and institutions. Concentration in government securities would mean that portfolios bear a high risk of government default. Even if the chances of default are remote the fact that it happened in Argentina is a challenge enough. According to Parker (1995), economic liberalization implies a shift from direct policy and regulatory controls to market driven behavior to set prices and allocate resources thus promoting a more competitive environment. But how would this apply in the pension funds administration if the regulator has so far not achieved 90% performance of the schemes? This is an area that needs further expounding to reap the best returns on pension benefits schemes with prices and units being un-controlled and regulated.

1.1.3. Establishment of Retirement Benefits Authority (RBA)

The RBA was established through an Act of parliament to safe guard the interests of all the stakeholders in the pension funds.

The establishment of the Retirement Benefits Act and subsequent formation of the Retirement Benefits Authority (The Authority) in Kenya in 1997 (Retirement Benefits Act, 1997) was aimed at addressing the challenges that plagued the industry at the time and in addition, to enable Kenya gain benefits of a functioning retirement benefit industry that is evident in more developed countries. The key challenge at the time was that the members, who form the backbone of the retirement benefits system and for whom retirement benefits was intended, were not benefiting as should. After years of saving, members were often denied their benefits. Schemes' poor management due to ill-defined structures resulted in loss of retirement savings with little or no returns on investments.

Through a World Bank sponsored study in 1992, it was established that most problems in the Retirement Benefits sector could be better addressed by creating awareness to the parties in the industry. The government implemented the study findings by executing a reform in the industry. The fundamental object of the reform was the drafting of the Retirement Benefits Act, which set out to address the major gap in the legislation of the retirement benefits sector. No specific regulations for retirement benefits scheme existed.
Instead scanty, scattered and disharmonized regulatory structures found in the Income Tax, Insurance Tax and those in the English Trust Laws applied. The Authority was thus formed to implement the Retirement Benefits Act. The statutory mandate of the Authority is to fulfill five specific mandates:

Firstly to regulate and supervise the establishment and management of retirement benefits schemes; Secondly to protect the interest of members and sponsors of retirement benefits schemes; Thirdly to promote the development of the retirement benefits sector; Fourthly to advise the Minister for Finance on the national policy to be followed with regard to the retirement benefits sector; and finally to implement all government policies relating thereto.

Evidently since inception, the Authority has made significant achievements. The retirement benefits industry is now streamlined. Schemes operations are standardized. Schemes must be established under an irrevocable trust, registered with the Authority to operate a retirement benefits business and are legally separated from the sponsor. Schemes must engage the professional services of fund managers, custodians and auditors. Schemes must file reports with the Authority periodically. Schemes are now accountable to the Authority whose offices are in Nairobi, Rahimtulla Towers, 13th Floor in Upper Hill.

Through an aggressive nationwide pension education campaign, the Kenyan public is now better informed and aware of retirement benefits matters. The Authority has been receiving floods of inquiries from the general public on how to save for retirement. Implying that, confidence among Kenyans has been restored and more Kenyans across the society's divide are willing to save for retirement. Trustees and service providers have gone through educational trainings and are more enlightened on matters of retirement benefits.

A reformed retirement benefits sector has triggered the deepening of the capital markets. Prior to reform, the 2-year bond served as the longest-term government bond. Over time 3-year up to the 10-year were introduced gradually. Recently introduced has been the 12-year and now a 15-year bond is due. Retirement Benefits Schemes constituted the biggest buyers of the 12 – year bond. Existence of an organized retirement benefits sector has attracted over 5 new international fund managers into the country that has gone to enhance quality and professionalism in asset management. Consequently, schemes investments have grown in size and in diversification.

Since the formation of this regulatory body, the pensions administration industry has undergone numerous changes in the management of the funds with the insurance industry being faced with the Michael Porters Analysis model coming into play. The Government established the organ in a strategic move seem to regulate pensions administration based on a combination of the strategy lenses of strategy as design, experience and ideas. The introductory has since then undergone a series of changes in effort to down play the industry forces as outlined by Michael Porter (1985) namely rivalry amongst the firms within the industry, threat of substitute products, entry barriers for new competitors, bargaining power of pension schemes and bargaining power of the insurance industry.

1.1.4. Role of Insurance Industry in the Management of Pension Funds

The Kenyan Insurance industry is fragmented and composed of 47 insurance companies as at July 2008. The insurance industry has been the major key player in Pensions Administration in Kenya. Until the birth of the Retirement Benefits Authority (RBA) in 1997, the insurance industry managed the pensions benefits on behalf of employers and employees based in the pensions Act under Kenya Revenue Authority.

Since then the Insurance industry has continued to play the roles of administration, fund investments and advisory services to the pension sector. The industry is required to compete with other players who offer related services to pension schemes in terms of service delivery, education and maximization of returns on the pension funds.

1.2. Problem Statement

The pensioner base has widened considerably in the last few years. At the same time, there have been new entrants in the management of pension funds, which include various insurance companies. Because of these developments, a number of regulations have been put in place to govern the management of pension funds. Given this sort of scenario, the management of pension funds is fraught with considerable challenges. These challenges can be controlled by proper planning, implementation and control of all decisions in order to achieve the desired objective (Kotler, 2000).

Mutua (2003) established that pension schemes continue to face various difficulties and challenges with compliance with the Retirement Benefits Authority notably due to increased management costs, misappropriation of funds by trustees, poor investments, sponsor diversion of pension funds and failure to remit pension contributions. Nevertheless, the study confirmed that, continuous supervision of pension funds by the regulatory body has played an important role resulting to increased efficiency of pension fund schemes and being able to meet their obligations to their members at retirement. As at the end of the year 2002, only 10% of the retirement benefits schemes had complied with the RBA requirements a situation which could be improved if the challenges in the management of pension funds were better addressed.

Wanjiku (2004) noted that one of the negative aspects of the Retirement Benefits Act was the increase of costs of setting up and operating the pension funds scheme. The study recommended for further research on whether after compliance with the RBA Act, there would be notable change on attitude and challenges on the part of the management of pension funds in relation to RBA Fund administrators among which are insurance firms.

The Insurance industry like many industries has been seriously affected by global business trends such as liberalization and globalization. Business managers and strategists in this industry are thus faced with a host of risks and challenges as outlined earlier. The pension funds administration in Kenya has been under the full control of the Retirement Benefits Authority and the market faces the effects of a free market from other competing industries like banking.

Being a critical player in the management of pension funds, what specific challenges does the insurance industry face in this regard?

1.3. Objective of the Study

To determine the challenges faced by the insurance firms in the management of pension funds with reference to the Retirement Benefits Authority.

1.4. Purpose of study

The study sought to expound on the possible avenues available for the RBA to exercise more effective and efficient control and management. It also gives critique to the organ with prospects of possible sharp changes in its strategic management leading to 'paradigm effect' in the Pension Administration in the Insurance Industry. The study therefore aimed at exploring on the specific challenges and impacts RBA organ has brought and caused in the pensions administration with conceptual interest on the principles of strategic management. The project sought to explore on the vision, urgency, empowerment and execution by the RBA regulatory body on the Pensions Management by the insurance companies in Kenya. The Acts that governs the industry in the management of the retirement benefits schemes was tackled with the latest developments being featured to form the organizational competence of the RBA organ in the industry regulations.

1.5. Importance of the study

i. **To Researchers:** The study would assist researchers to find out further whether there exists significant relationship between the challenges faced in the management of pension funds and the government structure of the Insurance industry.

ii. **To the Government:** To assist government officials in formulating pertinent policies and legislations in reference to the findings of this study.

iii. **To Academia:** The study is meant to help academicians in the pursuance of their academic excellence and for their research in the same or related area.

iv. **To the stakeholders:** The study is meant to assist the Pension funds stakeholders – that is pensioners, the regulators, insurance industry and pension administrators to identify the driving force in strategizing structures in place for the benefit of all the stakeholders.

1.6. Scope of study

The study aimed at establishing and analyzing the pension funds administration in the Kenyan Insurance Industry. The target of this study was the insurance companies in Kenya with reference to the Retirement Benefits Authority and the government pensions Act.

CHAPTER TWO – LITERATURE REVIEW

2.1 Introduction

According to Porter (1998), an industry in which no firm has significant share and does not influence the outcome of the industry, such industry is termed as fragmented industry. Competition in the Insurance industry in Kenya has been termed as "cut throat, stiff, unhealthy and shallow with destructive consequences", Ikiara (2001), Makove (2002) and Ogolla (2002). In pension administration, the major factors applied in the competitive environment are returns and service levels. Retirement benefits schemes play a vital role in the Kenyan economy as they contribute significantly to the Gross Domestic Product 21% with an asset base of over Kshs. 182 billion as at March 2008. The Retirement Benefits Authority comes in hardy in regulating the retirement benefits funds and has laid down procedures of registration and their related requirements.

2.2 Legal Requirements:

No person shall establish a retirement benefits scheme except in accordance with the RB Act (Section 22). No Person shall operate a retirement benefits scheme except under the authority of a certificate issued under the RB Act. A person proposing to establish a scheme shall apply to the Authority and obtain a certificate of registration before establishing the scheme [Section 23(2)b]. Application must be in a prescribed form with the requisite attachments.

Registration procedure requires application in a prescribed format (Form A4, A5, A3,) with various attachments namely; Trust deed and rules which is in layman's language the constitution of the scheme, Actuarial Report for Defined Benefit schemes certifying design and financial viability, Fund management agreement, Custodial Agreement (no longer mandatory for defined contribution schemes) and Audited accounts (for existing schemes only). Registration is mandatory under the Act *(Income Tax was not).*

Registration is free for schemes; Managers 50,000/=; Custodians 50,000/=; Administrators 50,000/= annual subscription fees. It is an offence for non-registration with a maximum sentence of a fine of Kshs. 500,000 or imprisonment for a term of 2 years or both (RBA Act, Regulations 2000).

Certificate of registration is renewable for Fund Manager and Custodian. The Authority keeps a register for the schemes, managers and custodians; Lists of other service providers also available.

2.2.1 Parties to the scheme

a) Trustees

These are people held in trust to play the financial obligations for the schemes on behalf of the members. Their roles include; Developing accounting system with internal control measures, ensuring that the system captures all financial transactions including records of beneficiaries and dependants, enlisting services of professionals where necessary (but must take full responsibility as the appointing principal), ensuring valuation of assets is carried out by Independent, Registered and Licensed members of the Institute of Surveyors and Valuers of Kenya in accordance with IAS 16, and keep proper books and prepare accounts on a going concern basis and in accordance with IAS.

