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Review

Reforming the 2004 Pension Act: The Challenges Ahead

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Given the discouraging record of the public pension system in Nigeria and the limited coverage of the private-sector pension schemes, PRA'04 is a bold attempt at sanitizing the public sector scheme, standardizing the rules for private-sector pension schemes and enlarging its coverage. The new pension scheme is contributory; it de-emphasizes the lump-sum payment of gratuities, removes pension administration from the public sector and places it squarely in the hands of financial institutions. Efficient pension administration now depends on the efficiency of the Nigerian financial institutions, which calls for well-managed banks, insurance companies, pension fund administrators and custodians and an effective regulatory framework in the money and capital markets. The new pension scheme appropriately focuses on the need for adequate national savings, good investments and sustained output growth. There is, however, some doubt as to whether the public sector in Nigeria can exhibit the level of fiscal discipline over the long-run required to generate the surplus to pay off accumulated pension obligations carried over from the old scheme which would soon involve the issuing, holding and redemption of retirement bonds. As the value of pensions now depends on the returns on invested funds, there is genuine fear relating to the ability of the Nigerian capital market to generate adequate returns over time on invested funds to assure retirees decent living. This throws open the state of the various other determinants of investment yields such as the macroeconomic environment, fiscal incentives, level and quality of available infrastructure, existence of skilled and low-cost labour, existence of efficient mechanisms for resolving industrial disputes, enforcement and protection of property rights, and adequate inflows of foreign direct investment (FDI). The government still has a lot to do in each of these areas.

Keywords: Pension and Pension Reform, Retirement, Pension Managers and Administrators, Corruption and Public-Private Partnership.

INTRODUCTION

You can be sure of drama and revelations of real and alleged startling; mind-blowing corrupt practices whenever any of the committees in the two chambers of the National Assembly decide to hold a public hearing or

investigate a particular issue. The ongoing probe into the administration of pension funds by the Senate Joint Committee on Establishment, Public Service and States and Local Governments has not been different indeed, at

the opening of the federal capital territory zonal hearing on Monday 5 March, Senate President David Mark indicated what to expect from the hearing when he noted that pension fund administrators were among the richest in Nigeria because they were stealing funds meant to pay retirees. "They can never live in peace for living on blood money," he declared.

Genuine retirees across the country, who had witnessed several of their colleagues drop dead as they waited on queues under the scorching sun for endless verifications of their documents, will pray that Mark's curse quickly comes to pass. The fact that government officials saddled with administration of pension, especially for retired civil servants, have indeed been living fat on the blood of pensioners was confirmed by Isa Sali, the Head of Civil Service of the Federation, HOCSF, and two of his predecessors during the hearing. Steve Oronsaye, who was the HOCSF from June 2009 to November 2010, revealed that the real corruption in the administration of pension in the country was being carried out by top officials of the account Department in the HOCSF Office through falsification of documents. The data was corrupted there. We later discovered that 71,000 pensioners, out of the 141,000 on the pay roll, were genuine, "he told the committee Sali corroborated this, saying that six civil servants had stolen N24 billion out of the Police of how civil servants creamed off billions of naira from the pension funds was made by Maina Abdulrasheed, Chairman of the Pension Reform Task Force set up to clean up pension administration in the civil service by Oronsaye in 2010. Before he was appointed the Chairman of the Task force, Maina was a Director at the Customs, Immigration, Prison Pension Office, CIPPO. At CIPPO, Maina was successful in cleaning up the jumbled pension administration, putting in place a biometric system that puts an end to the need for endless verification. He also instituted an automated system that ensures that accounts of retirees from the three services are automatically credited with their pension payments on the 25th of every month. In 2010, Oronsaye invited Maina to head a task force the original mandate of federal pension that have virtually turned the Federal Secretariat, Abuja a permanent abode for some pensioners. Specifically, the committee was saddled with the task of solving the problems of non payment of gratuity and death benefits to eligible beneficiaries, non enrolment of eligible pensioners into the payroll, irregular payment of pension, non payment of pensions and omissions and short payment of monthly pension, and harmonization of pension as provided in section 173(3) of the 1999 constitution.

The committee has among its members, representatives of the economic and financial crimes commission, EFCC, the state security service, SSS, independent corrupt practices and other related offences commission ICPC, office of the auditor general of the federation, and office

of the accountant general of the federation. The task force went to work and in the process of its assignment uncovered the fraud mentioned by Oronsanye during the senate committee sitting. As Maina told the committee the task force, in the course of its assignment through biometric verifications, reduced the figure of pensioners on the payroll of the federal government, from 141,790 to 70,658. This figure, he said, did not include 44, 320 genuine and eligible pensioners, some of who had retired as far back as 1968 but who were captured by the team for the first time during the biometric exercise. He claimed that the task force team was able to save the federal government N1.3billion in monthly payments through the reduction.

