social development

Department:
Social Development
REPUBLIC OF SOUTH AFRICA

Appropriate Framework Regulating the Mandatory Pension System

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1. Introduction and Background

1. Introductions and Scope

1.1 Introduction and the Scope of work

The Department of Social of Development ‘’ herein after referred to as DSD” commissioned HYM Management Consultants Close Corporation to conduct the feasibility study for the establishment of the Specialist Regulator for the mandatory pension system. The purpose of the study as entailed in the terms of reference was to conduct research in the following manner:

- Review the existing regulatory framework by giving the descriptive analysis of the legal, regulatory, financial, human resource and governance framework.
- Describe the challenges faced by the existing system and describe the appropriate framework.
- Describe the benefits of establishing a Specialised Agency and how it will mitigate the challenges faced by the existing Regulator.
- Assess the potential of the existing Regulator to assume the role of supervising mandatory pillar. The assessment should include benefits and risks of consolidation.
- Describe what will be the required relationship between Specialist Regulator and the current Regulator.
- Comparative analysis of International trends on regulation and supervision of pension systems and financial sector in general.
- Views of Key industry players should be explored.
- Recommend high level, human resource plan, organizational blue print, transitional and implementation plan.

The final outcome of the study was divided into 5 key deliverables and the report will follow that pattern.

(a) **Report I:** Desktop research on the current Regulator and 3 identified international countries and comparative analysis thereof.
(b) **Report II:** Challenges facing the current Regulator and appropriate framework for the regulator for a mandatory pension system.
(c) **Report III:** Proposals and recommendations on the establishment of a regulator for the mandatory pension system.
(d) **Report IV:** Value proposition on the establishment of the Specialist Regulator.
(e) **Report V:** Final consolidated report.

1.2 Research Methodology

The methodology used in this study involves a review of secondary sources, sourced mainly from research previously undertaken by DSD, the National Treasury, current policies and regulations as well as research undertaken by relevant global organizations such as:

(a) International Organization of Pension Supervisors (IOPS)
(b) Organization for Economic Co-operation and Development (OECD).

In anticipation of gaps during the secondary data collection stage, key senior officials of the National Treasury and executives of the Financial Services Board were identified for face-to-face interviews. Questionnaires were developed and discussed with DSD and refinements were subsequently made prior to the interviews taking place.

1.3 Limitation

Whilst the utmost care was taken to ensure accuracy of information, cognisance must be taken on the limitation of desk top research without the benefit of face to face verification of information; particularly with regards to the three foreign regulators where language was also a hindrance.

1. Background

2.1 Social Security Reforms

For the past decade or more, the South African government has been considering reforms of the social security system with a view to introducing an efficient, cost effective, an all-inclusive and streamlined social security system in the country. The reforms are intended to achieve a number of objectives, key amongst them being to:

(a) Introduce a mandatory pension system that makes contribution to a pension fund by employees within a prescribed earnings bracket compulsory. The mandatory retirement contributions will be paid into the National Social Security Fund (NSSF)[1].

(b) Rationalize the institutional capacities of the various social security administrative bodies and agencies. This will reduce inefficiencies and leverage the cost benefit associated with minimal administrative agencies. Currently there is a fragmented institutional arrangement for social security in the country as different Ministries and agencies manage these. Other than being too cumbersome for the citizens to access social assistance and insurance, risk of "double dipping" arises in which a person can claim from more than one agency.

(c) Promote the culture of saving for retirement in the country especially amongst the low-income earners.

(d) Improve regulatory oversight and supervision of the management of retirement benefits aimed at protecting the investing public, reducing costs of administration as well as improving transparency.

To progress, the reform process DSD and the Interdepartmental Task Team (IDTT) tasked with making recommendations on social security reforms, have identified the need to strengthen the regulatory environment to cater for the intended reforms of the pension system in the country.

In particular, the IDTT recognizes the moral responsibility of government to safeguard the mandatory pension as failure might have dire political and financial consequences. The government therefore has a responsibility to ensure optimal protection of the beneficiaries of pension contributors. Hence the proposal was made on the establishment of the regulator for the mandatory pension system. The final outcome of the feasibility study is a recommendation to the DSD on the optimal regulatory model for the mandatory pension system.

[1] Reform of Retirement Provisions Feasibility Studies – September 2007

2.2 Recent Policy Development

In February 2011 National Treasury released its policy document titled “A Safer Financial Sector to serve South Africa Better” which makes a number of policy announcement some of which are as follows:

(a) Adoption of Twin Peak Model

According to this proposal, South Africa will move to a “Twin Peak Model” of financial regulation, in which Prudential regulation will be to maintain safety, soundness and solvency of financial institutions or funds; Market Conduct Regulations, which will be concerned with the consumer affairs.

The FSB, together with the South African Reserve Bank will establish a joint task tem to examine and propose the implementation of the “twin peak model” of regulating.

The FSB, together and the National Credit Regulator will lead with regard to the market conduct of the entire financial sector. The reserve bank will be responsible for macro-prudential regulation of the entire financial sector and not only the banking sector.

(b) Expand financial regulation

Financial regulation should be expanded to include macro prudential supervision. The RBSA is best placed to play the role of macro prudential oversight. Steps taken to strengthen macro prudential and financial stability should include bolstering the Financial Stability Committee to include all members of the Monetary Policy Committee.

Market conduct regulation and the ombudsman system should also be strengthened, and the scope of the FSB should include market conduct regulation in the banking sector. This should include regulation of banking charges and other practices as identified by the Banking Enquiry Panel of the Competition Commission in 2008.

The National Treasury proposes that a task team made up of the National Treasury, the Reserve Bank and the FSB be established in this regard. It is recommended that this committee include the department of social development or the function be subject to the IDPP oversight.

(c) Establishment of Council of Financial Regulators

The Council of Financial Regulators will promote greater coordination and information sharing between all financial regulators. The scope of regulation will also increase as all public pension funds and retirement benefit plans of state owned entities will also be regulated.

2.3 Importance of regulations and supervision

Pension savings are long-term investments and safeguarding of these assets is of paramount importance. The primary aim of a pension supervisor must always be to protect the long-term stability and security of member's funds. The supervisory agency must be shielded from political pressures and be autonomous and independent from government. The state is responsible for ensuring that it creates and maintain an appropriate regulatory and supervisory framework to secure the interest of pension fund members and any other role players for financial stability and economic growth.

With the introduction of the mandatory pension system the state will be compelling its citizens to save; and thus it has an obligation to ensure that individuals are not exposed to high risks and their retirement savings are protected. Careful considerations need to be given to the effect of compelling people to save, and in most instances without good knowledge of financial products. It is therefore important that the environment is properly regulated and supervised. In addition, achieving stability within the pension sector is an important part of securing the stability of the financial system as whole. Pension supervision should be mindful of financial innovation and should also pay attention to financial crime.

2.4 Distinction between regulation and supervision

The Organization for Economic Co-operation and Development (OECD) broadly defines regulation as the "*imposition of rules by government, backed by the use of penalties that are intended specifically to modify the economic behavior of individuals and firms in the private sector. Various regulatory instruments or targets exist. Prices, output, rate of return (in the form of profits, margins or commissions), disclosure of information, standards and ownership ceilings are among those frequently used*"[2].

Pension supervision involves monitoring the activities of pension funds to ensure that they remain within the requirements of the pension regulatory framework, in order to ensure protection of member's savings. This is achieved through enforcement and promotion of adherence to regulations relating to the structure and operation of pension funds.

Regulation and supervision are two distinct functions, but they can be assigned to the same institution or divided between different institutions. The advantage of assigning them to one institution is that they will be defined control routines to the supervisors, and they will approach their work without preconceptions.

Regulation is mainly the responsibility of the same institution as supervision in thirteen OECD member countries. The main regulations governing the pension system fall into two categories: financial and information regulation.

[2] OECD Glossary of statistical terms

- Financial Regulations
  The aim of financial regulations is primary to control risk assumed by pension funds and protect them from fraud. The regulations do this by defining eligible financial instruments, risk ratings, investment limits, authorized markets, custody of securities, privileged (inside) information and conflict of interest, foreign investments, investments methods and how investments are valued.

- Regulation of governing information / advertising
  This regulation deals with the information which managers of pension funds must provide to pension fund members. This includes reports that include comparative tables showing the profitability of the various pension funds after all administrative fees have been paid. The reports must also show details of the commissioned charged by each manager for administration and insurance.

  Effective regulation and efficient supervision is the key to the success of any pension scheme. This is of vital importance in that the pension system is often regarded as the bedrock of a country's financial sector.

2.5 Overview of the South African Pension system.

Whilst South Africa lack behind other countries in that it does not have a mandatory pensions system, it has a fairly established occupational and individual pension system as well as the state old age pension. Currently the South African Pension system consists of a two-pillar system being pillar 1 the state old age pension and pillar 3 the occupational and voluntary pension system.

2.5.1 Pillar One (Non- contributory)

Currently the state old age pension (SOAP) is provided to qualifying older persons from the age of 60. It is funded from the fiscus and is means tested. It provides a safety net against poverty. Based on the 2010 statistics 2, 6 million citizens[3] received the state old age grant.

2.5.2 Pillar III (Occupational and individual pension)

Voluntary pension funds are made up of two components: private sector pension and provident funds and public sector pension and individual funds.

(a) **Private pension funds**

Private pension funds constitute occupational pensions, which are privately managed, fully or partially funded, with mandatory participation set up by employers for the benefit of their employees. The majority of which are defined contributions schemes (DC). There are over 13,500 funds in existence of which approximately 80% (10,800) have less than 100 members.

Occupational pension's schemes are either Pension funds or Provident funds, both of which are retirement savings for old age. The difference is that pension funds provide for annuities on retirement and contributions are tax exempt whilst

[3] National Treasury Budget Review 2011

Provident funds provide lump sum for the retirees or their dependents with generous tax concessions.

(b) Public sector pension funds

Public sector pension funds are made up of civil servants and some large public entities pension schemes. These funds are established and governed by their own enabling legislation. The single largest pension scheme is the Government Employee Pension Fund (GEPF) with some 1, 2 million active members and 318 000 pensioners. It is predominately-defined benefit (DB)[4].

In contrast to private pension funds the FSB does not supervise official pension funds established by special laws for state employees and certain state owned entities.

(‘C) **Individual pension funds**

Voluntary savings schemes are personal pension savings taken by individuals usually with private Insurance Companies to supplement existing pension schemes; and in some cases, they also include risk benefits.