Trustees of retirement benefits schemes are expected to serve a renewable term of three years with the number of trustees in both defined contribution and defined benefit schemes capped at nine trustees and minimum of four and three for defined contribution and defined benefit schemes respectively. The CEO (Principal officer) of the scheme sponsors are barred from being chairperson of the Board of trustees who are required to meet at least four times a year with a minimum agenda as prescribed for schemes' annual general meetings including reports on changes to structure of contributions and benefits, audited accounts, investments, remuneration of trustees and questions from members.

Trustees are mandated by the Authority to disclose un-remitted contributions from the sponsor, fees and expenses of the scheme paid by a 3rd party, including the sponsor, on behalf of the scheme, returns on investment as per each category of investment, inter- related party transactions (IAS 24), ownership of more than ten per centum equity in any one company or related companies (IAS 26 requires disclosure in excess of 5 %) and any other matter as may be prescribed by the Authority.

b) Auditor

These are the appointed service providers to the scheme who should audit the annual accounts and report to the trustees within three (3) months after the end of the financial year. Trustees must appoint auditors and report the appointment to RBA within 30 days. The appointment should be made from practicing members of ICPAK who must be independent from the scheme as sponsors; trustees and members are disqualified from appointment. Formalization of the appointment is done through an engagement letter that stipulates the terms and scope of audit. Change of auditors can be done in good practice at the discretion of trustees.

Responsibility on the accounts rests with the trustees who must provide a signed statement of trustees' responsibilities in respect to the financial statements. This confirms ownership of the accounts. Resignation of the Auditor can be exercised with trustees obliged to demand a statement from the auditor who resigns or is removed from office specifying the circumstances behind the exit. This statement must be availed to the succeeding auditor. Trustees do payment of audit fees as per the terms of appointment. The sponsor may pay audit fees on behalf of the scheme but must be disclosed under Related Party Transactions in the accounts. Trustees May demand certification from the auditor confirming that he was still a member of ICPAK and in good standing at the time of signing the audit report (This is good practice).

c) Sponsor

Sponsor (also referred as employer) is the organization that sets out the scheme and appoints Board of Trustees. In both DC & DB schemes the board of trustees will have max. 9 trustees. In DC schemes minimum number is four (4), 1/2 of whom are nominated by the members while in DB schemes, minimum number of trustees is three (3), 1/3rd of whom are nominated by the members. The sponsor appoints Corporate Trustees if the above options are not exercised. The sponsor should ensure employers' and members' contributions are remitted to the scheme funds administrator by the tenth day of the preceding month. They are entitled to at least quarterly updates during the financial year on all matters regarding the scheme.

d) Members

These are the bona fide beneficiaries of any pension scheme. Entry to become a member of a pension scheme has no discrimination on gender, race and religion. A defined contribution scheme cannot restrict qualification for membership to the scheme on the basis of age. However, employees with less than 5 years to retirement can join a defined contribution scheme but not a defined benefit scheme. Members are allowed to make fund transfers within sixty days where eligible and can inspect Trust Deed and Rules and the scheme booklet. In cases where schemes provide for the purchase of annuity on retirement, members are allowed to shop for the most competitive annuity provider.

In the event of leaving service before attaining the retirement age of the scheme, members shall be entitled to receive in full their own contributions plus accrued investment income while the employer's contributions are deferred to the normal retirement age as stipulated in the trust deed and rules of the scheme. The deferred amount will remain in the scheme and continue to accrue income and the benefit will be paid on attaining the retirement age. However members are allowed to transfer the deferred employers contribution to another registered scheme (individual or occupational) and these will be treated as employer's contribution in the new scheme. Members of DB schemes can access only a third (1/3) of actuarially determined accrued benefits on leaving the scheme before retirement age. Members who have been in the scheme for less than one year, leaving the country with no intentions of coming back or retiring on grounds of ill health can access both employers and employee contributions.

In the event of winding-up of a scheme, benefits of members who are still in service will be transferred to individual scheme of their choice until retirement age. Individual retirement benefits schemes are required to fix retirement age not lower than 50 years. When winding up of scheme, a liquidator is required to distribute any surplus arising from investment income to augment member's benefits and any surplus arising from unvested benefits to the scheme sponsor. In the event of liquidation a scheme, persons who have provided services to the scheme in the previous five (5) years, have been imprisoned, declared bankrupt or involved in a scheme that has been deregistered are barred from acting as liquidator of a scheme.

2.3 Pension Funds Administration in Other countries

A growing challenge for many nations is population aging. As birth rates drop and life expectancy increases an ever-larger portion of the population is elderly. This leaves fewer workers for each retired person. In almost all developed countries this means that government and public sector pensions could collapse their economies unless pension systems are reformed or taxes are increased. One method of reforming the pension system is to increase the retirement age. Two exceptions are Australia and Canada, where the pension system is forecast to be solvent for the foreseeable future. In Canada, for instance, the annual payments were increased by some 70% in 1998 to achieve this. These two nations also have an advantage from their relative openness to immigration. However, their populations are not growing as fast as the U.S., which supplements a high immigration rate with one of the highest birthrates among Western countries. Thus, the population in the U.S. is not aging to the extent as those in Europe, Australia, or Canada(Bradshaw J., 2003).

Also the condition of the historical data and its development into a secure database can be an expensive and labor intensive endeavor. Currently, the trend to develop on line electronic calculators that replace traditionally complex spreadsheet calculations performed by Actuaries and Analysts is the industry norm in records management.

Another growing challenge is the recent trend of businesses in the United States purposely under-funding their pension schemes in order to push the costs onto the federal government. Bradley Belt, former executive director of the PBGC (the Pension Benefit Guaranty Corporation, the federal agency that insures private-sector defined-benefit pension plans in the event of bankruptcy), testified before a congressional hearing in October 2004, "I am particularly concerned with the temptation, and indeed, growing tendency, to use the pension insurance fund as a means to obtain an interest-free and risk-free loan to enable companies to restructure. Unfortunately, the current calculation appears to be that shifting pension liabilities onto other premium payers or potentially taxpayers is the path of least resistance rather than a last resort."

2.3.1 Canada

The **Canada Pension Plan** **(CPP)** is a contributory, earnings-related social insurance program. It forms one of the two major components of Canada's public retirement income system, the other component being Old Age Security (OAS). Other parts of Canada's retirement system are private pensions, either employer-sponsored or from tax-free individual savings (known in Canada as registered retirement savings plans)(Phillip R and Theodore R., 1997)

The CPP program mandates all employed Canadians who are 18 years of age and over to contribute a prescribed portion of their earnings income to a nationally administered pension plan. The plan is administered by Human Resources and Social Development Canada on behalf of employees in all provinces and territories except Quebec, which operates an equivalent plan, the Quebec Pension Plan. Changes to the CPP require the approval of at least 2/3 of Canadian provinces representing at least 2/3 of the country's population. In addition, under section 94A of the Canadian Constitution, any province may establish a similar program at any time. The CPP is funded on a "steady-state" basis, with its current contribution rate set so that it will remain constant for the next 75 years, by accumulating a reserve fund sufficient to stabilize the asset/expenditure and funding ratios over time. Such a system is a hybrid between a fully funded one and a "pay-as-you-go" plan. In other words, assets held in the CPP fund are by themselves insufficient to pay for all future benefits accrued to date but sufficient to prevent contributions from rising any further. While a sustainable path for this particular plan, it is atypical of other public or private sector pension plans. A study published in April 2007 by the CPP's chief actuary showed that this type of funding method is "robust and appropriate" given reasonable assumptions about future conditions. The chief actuary submits a report to Parliament every three years on the financial status of the plan.

Initial plans for a public contributory pension plan in Canada were drawn from 1957 to 1963, under the Conservative governments of Prime Minister John G. Diefenbaker, but the final details of the CPP were only settled under the Liberal governments of Lester B. Pearson, between 1963 and 1965. Negotiations with the government of Quebec were also important in shaping the program, because of the need to amend the Canadian Constitution (i) to include disability and survivor benefits in the federal plan, combined with (ii) Quebec's desire to establish its own scheme. After section 94A of the Constitution was amended in 1964 to settle both points, the CPP was launched at the start of 1966.

At its inception, the prescribed CPP contribution rate was 1.8% of an employee's gross income up to an annual maximum. Over time, the contribution rate was increased slowly. However, by the 1990s, it was concluded that the "pay-as-you-go" structure would lead to excessively high contribution rates within 20 years or so, due to Canada's changing demographics, increased life expectancy of Canadians, a changing economy, benefit improvements and increased usage of disability benefits (all as referenced in the Chief Actuary's study of April 2007). The same study reports that the reserve fund was expected to run out by 2015. This impending pension crisis sparked an extensive review by the federal and provincial governments in 1996. As a part of the major review process, the federal government actively conducted consultations with the Canadian public to solicit suggestions, recommendations, and proposals on how the CPP could be restructured to achieve sustainability once again. As a direct result of this public consultation process and internal review of the CPP, some key changes were proposed and jointly approved by the Federal and provincial governments in 1997(Watson W. 2002):

a) Total CPP contribution rates (employer/employee combined) were increased annually from 6% of pensionable earnings in 1997 to 9.9% by 2003.

b) Continuously seek out ways to reduce CPP administration and operating costs.

c) Move towards a hybrid structure to take advantage of investment earnings on accumulated assets. Instead of a "pay-as-you-go" structure, the CPP is expected to be 20% funded by 2014, such funding ratio to constantly increase thereafter towards 30% by 2075 (that is, the CPP Reserve Fund will equal 30% of the "liabilities" - or accrued pension obligations).

d) Creation of the CPP Investment Board (CPPIB).

e) Review the CPP and CPPIB every 3 years.

In 2007, the prescribed contribution rate is 4.95% of a salaried worker's gross employment income between $3,500 and $43,700, up to a maximum contribution of $1,989.90. The employer matches the employee contribution, effectively doubling the contributions of the employee. If a worker is self-employed, he/she must pay both halves of the contribution. The rate of 4.95% has been in effect since 2003.