Maina said his team also found out that though the HOS has an official figure of 141, 790 on its payroll, the actual number of pensioners at the Budget Office was 258,000. Giving an insight into how the frauds are perpetrated, Maina said the task force discovered that some workers in the pension department of the office of the HOS designed a method putting names of fake retired primary school teachers in the pension pay rolls. This was with the understanding that when the purported retirees received the payments, they deducted 10 per cent of the amount as their own share and returned the rest to members of the cartel. "So many primary school teachers were used as conduit pipes to siphon pension funds. For instance, a primary school teacher in Kebbi was paid N3 million each month and he takes 10 per cent and refunds the rest to the pension staff," said Maina, who added that about 32 staff of HOCSF Office have been confirmed to be involved in the practice. The same cartel, he added, had another arrangement with officials of the Nigeria Union of pensioners, NUP, to steal money from the pension funds. He said the task force discovered that an unexplained sudden increase of deductions in monthly check off payments to NUP, from N15 million to over N2 billion, further investigations, he said, revealed that the overpayments were being transferred to 32 fraudulent staffers at the office of he HOS, who are currently facing prosecution.

Yet, Maina said, his team also discovered instances of multiple payments to single individuals by the pension office of the HOS, with some pensioners who retired as state workers having their names among federal civil servants, while the names of such persons also appeared in different ministries, departments and agencies of government. Sani Teidi Shuaibu, former director, pension unit, Head of service of the Federation, HOSF office, creation, HOSF Office, Phina Ukamaka Chidi, his former deputy, and 30 others are battling a 134 count charge of conspiracy, fraud and corruption before Justice Amamu Beloo of the Federal High Court, Abuja.

Similarly, the protest in Ibadan, recently, of military pensions typifies the general rot and the corruption that had eaten deep into the national pension scheme. The decay is such that pensioners now issue bribe to those

who manage their files and/or credit their accounts in order to encourage them to do their work. Those who feel otherwise do so at their period as they are the ones whose files are always missing and whose accounts are often underpaid or not paid at all. This is despicable and gives us out as a people who do not have respect for our aged ones, the pensioners, who have invested their youth to ensuring that the polity remains as a happy place and a vibrant country and a functional system while they served their for their father land.

Only recently some N12billion was alleged to have been fraudulently taken away from the coffers of the pensions fund by officers' in-charge of the fund. Those involved are currently going through trial before the court of law. They include former Director of pensions department, office of the Head of Service, Dr. S.T. Shuaibu, his deputy, Phina Chidi and his personal assistant Aliyu Bello, as well as Abdullahi Omeiza, Garba Abdullahi Tahir and Emmanuel Olanipekun.

Although these ones are going through trial, it must be stated that the malfeasance has become a common trend in public service. For instance during the 2011 workers' Day Rally on May 1st, the Nigerian Labour Congress (NLC), urged both the federal and state governments to pay their members who had retired for several years their gratuities and pensions.

In Nigeria, the delay in payment of persons and gratuities has brought untold hardship and death to many retirees, thereby making retirement something that is dreaded by workers. This problem is further compounded by lack of planning and management of post-retirement epoch and conditions.

In view of the above theses, the aim of this paper is to examine Nigeria's Pension Act of 2004 with a view of addressing the areas that need review as contained in the Pension Reform Act of 2011. To attain this objective, the first section of the paper will address clarification issues. The second section will discuss Pension Legislations. The third part will identify the areas of the 2004 Pension Act that need to be reformed. The final section addresses recommendation issues and concludes the paper.

Clarification of concepts

Retirement

Retirement signifies the detachment from primary activity in business, industry or active service as full time employee (Manion, 1976). It can also be conceptualized as a process that separates an individual from a job role (Atchley, 1977) or as termination of a pattern of life and a transition (Omoresemi, 1987; Asuquo, 2002). The causes of the detachment or separation may be due to old age, poor health, social pressure or apathy.

Retirement is the point where people stop employment

completely. A person may also semi-retire by reducing work hours. Many people chose to retire when they are eligible for private or public pension benefits, although some are forced to retire why physical conditions do not allow the person to work any more (by illness or accident) or as a result of legislations concerning their position. In most polities, the idea of retirement is of recent origin, being introduced during the 19th and 20th centuries. Previously, low life expectancy and the absence of pension arrangements meant that most workers continued to work until death (Wikipedia, 2011)

In modern times, most developed countries have systems to provide pensions on retirement in old age, which may be sponsored by employers and/or the state. In many developing and poorer societies, support for the old is still provided through the family. Today, retirement with pension is considered a right of the worker in many societies, and hard ideological, social and politico – cultural battles have been fought over whether this is a right. In many developed and developing countries, this right is mentioned in national constitutions.

An individual may retire at what ever age they please. However, a country's tax's laws and /or state old age pension rules usually mean that in a given country, a certain age is thought of as the "standard" retirement age. The "standard" retirement age varies from country to country but it is generally between 55 and 70years. In some countries this age is different for males and females, although, this has recently been challenged in some countries such as Austria, and in some countries the ages are being brought in to line. For an example in the United States, a person holding the rank of a general or admiral retire after to 40 years of service unless he or she is reappointed to serve longer (10 USC 636). Retirement for years of service: regular officers in grades above brigadier and real admiral (lower half) (America Heritage Dictionary, 2005, Compact Oxford Dictionary, 2005 and OCED, 2005).