2.6 Role of the Financial Service Board (FSB) in the existing system

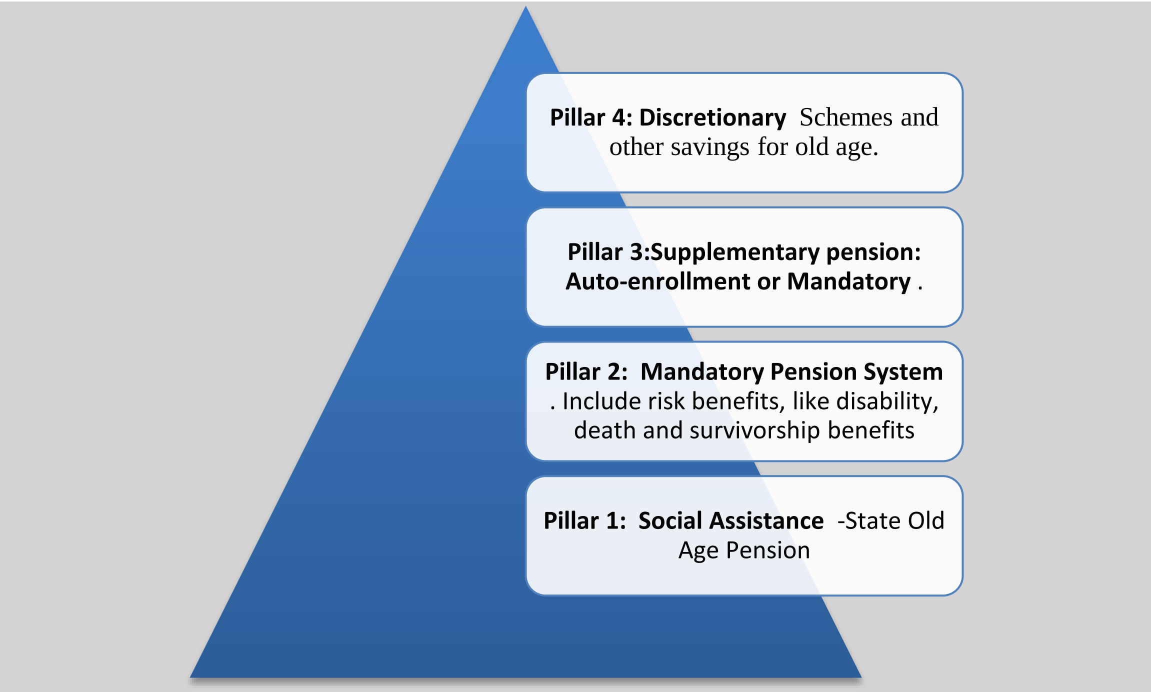
Currently the FSB is responsible for the regulation and supervision of pillar 3 excluding the public sector funds, which are self-regulated. Detail on the role of the FSB will be discussed below.

2.7 Proposed Pension framework

The reform proposes the introduction of the mandatory pension system (**Pillar 2**) for earnings up to R150 000. Income above this ceiling will form part of **Pillar 3** up to a ceiling of R750 000. However, a decision is still to be made whether this pillar will form part of the mandate or be part of auto enrollment. Income above pillar 3 ceiling will form part of **pillar 4**.

[4] Retirement fund reform – a discussion paper National Treasury December 2004

Figure 1. Proposed pension framework



Section A1:
FSB Desk Top Research

2. FSB Desk Top Research

This section provides a high level overview of the legal and regulatory framework, governance, human resource and financial capacities of the FSB.

3.1 Legal framework

The Financial Services Board (the FSB) is a partially integrated financial regulatory body established by section 2 of the Financial Service Board Act 97 of 1990 (the FSB Act)[5] to regulate and supervise the South African financial services industry excluding the banking sector. The FSB administers a number of Acts as shown in table B1 below.

Table 1: Acts administered by the FSB

		Entities and Individuals	
No.	**Act**	**Regulated**	**No**
1	Pension Fund Act	Retirement funds	10,543
2	The Inspection of Financial Institution Act		
3	The Financial Advisory and Intermediaries Services Act	Financial advisory & intermediaries	12,051
4	The Collective Investment Schemes Control Act	Investment collective schemes in securities	1,448
5	The Friendly Society Act	Friendly societies	
6	The Securities Services Act	(i) Licensed Exchanges, (j) Central Securities depositories (k) Clearing houses	1 1
7	The Short Term Insurance Acts	Short Insurance	110
8	The Long Insurance Act	Long Term insurance	88

As a financial sector regulator the FSB is the regulatory authority for the pension system in the country. Currently and in line with the World Bank's three-pillar pension system, the pension system in South Africa is comprised of the state old grant pension, voluntary pension and individual pension schemes. Both the voluntary pension schemes and the individual pension schemes are regulated by the FSB.

[5] Financial Services Board Act 97 of 1990

3.2 Regulatory approach

Regulation and supervision is conducted within the ambit of the Act, and the Regulations and guidelines issued by the FSB from time to time.
The analysis of the FSB regulatory system considers its licensing requirements, investment regime; prudential regulation, market conduct and corrective action enforcement.

3.2.1 Licensing requirements

The FSB as the registrar is responsible for licensing financial services companies and as such prescribes minimum licensing requirements prior to issuing a license. With regards to capital market licensing, the FSB is also responsible to license the Johannesburg Securities Exchange (JSE) whose license it renews annually. As part of its relicensing process the JSE is required to submit a written self-assessment form to the FSB.

3.2.2 Investment regime

The FSB Act empowers the Minister of Finance to define the asset classes into which a pension fund can invest[6]. These include property and offshore investments. Regulation 28 determines the maximum limits which pension funds may invest in a variety of financial instruments. These limits are there to ensure that the pension funds do not lose members' funds in the event of a financial calamity befalling the markets.

With regards to Collective Investment Schemes, the FSB prescribed the capital that managers must maintain as well as the securities, classes of securities, assets or asset classes that may be held in portfolios of collective investment schemes. The regulator further determines the limits, and conditions subject to which the securities may be included in portfolios

As indicated above the FSB relies on the JSE to set and ensure that its member companies maintain capital adequacy requirements.

In the long-term insurance industry, the regulator prescribes capital adequacy requirements or solvency margins with which a regulated institution has to comply. Over and above the capital adequacy requirements the FSB also prescribes the method of calculating the assets, liabilities and capital adequacy requirement. The statutory actuary certifies to the regulator when he reports to the FSB whether he is satisfied with the solvency health of the Long-term insurer.

[6] National Treasury regulation 28: response document to public comments received 2 December 2010

3.2.3 Prudential regulations

Prudential regulation is concerned with the financial soundness and systemic stability of individual institutions and its customers. It is designed to maintain safety, soundness and solvency of financial institutions or funds to the benefit of consumers.

The FSB prudential regulatory approach is rooted in the legislations it administers to which regulated entities have to comply with the statutes, rules, and regulations and notices that are issued from time to time. It also relies to a large extent on compliance by its registrants to the developed framework of laws such as the companies act, auditing standards and industry body's codes of good practice.

The FSB regulatory philosophy is based on the risk based approach system modeled on the Australian Model in terms of which the risk of failure of an entity is rated on a matrix from low to high risk.

There are slight variations to prudential regulations of the various financial industries, but in the main, the FSB's approach is to carry out the risk profiles of the various industries in the financial sector through an analysis of submitted information most of it on an annual basis. This information mainly comprises the audited annual financial statements, the statutory actuary reports and questioners that are sent to its registrants.

The FSB Market conduct regulation is in the main directed towards financial service representatives and brokers (FAIS registrants); whilst prudential regulation is, in the main directed towards the following regulated financial industries:

- pension and retirement funds;
- long terms insurance;
- short term insurance;
- collective investment schemes;

The risk profile of pension funds and long term insurance industry is arrived at through an analysis of statutory returns such as the annual financial statements, statutory returns and responses to risk assessment questionnaires designed by the FSB. The process is similar for short term insurance with exception that they (short insurers) are not required to have statutory actuaries. The outcome of the risk rating is used to identify possible high-risk high impact funds or administrators to be subjected to compliance visits.

The risk based approach of Financial Advisor and Intermediary Services (FAIS), considers, the size of the asset under management, whether the registrant has control of customer funds and the adequacy of internal controls for risk management.

Prudential regulation of the capital markets is exercised through the JSE as an SRO in setting out listing requirements of entities under its supervision.

3.2.4 Market Conduct Regulations

Market conduct regulation is concerned with the conduct of financial services providers and their interaction with the clients. The regulatory framework governing market conduct in South Africa has been bolstered through the implementation of new legislation aimed at further protecting the rights of consumers. The National Credit Act, 2007 and the Consumer Protection Act 2010 are two examples of legislation aimed at regulating market conduct. The conduct of financial service providers is to large extent regulated under this act.

The FAIS act regulates the authorization and supervision of financial service providers, the lapsing of licenses and prescribes requisite qualifications for representatives of Financial Services Providers.

The FAIS Act gives the registrar the power to publish codes of conduct for the various categories of Financial Services Providers. The principles of the codes of conduct are peremptory and failure to comply with them normally leads to an investigation and administrative action by the registrar.

Financial Services Providers with more than one key individual or one or more representative must appoint compliance officer(s) to monitor compliance with the FAIS Act. They are obliged to maintain records of the various activities they are involved in for a minimum period of five (5) years. They are also obliged to maintain full and completely updated accounting records and have their books audited annually. The audited Financial Statements of the Financial Services Provider must be submitted to the registrar within 4 (four) months of the financial year of the financial Services Provider.

The FSB is embarking on the implementation of a new program for regulating the conduct of service providers in the financial markets known as "Treating Customers Fairly". The program seeks to instill the fair treatment of consumers in the cultures of service providers. The FSB in introducing the program admits "*despite various measures aimed at protecting consumers of financial products…a holistic and coordinated consumer protection regulatory framework that applies consistently across the financial services sector has been lacking."* (Page 6 of document titled TCF: The Roadmap). To this end and with reference to market conduct, the roadmap further outlines how market conduct regulation is intended to complement prudential regulation. In terms of the roadmap the FSB will head market conduct regulation with its mandate widened to include market conduct regulation of banks in South Africa. It would seem therefore that market conduct regulation although existing, as a focal point for the FSB has to this point not been as effectively implemented as the roadmap suggests that it will now become.

3.2.5 Prudential supervision

The regulator, as the last line of defense has actuaries, managers and analysts whose remit is to receive and analyze the reports submitted to the regulator by institutions from time to time

The FSB undertakes onsite and offsite supervision of regulated entities based on the outcomes of the risk profiling discussed above. Entities that are prioritized for onsite inspections include those:

(a) with negative audit findings or an audit disclaimer;
(b) where outstanding contributions exceed 15% of total contributions;
(c) where any bank overdraft exists:
(d) where there are negative reserve accounts; and/or
(e) where the pension fund has exceeded the prudential investment limits.

As with prudential regulations the FSB applies slightly different approaches to supervising the various industries in the financial sector. With regards to FAIS and Collective Investments Schemes (CIS) registrants, on site visits focuses on the firms internal systems for management and accounting of client assets, the segregation of firm and client assets and internal risks management controls. The JSE listed firms are exempt from FAIS and as such the JSE and not the FSB is responsible for inspections of these firms. It, as an SRO undertakes both inspections and surveillance of member firms including ensuring that they maintain capital adequacy requirements, covers insider trading, market manipulation and corporate disclosures.

