GOVERNMENT NO. 34

FINANCIAL SERVICES ACT

(NO. 26 OF 2010)

FINANCIAL SERVICES (LICENSING AND REGISTRATION OF PENSION ENTITIES) DIRECTIVE, 2014

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IN EXERCISE of the powers conferred by section 21 of the Financial Services Act, 2010, I, CHARLES CHUKA, Registrar of Financial Institutions, issue the following Directive—

PART I—PRELIMINARY

Citation

1. This Directive may be cited as Financial Services (Licensing and Registration of Pension Entities) Directive, 2014.

Interpretation

2. In this Directive, unless the context otherwise requires—

"administrator" means administrator as defined in the Pension Act, 2010;

"applicant" means a person who submits an application for a licence to operate a pension entity or to register a pension entity;

"licensing and registration guidelines" means instructions issued by the Registrar to assist applicants to understand and complete application requirements;

"pension entity" includes a pension fund, an administrator, a pension services company, an operator of umbrella fund, an umbrella fund, a pension broker, a custodian, an investment manager and a trustee;.and

"pension services company" means a company designated as such under paragraph 5.

Application

3. This Directive shall apply to pension entities.

PART II—OBJECTIVES

Objectives

4. The objectives of this Directive are to—

(*a*) set out requirements and prescribe a form of application for licensing and registration of pension entities;

(*b*) designate a pension services company as a financial institution;

(*b*) designate banks licensed under the Banking Act, 2009 as custodians; and Act No. 10 of 2010

(*d*) designate portfolio managers licensed under the Securities Act, 2010 as investment managers. Act No. 20 of 2010

PART III—PENSION SERVICES COMPANY

Pension Services Company

5.—(1) A limited liability company licensed to operate as an administrator and any of the following—

(*a*) corporate trustee of a pension fund;

(*b*) operator of an umbrella fund; and

(*c*) provider of programmed withdrawals,

is hereby designated as a pension services company.

(2) For purposes of section 2 of the Act, a pension services company shall be a financial institution.

PART IV—LICENSING REQUIREMENTS

Applications to be made in prescribed form

6.—(1) An application for a licence or registration of a pension entity shall be made in accordance with this Directive.

(2) An application shall be in the form prescribed in the First Schedule hereto.

(3) An applicant shall submit completed and signed application forms and all supporting documents to the Registrar in both electronic and hard copy form.

Processing fees

7.—(1) An application for a licence, or registration of a pension entity shall be accompanied by non-refundable application processing fees prescribed in the Second Schedule hereto.

(2) The application processing fees shall be paid in the form of a bank certified cheque or electronic money transfer payable to the Registrar.

PART V—ADMINISTRATORS, CUSTODIANS AND INVESTIMENT MANAGERS

Portfolio managers to operate as investment managers

8. A licensed portfolio manager is hereby authorized to perform the functions of an investment manager.

Banks to operate as custodians

9. A licensed bank authorized to provide custodial services is hereby authorized to perform the functions of a custodian in accordance with the Pension Act, 2010.

An administrator not to operate as a custodian or an investment manager

10. An administrator shall not operate as a custodian or an investment manager of a pension fund.

Investment managers not to operate as custodian

11. An investment manager shall not operate as a custodian of a pension fund.

PART—VI CAPITAL REQUIREMENTS

12.—(1) The Registrar shall not license a body corporate to operate as an administrator unless the Registrar is satisfied that the body corporate has a minimum capital of K100,000,000.00.

(2) The Registrar shall not license a body corporate as a pension services company unless the Registrar is satisfied that the body corporate has a minimum capital of K250,000,000.00.

(3) The minimum capital in this paragraph shall comprise the following–

(*a*) at least 60 per cent represented by cash or cash equivalent to meet operating expenses; and

(*b*) at least 40 per cent represented by other pre-establishment costs that may include management information systems.

(4) Notwithstanding subparagraph (3), the Registrar may determine or prescribe other acceptable capital items.

PART VII—TRANSITIONAL ARRANGEMENTS

Compliance with this Directive

13. Any person operating as a pension entity prior to the coming into operation of this Directive shall comply with the requirements of this Directive within 12 months from the date of this Directive.