When the contributor reaches the normal retirement age of 65 (a reduced pension is available from age 60), the CPP provides regular pension benefit payments to the contributor, calculated as 25% of the average contributory maximum over the last 5 years, adjusted downwards if someone contributed on less than the maximum at any time during their career. However, there are provisions that enable the lower-earnings years in a contributor's contributory **period to be** dropped out. CPP benefit payments are taxable as ordinary income. The CPP also provides disability pensions to eligible workers who become disabled in a severe and prolonged fashion, and survivor benefits to survivors of workers who die before begin receiving retirement benefits. If an application for disability pension is denied, an appeal can be made for reconsideration, and then to the Canada Pension Plan / Old Age Security Review Tribunals or Pension Appeals Boards (POA)(Morris C. J., 1983).

2.3.2 Australia

Superannuation is a pension scheme in Australia. It has a compulsory element whereby employers are required by law to pay a proportion of an employee's salaries and wages (currently nine percent) into a superannuation fund, which can be accessed when the employee retires. Prior to the introduction of the "**Superannuation Guarantee**" in 1992 by the Keating Labor government, reasonably widespread superannuation arrangements had been in place for many years under industrial awards negotiated by the union movement between 1986 and 1988 with support from the federal government as part of a "wage-tax trade off", allowing a non-inflationary means of wage increases. The compulsory "Superannuation Guarantee" system was introduced as part of a major reform package addressing Australia's retirement income policies. It was anticipated that Australia, along with many other Western nations, would experience a major demographic shift in the coming decades, resulting in the anticipated increase in age pension payments placing an unaffordable strain on the Australian economy. The proposed solution was a "three pillars" approach to retirement income:

a) A safety net consisting of a means-tested Government age pension system.

b) Private savings generated through compulsory contributions to superannuation.

c) Voluntary savings through superannuation and other investments.

Since its introduction, employers have been required to make compulsory contributions to superannuation on behalf of most of their employees. This contribution was originally set at 3% of the employees' income, and has been incrementally increased by the Australian government. Since 1 July 2002, the minimum contribution has been set at 9% of an employee's ordinary time earnings. The 9% is thus not payable on overtime rates but is payable on remuneration items such as bonuses, commissions, shift loading and casual loadings.

Though there is general widespread support for compulsory superannuation today, it was met with strong resistance by small business groups at the time of its introduction who were fearful of the burden associated with its implementation and its ongoing costs.

The Howard government has been criticized for its reluctance to increase the compulsory rate of superannuation. Had the compulsory rate been 15% since 1996, rather than the current 9%, total superannuation assets in Australia would be approaching $2 trillion - almost double the current level.

After over a decade of compulsory contributions, Australian workers have over $1.177 trillion in superannuation assets. Australians now have more money invested in managed funds per capita than any other economy.

Compulsory superannuation in combination with buoyant economic growth has turned Australia into a 'shareholder society', where most workers are now indirect investors in the stock market. Consequently, a lively personal investment marketplace has developed, and many Australians take an interest in investment topics.

Employers must make superannuation contributions to the employees' designated superannuation fund at least every three months. The superannuation contributions are invested over the period of the employees' working life and the sum of compulsory and voluntary contributions, plus earnings, less taxes and fees is paid to the person when they choose to retire. The sum most people receive is predominantly made up of compulsory employer contributions.

Special rules apply in relation to employers providing defined benefit arrangements. There are less common traditional employer funds where benefits are determined by a formula usually based on final average salary and length of service. Essentially, instead of minimum contributions, employers need to provide a minimum level of benefit.

Superannuation Guarantee law applies to all working Australians, except those earning less than $450 per month, or aged under 18 or over 70. Individuals can choose to make extra voluntary contributions to their superannuation and receive tax benefits for doing so.

As superannuation is money invested for one's retirement, strict government rules prevent early access to preserved benefits except in very limited and restricted circumstances, including severe financial hardship or on compassionate grounds, such as for medical treatment not available through Medicare.

Generally, superannuation benefits fall into three categories namely; preserved benefits, restricted non-preserved benefits and unrestricted non-preserved benefits.

Preserved benefits are benefits which must be retained in a superannuation fund until the employee's 'preservation age'. Currently, all workers must wait until they are 55 before they are able to access these funds. All contributions made after July 1, 1999 fall into this category.

Restricted non-preserved benefits are benefits which, although not preserved, cannot be accessed until an employee meets a condition of release, such as terminating their employment in an employer superannuation scheme.

Unrestricted non-preserved benefits are those which do not require the fulfillment of a condition of release, and may be accessed upon the request of the worker. For example, where a worker has previously satisfied a condition of release and decided not to access the money in their superannuation fund.

Preservation age

Date of birth	**Preservation age**
Before 1 July 1960	55
1 July 1960 - 30 June 1961	56
1 July 1961 - 30 June 1962	57
1 July 1962 - 30 June 1963	58
1 July 1963 - 30 June 1964	59
After 30 June 1964	60

Eligibility for access to preserved benefits depends on a worker's preservation age. The Howard government announced changes in 1997 to the superannuation system designed to induce Australians to stay in the workforce for a longer period of time, delaying the effect of population ageing. Previously, any Australian could access their preserved benefits once they reached 55 years of age. However, after legislation was passed in 1999, an employee's preservation age depends on their date of birth.

Hence, by 2025, all Australian workers wishing to access their superannuation would be at least 60 years old.

Reasonable benefit limits (RBL) are the maximum amount of retirement and termination of employment benefits that a person can receive over their lifetime at concessional tax rates. When a person receives a benefit the payer must report the contribution to the Australian Taxation Office (ATO). The ATO then determines whether the person has exceeded their RBL and notifies them if they have. There are a multitude of factors that can affect a person's RBL, complicating the calculation involved.

In the 2006 budget the federal government announced that the RBL would be scrapped.

Superannuation funds operate as trusts with trustees being responsible for the prudential operation of their funds and in formulating and implementing an investment strategy. Some specific duties and obligations are codified in the Superannuation Industry (Supervision) Act 1993 - other obligations are the subject of general trust law. Trustees are liable under law for breaches of obligations. Superannuation trustees have, inter alia, an obligation to ensure that superannuation monies are invested prudently with consideration given to diversification and liquidity.

There are about 300,000 superannuation funds in operation in Australia. Of those, 362 have assets totalling greater than $50 million.

There are six main types of superannuation funds:

Industry Funds are multiemployer funds run by employer associations and/or unions. Unlike Retail/Wholesale funds they are run solely for the benefit of members as there are no shareholders.

Wholesale Master Trusts are multiemployer funds run by financial institutions for groups of employees. These are also classified as Retail funds by APRA.

Retail Master Trusts/Wrap platforms are funds run by financial institutions for individuals.

Employer Stand-alone Funds are funds established by employers for their employees. Each fund has its own trust structure that is not necessarily not shared by other employers.

Do-It-Yourself Funds (or Self Managed Superannuation Funds) are funds established for a small number of individuals (usually fewer than 5).

Public Sector Employees Funds are funds established by governments for their employees.

Retail and Wholesale Master Trusts are the largest sector of the Australian Superannuation Market.

From 1 July 2005, changes to the law meant that many Australian employees would be able to choose which fund their employer's future superannuation guarantee contributions are paid into. Choice of superannuation funds allows workers to change funds when their current fund is not available with a new employer, consolidate superannuation accounts to cut costs and paperwork, change to a lower-fee and/or better service superannuation fund and change to a better performing superannuation fund.

Superannuation funds are principally regulated under the *Superannuation Industry (Supervision) Act 1993* and the *Financial Services Reform Act 2002*. Compulsory employer contributions are regulated via the Superannuation Guarantee (Administration) Act 1992.

The *Superannuation Industry (Supervision) Act* 1993 sets all the rules that a complying superannuation fund must obey (adherence to these rules is called compliance). The rules cover general areas relating to the trustee, investments, management, fund accounts and administration, enquiries and complaints. SIS also regulates the operation of superannuation funds and sets penalties for trustees when the rules of operation are not met.

In June 2004 the SIS Act and Regulations were amended to require all superannuation trustees to apply to become a Registrable Superannuation Entity Licensee (RSE Licensee) in addition each of the superannuation funds the trustee operates is also required to be registered. The transition period is intended to end 30 June 2006. The new licensing regime requires trustees of superannuation funds to demonstrate to APRA that they have adequate resources (human, technology and financial), risk management systems and appropriate skills and expertise to manage the superannuation fund. The licensing regime has lifted the bar for superannuation trustees with a significant number of small to medium size superannuation funds exiting the industry due to the increasing risk and compliance demands.

On the other hand, the Financial Services Reform Act covers a very broad area of finance and is designed to provide standardization within the financial services industry. Under the FSR, in order to operate a superannuation fund, the trustee must have a license to run a fund and the individuals within the funds require a license to perform their job.

With regard to superannuation, FSR provides licensing of 'dealers' (providers of financial products and services), oversees the training of agents representing dealers, sets out the requirements regarding what information must be provided on any financial product to members and prospective members and sets out the requirements that determine good-conduct and misconduct rules for superannuation funds.

Regulatory: Four main regulatory bodies keep watch over superannuation funds to ensure they comply with the legislation.

The **Australian Prudential Regulation Authority** (APRA) is responsible for ensuring that superannuation funds behave in a prudent manner. APRA also reviews a fund's annual accounts to assess their compliance with the SIS.

The **Australian Securities and Investments Commission (ASIC)** ensures that trustees of superannuation funds comply with their obligations regarding the provision of information to fund members during their membership. ASIC is also responsible for consumer protection in the financial services area (including superannuation). It also monitors funds' compliance with the FSR.

The **Australian Taxation Office (ATO)** ensures that self-managed superannuation funds adhere to the rules and regulations. It also makes sure that the right amount of tax is taken from the superannuation savings of all Australians.

The **Superannuation Complaints Tribunal** (SCT) administers the *Superannuation (Resolution of Complaints) Act.* This Act provides the formal process for the resolution of complaints. The SCT will try to resolve any complaints between a member and the superannuation fund by negotiation or conciliation. The SCT only deals with complaints when no satisfactory resolution has been reached.