3.2.6 Enforcement and corrective action

The Inspections of Financial Institutions Act 80 of 1998 empowers the FSB to appoint an inspector to carry out an inspection of the affairs of a financial institution or an associated institution including where, he is of the view that such an organizations is providing financial institutions services without being duly registered. The FSB must issue a certificate, which the inspector must produce prior to carrying out any inspection.

Section 10(3) of the FSB Act establishes the Enforcement Committee "*responsible for enforcing compliance with the laws regulating financial institutions and the provision of financial services*".

In general terms the enforcement committee is an administrative body established to adjudicate on all alleged contraventions of legislation, regulations and codes of conduct administered by the FSB. The enforcement committee may impose unlimited penalties, compensation orders and cost orders. Matters that can be referred to the enforcement committee include instances where the registrar is of the opinion that any provision of any legislation administered by the FSB has been contravened. However, if the registrar himself is by law empowered to impose a penalty such case may not be referred to the enforcement committee. In other words, the registrar and the enforcement committee do not have dual jurisdiction. In such cases the FSB is empowered to suspend or withdraw a license where the licensee contravenes certain regulations of the FSB.

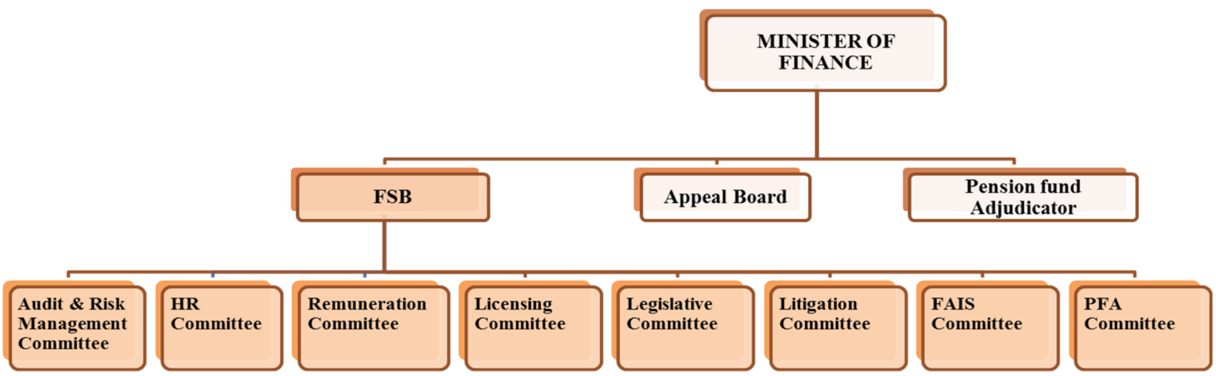
For capital markets the JSE has the authority to take disciplinary action against member firms, their employees, listed companies, and company directors[7] if found to be in contravention of statutes and or regulations governing them.

3.3 Governance

The Minister of Finance is the line Minister responsible for the FSB. The FSB is governed by a non-executive board of directors appointed by the Minister of Finance, as provided for in section 2 of the FSB Act[8]. Whilst the Minister of Finance can be regarded as the appointing authority, the Board's appointment is ratified by the Cabinet. The term of office of a board member is three years after which members areeligible for re-election. The Act does not place a time on the number of times a member can be re-elected. The number of board members is left to the discretion of the Minister of Finance. The FSB board currently has ten non-executive board members.

The board is responsible for setting the strategy, overall policies and performance criteria of the FSB[9].

As the FSB board is non-executive; it exercises its authority by delegating its functions and the day-to-day management of the FSB activities to the Executive Officer (EO) and the Executive Committee (EC). In addition, the board appoint committees to assist it in carrying out its functions. Other than an enforcement committee, the composition of board committees is left to the discretion of the board.
The committees established by the board are responsible for ensuring that the FSB complies with relevant legislation, Codes of Good Corporate Governance and practices. According to the 2010 annual report, each committee has its own terms of reference. The board structure is depicted in figure 2 below:
Figure2: FSB Board Structure



[7] South Africa: Report on the Observance of Standards and Codes on Banking Supervision, Insurance Supervision, and Securities' Regulation - 2010 International Monetary Fund
[8] Financial Services Board Act (Act 97 of 1990)
[9] FSB Annual Report 2010

The South African financial regulatory system also includes several statutory advisory boards that provide input to the Minister of Finance, DTI, SARB, or FSB on strategic and policy objectives. These include

1. the Policy Board for Financial Services Regulation (Policy Board),
2. the Financial Markets Advisory Board,
3. the Collective Investment Scheme Advisory Committee;
4. and the Advisory Committee on Financial Services Providers.

A Standing Committee on the Banks Act has formal responsibility to review all proposed amendments to the Bank Law and all proposed regulations under the law.

A Standing Advisory Committee on Company Law advises the Minister of Trade and Industry on company law matters. In total there are 10 advisory committees and four standing committees that play a role in regulating the financial sector in South Africa[10].

3.4 Finance

3.4.1 Sources of funding

The operational costs of the FSB are financed primarily through levies it imposes on its registrants. The board is empowered to raise such levies in terms of the FSB Act[11]. Any over collection of levies, besides making provision for its three-month operational costs as a reserve, is refunded to the levy payers. The different line divisions of the FSB collect levies from the institutions that are regulated by them, such as retirement funds for the Registrar of Pension Funds, Insurance for the operational costs for the Register of Insurance.

3.4.2 Financial performance

For the financial year ended 31 March 2010, the FSB revenue amounted to R334 millions of which R265 million (80%) constituted levies for the FSB, R30 million 8% levies for the Pensions fund adjudicator and R22 million 7% for the FAIS Embed levies and R18 million 5% being other fees and services charges 12. The abridged financial performance and financial position of the FSB are included as tables 2and 3 respectively.

The Organization for International Cooperation and Development (OECD), in its observance of Standards and Codes on Banking Supervision, Insurance Supervision, and Securities' Regulation, found that the FSB is adequately funded. This against the background of the FSB having made a loss of R15 million in 2010 and R17 million in 2011[13].

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10 South Africa: Report on the Observance of Standards and Codes on Banking Supervision, Insurance Supervision, and Securities' Regulation - 2010 International Monetary Fund - http://www.imf.org/external/pubs/ft/scr/2010/cr10352.pdf

11 Financial Services Board Act (Act 97 of 1990)

12 FSB Annual Report 2010

13 IMF Standard of Observance report

Tables provide a high level overview of the financial operations of the FSB at 31 March 2010.

Table 2: Statement of Financial Performance as 31 March 2010[14]

Revenue (Figures in ZAR)	**2010**	**% of total Income**	**2009**
Levies			
- FSB levies	265 192 587	78,13	229 030 533
- FSB levy rebates	-	-	-24 261 070
- Pension funds adjudicator levies	30 025 398	8,85	26 269 486
- FAIS ombud levies'-	21 573 330	6,36	19 656 855
Sub total levies	**316 791 315**		**250 695 804**
Fees and Service charges	17 703 583	5,22	18 206 113
Other Income	4 925 495	1,45	10 685 177
Total income	**339 420 393**		**279 587 094**

Operating expenses	**2010**	**% of total expenditure**	**2009**
Advisory and other committee fees	4 409 989	1,20	3 230 340
Amortisation charge and useful life adjustment	756 361	0,21	832 305
Contribution towards funding of the office of the Ombudsman	22 931 784	6,25	19 253 291
Contribution towards funding of the office of the PFA	37 923 960	10,33	33 399 059
Depreciation and useful life adjustment	5 655 858	1,54	4 803 210
Executive management remuneration	15 116 595	4,12	14 510 548
External audit fees	1 809 213	0,49	1 477 182
internal audit fees	727 401	0,20	911 048
Legal fees	6 184 243	1,68	5 393 607
Loss on disposal of assets	198 892	0,05	2 960
Non-executive board member fees	946 085	0,26	1 103 612
Operating lease rental- buildings	20 444 872	5,57	14 664 081
Other operating expenses	43 093 142	11,74	40 255 239
Professional and consulting fees	5 456 290	1,49	4 000 614
Net provision for credit losses	8 944 205	2,44	3 702 347
Salaries, staff benefits, training and other staff costs	192 525 648	52,44	172 015 399
Subtotal operation expenses	**367 124 538**		**319 554 842**
Operating deficit	**-27 704 145**		**-39 967 748**
Finance costs	-6 922		-1 078
income from investment	13 069 019		22 662 589
Deficit for year	**-14 642 048**		**-17 306 237**

[14] FSB Annual Report 2010

With regard to expenses, staff salaries account for 56% (including executive remuneration) of total expenditure of R367 million as at 31 March 2010. Discounting the office of the Ombud and the OPFA staff expenses account for 70% of total expenses. The second largest expenditure item is contribution to the office of the Pension Fund Adjudicator which accounts for 10% of total expenditure.

With regards to its assets the FSB lease its buildings whilst its investment in other assets is depicted in table 3 below.

Table 3: Asset Investments as at 31 March 2010[15]

Revenue (Figures in ZAR)	**2010**	**2009**
Levies		
- Furniture Fittings and Equipment	17 594 373	2 766 610
- Motor Vehicles	229 314	264 495
- Computer Equipment	9 535 476	4 378 443
Total Investment in Capital Assets	**27 359 163**	**7 862 791**

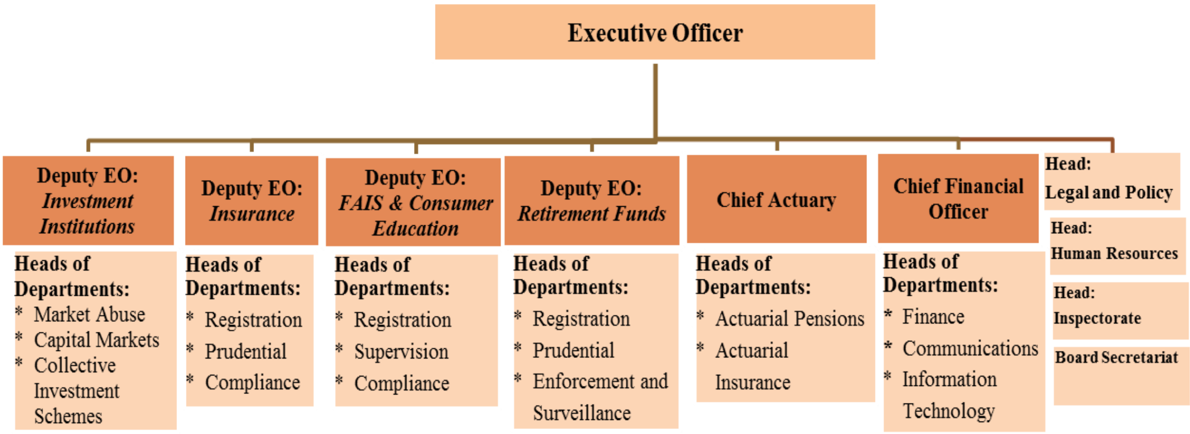
3.5 Human Resources

FSB Act provides for an executive of the FSB, comprising the Executive Officer who is also its registrar, one or more deputy executive officers and a Chief Actuary. The Minister of Finance in consultation with the board appoints the EO and the Chief Actuary.

