



**Guideline for the Establishment, Operation and Administration of Retirement Annuity
Funds, Preservation Funds & Umbrella Funds**

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BASIS

This Guideline is issued in terms of section 3 of Statutory Instrument 69 of 2020, which empowers the Commission, whenever it considers it necessary, convenient and in the best interest of policy owners and pension and provident fund members, to issue general guidelines and standards, which may provide for risk management and corporate governance practices to be observed by the insurance and pensions industry.

1. Background

- 1.1. The statutory mandate of the Insurance and Pensions Commission, hereunder referred to as IPEC or "Commission", is to regulate, supervise and strengthen the insurance and pension industry in Zimbabwe for the protection of policyholders and pension and provident fund members.
- 1.2. In exercising its supervisory role, the Commission is entrusted with ensuring that the establishment, structure, operation, and governance of funds conforms with legislative requirements and standards that ensure effective, sound corporate governance and risk management practices.
- 1.3. The Commission noted, through the offsite analysis of umbrella, retirement annuity and preservation funds, that the operation and management of these funds expose them to significant risks arising mainly from the imbalances in the exercise of powers due to concentration of oversight and administrative activities in the fund administrator, which breeds conflict of interests.
- 1.4. In addition, the objective and type of the fund did not resonate with the type of membership participating in the fund. As an example, some preservation funds had active members participating within the funds thus, doubling as personal pension plans.
- 1.5. Undoubtedly, umbrella funds help to leverage on economies of scale due to the pooling of resources and costs. Thus, they can present a lower cost opportunity for employers that want to establish a pension for their employees as opposed to setting individual retirement funds.
- 1.6. The Commission, having observed the risks posed by the current governance and operation structure of umbrella and preservation funds, as well as the unique characteristics of such funds, has seen the need for guidance regarding the establishment, operation and governance of these funds.

2. Definitions and Interpretations

Annuity Funds

According to the Pension and Provident Funds Act [Chapter 24:09], a Retirement Annuity fund is a fund which provides for the payment of a pension to a person who is or has been a member of the fund on his retirement. It is operated either as an insurance company scheme or without payment of commission to any person for the introduction of business.

Board of Trustees

A Board of Trustees is an appointed/elected group of individuals that has overall responsibility for the management of a pension fund. The Board of Trustees is typically the governing board of a pension fund and seeks to ensure the best interest of pension fund members in all types of management decisions.

Independent Trustee

An independent trustee generally means a person who has no present or future, vested or contingent, direct or indirect beneficial interest in the pension fund.

IPEC or Commission - the Insurance and Pensions Commission, and the terms shall be used interchangeably.

Pension Fund Administrators

These are life insurers and registered fund administrators who administer pension business under the regulation of IPEC.

Preservation Fund

A preservation fund is a fund that houses and preserves the proceeds of a pension or provident fund where a person has been dismissed, or resigned from his employ prior to reaching retirement age.

Personal/Individual Funds

A personal pension, also called a private pension, is a fund that gives individuals an opportunity to save money for retirement. These are usually defined

contribution pensions, which means the money one receives at retirement is based on the money paid in and the performance of the underlying investments. In Zimbabwe they normally take the form of retirement annuity funds.

Umbrella Funds

An umbrella fund is a retirement fund under which multiple and possibly unrelated employers may join as opposed to a single fund established for one employer only. Umbrella funds are set up by a large financial institution, usually a life assurer, or by a union or bargaining council. This report concerns itself with umbrella funds with multiple unrelated employers.

In this guideline, where the word "funds" is used, it applies to all the funds that are the subject of this guideline. Where a provision applies specifically to a type of fund, reference shall be made to that type of the fund.

3. Objectives

- a) To minimise the potential agency problems or conflict of interests inherent in the relationship between the fund members and those responsible for the funds' management, which can adversely affect the security of pension savings and promises.
- b) To bring a consistent and standardised approach in the appointment of Board of Trustees of Annuity Funds, Individual Funds, Preservation Funds and Umbrella Schemes across the industry.
- c) To set good governance standards for Annuity Funds, Individual Funds, Preservation Funds and Umbrella Schemes while at the same time fostering high pension fund performance.
- d) To promote efficiency in the administration of pension funds.