2.3.3 United States

A **retirement plan** is an arrangement to provide people with an income, possibly a pension, during retirement, when they are no longer earning a steady income from employment, or an asset from which a person may draw an income from as needed (Mead G. H., 1934). There are significant, though varied and complicated tax advantages for many types of retirement plans. In passing the laws offering those advantages, Congress has expressed a desire to encourage plans that provide retirement security. Plans designed to replace a specific amount of steady income are known as defined benefit plans (though exceptions do apply), and those designed to accumulate as an asset without requiring a specified income are known as defined contribution plans. Retirement plans may be set up by employers, insurance companies, the government or other institutions such as employer associations or trade unions(William F. G., 1918). Retirement plans have increased in importance and in being utilized by more of the US population over the last half century but especially since 1980. Since 1980 and increasingly since 2000, there has been a shift from defined benefit plans to defined contribution plans. Fewer defined benefit plans are being offered because they represent a large and not fully predictable cost to employers. As of 2005, most defined benefit plans are offered by large and/or governmental employers.

Retirement plans may be classified as *defined benefit* or *defined contribution* according to how the benefits are determined. A defined benefit plan guarantees a certain payout after retirement, according to a fixed formula which usually depends on the member's salary and the number of years' membership of the plan. In a defined contribution plan, the payout is dependent upon the amount of money contributed, and the performance of the investment vehicles utilized.

Some types of retirement plans, such as *cash balance* plans, combine features of both defined benefit and defined contribution schemes.

A defined contribution plan, according to the Internal Revenue Code Section 414, is an employer sponsored plan with an individual account for each employee. The accrued benefit from such a plan for an employee must be solely attributed to contributions made into his individual account and investment gains less any losses and expense charges. The contributions are invested, for example in the stock market, and the returns on the investment (which may be positive or negative) are credited to the individual's account. On retirement, the member's account is used to provide retirement benefits, sometimes through the purchase of an annuity which provides a regular income. Defined contribution plans have become more widespread all over the world in recent years, and are now the dominant form of plan in the private sector in many countries. For example, the number of DB plans in the US has been steadily declining, as more and more employers see the large pension contributions as a large expense that they can avoid by disbanding the plan and instead offering a defined contribution plan. Examples of defined contribution plans include Individual Retirement Accounts and profit sharing plans. In such plans, the employee is responsible, to one degree or another, for selecting the types of investments toward which the funds in the retirement plan are allocated. This may range from choosing one of a small number of pre-determined mutual funds to selecting individual stocks or other securities. Most self-directed retirement plans are characterized by certain tax advantages, and some provide for a portion of the employee's contributions to be matched by the employer. In exchange, the funds in such plans may not be withdrawn by the investor prior to reaching a certain age, typically the year the employee reaches 59.5 years old (with a small number of exceptions) without incurring a substantial penalty.

Defined benefit plans; The statutory definition of the defined benefit plan encompasses all pension plans that are not defined contribution, i.e. that do not have individual accounts. While this catchall definition has been interpreted by the courts to capture some hybrid pension plans like Cash balance plans and pension equity plans (PEP), traditional retirement plans by large businesses, or, for government workers, by the government itself are in the form of the *final salary* plan, under which the pension paid is equal to the number of years worked, multiplied by the member's salary at retirement, multiplied by a factor known as the *accrual rate*. The cash balance plan with or without a formula that specifies an exact benefit at retirement, whatever amount is accumulated can be available as a monthly pension at retirement or a lump sum at retirement and possibly before. The only requirement is that it must provide a benefit in the form of a lifetime annuity at normal retirement age as required (by the Internal Revenue Code) of all defined benefit plans. The amount of the annuity benefit must be *definitely determinable* as per IRS regulation 1.412-1.

Defined benefit plans may be either *funded* or *unfunded*. In a funded plan, contributions from the employer, and sometimes also from plan members, are invested in a fund towards meeting the benefits. The future returns on the investments, and the future benefits to be paid, are not known in advance, so there is no guarantee that a given level of contributions will be enough to meet the benefits. Typically, the contributions to be paid are regularly reviewed in a valuation of the plan's assets and liabilities, carried out by an actuary. In many countries, such as the USA, the UK and Australia, most private defined benefit plans are funded, because governments there provide tax incentives to funded plans. In an unfunded plan, no funds are set aside. The benefits to be paid are met immediately by contributions to the plan. Most government run retirement plans, such as the social security system in the USA and most European countries, are unfunded, with benefits being paid directly out of current taxes and social security contributions. In some countries, such as Germany, Austria and Sweden, company run retirement plans are often unfunded.

Hybrid and Cash Balance Plans: Hybrid plan designs combine the features of defined benefit and defined contribution plan designs. In general, they are usually treated as defined benefit plans for tax, accounting and regulatory purposes. As with defined benefit plans, investment risk in hybrid designs is largely borne by the plan sponsor. As with defined contribution designs, plan benefits are expressed in the terms of a notional *account balance,* and are usually paid as cash balances upon termination of employment. These features make them more portable than traditional defined benefit plans and perhaps more attractive to a more highly mobile workforce. A typical hybrid design is the Cash Balance Plan, where the employee's notional account balance grows by some defined rate of interest and annual employer contribution.

According to Zvi Bodie (et al), in the US, plan conversions from traditional to hybrid plan designs have been controversial, notably at IBM in the late 1990s. Upon conversion, some plan sponsors retrospectively calculated employee account balances — if the employee's actual vested benefit under the old design was more than the account balance, the employee entered a period of *wear away* where he or she accrued no new benefits. Hybrid designs also typically eliminated the generous early retirement provisions in traditional pensions.

As a result, critics of cash balance plans have seen the new designs as discriminatory against older workers. On the other hand, the new designs may better meet the needs of a modern workforce and actually encourage older workers to remain at work, since benefit accruals continue at a constant pace as long as an employee remains on the job. Court cases have split on this issue and therefore not resolved these problems. Currently both the Senate and House have legislation to clarify the legal status of future cash balance plans. In the interim, Treasury has placed a moratorium on future determination letters on cash balance plans. The proposed legislation on cash balance age discrimination (much like the principle in criminal appeal that convicts convicted under the old procedure cannot win on appeal by applying the new rule retroactively *US v. Teague*, 489 US 288 (1989)) does not cover the legal status of current plans in existence.

While the Cash Balance Plan mentioned above is hybrid which is a defined benefit plan designed enable workers to evaluate the economic worth their pension benefit in the manner of a defined contribution plan (the Defined Benefit design of Cash Balance plans provides the advantage of PBGC insurance but the risk of insolvency), the Target Benefit plan is a defined contribution plan designed to express its projected impact in terms of lifetime income as a percent of final salary at retirement and targeted to match a defined benefit plan. In a Target Benefit plan, a typical Defined Benefit design, say 1.5% of salary per year of service times the final 3-year average salary, is used to provide the target. Actuarial assumptions like 5% interest, 3% salary increases and the UP84 Life Table for mortality are used to calculate a level flat contribution rate that would create the needed lump sum at retirement age 65 for each entering employee.

The problem with such Target Benefit DC plans is that the flat rate could be low for young entrants, like 8% for a 21 year old, and high for old entrants. This may appear unfair. But the skewing of benefits to the old worker is a feature of most traditional defined benefit plans; and any attempt to match it would reveal this backloading feature.

This points out the key difference among DC and DB plans for ordinary workers. The DC plan is easy for workers to understand the value of, while the DB plan is typically undervalued by workers until they get really close to retirement age.

To guard against tax abuse in the United States, the Internal Revenue Service (IRS) has promulgated rules that require that pension plans be permanent as opposed to a temporary arrangement used to capture tax benefits. Regulation 1.401-1(b)(2) states that " although the employer may reserve the right to change or terminate the plan, and to discontinue contributions there under, the abandonment of the plan for any reason other than business necessity within a few years after it has taken effect will be evidence that the plan from its inception was not a bona fide program for the exclusive benefit of employees in general.

Especially will this be true if, for example, a pension plan is abandoned soon after pensions have been fully funded for persons in favor of whom discrimination is prohibited...". The IRS would have grounds to disqualify the plan retroactively even if the plan sponsor initially got a favorable determination letter. Determination letters like "'no-action letters'" from the Securities and Exchange Commission (SEC) are advisory and to the extent the tax-payer's actions have pandered the taxpayer is on the hook.

Defined contribution plans have actual balances, that workers can simply know the value of with certainty by simply checking the balance. There is no legal requirement that the employer allow the former worker take his money out to roll over into an IRA, though it is relatively uncommon in the US not to allow this (and many companies such as Fidelity run numerous TV ads encouraging individuals to transfer their old plans into current ones).

However, because the lump sum actuarial present value of a former worker's vested accrued benefit is uncertain, the IRS (*in Section 417(e) of the Internal Revenue*) Code specifies the interest and mortality that must be used. This has caused some employers as in the Berger versus Xerox case in the 7th Circuit (Richard A. Posner was the judge who wrote the opinion) with cash balance plans to have a higher liability for employers for a lump sum than was in the employee's "notional" or "hypothetical" account balance.

When the interest credit rate exceeds the IRS mandated Section 417(e) discounting rate, the legally mandated lump sum value payable to the employee [if the plan sponsor allows for pre-retirement lump sums] would exceed the notional balance in the employee's cash balance account. This has been colorfully dubbed the "Whipsaw" in actuarial parlance. The Pension Protection Act signed into law on August 17, 2006 contained added provisions for these types of plans allowing the distribution of the cash balance account as a lump sum.

A practical difference is that a defined contribution plan's assets generally remain with the employee (generally, amounts contributed by the employee and earnings on them remain with the employee, but employer contributions and earnings on them do not vest with the employee until a specified period has elapsed), even if he or she transfers to a new job or decides to retire early, whereas in many countries defined benefit pension benefits are typically lost if the worker fails to serve the requisite number of years with the same company. Self-directed accounts from one employer may usually be 'rolled-over' to another employer's account or converted from one type of account to another in these cases.

Because defined contribution plans have actual balances, employers can simply write a check because the amount of their liability at termination of employment which may be decades before actual normal (65) retirement date of the plan, is known with certainty. There is no legal requirement that the employer allow the former worker take his money out to roll over into an IRA, though it is relatively uncommon in the US not to allow this(Bodie Z. and Shoven B., 1983).

Just like there is no legal requirement to give *portability* to defined contribution plans, there is no mandated ban on portability for defined benefit plans. However, because the lump sum actuarial present value of a former worker's vested accrued benefit is uncertain, the IRS mandate in Section 417(e) of the Internal Revenue Code specifies the interest and mortality that must be used. This uncertainty discussed in valuation of defined benefit lump sums has limited the practical portality of defined benefit plans.

2.3.4 Turkey

The Individual Retirement Law in Turkey has been legislated in parliament and published in the Official Gazette on May, 7th 2001. The law was to be enacted after 6 months following the publishing date.