The FSB Act does not provide for appointment criteria of the Executive Officer and the other executive members, other than the chief Actuary who shall be a South African Citizen and be a full member of the Actuarial Society of South Africa, having had at least two years practical experience after passing the examination recognized by the actuarial society of South Africa.

The high level structure of the FSB as obtained in its 2010 annual report is provided in figure 2 below:*Figure 2: FSB Management Structure*[16]

[15] FSB Annual Report 2010
[16] FSB Annual Report 2010



The FSB has employed Actuaries, Accountants, Lawyer, Researchers and analysts to carry out its mandate.

The FSB is structured along industrial lines with four Deputy Executive Officers (DEO's) responsible for supervision of the various industries, namely Investment Institutions, Insurance, Retirement Funds, Friendly Societies and Market Conduct & Consumer Education. The FSB is organized into four line divisions, three-line support and six general support departments[17].

As at the end of March 2010 the FSB had 418 (411-2009) staff members, including contract staff. The FSB had planned for a staff complement of 450 as of that date.

The FSB staff turnover for the 2010 financial year was 7%, 1% of which was made up of retirements, dismissals) and the remaining 6% made up of resignations. This is well within acceptable norms, and might also be due to the economic down turn and the fact that the financial sector in general was laying off employees.

All compliance related to the line divisions directly affecting it carry out work and research.

4.7 Comparison of governance structures

In the study undertaken, attention was also given to the governance structure of three financial regulators, namely the Competition Commission, the Independent Communications Authority of South Africa (ICASA) and the National Energy Regulator (NERSA).

4.7.1 Competition Commission

The Competition Commission is a statutory body constituted in terms of the Competition Act, No 89 of 1998, empowered to investigate, control and evaluate restrictive business practices, abuse of dominant positions and mergers in order to achieve equity and efficiency in the South African economy. The Act makes provision

[17] FSB Strategy document 2010/12-2013

for a Commissioner and one or more commissioners appointed by the Minister of Trade Industry.

The Commissioner is the Chief Executive Officer of the Competition Commission and is responsible for the general administration of the Commission and for carrying out any function assigned to it in terms of the Competition Act. The Commissioner is appointed for a five-year term. The Deputy Commissioner assists the Commissioner in carrying out the functions of the Commission.

According to the Act, both the Commissioner and the Deputy Commissioner, who together, form the Commission, must take decisions on cases. To this end, there are weekly Commission meetings during which decisions on cases are taken. In addition, executive committee (EXCO) meetings are held on a monthly basis to decide on administrative, human resources and financial issues. The Audit Committee supports the Commission's executive committee in fulfilling its oversight responsibilities relating to internal controls, risk management, financial management and compliance with laws and regulations.

4.7.2 The Competition Tribunal

The Competition Tribunal is established in terms of section 26 of the Competition Second Amendment Act, No. 39 of 2000 and has jurisdiction throughout the Republic. It is a tribunal of record and independent from the other competition institutions. The Tribunal's main functions is to grant exemptions, authorize or prohibit large mergers (with or without conditions) or prohibit a merger, adjudicate in relation to any conduct prohibited in terms of chapter 2 or 3 of the Act and to grant an order for costs in terms of section 57 of the Act on matters presented to it by the Commission.

The Tribunal is headed by a chairperson appointed by the President of the Republic. In addition, the Act requires the appointment of a minimum of three and a maximum of ten Tribunal members, who are also appointed by the President and may be either full-time or part-time, depending on the recommendations of the Minister The Trade Industry. Each member of the Tribunal, including the Chairperson, serves for a term of five years but may be re-appointed for the second term. The Chairperson may not serve for more than two consecutive terms.

The Chairperson may appoint permanent staff to assist the Tribunal in carrying out its functions.

4.7.3 National Energy Regulator

The National Energy Regulator (NERSA) is a regulatory authority established in terms of Section 3 of the National Energy Regulator Act, 2004 (Act No. 40 of 2004). Its mandate is to regulate the Electricity, Piped-Gas and Petroleum Pipeline industries.

The structure of the Energy Regulator consists of five part-time and four full-time members, including the Chief Executive Officer (CEO), appointed by the Minister of Energy. NERSA is supported by a secretariat under the direction of the CEO.

The Minister is in terms of the National Energy Regulator Act, 2004 obliged to designate one of the part-time members as chairperson of the NERSA and another part-time member as deputy chairperson. The Minister must further designate one of the full-time members as the CEO of the Energy Regulator.

The Minister must designate one of the other three full-time members to be primarily responsible for electricity regulation, another for piped-gas regulation and another for petroleum pipeline regulation.

4.8.4 The CEO is also responsible for: Responsibilities of the CEO:

The Ceo is responsible for the following functions:

(a) the day-to-day management of the affairs of NERSA;

(b) the appointment of other employees and contracting with persons to assist NERSA in the performance of its functions; and

(c) administrative control over the employees of the Energy Regulator.

In terms of Section 8 of the National Energy Regulator Act, 2004 (Act No. 40 of 2004) the Energy Regulator has established subcommittees and defined their terms of reference in order to efficiently and effectively carry out its mandate. NERSA has the following subcommittees:

Industry-specific Regulatory Subcommittees

(a) Electricity Subcommittee
(b) Piped-Gas Subcommittee
(c) Petroleum Pipelines Subcommittee

Governance Subcommittees

(a) Audit and Risk Subcommittee
(b) Finance Subcommittee
(c) Human Resources Subcommittee
(d) Regulator Executive Committee

4.8.5 Independent Communications Authority of South Africa (ICASA)

ICASA is established in terms of the Independent Communications Authority Act 13 of 2000 (ECA Act). It's mandate is spelled out in the ECA Act for the licensing and regulation of electronic communications and broadcasting services, and in the Postal Services Act 124 of 1998; to regulate the postal sector.

The ICASA Act makes provision for the authority to act through a council. The Council consists of nine councilors appointed by the President on the recommendation of the National Assembly. The President is obliged in terms of the Act to appoint one of the councilors as chairperson of the Council.

The Council must appoint a chief executive to assist the Authority, subject to the Council's direction and control, in the performance of all financial, administrative and clerical functions and work arising from the administration of the Act and other staff as necessary to assist the Authority with all such work as may arise through the performance of its functions**.**

The Council may in terms of the ICASA Act establish standing committees or special committees with a view to assisting it in the effective exercise and performance of its powers and duties. In terms of the Independent Communications Authority of South Africa Amendment Act, 2006 (No. 3 of 2006) the Authority must establish a Complaints and Compliance Committee, which consists of not more than seven members, one of whom must be a councilor.

The ICASA Act further makes provision for the establishment of a performance management system by the Minister of Communications in consultation with the National Assembly. The performance management system must: -

1. set appropriate key performance indicators as a yardstick for measuring
2. performance;
3. set measurable performance targets; and
4. set a procedure to measure and review performance at least once a year

5. Challenges Facing the Current Regulator

5.1 Introduction

Based on the analysis of the legal, governance, human resource and financial framework of the FSB this section will highlight the challenges faced by the Regulator and reference will be made to some reported newspaper articles on failures of the industry and/or Regulator. Whilst it might appear not to be proper to refer to the failures of the trust based system that is voluntary in nature in trying to motivate for separate regulatory framework for the mandatory system but lessons can be learnt from these failures in designing the new system. This section will further make recommendation on the appropriate framework to regulate the mandatory pension system. These recommendations will be mostly derived on recommended principles of the **International organisation for Pension Supervisors** (IOPS)[18] and practices of various internal and external Regulators reviewed in Report 1.

5.2 Challenges facing Regulatory Authorities of Pension Funds

Based on the analysis of the legal, financial and operational functions of the regulatory authority of pension funds, this part will identify the most key challenges identified for each area.

5.2.1 Legislative framework

Public Sector pension funds including some major State Owned Entities pension schemes that are not covered by the Pensions Fund Act and are not subject to FSB supervision

5.2.2 Operational Challenges

i. The FSB is divided into various line departments, which have not consolidated their operations. For example, the various line departments of Insurance, Collective Investment Schemes, pensions (including friendly societies) have separate registration, licensing and prudential divisions. The different unit operates different from each other, thus resulting in a duplication of functions, which increases the operational cost of the FSB.

ii. Currently, the FSB is faced with the mammoth task of regulating more than six thousand private pension schemes.

iii. Further more, the FSB r lacks capacity to do research in order to inform itself of reasons for regulatory failures, and rarely engages in case studies to keep up with the new methods used by errant institutions to frustrate the regulatory system.

5.2.3 Regulatory Challenges

- Lack of **visible enforcement** combined with **poor response times** has been identified by the FSB as one of its weaknesses. This has led to some of the FSB's widely reported failures such the recent loss of **the Textile Workers pension funds,** where a union official and assets manager are alleged to have

[18] The objectives of private pension supervision focus on protecting the interests of pension fund members and beneficiaries, by promoting the stability, security and good governance of pension funds.

misappropriated approximately R100 million of the clothing worker pension fund**; the Fidentia** debacle which resulted the misappropriating of hundreds of millions of client money by the assets management company**; the Ghavalas fraud case of 2005** in which Ghavalas admitted to masterminding a pension fraud scheme that ransacked seven pension funds of R300 millions of surplus funds; and many others, where pension funds schemes lost millions of the members funds due to irresponsible investing and illegal use.

- The FSB seems reluctant to fully enforce compliance by certain funds especially those of the bargaining councils and unions. This increases the risk of loss of member funds as can be seen by the recent **SACCAWU** matter.

- The lack of appropriate early warning systems to alert the regulatory of imminent dangers in certain of their regulated entities is a challenge. In Mexico for example, the Pension Fund Regulator (CONSAR) uses technology, which allows it to monitor the movement and investment of pension assets on a daily basis, on an hourly basis.

- Pension fund contributions are invested in various investment portfolios in accordance with the investment strategy formulated by the fund board. Most funds change their investment strategy annually due to advice given by financial adviser. These changes might not be in the best interest of the fund members, and the fund carries the investment and administrative costs of this changes. The FSB only prescribe which investment portfolio a pension fund invest in, but **does not regulate these changes and the reasons thereof.**

5.2.4 Governance Challenges

- Section 2 of the FSB Act provides for the appointment of the FSB board of directors by the Minister of Finance provide. The appointment is however ratified by the Cabinet. The term of office for the board is three years, and members are eligible for re-elections with not specific time on number of times board can be re-elected.