Retirement is the withdrawal or giving up office or work. According to Nwajagu (2007), a person who is retired is one who has given up office. The *Oxford Dictionary* defined retirement as the act of stopping ones regular work especially because one has reached a particular age; the even of retiring or state of having retired from work. It is the withdrawal from active function of one's may retire means of livelihood. Nwajagu (2007) defined three ways of civil or public servant may retire or give up his office. They are voluntary retirement; statutory retirement and Compulsory retirement. By statue on attaining the age of sixty years chronologically one is bound to retire or on completing thirty-five years in the service one is similarly qualified to retire from the service. Statutory retirement attracts payment of gratuity and pension.

Voluntary retirement is self-imposed. In other words, a person may consider by himself whether to retire or to remain in the service and make it his life carrier.

Prospects in the service are considered and where one is not satisfied with the career or one lacks job satisfaction such person is at liberty to retire voluntarily. The sang in voluntary retirement is that where the retiree has not worked for a minimum of ten years, he forfeits his gratuity and pension but if he has put in fifteen years in the service, he becomes entitled to payment of gratuity and pension.

Compulsory retirement is externally imposed by the authority which may consider that continuing in office of the individual is no longer in the interest of the service. Retirement is like death – a necessary end. This is because the Holy Bible says there is a time for everything – a time to be born and a time to die, a time to come and a time to go, a time to start work and to retire from service and so on (Amujiri, 2009:139).

Three main characteristics of retirement are identified in the literature. In the first place, it is a period of evolution or change in a variety of ways; change in values, habits, daily routine, self concept, role, the use of time, lifestyle, living arrangement, financial adjustment and adjustment in terms of age. Secondly, it involves re-evaluation of life in that retirement entails careful reorganizing of personal identity and life patterns especially as it affects new tasks, physical, mental and financial capabilities, prospects, social engagements and home maintenance (feeding, furniture, fees and vehicle). Furthermore, it provides opportunity for learning, growth in leisure and recreational activities (Okolie and Omenma, 2011:3-4).

Three major forms of retirement are identified in the literature, namely, **Voluntary**, **Compulsory** and **Mandatory** (Omoresemi, 1987; Akande, 1995; Johnson, 1999; Olusekan 1999).

Voluntary or self retirement occurs when the individual, decides to quit active service for personal reasons irrespective of age, experience, length of service or retirement policies. This type of retirement depends more on the employee than the employer.

The second type, compulsory or forced retirement is a situation in which the individual is forced or compelled to retire against the individual's expectation and when he is ill-prepared for it. It is usually viewed negatively in that is unplanned and reasons might include inefficiency, old age, ill health, indiscipline and need for reduction of the workforce (Johnson, 1999).

The third type, mandatory retirement is the normal (or expected form) in the sense that the person involved has reached the statutory age of retirement as specified already in the condition of service of the establishment. (Akinade, 1993). For instance, in Nigeria the age is specified for other civil servants while judges and lecturers retire at 65 years or when an individual has put in 35 years of service.

In Nigeria, the public service rules (2008:28-29) states clearly as follows:

- The compulsory retirement age for all grades in the service shall be 60 years or 35 years of pensionable service whichever is earlier.
- No officer shall be allowed to remain in service after attaining the retirement age of 60 years of pensionable service whichever is earlier.
- The provision of (i) and (ii) of the rule is without prejudice to prevailing requirements for judicial officer and academic staff of universities who retire at 70 and 65 years respectively.
- Provided the officer would not have attained the retirement age of 60 year or spent 35 years of pensionable service, whichever is earlier.
- A Director shall compulsorily retire upon serving eight years of post and
- A Permanent Secretary shall hold office for a period of four years and renewable for a further term of four year, subjects to satisfactory performance and no more.

Other grounds for compulsory retirement of an employee as identified by Ezeani (2011:3) include the under listed:

- On the advice of properly constituted medical board, certifying that the officer of no longer mentally or physically capable of carrying out the functions of his office,
- On total or permanent dis-enablement while in service
- An abolition of his office as a result of re-organization in the department
- If he is required by the employee to retire on the grounds that his retirement is in the interest of the establishment.

Retirement is just another phase of life. Flippo as quoted in Agulanna (2003) has this to say "with a society built on a work ethic, the move from a recognizable productive work role on one day to a role-less role on the next, has stimulated the belief that retirement heads to mental and physical illness and sometimes premature death, to many, work is life and idleness is a living death". Retirement means different things to different people. To some it can be exciting, delightful, thrilling, reading, something to look forward to. While to some it means the end of the road, psychological, or living death etc.

The British Life Long Learning Minister, Mr. Malcolm Wicks as quoted in Agulanna (2003:5) has this to say "You don't stop thinking when you stop working. I think of retirement as the new learning zone . . ." Retirement does not mean the end of ones world rather the beginning of a new world or phase in life, a time one should be thankful to God for the journey so far, for many look forward to retirement but not all get to it. It is a time according to Ejirofor (1987:204) "Public Servants retiring on grounds of age should be treated as war veterans and not as dead woods to be burnt".

To any Nigerian worker retirement is a dreadful

experience and has acquired a negative colour as retirees in Nigeria are passing through hell. According to Agulanna (2003) many workers are regretting the day they joined the public service. Okorodudu (1998:89) has this to say in fact, the process of disengagement from active work-life is not an easy one. Many have been faced with a lot of psychosomatic problems arising from unpreparedness and the various forms of psychophobic reactions often exhibited by several workers in Nigeria" (The Guardian, 2000:19). According to Agulanna (2003:19):

Not many would know or understand what pensioners go through in the nation. The punishment is such that to retire to a quiet life and honest life has almost been made impossible in Nigeria, so brutal, heartless, and imposed on waiting pensioners that some prefer to kick the bucket instantly rather than go through the headache of receiving their pension.