If we look at the general framework of the law in Turkey, we can point out the main properties of the individual retirement system which includes supplementary to the existing state pension plans, voluntary and based on defined contribution plans, contributions collected from the individuals transmitted to pension funds which are established as the structure of a mutual fund. Anybody who is able to use his civil rights can enter the system and only retirement companies (which have been introduced to the financial markets with this new law) will establish the pension funds. Retirement companies will be established with permission of Under-secretariat of Treasury. Retirement companies need an initial capital of 14.3 USD for establishment. Half of this amount should be paid in cash when the company begins to operate. At least 3 different funds with different portfolio structures must be established. (In this way individuals will be able to choose a fund according to their personal risk and yield expectations) . Although not stated in the law clearly, both employees and employers, if any, as well as individuals can make contributions to the pension funds. The rights of the investors are portable and accumulations can be transferred into another retirement company. At retirement, the investors can take their accumulations as lump sum or they can withdraw the accumulations partially. They will have an option in either buying an annuity from an insurance company or leaving the money in the funds to be invested. Retirement age is 56 providing that, people make contributions to the fund for at least 10 years. The fund will be managed by portfolio management companies according to the Law, which will be authorized by Capital Markets Board. The assets of the fund will be deposited in a custodian bank which will be approved by the Board. The custodian that is selected by the pension company and approved by the Board, will be a bank which operates in accordance with the Law on Banking.

The system is coordinated by Advisory Board whilst the regulations are done by the Under-secretariat of Treasury and Capital Markets Board.

Under-secretariat of Treasury lays down principles and procedures relating to the standards of legal documents related with the retirement company such as pension contracts, procedures regarding transfer of accumulations, entrance to the system and retiring from the system, the fees (entrance fees for individuals, operating fees for the retirement companies), the establishment and operations of the retirement companies, internal audit of the retirement companies, the qualification requirements for the staff of the retirement companies and independent audit of retirement companies.

The Capital Markets Board lays down principles and procedures relating to the standards of legal documents related with the pension fund (such as fund prospectuses, internal statute, application forms), the establishment and operation procedures of the pension funds, the registration and sale of the fund shares, internal audit of the fund and the organization structure of the fund. The capital markets board is also regulates the funds through public disclosure, portfolio restrictions of the funds (the minimum and maximum percentages of the assets that will be invested in each asset class having different risk and yield structure), evaluation of the fund assets, licensing portfolio management companies, mergers of the funds, independent audit of the funds and setting up performance standards.

On October 07, 2001 the law no. 4632 on Individual Pension Savings and Investment System, which is complementary to the state social security system on the basis of voluntary participation and the defined contribution principle, with a view to direct individual pension savings to investment to improve the welfare level by providing a supplementary income during retirement to contribute to economic development by creating long term resources for the economy and thereby increase employment, came into force. After the law and some other recent legislation that strengths the base of the system, Turkish Individual Pension System commenced on October 27, 2003 with the contribution of Turkey's biggest six pension companies. At present there are eleven pension companies in the system. As a requirement of the law no. 4632, Prime Ministry Under-secretariat of Treasury authorized the 'Pension Monitoring Center' (In Turkish 'Emeklilik Gözetim Merkezi' or in short EGM) in order to ensure that the Individual Pension System operates in a safe and efficient manner, and protects rights and interests of participants. As a self-regulated e-governance application, EGM is established to produce accurate information on behalf of Turkish Treasury for daily electronic monitoring of the companies operating in the system. The establishment was completed by the shareholders with 1.7 million USD paid-in capitals on July 10, 2003. One of the shareholder of the center is Prime Ministry Under-secretariat of Treasury with a small share in capital, other shareholders are 11 pension companies called Ak Emeklilik, Anadolu Hayat Emeklilik, Ankara Emeklilik, Aviva Hayat & Emeklilik, Başak Groupama

Emeklilik, Fortis Emeklilik & Hayat, Garanti Emeklilik & Hayat, Koç Allianz Hayat & Emeklilik, Oyak Emeklilik, Vakıf Emeklilik, Yapı Kredi Emeklilik) which have licenses to operate in the pension branch with equal share in capital.

EGM, which is a core control mechanism, is mainly assigned to perform specific tasks namely; Daily electronic monitoring & surveillance of pension company's activities and e-reporting to the authorities, storing standardized data for all individual accounts, consolidation of data, based on the daily transactions of the pensions companies, providing information to public and participants, generating statistical & actuarial information and providing analysis and reports. This pension monitoring centre oversees the implementation of the exam of intermediaries and keeping track of the electronic registries, ensures demand for common presentation, training activities, software and allied subjects are met. It also organizes data for on time intervention to probable problems, manages complaints from the participants, coordinates projects of international associations to develop the system and gives support to pension companies.

As of February 22, 2005, EGM (Pension Monitoring Center) had been registered as a governing member of the International Organization of Pension Supervisors (IOPS), which is an international organization, aims to serve as the standard-setting body on pension supervisory issues and regulating issues related to pension supervision through the development and promotion of the implementation of international principles, standards, and good practices in pension supervision, having regard to the variety of different private pension systems.

2.3.5 United Kingdom

Perpetual pensions(also referred to as hereditary pensions) were freely granted either to favorites or as a reward for political services from the time of Charles II onwards. Such pensions were very frequently attached as salaries to places which were sinecures, or, just as often, posts which were really necessary were grossly overpaid, while the duties were discharged by a deputy at a small salary. Prior to the reign of Queen Anne, such pensions and annuities were charged on the hereditary revenues of the sovereign and were held to be binding on the sovereign's successors (The Bankers Case, 1691; State Trials, xiv. 3-43). By I Anne c. 7 it was provided that no portion of the hereditary revenues could be charged with pensions beyond the life of the reigning sovereign. This act did not affect the hereditary revenues of Ireland and Scotland, and many persons were quartered, as they had been before the act, on the Irish and Scottish revenues who could not be provided for in England for example, the duke of St Albans, illegitimate son of Charles II, had an Irish pension of £800 a year; Catherine Sedley, mistress of James II, had an Irish pension of £5000 a year; the duchess of Kendall and the countess of Darlington, mistresses of George I, had pensions of the united annual value of £5000, while Madame de Walmoden, a mistress of George II, had a pension of £3000 (Lecky, History of Ireland in the Eighteenth Century). These pensions had been granted in every conceivable form during the pleasure of the Crown, for the life of the sovereign, for terms of years, for the life of the grantee, and for several lives in being or in reversion (Erskine May, Constitutional History of England). On the accession of George III and his surrender of the hereditary revenues in return for a fixed civil list, this civil list became the source from which the pensions were paid. The three pension lists of England, Scotland and Ireland were consolidated in 1830, and the civil pension list reduced to finance the remainder of the pensions being charged on the Consolidated Fund.

In 1887 Charles Bradlaugh, M.P., protested strongly against the payment of perpetual pensions, and as a result a Committee of the House of Commons inquired into the subject (Report of Select Committee on Perpetual Pensions, 248, 1887). An appendix to the Report contains a detailed list of all hereditary pensions, payments and allowances in existence in 1881, with an explanation of the origin in each case and the ground of the original grant; there are also shown the pensions, etc., redeemed from time to time, and the terms upon which the redemption took place. The nature of some of these pensions may be gathered from the following examples: To the duke of Marlborough and his heirs in perpetuity, £4000 per annum; this annuity was redeemed in August 1884 for a sum of £107,780, by the creation of a ten years annuity of £12,796, 17s. per annum. By an act of 1806 an annuity of £5000 per annum was conferred on Lord Nelson and his heirs in perpetuity. In 1793 an annuity of £2000 was conferred on Lord Rodney and his heirs. All these pensions were for Services rendered, and although justifiable from that point of view, a preferable policy is pursued in the 20th century, by parliament voting a lump sum, as in the cases of Lord Kitchener in 1902 (£50,000) and Lord Cromer in 1907 (£50,000). Charles II granted the office of receiver-general and controller of the seals of the court of kings bench and common pleas to the duke of Grafton. This was purchased in 1825 from the duke for an annuity of £843, which in turn was commuted in 1883 for a sum of £22,714, 12s. 8d. To the same duke was given the office of the pipe or remembrancer of first-fruits and tenths of the clergy. This office was sold by the duke in 1765] and, after passing through various hands, was purchased by one R. Harrisor in 1798. In 1835 on the loss of certain fees the holder was compensated by a perpetual pension of £62, 9s. 8d. The duke of Graftol also possessed an annuity of £6870 in respect of the commutation of the dues of butler age and prisage. To the duke of St Alban was granted in 1684 the office of master of the hawks. The sum granted by the original patent were: master of hawks, salary £391. 1s. 5d.; four falconers at £50 per annum each, £200; provision of hawks, £600; provision of pigeons, hens and other meats £182, 10s.; total, £1373. 11s. 5d. This amount was reduced by office fees and other deductions to £965, at which amount it stood until commuted in 1891 for £18,335. To the duke of Richmond and his heirs was granted in 1676 a duty of one shilling per ton of all coals exported from the Tyne for consumption in England. This was redeemed in 1799 for an annuity of £19,000 (chargeable on the consolidated fund), which was afterwards redeemed for £633,333. The Duke of Hamilton, as hereditary keeper of the palace of Holyrood House, received a perpetual pension of £45,105. and the descendants of the heritable usher of Scotland drew a salary of £242, 10s. The conclusions of the committee were that pensions allowances and payments should not in future be granted in per pertuity, on the ground that such grants should be limited to the persons actually rendering the service, and that such reward should be defrayed by the generation benefited; that offices with salaries and without duties, or with merely nominal duties, ought to be abolished; that all existing perpetual pensions and payments and all hereditary offices should be abolished: that where no service or merely nominal service is rendered by the holder of an hereditary office or the original grantee of a pension, the pension or payment should in no case continue beyond the life of the present holder and that in all cases the method of commutation ought to ensure a real and substantial saving to the nation (the existing rate, about 27 years purchase, being considered by the committee to be too high). These recommendations of the committee were adopted by the government and outstanding hereditary pensions were gradually commuted, the only ones left outstanding being those to Lord Rodney (£2000) and to Earl Nelson (£5000), both chargeable on the consolidated fund.