FIRST SCHEDULE (para. 6(2)

LICENSING AND REGISTRATION FORMS

PLR F1.0: APPLICANT DETAILS—COMPANY

To be completed by a company applying for a license to carry on business as a Pension Fund Administrator, Pension Broker, Corporate Trustee of a Pension Fund or Operator of an Umbrella Fund

1. Name of Applicant.....

2. Proposed License Charter or trust deed must be included in application

Pension Fund Administrator	Include copy of Company charter	Ref
Corporate Trustee of a Pension Fund	Include conforming trust deed and rules	Ref
Provider of programmed withdrawal accounts	Include compliant disclosure documents	Ref
Operator of Umbrella Fund	Include conforming trust deed and rules	Ref
Pension Broker	Include copy of Company charterRef	Ref

3. Company Registration Number (issued by Registrar of Companies)
.....Include copy of certificate of incorporation in application /Ref

4. Registered Office

Postal Address:.....

.....

Physical Address:.....

Town/Area:.....District:.....

5. Principal Place of Business (if same as Registered Office, write "as above")

Postal Address:.....

Physical Address:.....

Town/Area:.....District:.....

6. E-mail Address:.....

7. Website Address(if applicable):.....

8. Audited accounts for the preceding 2 years are attached /*Yes /No /Ref*

[1]In completing this form, applicants shall refer to the appropriate guideline issued by the Registrar

PLR F2—ADDITIONAL INFORMATION FOR REGISTRATION OF AN UNRESTRICTED PENSION FUND OR UMBRELLA FUND

To be completed by applicant for Corporate Trustee of a pension fund or operator of an umbrella fund under section 16 of the Pension Act, 2010.

1. Name of the unrestricted pension fund or umbrella fund

.....

Type of Fund

Restricted Fund, unrestricted fund or umbrella fund:.....

License number (issued by RBM):.....

2. Largest 10 employers or employer sponsored restricted funds

Names of Restricted funds	*TPIN*	*Number of employees*

3. Name of Principal Officer.....

4. Name of pension administrator.....
   License number:.....Date appointed dd/mm/yyyy:.....

5. Name of custodian:.....
   License number:.....Date appointed dd/mm/yyyy:.....

6. Name of investment managers

Name of investment managers	*License number*	*Date appointed*

7. Name of external auditor—Firm and Audit Manager:.....
   .....Date appointed:.....

8. Name of appointed actuary:.....
   Date appointed:.....

9. Name of legal advisers (engaged to sign off of trust deed and rules)
   .....

PLR F3 RESPONSIBLE PERSON DETAILS—DIRECTOR

This form is to be completed for each Director at the time of licensing and subsequent additions or replacements.

TOTAL NUMBER OF DIRECTORS ☐

1. Name of Director
   Family Name.....
   Given Name(s).....

Executive or Non-Executive	*Independent*	*Employer or Member Representative*

2. Telephone Number(s)
   Direct Business Line:.....Mobile Number:.....
3. Email:.....
4. Residential Address:.....
5. Postal Address:.....
   Town/Area:.....District:.....
6. Date of Birth (dd/mm/yyyy):.....
   Place and Country of Birth:.....
7. Nationality:.....
   Residential Status:.....Identification Number:.....
   Form of Identification (att'd certified copy):.....
8. Date of Appointment as Director:.....
9. Other directorships held or financial benefit from related entities
   Yes /No /If yes provide description (see PLR F8)
10. Most recent copy of Curriculum Vitae attached */Ref*
11. Fit and Proper Person assessment attached */Ref*
12. Is this a replacement appointment? */Yes /No*
    If yes, provide the name of person being replaced:.....
13. Names of other Directors

1.	5.
2.	6.
2.	7.
4.	8.

PLR F4 RESPONSIBLE PERSON DETAILS—PRINCIPAL OFFICER

This form is to be used for appointment of principal officer position in accordance with section 32 of the Pension Act.

1. Name of Principal Officer
   Family Name:.....
   Given Name(s):.....
2. Telephone Number(s)
   Direct Business Line:.....Mobile Number:.....
3. Email:.....
4. Residential Address:.....

5. Postal Address:.....
   Town/Area:.....District:.....
6. Date of Birth (dd/mm/yyyy):.....
   Place and Country of Birth:.....
7. Nationality:.....
   Residential Status:.....Identification Number.....
   Form of Identification (att'd certified copy):.....
8. Date of Appointment as Director (dd/mm/yyyy):.....
9. Other principal officer positions held or financial benefit from related entities
   *Yes /No /*If yes provide description (see PLR F8)
10. Most recent copy of Curriculum Vitae attached */Ref*
11. Fit and Proper Person assessment attached */Ref*

PLR F5 RESPONSIBLE PERSON DETAILS—OTHER RESPONSIBLE PERSONS

This form is to be used to notify the Registrar of appointment of a responsible person position.