Pensions

Pension has been defined as a periodic income or annuity payment made at or after retirement to employee who has become eligible for benefits through age, earnings and service. Oxford Advanced Learner's Dictionary defined pension as a sum of money paid regularly by a Government to people above a certain age and to widowed (Widow) or disabled people or by former employer or financial institution to retired people. Micro Word Encarta Dictionary has two definitions of pension:

1. Retirement pay: a fixed amount of money paid regularly to somebody during retirement by the government, a former employer or insurance company.
2. Regular sum of money paid regularly as compensation for an injury sustained on a job, or as a reward for service. For example, to an ex-worker. (Amujiri, 2009:139-140).

According to Ozor (2006), pension consists of lump sum payment paid to an employee upon his disengagement from active service. According to him payment are usually in monthly installments. He further stated that pension plans may be contributory or non contributory; fixed or variable benefits; group or individual; insured or trustee; private or public, and single or multi-employer. In many advanced countries of the world, income from pension to an individual may be supplemented by social security benefits, which apply to all citizens of a citizen in such country whether or not they belong to the working class. However, since most citizens in such countries might have at one time or another, been workers, it would appear that social security benefits are co-terminus with the working class. It is different from gratuity. According to Ugwu (2006), there are four main classifications of pensions in Nigeria. These are:

Retiring Pension

This type of pension is usually granted to a worker who is permitted to retire after completing a fixed period of qualifying service usually practiced in Nigeria between 30-35 years

Compensatory pension

This type of pension is granted to a worker whose permanent post is abolished and government is unable to provide him with suitable alternative employment.

Superannuating Pension

This type is given to worker who retires at the prescribed age limit of 60-65 respectively.

Compassionate Allowance

This occurs when pension is not admissible or allowed on account of a public servants removal from services for misconduct, insolvency or incompetence or inefficiency (Amujiri, 2009:140).

Gratuity is a once and for all lump of money paid to an employee on retirement, upon death or retirement or on total incapacitation while at work. According to Nwajiagu (2007), in some cases, workers are only entitled to gratuity upon withdrawal of service, in others; they may be entitled to both gratuity and pension. But in all cases, a worker who qualified to receive pension is usually also entitled to the payment of gratuity. Even if he is indebted to the organization at the time of retirement, he is still qualified unless he was specifically dismissed without benefits based on misconduct.

Pension and gratuity plan for public servants in Nigeria states that public officer on completion of 35 years of unbroken service or 60/65 years of age for public servants and professors respectively which ever comes first, shall receive the maximum pension and gratuity for their respective grades and ranks. The calculation of these terminal benefits is guided at any point in time by a legal framework or law.

The New Pension Scheme; background and features

The Pension Reform Act 2004 (PRA 2004) was the most recent legislation of the Federal Government aimed at addressing the associated problems of the old pension system. It established the Contributory Pension Scheme (CPS), which is a uniform pension system for both the

public and private sectors. Similarly, for the first time in the history of the country, a single authority, the National Pension Commission (PenCom) was established to regulate and supervise all pension matters in the country. The scheme is being managed by licensed Pension Fund Administrators (PFAs), while the custody of the pension fund assets are provided by licensed Pension Fund Custodians (PFCs).

The move from DB schemes to Defined Contributory schemes is now a global phenomenon following the success stories of the Chilean pension reform of 1981. The paradigm shift from the DB scheme to funded schemes in developed and developing countries was ascribed to such factors as increasing pressure on the central budget to cover deficits, lack of long-term sustainability due to internal demographic shifts, failure to provide promised benefits etc. Thus developed countries like the USA, UK and emerging market economies of Chile, Mexico, Nigeria etc adopted the funded pension scheme because it enhances long-term national savings and capital accumulation, which, if well invested can provide resources for both domestic and foreign investment.

The pension reform has some peculiar features that position it as a catalyst for sustainable social welfare programme. For example, the fact that the reform is fully funded ensures that the overall retirement income is maintained from the onset of the scheme. This ensures that retirement benefits are paid on sustainable basis because funds are always available to defray any pension obligation that falls due. The reform has the following features:

Coverage and Exemption

The Law that established the Contributory Pension Scheme mandated all workers in the Public Service of the Federation, Federal Capital Territory, and the private sector where the total number of employees is 5 or more to join the contributory scheme. However, existing 'pensioners and workers that had 3 years or less to retire in accordance with the terms of their contract of employment were exempted from the scheme. Also, exempted were the categories of persons under Section 291 of the 1999 Constitution of the Federal Republic of Nigeria.