4. Scope and Effective Date

4.1. This Guideline shall be applicable to all funds and fund administrators, under the regulation of IPEC and shall be used in conjunction with all other legislation

pertaining to pension funds operating in Zimbabwe, including Circulars and other directives issued by IPEC.

4.2. This guideline becomes operational with immediate effect.

4.3. The Commission reserves the right to amend this guideline from time to time.

5. Legal Provisions on Umbrella Funds

- 5.1. The Pension and Provident Funds Regulations, Statutory Instrument 323 of 1991, as amended, provides guidance on the general appointment of board of trustees of pension funds. Section 6 of the Regulations is instructive regarding the number and qualifications of trustees.
- 5.2. Section 6B (5) (e) of Statutory Instrument 80 of 2017 provides for the disqualification of a person from being or continuing to act as a trustee if there is a material conflict of interests between the trustee and his or her role as such.

6. Application of the Guideline

- 6.1. The guideline is structured to address the following key areas:
- a) Establishment and administration of Umbrella Funds.
 - b) The appointment of Board of Trustees for Annuity Funds, Individual Funds, Preservation Funds and Umbrella Schemes.
 - c) Constitution of a management committee for some employers participating in an Umbrella Fund.
 - d) Incorporation of independent trustees.
 - e) Alignment of current umbrella funds.

7. Establishment and Administration of Umbrella Funds

- 7.1. The Pension and Provident Funds Regulations require, among other things, that the fund rules specify the type of fund, objective of setting up the fund and eligibility requirements.
- 7.2. The type of fund and objective are largely tied together and are critical in defining the eligibility requirements. Therefore, in establishing a fund and defining the rules that will guide the fund's operations, it is key that the objective of the fund speaks to the type of the fund and membership. Therefore, it is not expected that a fund registered as a certain type of fund, operates in a manner that is inconsistent with the fund type.

Preservation Funds

- 7.3. All Preservation Funds are directed to align their membership according to the definition of such funds, which is *"funds that house and preserve the proceeds of a pension or provident fund where a person has been dismissed or resigned from his employ prior to reaching retirement age"*. The preservation fund may also house benefits that have not been claimed when they fell due.
- 7.4. Given this objective, such funds can only receive lumpsum transfers from other funds and not periodic contributions from individual members. Thus, preservation funds should not have any active members that participate under it. The rationale is that an active member whose benefit continues to be enhanced by new contributions cannot be classified as a preserved benefit.

Umbrella Funds

- 7.5. Umbrella funds generally operate on the principle of pooling and economies of scale as they allow participation of various and often unrelated employers. These are active funds that receive periodic contributions from members and the various participating employers. The eligibility, contributions and benefits specific to a participating employer are spelt out in the certificate of participation. The certificate of participation acts as a mini rule book and should be registered with the Commission in the same way that the rules of a fund are registered with IPEC.
- 7.6. Given that umbrella funds should leverage on economies of scale, having a multiplicity of umbrella funds under the same administrator with similar objectives and eligibility requirements defeats this objective.
- 7.7. Thus, all fund administrators can only establish a single umbrella fund, a multiplicity of umbrella funds may only be established if the eligibility requirements, nature of benefits offered under the fund and objective are different.

Retirement Annuity Funds

- 7.8. These operate largely as personal pension plans, allowing for participation of individuals without the requirement of a contribution from the employer. These funds do not have participating employers as they are personal pension plans. Thus, these funds are distinctly different from umbrella funds in that they have no employer participation or contributions.
- Given that there are some guarantees often provided under these funds which give rise to solvency risk, only registered life assurers shall operate Annuity Funds. Professional administrators currently operating annuity funds are required to transfer business to registered life assurers since they do not hold capital to support such risks.

8. Governance Requirements

Board of Trustees for Umbrella Funds, Annuity Funds and Preservation Fund

- 8.1. To curtail the conflict of interests, all funds shall appoint independent trustees on their board of trustees.
- 8.2. For Preservation and Annuity Funds, two thirds of trustees shall be drawn from participating members with requisite skills, and the remaining one third being constituted by independent trustees. Only the Principal Officer shall be appointed by the administrator and shall sit at Board meetings in ex officio capacity.
- 8.3. For Umbrella Funds, half of trustees shall be drawn from participating employers, with the other half being constituted by independent trustees. Only the Principal Officer shall also be appointed by the administrator and shall sit at Board meetings in ex officio capacity.

