

*(Legislative Supplement No. 53)*

LEGAL NOTICE No. 151

THE RETIREMENT BENEFITS ACT

*(No. 3 of 1997)*

IN EXERCISE of the powers conferred by section 55 (3) of the Retirement Benefits Act, 1997, the Retirement Benefits Authority issues the following guidelines—

THE RETIREMENT BENEFITS (TREATING CUSTOMERS FAIRLY) GUIDELINES, 2019

PART I—PRELIMINARY

1. These guidelines may be cited as the Retirement Benefits (Treating Customers Fairly) Guidelines, 2019. Citation.

2. In these guidelines, unless the context otherwise requires— Interpretation.

“Act” means the Retirement Benefits Act, 1997; No. 3 of 1997.

“administrator” means a person appointed under a written instrument by the trustees of a scheme to manage the administrative affairs of the scheme;

“approved issuer” means an insurer registered under the Insurance Act or any other issuer approved in writing under the Capital Markets Act or any other written law; Cap. 487. Cap. 485A.

“Authority” means the Retirement Benefits Authority established under section 3 of the Act;

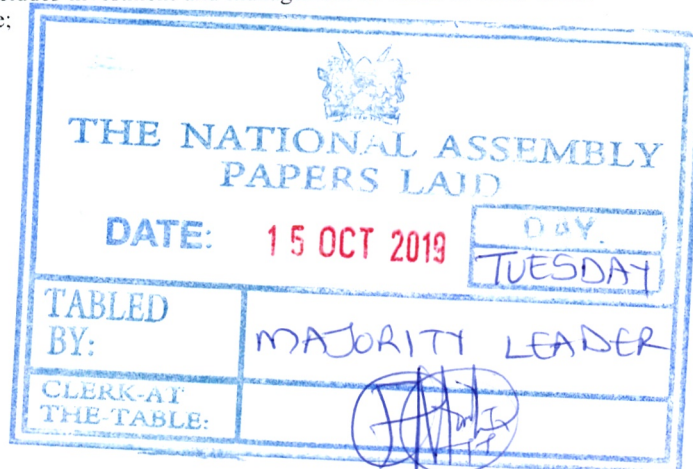
“beneficiary” means a person, other than a member, who is receiving or is entitled to receive a benefit under a scheme;

“board” means a board of directors of a service provider;

“custodian” means a company whose business includes taking responsibility for the safe custody of the funds, securities, financial instruments and documents of title of the assets of scheme funds;

“customer” means a member, beneficiary or trustee of a scheme;

“manager” means a company registered by the Authority whose business includes investment and management of funds or other assets of a scheme;



“member” means a person contributing to a scheme and includes a person entitled to or receiving a benefit under the scheme;

“retirement benefits scheme” means any scheme or arrangement (other than a contract for life assurance) whether established by a written law for the time being in force or by any other instrument, under which persons are entitled to benefits in the form of payments, determined by age, length of service, amount of earnings or otherwise and payable primarily upon retirement, or upon death, termination of service, or upon the occurrence of such other event as may be specified in such written law or other instrument;

“regulations” means regulations made under the Act;

“scheme” means a retirement benefits scheme;

“senior management” means a person who has the authority to plan and control the business operations of a company and whose absence would materially affect the performance of the company;

“service provider” means an administrator, fund manager, custodian, auditor or approved issuer of a scheme or any other person that the Authority brings under the requirements of these guidelines;

“service-level agreement” or “SLA” means an agreement between trustees and service providers which sets out the terms of appointment and services to be rendered to the scheme by the service provider;

“sponsor” means a person who establishes a scheme and also refers to a founder of a scheme; and

“trustee” means means a trustee of a scheme fund and includes a trust corporation.

3. These guidelines shall apply to all service providers appointed by trustees. Application.

4. (1) Trustees shall be responsible for the overall implementation of these guidelines. Responsibility.

(2) Generally, trustees shall appoint service providers that agree to abide by the principles of these guidelines.

(3) Trustees shall ensure that service-level agreements are entered into with service providers and provide for properly recorded processes, reporting mechanisms and systems, and controls used to monitor the implementation of the agreements.