1. Name of Responsible Person
   Family Name:.....
   Given Name(s):.....
   Position Title:.....
   Brief Position Description
   .....
   .....
   .....
   .....
2. Telephone Number(s)
   Direct Business Line:.....Mobile Number:.....
3. Email:.....
4. Residential Address:.....
5. Postal Address:.....
   Town/Area:.....District:.....
6. Date of Birth (dd/mm/yyyy):.....
   Place and Country of Birth:.....
7. Nationality:.....
   Residential Status:.....Identification Number:.....
   Form of Identification (att'd certified copy):.....

8. Date of Appointment as Director (dd/mm/yyyy):.....
9. Other responsible positions held or financial benefit from related entities
   Yes /No /If yes provide description (see PLR F8)
10. Most recent copy of Curriculum Vitae attached */Ref*
11. Fit and Proper Person assessment attached */Ref*

PLR F6 SIGNIFICANT OWNERS—NATURAL PERSON

To be completed for each ultimate beneficial owner or controller of 10% or more of a class of shares of the applicant.

1. Name of Significant Owner
   Family Name:.....
   Given Name(s):.....
   Relationship to applicant:.....
2. Telephone Number(s)
   Direct Business Line:.....Mobile Number:.....
   3.Email:.....
4. Residential Address:.....
5. Postal Address:.....
   Town/Area:.....District:.....
6. Date of Birth (dd/mm/yyyy):.....
   Place and Country of Birth:.....
7. Nationality:.....
   Residential Status :..... Identification Number:.....
   Form of Identification (att' certified copy):.....
8. Date of Initial Acquisition of shareholding or control
   (dd/mm/yyyy):.....
9. Fit and Proper Person assessment attached */Ref*
   Yes /No /If yes provide description (see PLR F8)
10. Description on shareholding or influence
    .....
    .....
    .....
    .....
    .....
    .....

PLR F 7 SIGNIFICANT OWNERS—CORPORATIONS

To be completed for each company or other body corporate that owns or controls 10% or more of a class of shares of the applicant.

1. Name of Corporation:.....
2. Relationship to the applicant:.....
3. Company Registration Number (issued by Registrar of Companies)
   .....
4. Registered Office.....
   Postal Address.....
   .....
5. Telephone Number(s)
   Direct Business Line:.....Mobile Number:.....
6. Website Address (if applicable)
   .....
7. Contact person
   Family Name:.....Given Name:.....
   Position held:.....
8. Telephone Number(s)
   Direct Business Line:.....Mobile Number:.....
9. Email address:.....
10. Date of initial acquisition of shares or influence:.....
11. Fit and Proper Person assessment attached */Ref*
12. Description of shareholding or influence
    .....
    .....
    .....
    .....
    .....
    .....

PLR F8 RESPONSIBLE PERSON DETAILS—OTHER DIRECTORSHIPS OR FINANCIAL BENEFITS FROM RELATED ENTITIES

To be completed for each responsible person where the person holds other Directorships or receives additional financial benefits from entities related to the applicant.

1. Name of Responsible person.....
   Position Title.....

2. Other Directorships held

Full Company Name	*Country of Incorporation*	*Date appointed*

3. Other Financial Benefits

Full Company Name	*Nature of financial benefit*	*Approximate value of benefit K'000*

PLR F9 APPLICANT DETAILS—INDIVIDUAL TRUSTEE

To be completed for the Registration of a Restricted Pension Fund and licensing of each Individual Trustee in accordance to section 16 of the Pension Act

TOTAL NUMBER OF DIRECTORS ☐

1. Name of Individual Trustee

   Family Name:.....

   Given Name(s):.....

   Employer or Member Representative or Independent Trustee

   .....

   Previously Licensed as a trustee *Yes /No*

2. Telephone Number(s)

   Direct Business Line:.....Mobile Number:.....

3. Email:.....

4. Postal Address:.....

   .....

5. Residential Address:.....
   Town/Area:.....District:.....
6. Date of Birth (dd/mm/yyyy):.....
   Place and Country of Birth:.....
7. Nationality:.....
   Residential Status):.....
   Identification Number):.....
   Form of Identification (att' certified copy)):.....
8. Date of Appointment as Trustee:.....
9. Other directorships held or financial benefit from related entities
   *Yes /No /*If yes provide description (see PLR F8)
10. Most recent copy of Curriculum Vitae attached
    Yes /No /Ref
11. Fit and Proper Person assessment attached
    Yes /No /Ref

PLR F10 ADDITIONAL INFORMATION FOR REGISTRATION OF A RESTRICTED PENSION FUND

To be completed by Trustees for registration of a restricted pension fund under section 16 of the Pension Act and submitted with additional material and certifications.

