Rwanda

Regulation on Pecuniary and Administrative Sanctions Applicable to Pension Schemes and Pension Scheme Service Providers
Regulation 8 of 2017

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Rwanda

Regulation on Pecuniary and Administrative Sanctions Applicable to Pension Schemes and Pension Scheme Service Providers

Regulation 8 of 2017

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Pursuant to the Law N° 55/2007 of 30/11/2007 governing the Central Bank of Rwanda, especially in Articles 6, 53, 56, 57 and 58;

Pursuant to the Law N° 05/2015 of 30/03/2015 Governing the Organization of Pension Schemes, especially in Article 88;

Considering the need to promote the stability, security and good governance of pension schemes and service providers, and to protect the interests of pension scheme members and beneficiaries in the country;

The National Bank of Rwanda hereinafter referred to as "Central Bank", decrees:

Chapter One

General provisions

Article one – Purpose

The purpose of this regulation is to set up pecuniary and administrative penalties for pension schemes and pension scheme service providers that violate the law or regulations, or any of the directives, instructions and decisions of the Central Bank.

Article 2 – Definitions of terms

In this Regulation, the following words and expressions shall mean:

1° violations: any breach of the Law, regulations, directives or decisions of the Central Bank;

3° law: The Law Governing the Organization of Pension Schemes;

(Please note: numbering as in original.)

4° licensing regulation: regulation on the registration of voluntary pension schemes and licensing of pension scheme service providers;

5° operational regulations: regulation establishing operational and other requirements for pension schemes;

6° regulations: the licensing regulation and operational regulation;

7° directives: guidelines, orders and prohibitions issued by the Central Bank and sent to the pension schemes, pension service providers and other concerned institutions for specified purposes;
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9° **decisions**: resolutions approved by the Central Bank for pension schemes, pension scheme service providers and other concerned institutions for implementation;

   *Please note: numbering as in original.*

10° **pension scheme**: a system established to collect contributions to meet the needs of those having made retirement savings under relevant laws.

11° **service provider**: an investment manager, custodian, administrator and trustee;

12° **governing body**: the board of directors of the Mandatory Pension Scheme, the board of trustees of a Complementary Occupational Pension Scheme and the board of directors of financial institutions registered to establish personal pension scheme.

**Article 3 – Scope**

This regulation shall be imposed to pension schemes and pension scheme service providers.

**Chapter II**

**Determination, imposition of sanctions and recovery of sums related to the penalties imposed**

**Article 4 – Determination of pecuniary and administrative sanctions**

Without prejudice to other sanctions set forth in the Law N° 05/2015 of 30/03/2015 governing the Organization of Pension Scheme particularly in its article 88, the Central Bank hereby determines sanctions applicable to pension schemes and pension scheme service providers that violate the law or regulations, or any of the directives and decisions of the Central Bank.

The application of penalty for each violation shall depend on the nature and severity of violation, in accordance with the scale set out in Appendix I, II and III.

**Article 5 – Combination of both pecuniary and administrative sanctions**

The regulator may impose one or both of pecuniary and administrative sanctions in accordance with the circumstances surrounding any violation provided for in this Regulation.

**Article 6 – Recovery of the sums related to the penalties imposed**

The sums related to the penalties imposed in accordance with article 4 and 5 shall be paid on the Central Bank account within 10 calendar days after receiving the notification letter.

In case the responsible pension scheme or pension scheme service provider fails to pay within the period specified in paragraph one (1) of this article, the payment shall be done, through a forced recovery.

**Chapter III**

**Final provisions**

**Article 7 – Transitional period**

The existing pension schemes and pension scheme service providers shall be required to comply with the provisions of this regulation not later than one (1) year after the date of publication of this regulation in the Official Gazette of the Republic of Rwanda.
Article 8 – Repealing provision

All prior provisions contrary to this Regulation are hereby repealed.

Article 9 – Commencement

This Regulation shall come into force on the date of its publication in the Official Gazette of the Republic of Rwanda.