Political pensions are type of *sui generis* as they either reward a career in domestic politics or are awarded in the colonial context not on grounds of justice, contract or socio-economic merits, but as a political decision, in order to take a politically significant person (often deemed a potential political danger) out of the picture by paying him or her off, regardless of seniority(Willets D., 2004)

Civil list pensions are pensions granted by the sovereign from the civil list upon the recommendation of the first lord of the treasury. They are to be granted to such persons only as have just claims on the royal beneficence or who by their personal services to the Crown, or by the performance of duties to the public, or by their useful discoveries in science and attainments in literature and the arts, have merited the gracious consideration of their sovereign and the gratitude of their country. As of 1911, a sum of £1200 was allotted each year from the civil list, in addition to the pensions already in force. From a Return issued in 1908, the total of civil list pensions payable.

Judicial and municipal pensions are for certain offices of the executive whose pensions are regulated by particular acts of parliament. Judges of the Supreme Court, on completing fifteen years service or becoming permanently incapacitated for duty, whatever their length of service, may be granted a pension equal to two-thirds of their salary (Judicature Act 5873). The lord chancellor of England however short a time he may have held office, receives a pension of 45000, but he usually continues to sit as a law lord in the House of Lords so also does the lord chancellor of Northern Ireland, who receives a pension of 3,692.6s. A considerable number of local authorities have obtained special parliamentary powers for the purpose of superannuating their officials and workmen who have reached the age of 6o to 65. Poor law officers receive superannuation allowances under the Poor Law Officers Superannuation Act 1864-1897.

Ecclesiastical pensions belong to bishops, deans, canons or incumbent who are incapacitated by age or infirmity from the discharge of their ecclesiastical duties and may receive pensions which are charged upon the revenues of the see or cure vacated.

Navy pensions were first instituted by William III of England in 1693 and regularly established by an order in council of Queen Anne in 1700. Since then the rate of pensions has undergone various modification and alterations; the full regulations concerning pensions to all ranks will be found in the quarterly Navy List, published by authority of the Admiralty. In addition to the ordinary pension there are also good-service pensions, Greenwich Hospital pension and pensions for wounds. An officer is entitled to a pension when he is retired at the age of 45, or if he retires between the ages c 40 and 45 at his own request, otherwise he receives only half pay. The amount of his pension depends upon his rank, length of service and age. As an example, in past, the maximum retired pay of an admiral was 850 per annum, for which 30 years service or its equivalent in half-pay time is necessary; he may, in addition, have held a good service pension of 300 per annum. The maximum retired pay of a vice-admiral with 29 years service was 725; of rear-admirals with 27 years service, 600 per annum. Pensions of captains who retire at the age of 55, commanders, who retire at 50, and lieutenants who retire at 45, ranged from 200 per annum for 17 years service to 525 for 24 years service. The pensions of other officers were calculated in the same way, according to age and length of service. The good-service pensions consisted of ten pensions of 300 per annum for flag-officers, two of which may be held by vice-admirals and two by rear-admirals; twelve of 150 for captains; two of 200 a year and two of 150 a year for engineer officers; three of 100 a year for medical officers of the navy; six of 200 a year for general officers of the Royal Marines and two of 150 a year for colonels and lieutenant-colonels of the same. Greenwich Hospital pensions range from 150 a year for flag officers to 25 a year for warrant officers. All seamen and marines who have completed twenty-two years service are entitled to pensions ranging from 1 od. a day to a maximum of Is. 2d. a day, according to the number of good-conduct badges, together with the good-conduct medal, possessed. Petty officers, in addition to the rates of pension allowed them as seamen, are allowed for each years service in the capacity of superior petty officer, I5s. 2d. a year, and in the capacity of inferior petty officer 7s. 7d. a year. Men who are discharged from the service on account of injuries and wounds or disability attributable to the service are pensioned with sums varying from 6d. a day to 2s. a day. Pensions are also given to the widows of officers in certain circumstances and compassionate allowances made to the children of officers. In the Navy estimates for 1908-1909 the amount required for halfpay and retired-pay was 868,800, and for pensions, gratuities and compassionate allowances 1,334,600, a total of 2,203,400(Young G., 2002)

The system of pensions in the British Army is somewhat intricate, provision being made for dealing with almost every case separately(Gruber and Wise, 1999).

2.4 Chapter summary

This literature review has carefully taken us through a brief but very progressive discussion about pension funds management in Kenya and other countries. It is indeed true that the pension funds environment is turbulent and more so to indigenous companies such as the insurance industry.

Ansoff (1988) defines turbulence as a measure of changeability and predictability of the firm's business environment caused by the existence of both threats as well as opportunities within that environment. Changes within such an environment may cause demand on certain type of strategic managerial practice depending on whether the change is a threat or an opportunity. In this chapter, we have analyzed the changes undergone by the pension funds management especially by the Retirement Benefits Authorities which are either threats or opportunities.

CHAPTER THREE – RESEARCH METHODOLOGY

3.1 Research Design

The research was a survey. According to Kotler and Armstrong (2001), this method is best suited where descriptive information is sought. The researcher intends to find about people's feelings, perceptions, attitudes or preferences about one or more variables through direct queries. The research sought to find the extent in which the Retirement Benefits Authority has influenced the management of pensions funds in Kenya in relation to the Insurance Industry.

3.2 Population

The Insurance industry in Kenya comprises of 47 Insurance companies categorized as composite (companies doing both life and general business) and general business companies. This study focused on the composite insurance companies which are 23 in number. Since pension funds are regulated by Retirement Benefits Authority, the study was based on the insurance companies registered with RBA as administrators which comprises of 11 such companies (Appendix 1). Since the population was small, the census method was most appropriate. Data was collected from the 11 insurance companies whose registration was valid according to RBA as at July 2008.

3.3 Data collection methods

The focus of the study was a census of the insurance companies registered as pension funds administrators. The data generated in this study was qualitative and primary in nature. Data was collected by means of a questionnaire (Appendix 2) with both closed and open ended response questions. This was administered to the respondents using the "drop and pick later" method. The respondents were the pensions Managers in the respective insurance companies. The questionnaire had 3 sections with section 1 capturing the bio-data about the respondent's organization and function of the respondent in relation to pension funds management. Section 2 captured information in relation to planning, implementation and control systems of the Retirement

Benefits Authority while section 3 sought to obtain information on the challenges facing the insurance industry in relation to RBA's implementation strategies.

3.4 Data Analysis Technique

Data presentation was done using descriptive statistics mainly frequencies and percentages. Descriptive statistics enable meaningful description of a distribution of scores or measurements using few indices (Mugenda and Mugenda (1999)). Frequency distribution and percentages record the number of times a score is observed and the extent of occurrence of the particular observation.

The challenges were evaluated using factors analysis using principal component analysis by grouping together the key variables that operationarize those measures used to assess the challenges. This made it possible to assess the extent of the challenges in the management of pension funds by RBA.

CHAPTER FOUR: RESEARCH FINDINGS AND ANALYSIS

4.1 Introduction

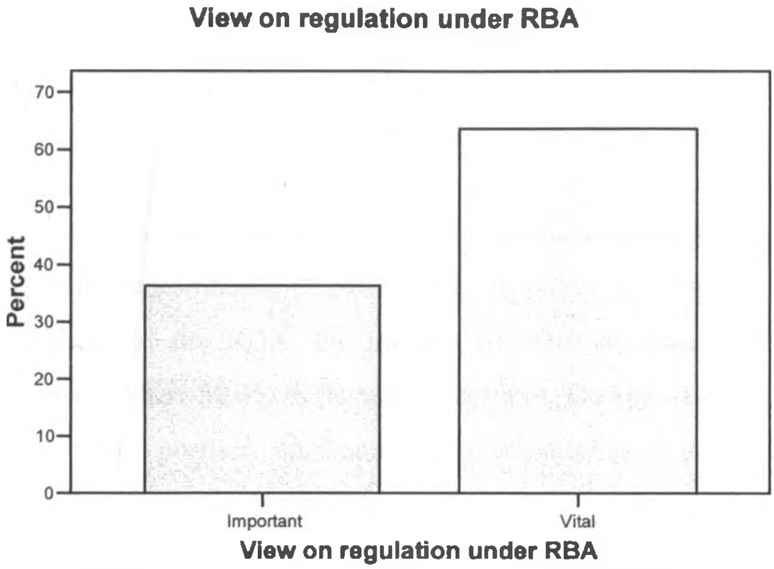
The study intended to achieve one objective: to determine the challenges faced by the insurance firms in the management of pension funds. The collected data has been analyzed and interpreted in line with this objective using descriptive analysis. This involves the analysis of variables in relation to the respondent's perceptions and preferences. This chapter presents the findings of the study with regard to the objective and discussions of the same under the major thematic objective and various sub themes. The respondents in this study were drawn from 11 insurance companies registered as pension administrators in Kenya.

4.2 Data validity

Number of years respondents have worked in the organization					Number of years managing the pension funds				
Years of service	Frequency	Percent	Valid Percent	Cumulative Percent	Years of service	Frequency	Percent	Valid Percent	Cumulative Percent
1-5	1	3.8	9.1	9.1	1-5	5	19.2	50	50
11-15	1	3.8	9.1	18.2	6-10	3	11.5	30	80
16-20	4	15.4	36.4	54.5	11-15	2	7.7	20	100
Over 20	5	19.2	45.5	100	Total	10	38.5	100	
Total	11	42.3	100						

The data analyzed was justifiable on the basis of the respondents because 81.9% have been in the organization for over 16 years and 50% of these respondents have been managing the funds for over 6 years in the respective organizations.

4.3 Role of Retirement Benefits Authority in regards to pensions authority



From the respondents view, all the insurance companies are in favor that RBA has played a vital role in the retirement benefits sector. However out of these responses, 63.6 % are in favor that the regulations under the RBA are vital while the remaining 36.4% regard the regulations as only important. None of the respondents (insurance companies) asserted the non-significance of the RBA.

Some of the advantages cited with relation to RBA include increased efficiency in the management of pension funds, availability of essential structures within the RBA which protect the contributors' funds, conducive regulatory environment which improves the general management of the schemes and the RBA set standards which protects the interests of all stakeholders.

However the regulator faces several limitations that include complexities in the pensions management, it discourages employees' personal interests and prevents growth in the pensions industry due to the compliant requirements.