- The board exercises the authority by delegating its management and operational functions to a Chief Executive Officer (CEO), who is assisted by a committees appointed by the board to carry out its mandate. This is still a challenge because political influence may be present in the appointment of members of these committees.

- Whilst the legislation attempts to avoid what is termed regulatory capture of the FSB by the sector it regulates, there is little attempt to limit government influence on the FSB. This is due in part to, for example, the Minister of Finance being responsible for legislation and regulations that the FSB oversees. In addition, the Minister of Finance appoints the FSB CEO and Actuary in consultation with the board of directors. The Minister of Finance is also the line Ministry responsible for the Pension Funds Adjudicator and the Financial Sector appeal tribunal. The recommendation that the NSSF be managed by SARS worsens this situation.

- Best practice governance systems must ensure that there is sufficient separation of roles and that, possible areas for conflict of interest are reduced to an absolute minimal. In the above scenario the Ministry of Finance's independence might be comprised by the various accountability roles of agencies that are subject to his oversight. This is in addition to his role as the country's Minister of Finance.

5.2.5 Visibility and Communication

- Compared to other regulators, the FSB is not widely known by the users of Financial Services. This is due to an inefficient communications strategy that is more often than not concerned with issuing warnings about errant entities as opposed to promoting the role and value of the FSB to the investing public. Also the users of financial services don't have the confidence of engaging institutions which they do not know and understand it's operations.

- The mandatory pension system would cover a wider social and economic range of the population than other insurance and savings products, including those who are vulnerable with low income and limited education. Such members of society have a low risk of tolerance in pension products.

5.2.6 Human Resources

The FSB has a shortage of critical skills that includes regulatory skills, actuaries, accountants and lawyers. Given the scale of the industry and its importance from a social security perspective it is questionable whether the minimal staffing of the regulator and those dedicated to regulating retirement funds are sufficient.

Section A1:
Comparative Analysis

6. Section A1: Comparative Analysis

This section presents a comparative analysis of the research findings and indicates the major differences and common issues amongst the four regulators in the research.

6.1 Pension structures

Compared to Chile, Kenya and Mexico and indeed with some first world countries such as Australia and the United Kingdom, South Africa (SA) does not have a mandatory pension pillar. Of the countries compared to SA in this study, Chile introduced a defined contribution (DC) mandatory pension scheme in 1980, Kenya introduced the NSSF in 1987 whilst Mexico DC mandatory pension system that is based on the Chilean model was introduced in 1997. South Africa on the other hand has been discussing the introduction of a mandatory pension pillar for the last decade or so.

Chile's Supertendency of Pensions (SP), Kenya's Retirement Benefits Authority (RBA) and Mexico's CONSAR are specialized agencies for the pension sector whilst South Africa has a partially integrated structure that oversees the non-banking financial sector, including pension funds.

The three specialized pension agencies are predominately DC. South Africa's public service is predominately DC whilst its private sector is DB based. This is in line with the international study that has found that specialized agencies oversee the mandatory pension schemes, which are predominately DC based (reflecting the Latin America model) whilst integrated agencies are both DC and DB[19]. Table B below is an adapted version of the Structure of pension supervision as provided by IOPS review of pension supervisory systems – Fiona Stewart and Phillip Diamond, April 2007.

Table A1: Structure of pension systems

Country Supervisory Agency	Structure	Mandatory or quasi mandatory		Voluntary pension plans		Pension Assets as a % of GDP 2006	No of supervised funds	No of staff Members	% DC vs. DB plans	
		Occupational	Personal	Occupational	Personal				DC	DB
Chile / SP	S	X*		X*	X	61	30	149	100	
Kenya / RBA	S	X*		X	X	12,1 (05)	1,351	42		
Mexico/										

19 IOPS review of pension supervisory systems

CONSAR	S	X*			X	11,5	21	118	99	
South Africa / FSB	P			X*	X*	38.5 (04)	13375	87	CS	PS

S= Specialized;
P= Partially Integrated;
*= adapted;
CS=Civil Service;
PS= Public Sector.

In 2008 the SP supervised 30 pension fund administrators whilst Mexico supervised 21. Kenya on the other hand supervised the NSSF and approximately 1351 occupational funds with South Africa supervising the highest number of entities of approximately 13,375.

Voluntary pension schemes in South Africa consist of employers, umbrella and individual pension funds. Employers pension schemes of the private and public sector, though referred to as voluntary are quasi mandatory (in that) the government pension schemes and those of medium to large private organizations are conditions of employment and therefore employees automatically become members of pension schemes on commencing employment. Private pension fund comprises retirement pension schemes and provident funds. There are over 13,500 funds in existence[20], 80 per cent or (10,800) of which have less than 100 members. Kenya had 1319 voluntary pension schemes in existence in 2007.

6.2 Mandate

All four regulators derive their mandates from national legislation. The FSB Act's provides for the FSB's objective being *"to provide for the establishment of a board to supervise compliance with laws regulating financial institutions and the provision of financial services".*

The FSB is the only regulator who oversees a plethora of financial legislations enacted to oversee a variety of complex financial industries, whilst other regulators in this study are concerned only with regulating pensions schemes in their respective countries.

The SP is Chile's technical authority responsible for the oversight and control of private and public institutions responsible for the pension administrators. These include the old pay as you go system and the unemployment benefits pension fund administrators.

The RBA was established to regulate the National Social Security Fund (NSSF) and voluntary pension schemes in Kenya.

CONSAR was established to regulate the retirement savings system by supervising the retirement fund administrators (AFORES) and the retirement specialized investment societies (SIEFOREs). AFORE are accredited private pension fund administrators who collects and manages the retirement funds of workers. SEIFORE's on the other hand are Mexican companies that specialize in pension funds investment.

[20] 2009/2010 FSB Annual Report

6.3 Governance Pension - Supervisory Authority should have operational independence

All four regulators are independent agencies outside of government. However, given the role of government in these agencies they can be said to be quasi independent. Another regulator cannot overrule their decision. The FSB's decision can be overruled by a court of law.

The FSB, CONSOR and RBA are overseen by boards of directors. The FSB board is appointed by the Minister of Finance and he is also represented on its board by a senior official of the National Treasury.

CONSAR, whilst being an independent agency outside of government, its board is dominated by government officials. They include the Minister of Finance and Public credit, who is its chair. Other government officials are secretary of Labour and Social Welfare, the Secretary of Finance the Director General of Security and Services: Institute of Social Workers State.

The RBA board of directors comprises senior ministry of finance officials the Commissioner and Chief Executive of Insurance and Capital Markets Authority. .

The SP does not have a board overseeing it. It is the judicial and extrajudicial representative of the Institution.

6.4 Financial, Human and other Resources

SP is funded from public funds, whilst the RB and the FSB are funded from fees levied on the sector they regulates. The FSB in South Africa have the added benefit of levying fees for specific services it renders to the sector. Mexico is funded from a combination of fees from the sector and public funds. The FSB and RBA funding sources are legislated with South Africa required to consult government and the industry prior to imposing the annual levy.

CONSAR and the SP have a higher ratio of staff to regulated entities at 6:1 and 5:1 respectively, followed by Kenya on 0.03:1. The FSB has the worst ratio at 0.01:1. Given the high staff ratio, the SP and CONSAR undertake more intensive monitoring than is the case with the FSB.

The qualifications of the chief executive of the FSB are not prescribed, however those of the Chief Actuary are legislated. The Act provides amongst others that he/or she shall be a South African Citizen and a member of the Actuarial Society of South Africa with at least two years practical experience. The President of CONSAR is also required to be a Mexican by birth and must not have another nationality.

6.5 Adequate Powers

pension supervisory authorities should be endowed with the necessary investigatory and enforcement powers to fulfill their functions and achieve their objectives.

In line with IOPS principles, the four supervisory authorities have a wide range of powers at their disposal. These powers, which are used by the four regulators to varying degrees include, the powers to withdraw a license, issue a fine, directing management to act or refrain from acting in a particular manner and refereeing matters for prosecution are tabulated in table 6 below[21].

Table 6: Use of investigatory and enforcement powers
M=most important; **F**=frequently used; R=rarely used; **NU**=not used; **NA**= not available

	Chile	Kenya	Mexico	SA
Obtain data	M	F	F	M
Financial risk analysis	R	F	M	M
On site visit	F	F	F	M
Complaints follow up	M	M	F	M
Disclosure	F	M	F	M
Directions to management	R	R	F	M
Disqualification of management	NA	R	R	M
Replace or report external providers	R	R	NU	NU
Withdraw license	R	R	NU	M
Freeze assets	R	R	NU	NU
Fine	F	R	F	M
Refer Matters criminal prosecution	R	NU	R	M
Threats to use above	F	F	R	NU

6.6 Regulatory Approach

Risk-based supervision specifically attempts to vary the scope and intensity of supervision according to the level of risk to which individual pension funds are estimated to pose (in regard to the individual members and beneficiaries of the pension fund and also to the pension fund itself). This is seen as a more "sophisticated" approach than the former "compliance" based attitude to supervision, where all pension funds (or indeed financial institutions in general) were treated the same. A risk based approach allows scarce supervisory resources to be targeted at the pension funds which are seen to be at most risk and allows supervisory authorities to take a more pro-active approach, attempting to avoid potential problems before they occur (as opposed to a "reactive" compliance based regime). A broad definition of risk-based supervision would include the whole risk management architecture, including risk-based regulations and risk-based supervisory procedures[22].

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21 IOPS review of pension supervisory systems – Fiona Stewart and Phillip Diamond
22 IOPS Fiona Stewart (OECD) Experiences and Challenges with the Introduction of Risk-Based Supervision for Pension Funds

The analysis herein compares the licensing requirements, investment regime, prudential regulation, monitoring and market conduct of the four regulators in this study.

6.6.1 Licensing requirements

Licensing is a prerequisite for pension schemes operating in all the four countries in the research. The licensing requirements are comprehensive and covers operational and financial capacities of pension fund administrators. Similar to mandatory pensions elsewhere in the world, licensing requirements are stricter and more intense in Chile and Mexico, where for example, Mexico's CONSAR must be informed about the members of the board of AFORES and the executive directors and his deputies. In addition CONSAR must approve the independent members of the board of the AFORES. Kenya requires that every manager or custodian of a pension scheme is registered and issued with a certificate by the RBA. To improve transparency the Minister of Finance in Kenya annually publishes a list containing the names of managers and custodians of the respective pensions schemes.

Pension fund administrators in the four countries are required to have a minimum capital prior to commencing operations and must continuously hold a regulatory reserve.