Contributory

The approved monthly rate of contributions by both employers and employees are as follows:

By Employers By employee Total

Government	7.5%	7.5%	15%
Military	12.5%	2.5%	15%
Private Sector	7.5%	7.5%	15%

Under this scheme, public sector workers contribute a minimum of 7.5% of their monthly emoluments but the Military contribute 2.5%. The public sector contributes 7.5% on behalf its workers and 12.5% in the case of the Military. Employers and employees in the private sector contribute a minimum of 7.5% each. An Employer may elect to contribute on -behalf of the employees such that the total contribution shall not be less than 15% of the monthly emolument of the employees. An Employer is obliged to deduct and remit contributions to a Custodian within 7 days from the day the employee is paid his Salary while the Custodian shall notify the PFA within 24 hours of the receipt of such Contribution. Contribution and retirement benefits are tax-exempt.

Voluntary Contributions

Section 9 (4) of the Pension Reform Act 2004 allowed for voluntary contributions. This has provided an opportunity for the self employed and those working in informal sector organizations with less 5 employees to open RSAs with a PFA of their choice and make contributions. However, for voluntary contributions, the tax relief is only applicable if the amount contributed or part thereof is not withdrawn before five years after the first voluntary contribution was made.

Individual Accounts

Each employee is required by law to open a 'Retirement Savings Account' in his/her name with a Pension Fund Administrator of his/her choice. This individual account belongs to the employee and will remain with him for life even if he/she changes employer or Pension Fund Administrator.

The employee may only withdraw from this account at the age of 50 or upon retirement thereafter. An employee can withdraw a lump sum of 25% of the balance standing to the credit of his retirement savings account if he/she is less than 50 years at the time of retirement and he could not secure a new job after six months from leaving the last job. Similarly, he can withdraw a lump sum if he is 50 years or above at the time of retirement and the amount remaining after the lump sum withdrawal shall be sufficient to fund programmed withdrawals or annuity that will produce.

Objectives of 2004 Pension Reform Act

After a very long period of mooted review of the pension system in Nigeria, the Obasanjo administration finally introduced a contributory pensions system in Nigeria through PRA 2004. The Act became effective in the public sector in July 2004. A summary of PRA 2004 contained in Schedule 3 of the Act says PRA 2004 “seeks to establish Contributory Pension Scheme for employees in the Public Service of the Federation, Federal Capital Territory and private sectors in the Federal Republic of Nigeria”(FRN, 2004)

The objectives of the PRA2004, as stated in section 2 of the Act, are to:

- i. Ensure that every person who worked either in the public service of the Federation, Federal Capital Territory or the private sector receives his entitlement as and when due;
- ii. Assist improvident individuals by ensuring that they save in order to cater for their livelihood during old age; and
- iii. Establish a uniform set of rules, regulations and standards for administration and payment of retirement benefits for the public service of the Federation, Federal Capital Territory and the private sector.

The essential provisions of the new pension scheme designed to achieve the above objectives are as follows:

- 1) Mandatory coverage of all employees in organizations employing five or more persons in both the private and public sectors of the economy.
- 2) Employers and employees each contribute to the pension fund a minimum of seven and half percent of total emolument of the employee.
- 3) An employer shall maintain a life insurance policy for each employee for a minimum of three times the annual total emolument of the employee and, in the event of the death of an employee, his entitlements under the life insurance policy shall be paid into his Retirement Savings Account (RSA).
- 4) The employer and employee contributions shall be tax-deductible expenses in the calculation of income tax liabilities.
- 5) Every employee shall maintain an RSA in his name with any pension fund administrator (PFA) of his choice into which will be paid his pension fund contributions and accrued incomes from investments thereof.
- 6) PFAs, licensed by the PenCom, are the only institutions to manage pension funds as from the commencement of the Act.
- 7) Pension funds and assets are to be held only by pension fund custodians (PFCs) licensed by the PenCom.
- 8) The PFA chooses a PFC to which the employer's and the employee's contributions are remitted by the employer to the exclusive order of the PFA.

9) All incomes earned from investments of pension funds are to be placed to the credit of individual RSA holders after deducting clearly defined and reasonable fees, charges, costs and expenses of transactions made by the PFA.

10) No withdrawals shall be made from the balance standing to the credit of the RSA of an employee except on his retirement or on attaining the age of 50 years (whichever is later) and such withdrawal can be for programmed monthly or quarterly withdrawal calculated on the basis of an expected life span or for the purchase of an annuity for life from a life insurance company licensed by the National Insurance Commission (NAICOM) with monthly or quarterly payments.

11) Employees who had up to three years to retire from the commencement of PRA2004 (July 2004) were exempted from the new pension scheme.

12) For public service employees transiting to the new pension scheme, their rights to retirement benefits shall be recognized in the form of an amount acknowledged through the issuance of a bond to be known as Federal Government Retirement Bonds (FGRB) respectively, in favour of individual employees if they have an unfunded pension scheme.

13) Public servants with a funded scheme converting to the new pension system shall have their RSA credited with any funds to which each employee is entitled and, in the event of insufficiency, the shortfall shall immediately become a debt of the relevant employer and be treated with same priority as salaries owed.

14) The FGRB shall be redeemed on the retirement of the employee and the proceeds added into his RSA.

15) A Retirement Benefit Bond Redemption Funds (RBBRF) or Redemption Funds would be established by the CBN into which the Federal Government would monthly pay an amount equal to 5% of the total monthly wage bill of employees in the public service of the Federation and the Federal Capital Territory, which would be used to redeem the FGRBs.