4.4 Effects of enactment of the RBA in pension management

		Frequency	Valid Percent	Cumulative Percent
Valid	Increased	7	63.6	63.6
	Decreased	4	36.4	100.0
	Total	11	100.0	

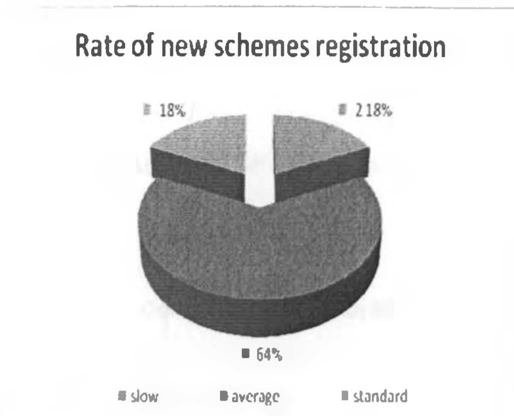
From the respondents, 63.6% of the insurance companies are in favor that since the enactment of the RBA, the number of schemes managed under their portfolio have increased while 36.4% reflected a decrease. Companies that experienced a decrease in their pension portfolio attributed this to some schemes being wound up and the rest being transferred to other fund managers

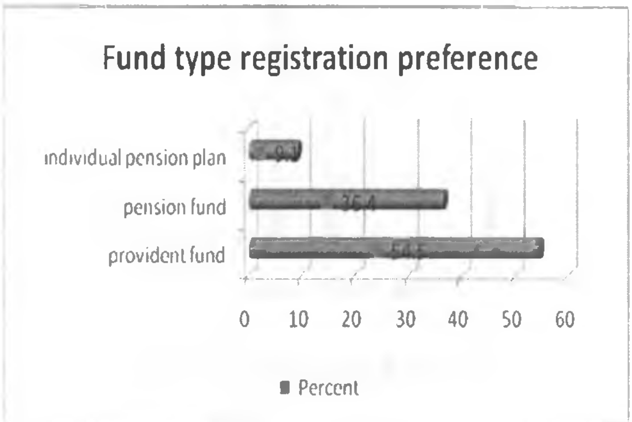
4.5 Major challenges faced by the insurance companies with regard to RBA

The respondents expressed their opinions on the challenges as follows: -

i. Poor communication and frequent amendment of the existing documentation due to changes in the regulations which insurance companies are unaware of the legal provisions in the prior Insurance Act.
ii. Insurance companies lack confidence regarding the discretionary powers of the RBA.
iii. Insurance companies view the RBA budgets as expensive and not able to maintain which include high costs in the business management and operational costs needed to comply with all requirements
iv. The government through the RBA has no incentives to spur growth of pension funds. This is evident due to the long time of registration and the low returns from low interest declared from the investors' expectations.

4.5.1 Rate of new schemes registration with RBA





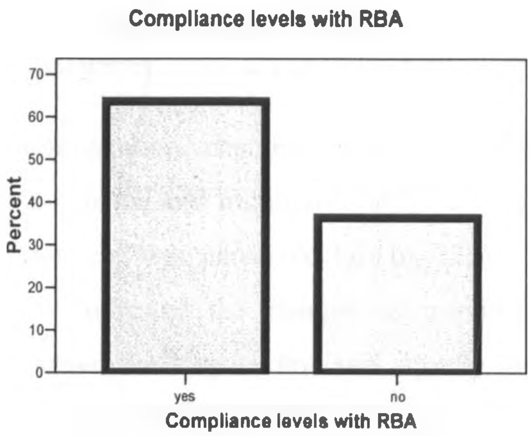
Out of the respondents, 63.6% argued that the rate of new schemes registration with RBA was average, while 18.2% indicated that the rate of registration of new schemes was slow and the remaining 18.2% indicated a standard rate of registration. For the new registration, results from the respondents indicated that 54.5% preferred Provident Funds, while 36.4% preferred Pension Funds and the remaining 9.2% preferred Individual Pension Plans.

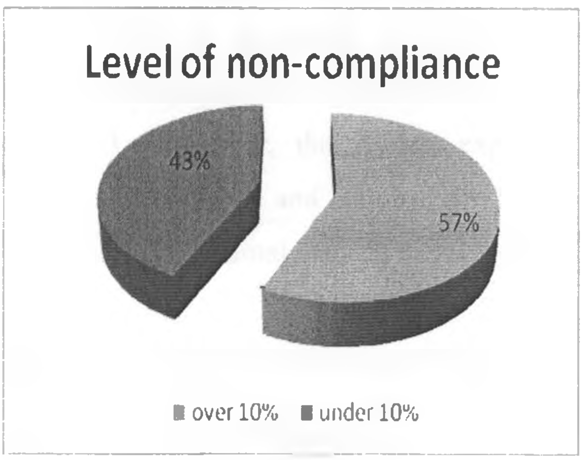
The level of preference was determined by the attributes outlined in the table below: -

Pension scheme	Attributes
Provident Fund	i. The access to benefits in lump sum as opposed to pension ii. Easy to administer iii. Minimal expenses to scheme iv. Income guaranteed as per trust deed
Pension Fund	i. The attributes of the preferred plan included: - ii. Rules viewed as salary in retirement iii. Many people prefer to manage funds at retirement iv. Members would not want benefits before 50 years

Individual Pension Plan	i. Preservation of benefits rule ii. The objective of pension funds

4.5.2 Compliance in the administration of pension funds





Only 63.6% insurance companies have their schemes fully complied and registered with the RBA, while 36.4% have not complied. Of those insurance companies whose schemes have not complied, results indicate that 57.1% have not complied by over 10%, while 42.95% have not complied by less than 10%. The hindrance to compliance has been revealed as having been related to the trustees of the non-complied schemes.

4.6 Perceptions on charges levied on pension funds

Charge Levied	Expensive		Fair		Minimal		Not necessary		Recommended to be discarded	
	No.	%	No.	%	No.	%	No.	%	No.	%
Administration charge			7	63.6	3	27.3			1	9.1
Audit fees	2	18.3	8	72.7	1	9.1				
RBA Levy	1	9.1	5	45.5			5	45.5		
Fund Management fees	2	18.3	6	54.5	1	9.1			2	18.2
Trustees remuneration	1	9.1	1	9.1			8	72.7	1	9.1
AGM's expenses			6	54.5	2	18.2	3	27.3		

Administration charges levied on schemes are perceived fair by 63.6% of the respondents, and minimal by 27.3%, while 9.1% recommended discarding the charges. Audit fees was perceived fair by 72.7% of the institutions, expensive by 18.3% while 9.1% indicated the charges as minimal. On RBA levy, 45.5% of the respondents indicated the levy as fair and equally not necessary. The fund management fees were indicated as fair by 54.5% of the respondents, expensive by 18.3% and 27.2% preferred that the fees be discarded. However majority of the respondents perceived that the trustee's remuneration as not necessary to be charged since they are stumbling blocks to the fund. Moreover, the AGMs expenses are fair as perceived by 54.5% of the respondents, 27.3% and another 18.2% perceived that the AGMs expenses are not necessary and minimal respectively.

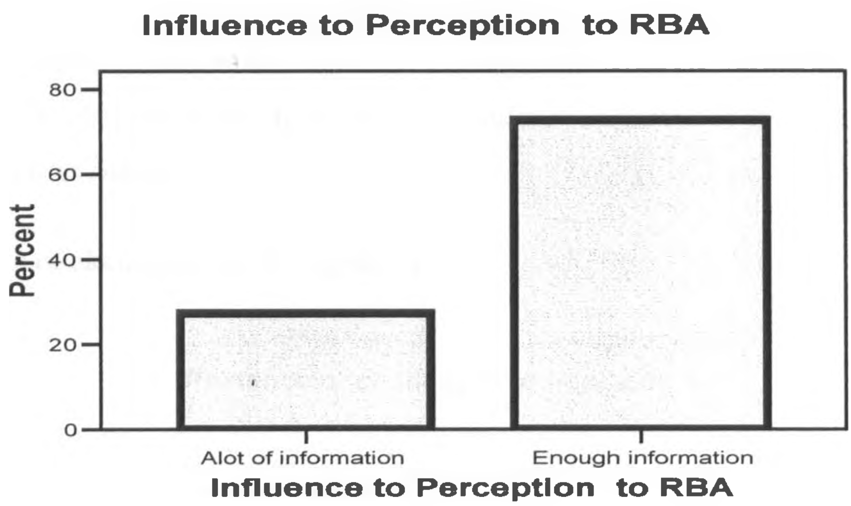
4.6.1 How different service providers are gauged/ perceived

Service provider	Watchdog		Regulator		Manager		Undefined	
	No.	%	No.	%	No.	%	No.	%
Auditors	5	45.5	6	54.5				
Trustees			6	54.5	5	45.5		
Sponsor	5	45.5	1	9.1	4	36.4	1	9.1
Members	2	18.2	3	27.3	6	54.5		
Fund Managers			2	18.2	7	63.6	2	18.2
Administrators			7	63.6	2	18.2	2	18.2

Auditors were reflected as regulators by 54.5% of the respondents, 45.5% as watchdogs while trustees were viewed to be providers of regulatory services by 54.5% of the respondents and management service providers by 45.5% of the respondents. However sponsors were reflected as being watchdogs by 45.5%, as managers by 36.4% and as regulators and also having undefined roles by 9.1%. The fund managers were seen to offer management services by 63.6% of the respondents, regulatory and undefined services by 18.2% of the respondents while administrators offer regulatory services as reported by 63.6% of the respondents. They are also viewed to offer management and undefined services by an equal percentage of 18.2% of the respondents.

4.6.2 Influence to Perception to RBA

The perceptions shown above have been attributed to just enough information being available as reported by 72.7% of the respondents, and also influenced by too much information as reported by 27.3% of the respondents.