6.6.2 Investment regime

The Investment regime (or limits) is a tool used by all four regulators to promote greater returns and limit risks by imposing restrictions on asset portfolios. Initially all the regulators investment regimes were very restrictive with a high concentration on government assets and prohibiting equities and foreign investments.

All countries in the research prescribe maximum investment limits on the amounts that may be invested in various asset categories including property and offshore investments. In the case of Chile the SP regulates investment limits of AFP. An independent committee named the Technical Investment Council reviews the limits set by SP. CONSAR in Mexico set these limits whilst in South Africa the Act empowers the Minister of finance to define the asset classes into which a pension fund can invest[23].

CONSAR as part of its risk based supervision approach introduced the Value at Risk, which, defined more narrowly is the possible loss in value from "normal market risk" as opposed to all risk[24]. The advantage of this measure is that it focuses on downside risk and potential losses.

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[23] National Treasury regulation 28: response document to public comments received 2 December 2010
[24] http://people.stern.nyu.edu/adamodar/pdfiles/papers/VAR.pdf

6.6.3 Prudential regulation

The SP in Chile recently piloted risk based supervision with risk scoring features. However it is currently 100% compliance based with legislation and regulations being specific on what the AFP's can and cannot do[25].

The Kenyan regulator's goal of introducing the RBA is to measure the solvency of DB schemes and the investment risks of DC schemes. It achieves this by annually profiling schemes to identify those with high risk.

Just like RBA in Kenya, the FSB' supervisory model
lags way behind models adopted by countries such as Mexico. Its risk-based approach is that risk management rests with the boards of retirement funds. The FSB carries out its risk profiling exercise by examining annual submission of information such as annual financial statements, questionnaires, and statutory actuarial report. Pension schemes with high risk and high impact are prioritized to on site inspection.

CONSAR's RBA on the other hand has develop an integrated risk management approach that includes, an integrated risk management framework, a proactive supervisory model and has developed a set of market discipline guidelines that pension schemes must comply to. These includes creation of an independent unit for risk measurement, models, systems and methodologies suitable to identify, measure and control risks, both current & potential (Forward looking.)

6.6.4 Monitoring

As indicated earlier the SP, RBA and CONSAR in line with mandatory pension regulators undertake more intense and intrusive supervision. The SP monitors very closely the operations and performance of each AFP, in order to ensure compliance with the country's statutes. It collects information on a daily and ad hoc basis.

CONSAR conducts both supervision and surveillance to ensure that pension resources are adequately invested; fund asset valuation use market prices and adequate risk management practices are employed. As part of its supervision surveillance system CONSAR uses an automated daily supervision of investment portfolios to verify the accomplishment of all the parameters established in the investment regime. The surveillance system also allows portfolios of pension fund to be followed daily, as well as simultaneously do the accounting of each. Daily validation of information, in order to have quality inputs for risk supervision is a fundamental part of financial surveillance.

6.6.5 Market Conduct

In all the countries external auditors need to verify the accuracy of financial statements. In Mexico, the role of auditors is expanded to include an assessment of

[25] IOPS Toolkit Case Study Chile

the quality of risk management systems and “whistle-blowing” obligations, i.e. they are required to report material problems to the supervisor.

Finally in the Market discipline guidelines enables CONSAR to monitor and analyze the marketing materials.

Section B:
Appropriate Framework for Regulating the Mandatory Pension System

7. Appropriate Framework for Mandatory Pension System

This section provides the recommended framework of a specialist Social Security Regulator (SSR) to oversee the country mandatory pension system. The framework is premised on the International Organization of Pension Supervisors (IOPS) principles of private pension supervision[26]. This does not however detract from fact that supervision of mandatory pension schemes is fundamentally different to voluntary and private pension funds. The feasibility studies into the reform of retirement provisions[27] indeed recognizes that, the regulatory framework in existence today has been developed for the trust-based system in existence today. It identifies three distinguishing features of the mandatory pension system and these are:

(a) **Compulsion** placing greater responsibility on the policymaker to ensure that the environment is safe and sound;

(b) Product **standardization** which will be easier and simpler to compare; and

(c) **Scale.** The scale of the mandatory pension in this country will be unprecedented and the state, like in Mexico will be looked upon to bail out failures. It is imperative that the regulatory authority be focused primarily on regulating only approved entities.

At its core an appropriate framework of the SSR should be to promote, the stability, security and good governance of pension funds and plans, and to protect the interests of pension fund members and beneficiaries. Pension supervision involves the oversight of pension institutions and the enforcement of and promotion of adherence to compliance with regulation relating to the structure and operation of pension funds and plans, with the goal of promoting a well functioning pensions sector. In addition, achieving stability within the pension sector is an important part of securing the stability of the financial system as whole.

As indicated above and based on IOPS 10 principles of private pension supervision the SSR design should be as follows: -

7.1 Clear and explicit Mandate

SSR should be established by national legislation and must have a clear and an unambiguous mandate that clearly delineate its responsibility and ensure its operational independence. This is in line with principle 1.2 of IOPS, which states that "*the responsibilities of the pension*

[26] IOPS Principles of private pension supervision 2010
[27] Reform of Retirement Provision Feasibility Studies – September 2007

supervisor should be clearly and objectively stated, giving a clear mandate and assigning specific duties".

This is also in line with the desktop research findings some of which are as follows:

- In Chile the Superintendency of Pensions Fund (SAFP), was established by decree law 3,500 to amongst others control and supervise the pillar 2 mandatory pension funds and the unemployment insurance fund. In 2008, a new Act was enacted that subject the state old age pension funds to the oversight of the Supertendency of Pensions.
- The Retirement Benefit Act of 1997 of ***Kenya*** was developed in the main, to establish the Retirement Benefit Authority (RBA) to regulate, supervise and promote retirement benefit schemes as well as the development of the retirement benefit sector; and likewise
- Retirement Savings System Law of 1996 of ***Mexico*** establishes and defines the structure and powers of CONSAR and regulates the operation and supervision of Retirement Fund Administrators in that country.

7.2 Operational Independence

In line with principle 2.1 of IOPS' principles of private pension supervision, the SSR "*should have operational independence from both political authorities and commercial interference in the exercise of its functions and powers*".

In the South African context boards and executives of regulators are appointed either by the line Ministries (usually ratified by Cabinet) and or the President. The desktop research compares the FSB governance systems with those of other regulators such as the National Energy Regulator of South Africa (NERSA), the Competition Commission, the Competition Tribunal and the Independent Communications Authority of South Africa (ICASA). The appointment of the board of the specialist regulator should preferably be made by the Cabinet on recommendation of the Minister of Social Development and that of its executives be made by the board in consultation with the Minister of Social Development and ratified by the Cabinet.

It is equally important that the SSR is operationally independent of the sector it regulates and that, it is not subject to what is commonly referred to as *'regulatory capture".*

In appointing boards and executives and even staff of the SSR care should be taken to ensure that such persons are not conflicted. As is the case with CONSOR in Mexico the executive and senior management incentives should be aligned to the performance of mandatory pension schemes in the country. Equally the SSR should develop and stringently apply a code of conduct to avoid what the National Treasury refers to as gardening leave i.e., instances where staff leave the entity to join conflicted organization taking with them important information.

7.3 Adequate Financial, Human and other Resources

To promote financial independence, the SSR should be funded by levies it imposes on the sector it regulates. This is in line with the desktop research of SA's FSB, Chile's SAFP, Kenya's RBA and Mexico's CONSAR as well as National Treasury's principles behind reforming the financial regulatory system that provides that *"regulators should be appropriately funded to enable them to function effectively"*. The annual levies to be imposed by the SSR should be subject to public scrutiny and an approval by the line Ministry.

A challenge faced by all regulators in the country is the recruitment and retention of appropriately qualified and experienced staff. This is in part due to uncompetitive remuneration of regulators, which are mostly pegged to civil service remuneration as opposed to the private sector. In setting the salary structures of the SSR, an international benchmark might have to be undertaken especially with countries whose financial regulation SA is modeled on particularly the UK, Australia and Canada.

7.4 Adequate powers

The legislative mandate must assign adequate powers to the SSR to effectively regulate the mandatory pension pillar. To quote from the aforementioned National Treasury policy document, *"the quality of supervision must be sufficiently intense, intrusive and effective".* This is in line with the powers granted to SP in Chile, RBA in Kenya and CONSAR in Mexico.

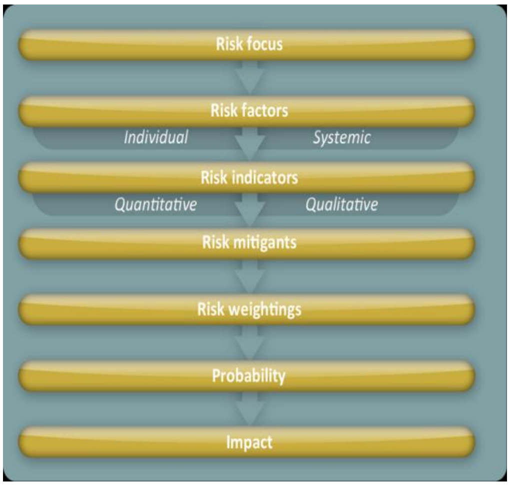
IOPS' principle 4 of the principle of private pension supervision adequately capturesSR powers that should be encapsulated in its mandate.

7.5 Risk Orientation

In line with IOPS principle 5, which provides that "Pension supervision should seek to mitigate the greatest potential risks to pension system", the SSR should from inception adopt the risk based approach to supervision. IOPS defines Risk-based Pensions Supervision as "*a structured approach focusing on identifying potential risks faced by pension funds and assessing the financial an operational factors in place to mitigate those risks*[28]*. This process then allows the supervisory authority to direct its resources towards the issues and institutions, which pose the greatest threat.*

[28] IOPS RBA toolkit 3 http://www.iopstoolkit.org/media/pdf/module0.pdf

IOPS provides a toolkit[29] for the adoption of RBA and sets out the following process:



7.5.1 Risk focus

This is the first step in a risk based supervisory process where the SSR should establish the risks that it will focus on. This is due in part to the fact that regulators have limited resources at their disposal and therefore it is imperative that the SSR decide at the outset its main focus areas.

7.5.2 Risk Factors

Risk factors is the second step in the design of a risk based framework and entails identifying individual institutional risks that could lead to failure to meet the regulator's objectives.

The SSR should identify and assess risk on both a micro and macro[1] levels commonly refereed to as individual and systemic risk respectively. Individual risk is concerned with risk at the entity level whilst systemic risks will affect all or most of the regulated entities.

7.5.3 Risk indicators

Following risk identification and focus, the SSR should have a process in place to determine what its risk indicators will be. Risk indicators can be defined as those activities or events that are likely to result in the identified risk materializing.