Characteristics of Independent Trustees

- 8.4. The independent trustee shall not be an employee of the employer, the fund or the fund administrator including their related parties.
- The person so appointed shall not provide any other services to the employer, sponsor, fund administrator or the fund.
- The trustee shall meet the qualification criteria set out under the Act and section 6 of the Pensions Regulations.

8.5. The approval of such trustees will be done by the Commission after being satisfied that the trustee meets all the specifications for the trustee to be considered as independent.

Selection of Trustee/s

8.6. To ensure transparency, the following processes shall be adopted in identifying suitable persons to be appointed as independent trustees

- a) Whenever there is a vacancy on the Board of Trustees for an independent/member appointed or employer appointed trustee or when a vacancy is about to occur, through the expiry of the term of office of such trustee, such a vacancy shall be filled within ninety (90) days after it occurred.
- b) The Fund shall call for persons who are interested in assuming such a position through posting a notice in a media of wide circulation. The notice must outline the attributes that must be met by the incumbent guided by the provisions of the Regulations and those stated herein. In addition, the notice shall be clear on the required experience paying due regard to the fit and probity requirements prescribed through the regulations as well as the need to ensure skills mix and capacity enhancement of the Board. The notice shall specify the period within which the applications shall be lodged.
- c) The fund administrator shall ensure that it adopts transparent procedures for evaluating the applicants, including clearly documenting the process and providing reasons for choosing the successful applicants.
- d) Once the successful applicants are identified, the following documents shall, within seven days of the identification, be submitted to the Commission to facilitate the vetting and approval of the applicant. The vetting documents which are required in terms of Section 6(B)(4) of the Regulations are as follows;
 - i. A declaration by the applicant that they meet the independent criteria spelt out in these guidelines.

- ii. Reasons for preferring the successful candidate over other applicants and
- iii. Actual copy of the notice which called for the expression of interest.

8.7. The documents shall be submitted under cover of a letter signed by the fund's Principal Officer.

8.8. No person shall assume the position of trustee on the fund's Board until the appointment is approved by the Commissioner.

9. Constitution of a Management Committee for Participating Employers of an Umbrella Fund

9.1. In the case of umbrella funds, every employer with more than 50 participating members is required to constitute a management committee to encourage active participation of the employer and the members in the fund's business. These should be drawn from the employees and employers joining the umbrella fund. These are also required to acquire COP in Trusteeship.

9.2. The constitution of a management committee will promote a better alignment of the interests of the governing board with those of the fund's beneficiaries. This also enables the participating employers and their employees to understand the operations of the fund. The management committee should have direct access to the Commission.

Composition of Management Committee

9.3. The Committee shall consist of at least two members and not more than seven members composed of equal representatives from the members of the fund and the employer.

The Committee shall designate one of its members as the Chair of the Committee.

9.4. The Chair shall be responsible for convening meetings of the Committee at the agreed frequency which should be at least twice a year.

9.5. The Board of Trustees of an umbrella fund is required to conduct at least one Annual General Meeting with the management committee for the purpose of updating and deliberating on fund business.

Submission of Financial Statements

Financial Statements for umbrella schemes must be submitted under cover of a letter signed by the independent Board Chairperson of the fund.

10. Alignment

10.1. Every Fund Administrator that has an established Preservation, Umbrella and Retirement Annuity Fund is directed to ensure compliance with this guideline within a period of six months from the date of issuance of this framework.

This includes but is not limited to the following:

- Application for re-registration of all existing umbrella, annuity and preservation funds. Applications must be made after due consideration of the requirements stated herein.
- Amalgamation/Merger of umbrella funds that are similar in terms of eligibility requirements, nature of benefits and objective.
- Transfer out of active members' assets and liabilities from preservation funds to retirement annuity funds/umbrella funds, whichever is applicable.
- Amendment of the rules of the funds concerned to align with requirements of this guideline.
- Reconstitution of the Board of Trustees to align with requirements stated herein.
- Transfer of business to registered life insurers by all professional administrators currently operating and underwriting annuities business.

11. Enforcement and Compliance

The Commission shall invoke the provisions of section 5 of the Insurance and Pensions Commission (Issuance of General Guidelines and Standards) Regulations, 2020 published in Statutory Instrument 69 of 2020, where a fund, insurer or fund administrator fails to comply with the provisions of this Guideline.

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