4.6.3 Perception of pension management on budget

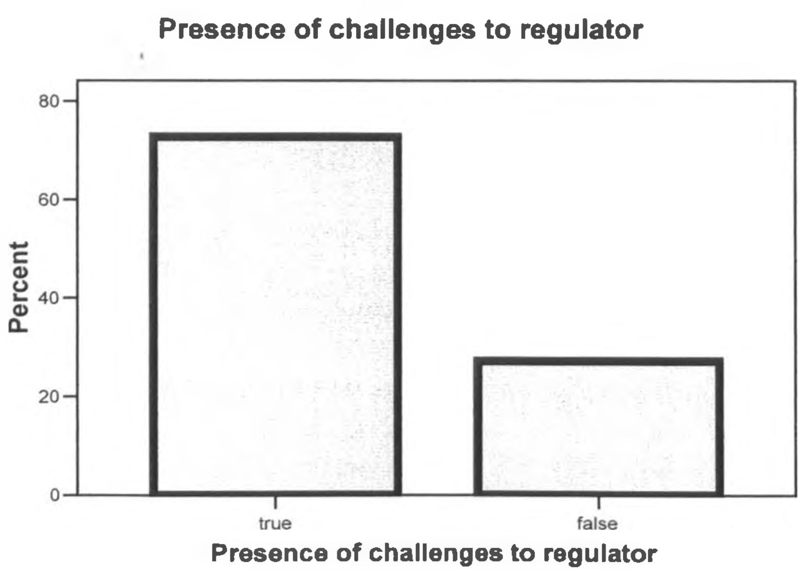
Perception of budget speeches	Frequency	Percent	Cumulative Percent
Important	8	80	80
Beneficial to all stakeholders	2	20	100
Total	10	100	

This information was sought from the yearly budget speeches, which were perceived as important by 80% of the respondents. It also indicated that such information is beneficial to all stakeholders as confirmed by 20% of the respondents.

The budget speeches results to various amendments of the rules and regulations of RBA that the pension administrators find beneficial. Such recent beneficial amendments include full access to the vested benefits arising from sponsors, the introduction of fund managers and administrators to the fund with distinct roles and full disclosure of information in their reporting mechanisms, the preservation rule of the employers benefits to retirement age, reduction of the vesting period from three years to one year and tax exemption for members over 65 years and above.

Moreover, there are various amendments that the pension administrators would find detrimental. The respondents indicated such amendments to include the establishment of four trustees meetings every year, locking up of employer contributions to age 50 years, remittance of unclaimed fund to RBA and the mandatory requirement of administrators to apply for licenses annually.

4.7 Presence of challenges to the regulator



From the overall responses highlighted, it was evident that the regulator faces challenges in the management of pension funds. This was certified by 72.7% of the respondents agreeing that the insurance industry faces numerous challenges, while 27.3% did not agree that these management challenges exist.

CHAPTER FIVE: SUMMARY DISCUSSIONS AND CONCLUSIONS

5.1 Introduction

This chapter concludes the study by giving a brief analysis of the important findings. This will be complemented by a discussion of policy recommendations and suggestions for future research.

The main purpose of the study was to investigate the extend of the challenges the insurance industry in Kenya faces in the management of pension funds. Data from eleven insurance companies was collected using questionnaires containing both closed and open-ended questions. The data was then descriptively analyzed.

5.2 Conclusions and Policy Recommendations

In a bid to achieve the study objective, the study first set out to understand the experience of the respondents in regard to pensions administration and the extend in which the insurance companies have dealt with the administration.

The results indicate the existence of numerous challenges faced by the insurance companies in the course of their pensions administration. Such challenges cited range from internally and externally oriented. Though the results have tried to express the issues, the explanations were not explicitly given. The study established that most of the costs being faced by the insurance companies originate from the government and the regulators of the industry.

The study established that the pensions management is fully controlled by the Retirement Benefits Authority whose mandate through an Act of parliament in 1997 was to address the challenges that plagued the industry at the time and in addition, to enable Kenya gain benefits of a functioning retirement benefit industry that is evident in more developed countries. The major shortcoming then was failure to benefit the members who form the backbone of the retirement benefits system and for whom retirement benefits was intended. Though the study reveals the retirement benefits authority as a vital player in the efficiency of pensions management, the body is viewed as an originator of various challenges the insurance industry continues to face in the pensions management. The results have therefore revealed the existence of challenges in the management of pension funds. It has also been revealed that the budget speeches that include amendments to the insurance Act are important and beneficial in the pensions fund management. The compliance in the insurance sector to pension management has been high but there is need to reduce the influence of trustees who have been related to the non-compliance schemes. The charges levied on pension funds have been perceived fair by an average of 50% of all respondents, expensive by 9% and minimal by 10.6%. Thus charges levied are overly important in pension fund management. Most of the service providers are seen as regulators in the insurance sector. They are also viewed as managers in the scheme management. There is no high regard of the service providers as watchdogs, and also some of their services are not defined. However there is enough information for the providers' perception to the regulator (RBA) who may pose future challenges in the pensions management if strategies to over come the challenges are not designed and implemented.

5.3 Conclusions

The results have therefore revealed the existence of challenges in the management of pension funds. It has also been revealed that the budget speeches that include amendments to the insurance Act are important and beneficial in the pensions fund management. The compliance in the insurance sector to pension management has been high but there is need to reduce the influence of trustees who have been related to the non-compliance schemes. The charges levied on pension funds have been perceived fair by an average of 50% of all respondents, expensive by 9% and minimal by 10.6%. Thus charges levied are overly important in pension fund management. Most of the service providers are seen as regulators in the insurance sector. They are also viewed as managers in the scheme management. There is no high regard of the service providers as watchdogs, and also some of their services are not defined. However there is enough information for the providers' perception to the regulator (RBA) who may pose future

challenges in the pensions management if strategies to over come the challenges are formulated and implemented.

5.4 Limitations

The findings of this study should be interpreted within the limitations of the study. First and foremost, there are limitations of measurement, which are common to social researches. Respondents' perceptions may change over time and across different personalities. Also respondents may give biased or dishonest answers.

Secondly, the study was constrained within the insurance industry yet there are other pensions administrators but not operating as insurance companies. A wider spread of the study could give more elaborate challenges on pensions administration not necessarily in the insurance industry but in Kenya at large.

Finally, the data collection method was more of voluntary information being given and to some extent some of the respondents could have withheld some crucial information simply to remain loyal to their companies. As such the information given may have been incomplete and exhaustive to give the exact results of this study.

5.5 Suggestions for Further Research

Due to the limitations cited above, the study did not reveal all the challenges the pensions administrators face in the management of pension funds. It is therefore suggested that, with regard to further research, a study to be conducted to investigate into the challenges and aspects of pensions management in Kenya without confinement within the insurance industry. Such study should include the regulators' strategy formulation and their perceptions on the challenges to strategy implementation in Kenya in relation to pensions management.

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APPENDIX 1

LIST OF INSURANCE COMPANIES REGISTERED AS PENSION FUNDS ADMINISTRATORS

1. Apollo Insurance Company Limited
2. British American Insurance Company (Kenya) Limited.
3. CFC Life Assurance Limited
4. Heritage Insurance Company Limited
5. ICEA Trustee Services Limited.
6. Jubilee Insurance Company of Kenya Limited.
7. Kenindia Assurance Company Limited.
8. Madison Insurance Company Kenya Limited.
9. Mercantile Insurance Company Limited.
10. Pan Africa Life Assurance Limited.
11. UAP Provincial Insurance Company Limited.

Source: Retirement Benefits Authority.

APPENDIX 2

QUESTIONNARE

SECTION 1

Name of Organization...

Name of Respondent...

Position of Respondent...

1. For how long has your organisation dealt with pensions administration...............(in years).
2. For how long have you been managing pension funds in your career path.........................(in years).
3. How many schemes are managed under your organisation?................
4. What is the composition in terms of types?

   Pension schemes(...........)

   Provident Funds(...........)

   Others (..............) Please specify.

5. Which of the following scheme type do you operate;

   Defined contribution Yes ☐ No ☐

   Defined benefit Yes ☐ No ☐

   Others(specify) ....

SECTION 2 (Please tick appropriately)

1. Retirement Benefits Authority has played a vital role in the retirement benefits sector.

   True ☐ False ☐

2. What is your view on the regulations under Retirement Benefits Authority in relation to pension funds.

   Important ☐ Vital ☐ No significance ☐

3. Since the enactment of the RBA, has the number of schemes managed under your portfolio increased or decreased?

   Increased ☐ Decreased ☐

4. If your answer above is decreased, please indicate reason of decrease (transferred, wound up, merged, converted, other(s)).

   ....

   ....

5. Please state at least three major challenges your organization faces in management of pension funds with regard to Retirement Benefits Authority.

   a)..

   b)..

   c)..

6. Please state what you may consider as advantageous on retirement benefits schemes in relation to Retirement Benefits Authority

....

7. Please state what you may consider as disadvantageous on retirement benefits schemes in relation to Retirement Benefits Authority

....

8. What is the rate of new schemes registration with RBA under your management?

Slow ☐ Minimal ☐ Average ☐ Standard ☐

9. Which is the most preferred option for new schemes who would wish to have retirement benefits with them;

Provident fund ☐ Pension fund ☐ Individual pension plan ☐

Others(specify) ☐

....

....

10. What reason would you attribute to the option preferred above.

....

....

SECTION 3

1. Have all the schemes under your management fully complied and registered with RBA

   Yes ☐ No ☐

2. If no, what percentage has not complied;

   Over 10% ☐ Under 10%. ☐

3. In your own opinion, what has hindered the scheme's full compliance ;

   Sponsor ☐ RBA ☐ Trustees ☐ Members ☐

4. How do you perceive the following charges levied to the schemes?

   Kindly use the key below to answer ;

   1. Expensive 2. Fair 3. Minimal 4. Not necessary 5. Recommend to be discarded

Charge	**Perception**
Administration charge	☐
Audit fees	☐
RBA Levy	☐
Fund management fees	☐
Trustees Remuneration	☐
AGM's expenses	☐

5. You have on day to day basis had an opportunity to hear the perceptions of others about RBA, how would you gauge the perceptions based on the different service providers;

Use the key below for your appropriate answer

1. Watch dog 2. Regulator 3. Manager 4. Undefined

Service providers	**Perception**
Auditors	☐
Trustees	☐
Sponsor	☐
Members	☐
Fund Managers	☐
Administrators	☐

6. In your answer above, what would you think influences the perception in relation to the roles of RBA;

    1. A lot of information ☐
    2. No information. ☐
    3. Enough information ☐

7. Every year the pensions funds management policies are subjected to changes during the budget speeches, how do you find this;(Please tick appropriately)

    1. Ok ☐
    2. Important ☐
    3. Not necessary ☐
    4. Beneficial to all stakeholders. ☐

8. State one or two amendments that you have found excellent following any of the budget changes in the recent past in relation to pension administration.

....

....

9. State one or two amendments that you have found detrimental following any of the budget changes in the recent past in relation to pension administration.

....

....

10. There are numerous challenges the Insurance industry faces in management of pension/provident funds due to influence from the regulator.

True ☐

False ☐

Cant tell ☐

Thank you.