7.5.4 Risk mitigants

Risk mitigations refer to the systematic reduction in the extent of exposure to a risk. Risk can be managed in a number of ways including, good corporate governance. This will entail amongst others appointment of capable board and senior management, strong internal controls and effective risk management processes. Some risk can be managed through re-insurance, hedging and or securitization. The risks faced by pension funds include actuarial risk, compliance risk, financial crime, market risk, governance risk, etc.

[29] IOPS RBA toolkit – www.iopstoolkit.org/index.html

7.5.5 Weighting and probability

The SSR must develop a methodology for weighting risk. This process also establishes the probability of an adverse event and its likely impact.

7.5.6 Impact

Impact addresses the question of how high/low will the impact have to be before the regulator increases and or reduces its oversight.

7.6 Proportionality and consistency

In line with IOPS principle 6, the SSR should ensure that its "*investigatory and enforcement requirements are proportional to the risk being mitigated and their actions are consistent".*

7.7 Consultation and cooperation

The SSR Should consult in various ways with the industry it regulates. The consultation could take the form of conferences, one on one meetings (where this is feasible) and through industry associations.

The SSR should also collaborate with its national and international counterparts that supervise other sectors domestically and internationally. This could take the form of formal agreement and Memorandums of Understanding, consultations and regular meetings.

The relationship between the SSR and other financial regulators is discussed in section 2 hereunder.

7.8 Confidentiality

The SSR should have internal codes of confidentiality to which all staff must comply with.

7.9. Transparency

The SSR should conduct its affairs in a transparent manner and should produce reports, consultation papers and press releases which must be available to the general public through print and electronic media as well as in its website.

7.10. Governance

line with IOPS principle 10, "*The SSR should adhere to its own good governance practices – including governance codes, internal risk-management systems and performance measurement - and should be accountable".* This includes

1. establishment and adherence to sound governance practices,
2. having a governing board of a manageable size, and as is the case with other regulators the remuneration of the senior executives and board of the SSR should be published for transparency,
3. The SSR should establish and adhere to a governance code, outlining suitable internal controls, checks and balances, and effective processes for risk and performance management. A code of conduct should be established and enforced in relation to all staff members,
4. The SSR should establish an Internal Audit division which reviews the consistency and transparency of its decision making process, the effectiveness of risk management practices and the efficiency and propriety in the use of resource. The Internal Audit should report to the board of the SSR and not its executive management,
5. The SSR should develop clearly documented procedures for decision-making, with processes for referring decisions up to the appropriate level of seniority, reviewing and documenting decisions,
6. As part of good governance practices, pension supervisory authorities should monitor their own performance using a range of measures,
7. The SSR should be clearly accountable for its general conduct and activity through accountability arrangements, which will include accountability the Minister of Social Security and Parliament,
8. The SSR should be subject to an external audit by Auditor General,

Currently and in light of the recent financial crisis almost all line Ministries are engaged in initiatives to improve the effectiveness of regulators. In addition a plethora of legislation that aim to protect the consumer has either being promulgated or is under consideration. These include the Consumer Commission, the National Credit Act, amended Companies Act, and of particular interest in this regard is the National Treasury's policy proposal that introduces the Twin Peaks model of financial supervision in the country as well a the proposal to establish a Council of Financial Regulators. It is imperative that the design of the specialist regulator takes all the above into account with a view to drawing from the existing legislation or contributing to the initiatives under way.

Section C:
Proposal and Recommendations on the establishment of a Specialist Regulator

8. Section C: Proposal and Recommendations

Having considered challenges facing the current Regulator and the appropriate framework for the mandatory pension system identified above, it is evident that there is a need to introduce a new system to regulate the mandatory pension system. This section seeks to make key proposals and recommendation on the establishment of the Specialist Regulator, benefits and risks attached. Analysis will also be made on the feasibility of the existing Regulator to assume the role of Specialist Regulator and risks attached to it.

8.1 The Proposed Pension System.

In terms of the IDTT proposals it is anticipated that Pillar 2 will consist of the Defined Benefit (DB) scheme to be administered by the National Social Security. Pillar 3 on the other hand will act as a supplementary savings for income above pillar 1 ceiling and it will be provided on a defined contribution (DC) basis with tax incentive. However no decision whether this pillar will form part of the mandatory pillar. Another proposal has been put on the table that this pillar is subject to auto enrolment. This will mean income above pillar 2 ceiling will be auto enrolled unless the income earner makes a choice to opt out. Pension funds operating under this pillar will have to comply with the new rules and regulations as detailed in the National Treasury and Department of Social Development papers[30].For the purpose of this research it is assumed that pillar 3 forms part of social security and therefore it is assumed that the Specialist Regulator will be responsible for supervising the two pillars.

8.1.1 Recommendation 1: Establishment of the Specialist Regulator**.**

- Forcing people to save their hard earned cash and government acting as guarantor should the NSSF not meet its obligation ,dictate a shift in a manner in which voluntary pension scheme are being regulated.

- Mandated pension systems require a large number of typically unsophisticated members to engage in enforced savings through pension funds, usually with the underlying economic risk born by the participants(**as** will be the case in the proposed pillar 3). These types of arrangements can be expected to required higher levels of security and consequently a more pro-active, intense

[30] Approved Funds Framework and accreditation framework.

supervision." (Heinz 2005). A more and intense supervision can be better achieved within a Specialised Agency.

- Specialisation will ensure that policy objectives are met as the specialisation will allow more intrusive supervision.

- There is no doubt that there are different risks attached to supervising mandatory social security and voluntary pillar and having a dedicated regulator for social security appears to be justifiable.

- Following the Latin American trends in Chile and Mexico as Specialised Agencies have more pro-active and intrusive approach.

- South Africa lags behind other countries in introducing a mandatory pension system and the opportunity present itself to learn from global experiences to ensure the best regulatory design.

- Looking at the identified challenges and failures by the current Regulator handing it this new responsibility is not best option. The Regulator is also in the midst of changing focus from being a market and prudential regulator for non- banking sector to being a market conduct regulator for the entire financial sector. This will occupy the Regulator for the next years as it re-invent to meet its new mandate.

It is therefore recommended that the South African government establish a stand-alone authority to regulate the mandatory social security system.

8.2. Benefits of a Specialised Agency.

8.2.1 Incorporating supervision of mandatory pension pillars in the current regulator will subject this pillar into challenges that are currently faced by FSB and worsen the governance arrangements. These challenges as listed in section 8 of the above, include governance, legislative, regulatory and operational challenges;

8.2.2 the feasibility study documents notes that the supply side of the mandatory pension system will be *'unlike anything currently in existence today*"[31]. Failure of one provider (which is likely to happen under the FSB) will have massive implications not only for the pension beneficiaries of that provider but might undermine the confidence in the entire financial system.

8.2.3 The study revealed that mandatory pension are best supervised by specialized agencies. Given the small number of suppliers, the authority is able to be intrusive and hands on as is the case with the SP and CONSAR.

8.2.4 the core business of banks, securities firms, insurance companies, capital markets and mandatory pensions are fundamentally different to each other; As indicated above, the FSB does not have the requisite skilled personal, financial and other

[31] Reform of Retirement Provision Feasibility Studies – September 2007

resources to adequately monitor the financial sector. Subjecting the mandatory pension system to the FSB's authority will inherently be subjecting this system to the current challenges and failures which the country can ill afford.

8.2.4 social welfare consideration and extensive government involvement in the pension. Reduction of value of assets in pension funds will lead to financial contribution by the state to the elderly as there is an implicit guarantee for the pension on retirement.

8.2.5 Pension assets represent a greater portion of household wealth of the average participant than other types of financial assets.

8.3 Recommendation 3: Consolidation within the FSB

Another option is to consolidate regulation of the mandatory pension system within the FSB, **pros** and **cons** of integrating are provided hereunder:

8.3.1 Advantages of Consolidation

- Enable the FSB to leverage the economies of scale and scope in supervising the financial Sector,

- Setting up an entirely new organization will result in duplication of functions that can be better performed by a single entity,

- Result in less likelihood of regulatory arbitrage, which will be worsened by the introduction of the Twin Peaks model of regulation;

- Lessen the risk of the FSB suffering from "agency capture " by the industry,

- Increase the possibility of attaining a better-defined set of objectives when they are all drafted for a single agency in this case, the FSB improve the quantity and quality of the information that flows within its various units versus creating a new stand-alone regulator,

- Improve transparency and accountability in the case of a single financial regulatory and supervisory body.

8.3.2 The Risk of Consolidation

There are a number of risks of incorporating the work of a specialist regulator into a single agency. The following is an extract from a review of the pros and cons of integrating pension supervision with that of other financial activities and services undertaken by IOPS, with an emphasis on why this is the case with the FSB shown in italics.

i. a super regulator can become divorced from the industry it regulates; *a large number of regulators in South African can be said to be divorced from the* *industries they regulate and these includes ICASA, the FSB, and even the Competition Commission which at best imposes fines on companies that are found to be colluding and in all these cases, it is being reactive and without redress to the affected consumers; the beneficiaries is the fiscus whilst executives and director of these companies goes almost unpunished,*

ii. potential moral hazard problem arising due to the public developing a false impression that every financial instrument has the same risk given that they are supervised by the same regulator; *this is particular important in the case of South Africa where the majority of the investing public does not have the knowledge to differentiate between financial products;*

iii. potential loss of focus due to the size and scale of the regulatory agency; this is caused in part by focusing on particular challenges with most resources being channeled to areas that concerns the policy makers and the regulators. *The FSB human, financial and IT resources are grossly inadequate to regulate the non-banking financial sector. In the case of the pension schemes the FSB Retirement Benefit Unit of the FSB ratio of employees to regulated entities is approximately 1:137 whilst that of the FSB as whole is 1:600 as at 31 March 2011*

iv. the potential of creating a monopolistic regulator. Argument is made to have some degree of diversity in regulation namely having competition amongst specialized agencies; *Regulatory arbitrage is difficult to prevent entirely, but its prevalence can be limited in a number of ways including the establishment of the proposed council of regulators*

v. it is easier to capture a single regulator as opposed to multiple competent regulators; *the National Treasury's policy on a safer financial sector refers to green leave practices. This is the case in most regulators whose employees are mostly absorbed by the industry they regulate. In a super regulator the targeted employees are the ones who are more skilled and tend to apply the latter of the law,*

vi. equally it is easier to have political influence in a single regulator as opposed to multiple regulators in the country; *in South Africa this risk is exacerbated by the various roles of the Minister and Ministry of finance in the finance sector*

8.4 The required relationship between the Specialist Regulator, FSB and other regulatory authorities.

The National Treasury policy document titled "*A safer financial sector to serve South Africa better"*, adequately captures the relationship required between the SSR, the FSB and other regulatory bodies. It notes that a number of regulatory bodies exist within the financial sector and these include:-

- The Bank Supervision Department (BSD) of the South African Reserve Bank responsible

for banking supervision in the country;
- The Financial Services Board (FSB) , the current non-banking financial services regulator;
- The National Credit regulator (NCR) responsible for regulation of credit providers.

