



Review of Budget 2008/9

Presentation to ARBS Members at Sarova Stanley
19 June 2008

Review of Budget FY 2008/9

What did the Budget contain for the retirement benefits industry?

1. Items with direct impact:

- 1.1 Tax-exemption on lump sum benefits payable at age 65+(108)
- 1.2 Drawdown during retirement within scheme as an alternative to purchasing annuities and publication of annuity information and rates (123)
- 1.3 Annual increments for deferred pensions (124) (Reg31.1.a)
- 1.4 Minimum capital requirement of Kshs10m for corporate trustees redefined to include unimpaired reserves (125)



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Items with direct impact (cont'd):

- 1.5 Investment policy
- 1.6 Investment guidelines
- 1.7 Qualification of trustees
- 1.8 Disposition of surplus in DBS
- 1.9 Directors of RBA
- 1.10 RBA powers to supervise



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What did the Budget contain for the retirement benefits industry?

2. Items with indirect impact:

- 2.1 Any person controlling 25%+ in stockbrokers, investment banks and fund managers to be excluded from management (127)
- 2.2 Minimum share capital of stockbrokers and investment banks increased to Kshs50m and 250m respectively (129)
- 2.3 Stockbrokers, investment banks and fund managers required to have professional indemnity insurance (130)



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1.1 Tax exemption for lump sum benefits to those aged 65+

Para 108 of the Hon Minister's speech reads:

“ Last year I exempted from tax any monthly pension paid to senior citizens of 65 years and above. This however left out those senior citizens who receive lump sums. I propose to once again exempt lump sum pensions paid to senior citizens.”



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1.1 Tax exemption for lump sum benefits to those aged 65+

ARBS Council comment:

***This is merely a streamlining of last year's provision.
It is not likely to have very wide impact***



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1.2 Strengthening of annuities market

Para 123 of the Hon Minister's speech reads:

“ The local annuities market is not very competitive due to lack of information. To increase competition I propose to provide for pension schemes to have an income drawdown as an alternative to annuities subject to minimum 10 years drawdown period.

I further propose requiring annuity providers to publish quarterly information on annuity products and rates in print media.”



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1.2 Strengthening of annuities market

ARBS Council comment:

- ***Broadly speaking a good move***
- ***Amendments to RBA Regulations and related amendments to TDRs governing income drawdowns will have to be very carefully drafted***
- ***Standards will be required to be established to govern format and content of published information on annuities***



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1.3 Increases to pensions in deferment

Para 124 of the Hon Minister's speech reads:

“ Retirement Benefits Regulations require actuary to provide for annual pension increases during actuarial valuation and determine rate of increase to apply until next valuation. There is no equivalent provision for increasing pension for members in deferment. I propose a requirement for actuary to provide for annual increases for deferred pensions for DB schemes and require trustees to implement the same.”



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1.3 Increases to pensions in deferment (cont'd)

Retirement Benefits (Occupational Retirement Benefits Schemes) Regulation 31(1)(a) reads:

“ A DBS shall at least once every 3 years be valued by an actuary ***Provided that in the case of a pension the actuary shall provide for annual pension increases and determine a rate of increase of the pension which shall apply until the next valuation.***”



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1.3 Increases to pensions in deferment (cont'd)

ARBS Council comment:

- ***existing RBA Regulation aims to create obligation to provide for increases to pensions in payment***
- ***new provision creates obligation to provide for increases to pensions in deferment***
- ***this would have serious impact on funding levels and requirements – how to avoid retroactive impact***
- ***what would be the case in a contributory DB – equity dictates that the additional funding cost should be shared***



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1.4 Share capital for corporate trustees of individual retirement benefits schemes

Para 125 of the Hon Minister's speech reads:

“ Current requirement for paid up share capital Kshs10m for corporate trustee of individual retirement benefit scheme hinders establishment of these schemes. To encourage establishment of these schemes I propose to allow for paid up share capital of Kshs10m inclusive of unimpaired reserves”



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1.4 Share capital for corporate trustees of individual retirement benefits schemes

***ARBS Council comment:
This is a good measure***



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1.5 Investment Policy

“An investment policy of a scheme to include asset and liability matching and to be prepared under considered written advice from a registered Chartered Financial Analyst, actuary, investment advisor or fund manager registered under the Capital Markets Act or manager under the Retirement Benefits Act ***provided that the manager is not the scheme manager, related company or employee of the scheme manager.*** The investment policy to be signed by the trustees and the investment advisor.”

