NOTICE TO THE RETIREMENT BENEFITS INDUSTRY

CHANGES CONTAINED IN THE 2009/2010 BUDGET

Following the presentation of the Budget Speech for 2009/2010 by the Honorable Deputy Prime Minister and Minister for Finance, the Retirement Benefits Authority would like to bring the following changes that affect the retirement benefits industry to the attention of stakeholders:

Issue	Change	Implications	Clause/ Effective date
PROPOSED CHANGES TO THE INCOME TAX ACT			
Tax Free Pension Income	Monthly pension income that is tax exempted increased from Kshs 15,000.00 to Kshs 25,000.00 per month.	Pensioners who are below age 65 will enjoy tax free pensions upto Kshs 25,000.00 per month. Pensioners above 65 years continue to enjoy completely tax free pensions.	Sec 20. Finance Bill, 2009, *Effective 1st January 2010*
Tax Free Lumpsum Retirement Benefits	Maximum tax free amount on lumpsum payments from registered pension schemes and provident funds increased from Kshs 480,000 to Kshs 600,000 or Kshs 60,000.00 per year of pensionable service upto a maximum of 10 years.	Withdrawals, commutations and other lumpsum benefits from registered schemes to be tax free upto Kshs 600,00.00. Lump sum payments to those above age 65 years continue to be completely tax free.	Sec 20. Finance Bill, 2009, *Effective 1st January 2010*
PROPOSED CHANGES TO THE RETIREMENT BENEFITS ACT			
Definition of an Actuary	Section 2 of the Retirement Benefits Act amended in the definition of the word "Actuary" by deleting the words "recognised as such by" and substituting therefore the words "who is a Fellow of"	Only fully qualified "Fellows" of the recognised actuarial societies will be allowed to sign actuarial valuations required under the Retirement Benefits Act.	Sec 67. Finance Bill, 2009, *Effective 1st January 2010*
Scheme Investments	The threshold amount for which a scheme can invest 100 percent in Government Securities to be increased from Shillings Five Million to Shillings One Hundred Million).	Schemes with total assets below Shillings 100 Million **may** invest exclusively in Government Securities	Sec 68. Finance Bill, 2009, *Effective 1st January 2010*
Investments for schemes receiving of Statutory Contributions	Schemes that receive statutory contributions to invest only in Government securities or infrastructure bonds issued by public institutions	The Civil Service Pension Scheme, Local Authorities Pension Trust, Local Authorities Provident Fund, National Social Security Fund and any other scheme created by an Act of Parliament to invest all new contributions only in Government Securities and infrastructure bonds.	Sec 69. Finance Bill, 2009, *Effective 1st January 2010*

Issue	Change	Implications	Clause / Effective date
	CHANGES TO THE RETIREMENT BENEFITS REGULATIONS		
Mortgage Regulations	The Retirement Benefits (Mortgage Loans) Regulations 2009 have now been gazetted	Schemes can now facilitate members to assign upto sixty percent (60%) of their accrued benefits as additional security for mortgages from approved institutions.	Legal Notice No. 85 of 2009 *Effective 12th June 2009*
Retirement Benefits Levy	The period of remittance of levy to the Retirement Benefits Authority increased from four months to six months after financial year end for all schemes. Minimum levy for Individual Retirement Benefits Schemes reduced from Kshs 6,000.00 to Kshs 2,000.00.	The deadline for remittance of levy has been extended and harmonised with the deadline for submission of audited accounts. Minimum levy payable by Individual retirement benefits schemes has been reduced.	Legal Notices No. 84 & 88 of 2009 *Effective 12th June 2009*
Minimum Funding Level for Defined Benefits Schemes	Minimum Funding Level for defined benefits schemes has been increased from 80 per centum to 100 percent. Scheme Below minimum funding level to submit remedial plan to the Authority to remedy funding level within six years on on-going basis or 3 years on discontinuance basis. Table AR1 and AR2 which prescribe contents of Actuarial Valuations and Actuarial Reports deleted from the regulations.	Retirement Benefits schemes are required to maintain assets equivalent to their liabilities and should assets fall below liabilities to develop a remedial plan to have rectified the anomaly within six years. The Authority will issue practice notes on the content of actuarial valuations from time to time in consultation with the industry.	Legal Notice No. 86 of 2009 *Effective 12th June 2009*
Registration of Managers and Custodians	The Retirement Benefits Authority **may** accept registration of a manager or custodians by the Capital Markets Authority as constituting registration under the Retirement Benefits Act.	Managers and custodians undertaking retirement benefits business will be able to obtain *one-stop* registration from the Capital Markets Authority.	Legal Notice No. 87 of 2009 *Effective 12th June 2009*
Investment Report	Manager investment reporting to scheme trustees to include a one-year and three-year time weighted performance measure calculated on the basis of a “mark to market” value using prices issued by primary exchange where the assets are traded. Frequency of submission of investment report to the Authority reduced from quarterly to after every six months.	Managers will now report on investment performance in a uniform manner. Managers will only submit returns to the Authority every six months but may submit to trustees more frequently.	Legal Notice No. 87 of 2009 *Effective 12th June 2009*
Investment Guidelines	Infrastructure Bond issued by public institutions included as an allowable investment asset under the Government security category.	Schemes can now invest a larger proportion of their assets in Government securities and infrastructure bonds.	Legal Notice No. 89 *Effective 12th June 2009*

Issue	Change	Implications	Clause/ Effective date
	The maximum amount that schemes **may** invest in Government securities increased from 70 percent to 90 percent of total assets.		
	OTHER CHANGES		
Cash Transfer to Elderly Persons	Kshs 200 Million allocated for cash transfers to elderly persons over age 65	Vulnerable persons aged over 65 to receive social assistance from the Government.	*Budget Speech*

Stakeholders are advised to obtain full details of these changes from **Legal Notices Nos. 84, 85, 86, 87, 88 and 89** of June 11, 2009 and the **Finance Bill 2009**