1. Name of the Restricted Pension Fund:.....
   License number (issued by RBM):.....
   Type of Fund—
   Stand alone, Self-administered or under umbrella fund:.....
   defined contribution, defined benefit or hybrid:.....
2. Employer or employers established by a group of related employers

Name of company	*TPIN*	*Number of employees*

3. Name of pension administrator:.....
   License number:.....Date appointed dd/mm/yyyy:.....
4. Name of custodian:.....
   License number:.....Date appointed dd/mm/yyyy:.....

5. Name of investment managers

Name	*License number*	*Date appointed*

6. Name of external auditor—Firm and Audit Manager

.....Date appointed :.....

7. Name of appointed actuary (required for DB and hybrid funds)

.....Date appointed :.....

8. Attached signed actuarial valuation confirming all pensions and benefits are fullyfunded . . . . . *Yes /No /Ref*

9. Attach certification by legal advisers that trust deed and rules comply with the financial services laws . . . . . *Yes /No /Ref*

10. Name of legal advisers and contact (engaged to sign off of trust deed and rules)

.....

11. Attach certification by legal advisers that trust deed and rules comply with the financial services laws . . . . . *Yes /No /Ref*

PLR F11 CERTIFICATION—GROUP OF INDIVIDUAL TRUSTEES

To be submitted in support of the registration of a restricted pension fund and licensing of individual trustees.

1. Name of Restricted Pension Fund:.....

All trustees endorse the completed application. We all together and individually state that its contents are true and correct to the best of our knowledge. We acknowledge that we may be individually liable for any false or misleading information contained in the application.

Further we have read and commit to the Code of Practice for Trustees.

Signatures of individual trustees

Print Name:	*Signature*	*Date:*

PLR F12 CERTIFICATION—COMPANY

To be submitted in support of the application for a license for a pension fund administrator, corporate trustee and registration of unrestricted pension fund, operator of an umbrella fund, pension broker, or any other service provider.

1. Name of Applicant:.....
2. Company Registration Number (issued by Registrar of Companies)

   .....
3. Proposed License:.....

   The Applicant certifies that the application is complete and all information and material submitted is true and correct.

   Company Certification

   Persons authorised to sign on behalf of the organization must sign this certificate and attach its seal as appropriate

   Print Name:.....

   Position:.....

   Signature:..... Date:.....

   Print Name:.....

   Position:.....

   Signature:..... Date:.....

   Affix Common Seal of the Company

PLR F13 NOTIFICATION OF A CHANGE IN RESPONSIBLE PERSONS OR LICENSING OF AN INDIVIDUAL TRUSTEE UNDER A REGISTERED PENSION FUND

To be completed by the license holder within 30 days of appointment or replacement of a responsible person and appointment of new individual trustee.

1. Name of license holder or restricted pension fund

   .....

   License or registration number issued by the Registrar

   .....

2. Name of new responsible person or individual trustee
   Family Name:.....
   Given:.....
   Either Position Title or Individual Trustee:.....
   Either Brief Position Description or Employer representative or Member representative
   .....
   .....
   .....
3. Telephone Number(s)
   Direct Business Line:.....Mobile Number:.....
4. Email:.....
5. Residential Address:.....
6. Postal Address:.....
   .....
   Town/Area:.....District:.....
7. Date of Birth (dd/mm/yyyy):.....
   Place and Country of Birth:.....
8. Nationality:.....
   Residential Status :.....:.....
   Identification Number:.....
   Form of Identification (att' certified copy):.....
9. Date of Appointment as Responsible Person or Trustee:.....
10. Other directorships held or financial benefit from related entities
    Yes /No /If yes provide description (see PLR F8)
11. Most recent copy of Curriculum Vitae attached */Ref*
12. Fit and Proper Person assessment attached */Ref*

SECOND SCHEDULE

APPLICATION PROCESSING FEES

Pension entity	*Processing fees (K)*
Administrator	400,000.00
Pension services company	500,000.00
Individual trustee	10,000.00
Restricted fund registration	50,000.00
Replacement of responsible person, including trustee or director ..	10,000.00
Corporate trustee or operator of umbrella fund	50,000.00

Made this 29th day of July , 2014.

C. S. R. CHUKA
Registrar

(REF. NO. PED/01/02)

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