16) A Pension Transitional Arrangement Department or Pensions Department would be established to take responsibility for paying of pensioners under the old scheme and this body would cease to exist after the death of the last pensioner or category of employee entitled to retire with pension before the commencement of PRA2004.

17) Existing pension schemes in the private sector, which resemble the scheme envisaged in PRA2004 would continue to exist; otherwise they would be modified to comply with the PRA2004.

18) The PRA2004 requires all pension schemes in the private sector to be fully funded.

19) The Nigerian Social Insurance Trust Fund (NSITF) shall cease to take contributions from workers with the commencement of PRA2004 and shall make arrangements to transfer funds contributed and any

The table below summarised the old and new pension scheme in Nigeria:

The Comparison Can Be Summarized Using The Table Below:

S/NO	Comparisons	Old system	New system
1	Type	Largely defined benefit	Defined contribution
2	Funding	Mostly Unfunded On Pay As You Go	Contributory and funded
3	Membership/Coverage	Voluntary in private sector	Mandatory for all
4	Pension portability	Not portable	Personalized and portable
5	Management	Largely influenced by Government, Management/ Union	Private sector driven
6	Employee	Limited power and choice	Full employment and choice of PFA
7	Retirement Benefits	Discriminatory	Uniform application
8	Supervision	Fragmented and unregulated (SEC, NAICOM, JTB)	Strictly regulated by PENCOM
9	Pension liabilities	Implicit and not transparent	Explicit through retirement bonds
10	Taxation	Limited exemptions	Contributions and benefits not taxable
11	Life insurance cover	Voluntary and mostly not in private sector.	Mandatory for all.

attributable income thereof not required for the purpose of administering minimum pension as determined by PenCom, to their RSA accounts.

20) All pension funds and assets held and managed by NSITF shall be transferred to a custodian, as from the commencement of the Act.

21) Pension funds and assets can only be invested in certain specified instruments.

22) PenCom shall undertake yearly inspection, examination or investigation of PFAs, PFCs, or the Pension Department to determine whether or not they are discharging their functions as set out in the PRA2004.

The institutions thus created by PRA2004 for the orderly administration of the new pension scheme are the PenCom, the Pension Department (both of which are policy and administrative units in the public sector) PFAs, PFCs, and closed PFAs (financial institutions in the private sector). The principal objective of PenCom is to regulate, supervise and ensure the effective administration of pension matters in Nigeria. More specifically, Pencom is to undertake the following functions, among others:

- a. Regulate and supervise the new pension scheme;
- b. Issue guidelines for the investment of pension funds;
- c. Approve, license, regulate and supervise pension fund administrators, custodians and other institutions relating to pension matters;
- d. Establish standards, rules and guidelines for the management of pension funds; and
- e. Ensure the maintenance of a National Data Bank on all pension matters.

The Pensions Department would, in addition to the existing functions of the relevant pension boards, perform the following functions (section 33):

1. Make budgetary estimates for existing pensioners and officers exempted from the new pension scheme;
2. Receive budgetary allocations from the Government and make payments to pensioners as and when due; and

3. Ascertain deficits in pension funds, if any, to existing pensioners and the category of officers exempted from the new pension scheme.

The Pensions Department is expected to take over the responsibilities, funds, assets or liabilities of all existing pension offices in the public service of the Federation as from the commencement of PRA'04. According to the PenCom Circular GUID/01/TRANS dated December 31, 2004, "Collections of contributions from the employer and employee commenced in the month of July 2004 and are being lodged at the Central Bank of Nigeria pending the licensing of Pension Fund Administrators and Pension Fund Custodians. The Central Bank of Nigeria is investing the contributions in Treasury Bills". The NPC Guidelines signal the take off of the new pension scheme in the private sector as it directs employers in the sector to begin the deductions as mandated by the PRA'04 and to open temporary RSA for employees pending the licensing of PFAs and PFCs. In February 2006, PenCom licensed twelve PFAs and four PFCs, thus marking the full take off of the new CPS.

Challenges in the implementation of the CPS

The implementation of the CPS over the past seven years has however, not been without its challenges, particularly with the federal government retirees. The major challenges in implementing the CPS are highlighted below.

Inadequate Funding of Retirement Benefits of FGN Employees

Payment into of 5% Federal Government's monthly wage bill into the Retirement Benefits Bond Redemption Fund (RBBRF) Account with the Central Bank of Nigeria (CBN) to pay the accrued pension rights of retirees who had worked for the federal government prior to June, 2004

has not been sufficient to accommodate the pension liabilities of the Federal Government because of the additional claims arising from early exit occasioned by voluntary and mandatory retirements or death. The Commission had drawn the attention of the federal ministry of finance and also apprised the appropriate committees of the National Assembly of the required funding for 2012.

Low Level of Monthly Pension

Based on the retirement benefits paid to retirees of FGN under the CPS to date, there had been some retirees whose monthly pensions are level of pension for certain categories of retirees include the following:

(a) After the enactment of the PRA 2004, there had been substantial increases in salaries, especially with the introduction of consolidated salary, a situation which was not contemplated by the act. Salaries had increased between 2004 and 2010 by averages ranging from 76% to 276% in the arms of the Federal Government. This made monthly pensions low when compared to the defunct DB scheme, particularly for those who retired immediately after the salary increase.