Appendix I

Violations and penalties stipulated in the Law n° 05/2015 of 30/03/2015 governing the organization of pension schemes

The performance of any of the following acts constitutes a violation and shall be sanctioned by 0.5 % of the total contributions, the minimum of which is one million Rwandan francs (1,000,000FRW) and the maximum of fifty thousand million (50,000,000 FRW) Rwandan francs

1° providing services of the pension scheme without a related license;
2° operating a pension scheme not registered;

Performance of one of the following acts is a violation and is punished with four million Rwandan francs (4,000,000FRW) each:

1° appointing an unlicensed pension scheme service provider;
2° providing any pension scheme services to unregistered pension scheme;

Performance of one of the following acts is a violation and engages the liability of one million Rwandan francs (1,000,000FRW):

1° hiding to independent auditors or actuaries all necessary documents for the accomplishment of their mission;
2° hindering activities of inspection of the Regulator
3° making a false or misleading advertisement in pension scheme activities;

In addition to the above pecuniary sanctions, the Central Bank shall prohibit the continuation of such illegal activities.

Appendix II

Violations and sanctions of pecuniary nature

Failure to develop the following is a violation and shall be punished with five hundred thousand Rwandan francs (500,000FRW):

1° a statement of funding policy by the pension scheme where applicable;
2° investment policy and not to respect it;

Failure to perform each of the following is a violation and shall be punished with two hundred thousand Rwandan francs (200,000FRW):

1° to publish financial statements and annual reports on the website of the pension scheme or newspaper of wide circulation.
2° to disclose required information to individual members and beneficiaries of the pension scheme on an annual basis.

3° to maintain records of all contributions, investments, expenses and benefits of members of the pension scheme by an administrator, investment manager and custodians;

4° to transfer contributions, benefits or investment returns between pension funds as required by law and regulations if so claimed by member;

The following acts are violations and shall be punished with one hundred thousand Rwandan franc (100,000FRW) per each violation:

1° Failure to appoint an external auditor or an actuary as required by the law and regulations;

2° failure of the pension scheme to appoint an administrator, Investment Manager or Custodian as stipulated in the law and regulations.

Non-respect of the time limit as set for one of the following acts is a violation and shall be punished by ten thousand Rwandan francs (10,000FRW) for each working day of delay counted from the day when the report was supposed to be submitted:

1° Failure to submit resolutions of the board of trustees/directors to the Regulator within a period not exceeding thirty (30) days after such meeting;

2° Failure to provide to the regulator, annual report and financial statements within four (4) months after the end of financial year;

3° failure to submit an actuarial valuation to the Regulator at least once within every five (5) years as required by the law and regulations;

4° Failure by the pension scheme to submit quarterly returns within 15 days after the end of the quarter;

5° Failure to notify to the Regulator in writing, the termination of the contract or resignation of a service provider, external auditor or actuary within fifteen (15) days from the date of such termination or resignation;

6° Failure to notify the Regulator of changes in the investment policy within fifteen (15) days from the approval of such modification by the Governing Body;

7° Failure of an investment manager to provide investment performance reports on quarterly basis within 15 calendar days after the end of the quarter;

8° Failure to pay annual supervision fees within four (4) months from the end of the financial year;

Any other related violation of a provision of the pension law and its implementing regulations, directives and decisions of the Central Bank shall be punished by fifty thousand Rwandan francs (50,000FRW).

Appendix III
Sanctions of administrative nature

Any pension scheme or pension scheme service provider involved in money laundering and financing terrorism activities or obtaining the license through incorrect statements or fraudulent means shall be punished by:

1° revocation of license

2° or any other sanction that Central Bank may deem appropriate.

Pension scheme service provider involved in management of the pension scheme and who makes or assists in making, whether orally or in writing, false statement of a material fact or omits to state a material fact required
to be disclosed to the Central Bank or necessary to avoid the statement or document being materially misleading, shall commit a violation and shall be subject to the following sanctions:

1° written warning;
2° cancellation of license
3° and any other disciplinary measure that the Central Bank may deem appropriate.

Any of the Board of trustees or senior managers for a licensed pension scheme who fails to meet fit and proper requirements on an on-going basis shall be subject to the following sanctions:

1° written warning;
2° cancellation of license
3° and any other disciplinary measure that the Central Bank may deem appropriate.

Any of the Board of directors or senior managers of an institution licensed to offer pension scheme services who fails to meet fit and proper requirements on an on-going basis shall be subject to the following sanctions:

1° written warning;
2° and any other disciplinary measure that the Central Bank may deem appropriate.

The Board of trustees /Directors who fail to conduct regular meetings as determined by the scheme rules or internal procedures, shall be subject to the following sanctions:

1° written warning;
2° cancellation of license (for trustees);
3° and any other disciplinary sanction that the Central Bank may deem appropriate.