ARBS Council comment:

The requirement in bold italics is new and may well involve additional cost

The logo for the Association of Retirement Benefits Schemes (ARBS) features the acronym 'ARBS' in a bold, yellow, sans-serif font. The letters are set against a dark blue background that is shaped like a stylized triangle or a shield, with a white swoosh underneath the letters.

ARBS

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1.6 Investment Guidelines

“Maximum investment allowed under “other assets” increased from 5% to 10% while retaining requirement for prior approval from the Retirement Benefits Authority”

***ARBS Council comment:
This is welcome***



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1.7 Qualification of trustees

“Every scheme shall have at least one member who has been vetted by the Authority to undertake trust services and every trust corporation to have at least one director so vetted.

A trustee who fails to attend 3 consecutive board of trustee meetings will be disqualified from serving as a trustee.

Trustees to maintain up to date records of the bank accounts of their members for the purpose of payment of benefits”

ARBS Council comment:

This is welcome



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1.8 Disposition of surplus in DBS

“At winding up surpluses in a defined benefit scheme will be apportioned between the sponsors and the members in the proportions of the contributions rates”

ARBS Council comment:

This is a further erosion of an underlying principle in DB schemes that the sponsors bear all the financial risks, positive and negative.



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1.9 Directors of RBA

“Private sector Retirement Benefits Authority board appointees shall not include such person who is an employee or director of any company, firm or institution where such employment or directorship may lead to conflict of interest.”

***ARBS Council comment:
This is welcome***



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1.10 RBA powers to supervise

“The Authority may from time to time issue supervisory guidelines, practice notes and codes of conduct for better administration of the retirement benefits schemes”

ARBS Council comment:

This is welcome in principle



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2.1 Restrictions of control of stockbrokers, investment banks and fund managers

Para 127 of the Hon Minister's speech reads:

“ In order to strengthen corporate governance I intend to introduce greater professionalism and accountability for fiduciary obligations on directors and managers of stockbrokers, investment banks and fund managers. I propose to bar any person who controls directly or indirectly 25% of issued share capital from holding a management position. I propose to introduce a maximum 25% shareholding and control with a 3 years transition period for existing licencees to comply.”



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2.1 Restrictions of control of stockbrokers, investment banks and fund managers

ARBS Council comment:

- ***any measure which effectively and fairly improves governance in capital markets is welcome***
- ***the 3 years period for compliance is perhaps too long unless appropriate measures are introduced governing the transition period***



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2.2 Capitalisation of stockbrokers and investment banks

Para 129 of the Hon Minister's speech reads:

“ To adequately capitalise stockbrokers and investment banks I propose to increase the paid up share capital requirement to Kshs50m (*Kshs5m*) and Kshs250m (*Kshs30m*) for stockbrokers and investment banks respectively, with 3 years to comply.”



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2.2 Capitalisation of stockbrokers and investment banks

ARBS Council comment:

- ***any measure which effectively and fairly improves governance in capital markets is welcome***
- ***the 3 years period for compliance is perhaps too long unless appropriate measures are introduced governing the transition period***



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2.3 Professional indemnity insurance for stockbrokers, investment banks and fund managers

Para 130 of the Hon Minister's speech reads:

“ The Capital Market and investors should not be exposed to losses arising from breach of fiduciary duties through negligence, omissions, misrepresentation or malpractice. I propose a requirement on stockbrokers, investment banks and fund managers to have in place professional indemnity insurance cover for the failure of their employees.”



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2.3 Professional indemnity insurance for stockbrokers, investment banks and fund managers

ARBS Council comment:

- ***any measure which effectively and fairly improves governance in capital markets is welcome***
- ***the requirement for a substantial increase in share capital and professional indemnity insurance is arguably “over the top”***
- ***guidelines must be issued for the nature and level of the professional indemnity cover***