The BSD and FSB report to the Minister of Finance whilst the NCR reports to the Minister of Trade and Industry. Reporting to the Minister of Social Development/Security, the establishment of the SSR would add to the proliferation of financial sector regulators in the country and might lead to regulatory arbitrage. To avoid this, the aforementioned National Treasury policy document recommends the establishment of:

- Financial Stability Oversight Committee mandated to coordinate on financial stability issues, Council of Financial Regulators. This Council will comprise of heads of financial regulators mentioned above, financial agencies such as the South African Revenue Services and the Competition Commission. It should also include the head of the SSR

- The proposed technical committee to support the Council should also include officials of the Department of Social Development/Security.

Closer co-operation will be required between the SSR and the FSB especially since the FSB is being positioned to be a market conduct regulator for the financial sector including the pension industry. This co-operation can be codified in an annual memorandum of association between the two agencies that clearly sets out the areas of co-operation including sharing of their supervisory plans, strategies and risk profiles to ensure that the two regulators supervisory activities are complementary.

The proposal to include FSB board members in the SSR would increase such cooperation and sharing of information between the two regulators.

Section D:
Value Proposition of Establishing a Stand Alone Regulator

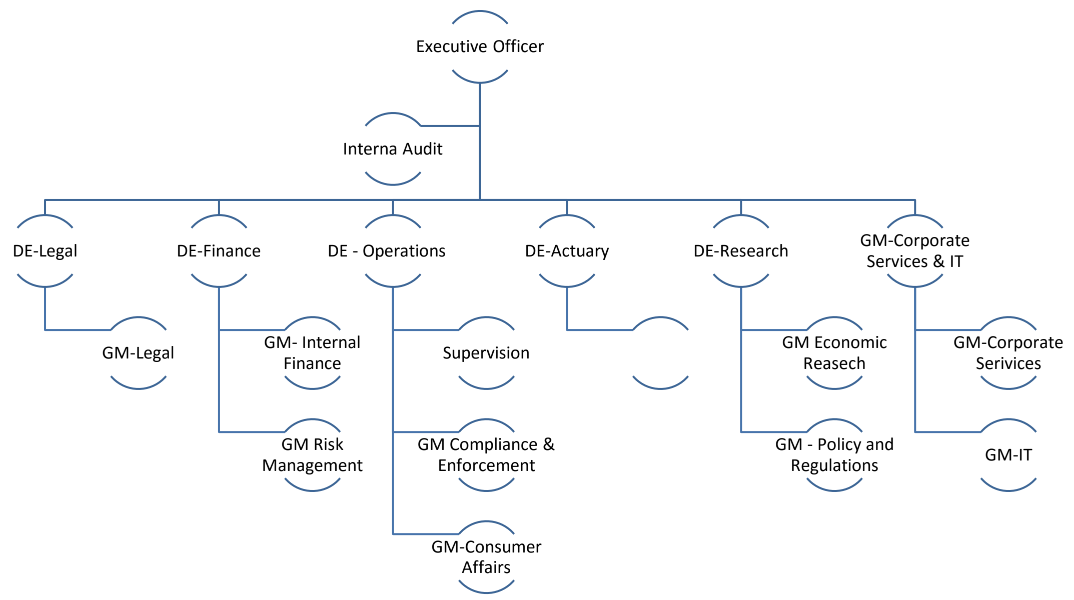
9 Section D: Value Proposition

Section 2 above provides the value proposition of establishing a stand alone Social Security Regulator (SSR). This section considers the human capital, financial resources and Information Technology requirements as well as the time frame and an implementation plan to establish the SSR. This in line with IOPS principle 3, which provides that the SSR should have adequate financial, human and other resources.

9.1 Human Resources

The SSR should similar to mandatory pension regulators have a small staff complement of not more than 100 officials. To achieve this, the SSR should from inception outsource non-core functions and invest a significant amount in setting up IT infrastructure and operations that ordinarily minimizes huge staff requirements. Chile, Kenya and Mexico in 2008, had 149, 42, 118 respectively. South Africa pension unit staff compliment was 87. Whilst this looks comparable to the aforementioned three countries, the number of entities supervised was 30 in the case of Chile, 1351 for Kenya, 21 for Mexico and South Africa had 13,375. Figure 1 below depicts a typical structure that the SSR can adopt.

Figure 1: SSR Organizational Structure



DE = Deputy Executive; GM = General Manager

The SSR enabling legislation should provide that it should be led by an Executive Officer (EO) who has extensive experience in the Financial Industry, is appropriately qualified and is, as is the case of Mexico and the FSB, he/she must be a South African citizen. An executive committee comprising of will assist the EO:

9.1.1 **Deputy Executive legal**. Should be a qualified attorney and a member of the bar association in good standing with a number of years experience in the financial industry and responsible for proposing reforms to regulations and legislation as well as drafting of circulars

9.1.2 **Deputy Executive Finance.** Overseen by a qualified Chartered Accountant with a number of years experience and a member of SAICA in good standing. He/She will be responsible for overall risk management and profiling of risks that pension schemes are subjected to.

9.1.3 **Deputy Executive operations.** To ensure a proper segregation of functions, this DE should have overall supervision responsibilities based on the risk profile developed by the finance unit. In addition this unit will be responsible for consumer affairs and enforcing compliance to regulators, legislation and circulars.

9.1.4 **Deputy Corporate Services and Information Technology.** Overseen by individual with extensive track record as an operations executive. He/She will be responsible for internal support functions such as administration, human resources and managing any outsourced services.

A key responsibility of this Executive is to ensure that the SSR has and maintains an up to date IT systems that collates and report critical data to supervision division on a daily basis as is the case with CONSAR and the SP.

9.1.5 **Deputy Executive Actuary.** As is the case with the FSB, the SSR should have as one of its deputy executives an Actuary who is a member in good standing of the actuarial society of South Africa and be a South African citizen. The actuary is responsible for overseeing actuarial valuations of pension funds.

9.1.5 **Deputy Executive Research.** Overseen by an executive researcher responsible for research of policy, regulation and economic and making recommendations to the SSR of proposed amendments.

A challenge faced by all regulators in the country is the recruitment and retention of appropriately qualified and experienced staff. This is in part due to uncompetitive remuneration of regulators, which are mostly pegged to civil service remuneration as opposed to the private sector. In setting the salary structures of the SSR, an international benchmark might have to be undertaken especially with countries whose financial regulation SA is modeled on particularly the UK, Australia and Canada.

In addition to the above, the SSR should have practical job retention strategies, as its staff will be targeted by the private sector and even other regulators in the country. financial sector and other regulators will target its staff. The program will include some of the following :

- ensuring that recruitment strategies are implemented that best suit the business,
- identifying talent within the organisation and ensuring that talent is effectively utilized,
- engaging employees in the vision, mission and objectives of the business,
- implementing open and transparent performance management systems and an innovative, attractive and fair remuneration packages,
- building training and development programs that encourage staff to progress within their organisation
- assisting an organisation to build an internal brand whereby, over time, it becomes a recognised employer of choice.

9.2 Financial Resources

To promote financial independence, the SSR should be funded by levies it imposes on the sector it regulates. This is in line with the findings on desktop research undertaken as well as National Treasury's principles behind reforming the financial regulatory system that provides that *"regulators should be appropriately funded to enable them to function effectively"*. The annual levies to be imposed by the SSR should be legislated and approved by the line Ministry.

The required financial resources of the SSR will be determined by a number of factors including, whether non-core functions are outsourced or performed internally, the number of employees and the number of administrators to be overseen by the SSR. As indicated above the SSR should have on average 100 employees. Using the 2011 FSB financial results as a base and considering that the personal budget averages between 60 and 70% of total operational budget, the SSR estimated financial resources required as extrapolated from the FSB 2011 Financial Statement is given in table 1 below.

			R'000
Total cost of employees			346 949
Number of employees (2011)			480
Cost per employee			723
Assumed number of employees	100	150	200
Total cost @ 723 per employee	**72 281**	**108 422**	**144 562**
Less personal cost @ 70% of total costs	50 597	75 895	101 193
Total operational costs	21 684	32 526	43 369

The annual operational financial resources required for the SSR is estimated at R72 million for 100 employees, rising to R108 million for 150 employees and estimated at R144 million for 200 employees.

A provision needs to be made for once off set up costs that include capital expenditure for assets, office accommodation and staff recruitment amongst others.

9.3 Information Technology

The South African financial sector has demonstrated the enabling role of Information Technology (IT). The South African Revenue Services is anther example of the effectiveness and efficiencies of using IT to achieve its business objectives.

The study has found that through the adoption of correct technologies regulators like CONSAR in Mexico is able to fulfill its mandate by overseeing the sector it regulates on a minute basis. From inception, the SSR should adopt Information Technologies strategies that will enable it to be effective. This is important in view of the recommendation of small but competent staff complement.

9.4 Implementation

The implementation plan will have to take cognizance of Government requirements some of which will include the following:

3.3.1 Obtaining Cabinet approval through the cluster system
3.3.2 Legislating the mandatory pillar
3.3.3 Operationalising the mandatory pension system

Attached hereto is the project plan over three years

10 Abbreviations and Bibliography

10.1 Abbreviation

AFP	Administradora de Fondos de Pensiones (system for private pension fund administrators)
ICA	Individual Capitalization Account
INP	Chiles Instituto de Normalización Previslonal
RRC	Risk-Rating Commission
SAFP	Superintendency of Pension Fund Administrators
SVS	Superintendency of Securities and Insurance

CEO	Chief Executive Officer
IPPs	Individual schemes or personal pension
NHIF	National Hospital Insurance Fund
NSSF	National Social Security Fund
PSPS	Public Service Pension Scheme
RBA	Retirement Benefit Authority of Kenya

AFORE	Administradora de Fondos de Ahorro para el Retiro. A private investment firm with the sole purpose of administering workers' pension accounts
CONSAR	Comision Nacional de Sistemas de Ahorro para el Retiro. The National Commission for the Retirement Saving System, which was established to oversee sales practices of retirement funds and ensure that retirement funds comply with regulations.
IMSS	Instituto Mexicano de Seguridad Social. The Mexican Social Security Institute, which administers social security and welfare programs. Among those are old-age insurance and disability insurance.
INFONAVIT	Instituto del Fondo Nacional de la Vivienda de los Trabajaderos. The National Workers' Housing Fund Institute to which employers must contribute on behalf of their workers. The fund lends money at concessional interest rates to workers for building a home.
IOPS	International Organisation for Pension Supervisors
OECD	Organisaiton for Economic Development and Cooperation
SIEFORE	Sociedades de Inversion Especializadas en Fondo para el Retiro. Mutual funds that invest retirement savings of Mexican workers. The funds must operate as part of an AFORE. Portfolio composition is regulated.

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