(b) The bulk of the retirement benefits of those who may be retiring within the first 10 years of the scheme would obviously comprise the accrued pension rights calculated based on the salary levels as at 2004, which are very low when compared with current salaries. Such category of retirees would not have enough time to accumulate pension contributions under the CPS.

(c) The old scheme had been too generous and unsustainable. It would be recalled that the defunct DB scheme had pension replacement ratio of a maximum of 80% (and 100% in the case of top public officers), much higher than most countries in the world. Many African countries had replacement ratios about 40%.

(d) Also, certain categories of retirees, particularly in the private sector, have had small balances in their RSAs that were insufficient to be subjected to a programmed withdrawal or the purchase of annuity.

Periodic Review of Pension Benefits

Section 173(3) of the 1999 Constitution provides for pension review every 5 years or together with salary increases whichever is earlier, as inflationary adjustment. However, the CPS was not designed to incorporate increases in pension as inflationary adjustments are reflected in the investment yields of accumulated pension assets, while monthly contributions do increase whenever salaries are reviewed. There is however the need to adjust the pension element of the accrued benefits of retirees in accordance with the provisions of section 173(3) of the 1999 Constitution.

Pension Fund Assets Investment Outlets

The commission has reviewed its regulations on investment of pension fund assets in recognition of the need to allow pension funds to be invested in infrastructural projects that would align with the transformation agenda and vision 20: 2020 of the federal government. However, the financial market should come up with investment grade instruments that would attract investment of pension funds.

Remittance of Pension Contributions

One of the challenges in the administration of the CPS is the lack of accurate information for prompt remittance of monthly pension contribution of FGN employees into their RSAs as there is no comprehensive database of FGB employees. Consequently, MDAs were requested by the commission to submit their nominal rolls, which would have provided up-to-date information on current grade levels and steps of their personnel to facilitate computation and remittances of their exact monthly pension contributions. However, many MDAs are reluctant to submit the nominal rolls to the commission, which results in late or non remittances of pension contributions of their employees.

Compliance and Coverage in the Private Sector

While the medium and large employees in the private sector had joined the CPS, many small sized companies are yet to do so. To date over 170,000 employers have keyed in to the scheme. The commission had imposed sanction on many of them, published their names in the newspapers as part of the naming and shaming strategy and in some cases filed legal action. In order to address this challenge, the commission has concluded arrangements to engage the services of debt recovery agents with the mandate to recover unremitted contributions and interest penalties from errant employees for the accounts of RSA holders in line with the provision of section 11 (7) of the PRA 2004.

Operations of Licensed Operators

As part of its supervisory mandate, the commission had cause to impose sanctions on operators in respect of a number of issues. The issues include failure to render returns promptly and inability to send RSA statements to contributors. In serious cases of weak corporate governance, the commission had intervened to remove directors and takeover the management of the affected operators in order to safeguard the pension assets. The issue of service delivery is taken seriously in the pension

industry. To that extent, the commission intends undertake customer satisfaction survey and develop regular satisfaction index.

Areas of Reforms

The National Pension Commission (PenCom) has stated that making it mandatory for States and Local Governments to adopt Contributory Pension Scheme (CPS), as well as empowering the commission to institute criminal proceedings against employers who refused to remit pension contributions are part of the areas requiring amendment in pension reform act 2004.

PenCom's Director General, Muhammad Ahmad, highlighted this in a memorandum submitted by PenCom recently in Abuja to the joint Senate committee on comprehensive investigation on the plight of pensioners in Nigeria.

In the course of implementing the pension reform, he said the commission has been able to identify some major sections of the Pension Act that should be amended to enhance the Nigerian pension's system.

To ensure the full realisation of the objectives of the pension reform, Ahmad emphasised that the commission needs the support of the National Assembly in order to mitigate the challenges being experienced in the implementation of the reform.

Given the clear benefits recorded from the implementation of the CPS by the Federal Government and private sector, he said there is the need to consider making it mandatory for States and Local Government to adopt the CPS subject to local variations.

In addition to Sections 7 and 10 of the Pension Act which provided for tax exemption at the point of accumulation and payment of retirement benefits, he advocated that the income earned on investment of pension funds should also be exempted from taxation in order to ensure real returns on investment of pension funds and ultimately enhance the retiree's retirement benefits.

He also said Section 11 should be amended to include a provision that will compel an employer to open a Temporary Retirement Savings Account (TRSA) for an employee that failed to open a Retirement Savings Account (RSA) within three months of assumption of duty.

The PenCom boss added that Section 11 (7) of the Pension Act should be amended to empower the commission to institute criminal proceedings, with fait of Attorney General of the Federation, against employers who persistently fail to deduct and or remit pension contributions within the stipulated time.

To ensure funding of the account for payment of Federal Government's pension obligations, he further said Section 11 (9) of Pension Act should be amended to place responsibility for remittance of 5 percent of monthly

wage bill on the Budget Office of the federation and the Office of the Accountant General of the Federation.

Section 54 of the pension act, according to him should be amended to take prompt corrective action on failing licensed operators in order to better protect pension fund assets and / or forestall any systemic crisis in the pension industry.

In order to protect participants in the CPS in case there is any shortfall or financial losses arising from the investment activities of the pension fund administrator, section 69 of PRA 2004 may need to be amended to provide for the establishment of a "Pension Protection Fund". The fund would among others guarantee minimum pension to retirees as well as take care of retirees with low balances in their RSA's at retirement. A detailed proposal by the commission would soon be presented to the Federal Government, he also noted.

Ahmad added that the sanctions currently provided under section 85 of the pension act are no longer sufficient deterrents against infractions of the act, noting that consequently, section 85 should be amended to provide for stiffer penalties that will serve as deterrents.

Recommendations on Implementation of CPS

The following are suggestions on the way to mitigate the challenges: based on actuarial valuation conducted by a firm of actuaries engaged by the commission, it was recommended that the government needs to pay into the RBBRF account, staggered 5 yearly rates of between 13% and 5.12% of its total wage bill commencing from 2012 to 2035 as against a fixed rate of 5% per annum which is grossly inadequate. This would adequately cover the accrued benefits of FGB retirees up to 2039 when such liabilities are expected to be extinguished. In this regard, the rate to be paid into the RBBRF account should be a minimum of 5%.

On the low level of monthly pensions, the following recommendations are made in respect of the two categories of retirees:

(a) The commission observed that the category of employees retiring within the first 10 years of the implementation of the CPS are unable to accumulate sufficient balances in their RSAs to procure pensions equivalent to 50% of their final emoluments as stipulated by section 4 (1) of the PRA 2004. We believe that this challenge can be addressed by raising the annual coupon rate on accrued rights of such FGN employees from the 5% to 10%, which would boost the size of the accrued rights and therefore provide enhanced monthly pensions.

(b) With respect to some categories of top public servants such as permanent secretaries, police officers, professors, etc, whose conditions of service prior to the enactment of PRA 2004 allowed them to enjoy 100% of their final pay as pension for life, the government should

establish a severance package for them in addition to their retirement benefits under the CPS. However, the full balance of their RSAs should be applied as monthly pensions only.

It is recognized that the issue of periodic pension review is a constitutional matter. It is being recommended that government implements this by making annual budgetary provisions for adjustments on the accrued rights portion of its retirees' benefits with effect from July 2007. The funding for pension review should be added to the provisions for RBBRF account under section 29 of the PRA 2004. Already, the commission has worked out the 15% and 53% increases and would soon advise the government on the cost implications with the possibility of including same in the 2013 budget.

In order to address the concerns of inaccurate computations and remittances of the FGN employees' monthly pension contributions into their respective RSAs, the commission in collaboration with the independent corrupt practices and other related offices commission (ICPC), organized a workshop for all FGN MDAs on the responsibility to submit accurate and complete nominal roll of their employees to the commission. Already, MDAs had started to comply with the ICPC directives and it is hoped that this would facilitate the MDAs submission of their nominal rolls as and when due.

The recovery agents being engaged by the commission would recover unremitted pension contributions and interest penalties for employees in the private sector, thereby improving compliance.

The pension reform act (PRA) 2004, in introducing the contributory pension scheme (CPS) for existing workers, also recognized the rights and obligations of the existing pensioners and those exempted from the CPS by recognizing the need to have pension department and pension boards & offices to administer their pension and benefits.

To cater for the existing pensioners and the exempt individuals, section 30 of the PRA 2004 established the pension transitional arrangement department (PTAD) for the public service of the Federation and the federal capital territory. It also specified the composition of the PTAD to comprise the pension boards or offices in the public service of the federation and the federal capital territory, existing at the commencement of the PRA 2004.

However, the pension boards/offices have operated as pension departments from the commencement of the PRA 2004. This arrangement, allowed the pension boards to retain the symbiotic link between them and their parent MDAs while also reporting to the office of the Head of civil service of the federation (OHCSF).

A pensioner verification exercise was conducted in 2006 in order to establish the exact number of pensioners and the associated liability under the DB scheme. Consequently, the pension and gratuity entitlements owed public service retirees by the federal government of Nigeria (FGN) as determined then were fully settled by

the government. However retirees under the defunct insured pension scheme were excluded from this exercise.

The pension offices refused to update their databases with results of the 2006 exercise and instead largely instituted yearly pensioner verification exercises with the attendant challenges, especially for the aged pensioners.

The Parastatal Pensioners Verification Exercise (PPVE) was, therefore, initiated to validate, verify and enrol the pensioners of federal government parastatals that were funded by the treasury for the payment of retirement benefits owed to them.

CONCLUSION

Determined to solve the numerous problems of the hitherto unfunded defined benefits pension system in Nigeria, the Federal Government in June 2004 introduced a contributory pension scheme. The new pension system is to be based on individual retirement savings accounts managed by private financial institutions. This makes it imperative to examine the opportunities and challenges presented by the new system to financial institutions, a task undertaken in this paper. Among opportunities, it was established that the new pension system would result in increased demand for term deposit and corporate finance services for banks, as well as increased demand for life insurance policies and annuities from insurance companies. The major challenge of the new pension system is its potential to create a yield problem in the money and capital markets, as pension funds bid up stock prices in Nigeria's shallow capital market and

saturate the money market with liquidity at a time of declining public sector borrowing requirements. The adverse implications of a prolonged yield problem in the money and capital markets for pension entitlements under the new system call for urgent measures to deepen the capital market and maintain macroeconomic stability.

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