5. The objectives of these guidelines shall be to ensure that— Objectives of the guidelines.



- (a) customers are treated fairly by the service providers;
- (b) service providers focus on the customers' needs and offer the best product or service solutions to the customers;
- (c) retirement benefits products or services account for customer needs;
- (d) customers are provided with clear, accurate and documented information;
- (e) service providers keep customers appropriately informed before, during and after the adoption of products and services;
- (f) service providers give customers advice that is suitable and responsive to customers' needs;
- (g) service providers offer services to customers that are of an acceptable standard and delivered in a timely manner;
- (h) customers are not presented with unreasonable rules, conditions or costs after they take up products or services, or when they intend to change products or services, switch service providers, submit claims, or lodge formal complaints unless the rules, conditions or costs are disclosed at the time of taking up the product; and
- (i) service providers fully disclose to customers the merits and demerits of the product or service at the point of sale.

#### PART II—RIGHTS AND OBLIGATIONS OF MEMBERS

6. (1) A member shall be the primary and ultimate customer of a service provider and shall have the right to be treated fairly when dealing with trustees and any service providers appointed by the trustees.

Rights and obligations of members.

(2) A member has the rights and obligations set out in this Part so that the principles of these guidelines may be easily applied when offering the member products or services.

(3) A member shall have the right to receive the following information from trustees—

- (a) a summary of the scheme's trust deed and rules or the statutory instrument that established the scheme; particular emphasis should be placed in informing the member what the member's role shall be especially with respect to nominees and beneficiaries;
- (b) annual membership benefits statements;

- (c) the annual report from the trustees presented at the Annual General Meeting of the scheme including any changes to the scheme benefits and contribution structure;
  - (d) a summary of the scheme's audited financial statements;
  - (e) a summary of the scheme's investments;
  - (f) a summary of the remuneration of trustees; and
  - (g) any other information that may be prescribed under the Act, regulations made thereunder or any other written law.
- (4) A member has the right to inspect the following information held by the trustees—
- (a) the scheme trust deed and rules or the statutory instrument that established the scheme;
  - (b) the scheme's audited financial statements;
  - (c) the register with the details of the sponsor, members, trustees and service providers; and
  - (d) any other information that may be prescribed under the Act, regulations made thereunder or any other written law.
- (5) The following are the additional rights of members—
- (a) the immediate vesting of benefits;
  - (b) the right to opt for payment, transfer or deferment of benefits on exiting from a scheme as set out in the scheme rules;
  - (c) the right to transfer accrued benefits within sixty days of issuing a written notice to transfer or within such period that may be prescribed in the Act or regulation made thereunder;
  - (d) non-assignment or attachment of benefits for any purpose not prescribed under the Act or regulations made thereunder;
  - (e) commutation of benefits as prescribed in the scheme's rules;
  - (f) one year's notice to select an annuity or income drawdown provider, where applicable;
  - (g) nomination of beneficiaries;
  - (h) election of members representatives to the board of trustees unless a corporate trustee has been appointed as the sole trustee;

- (i) the right to attend annual general meetings; and
  - (j) any other rights prescribed by the Act, regulations made thereunder or any other written law.
- (6) A member has an obligation to—
- (a) obtain and make every effort to understand the scheme's documentation including the trust deed and rules or the statutory instrument that established the scheme;
  - (b) seek guidance from trustees or the administrator on any matter that is unclear or over which there is a dispute;
  - (c) make reasonable efforts to attend information briefing sessions where invited including annual general meetings and member education days;
  - (d) provide all necessary information as required under the scheme rules or the statutory instrument that established the scheme. Such information shall be accurate and timely to allow service providers carry out their functions effectively;
  - (e) conduct himself or herself with decorum and respect when dealing with trustees and service providers; and
  - (f) any other obligation prescribed by the Act, regulations made thereunder or any other written law.

7. (1) Trustees and service providers shall be responsible for ensuring compliance with these guidelines.

Compliance with these guidelines.

(2) Trustees and service providers shall report annually to the Authority using the Treating Customers Fairly toolkit and toolkit notes set out in the Schedule hereto.

(3) The reports required under subparagraph (2) shall be submitted to the Authority within three months of the service providers' year-end or anniversary of the service providers' registration with the Authority.

(4) The "disclose, apply or explain" principle may be used where there is non-compliance and a trustee or service provider shall submit a non-compliance report stating the areas of non-compliance, the reasons for non-compliance and the proposed timelines (where applicable) within which compliance shall be attained.

8. These guidelines shall be subject to the Act, regulations made thereunder and any other relevant written law and where there is a conflict between these guidelines and the provisions of the Act, regulations made thereunder or any other relevant written law, the Act, regulations or that other written law shall prevail.

Limitations.

## PART III—PRINCIPLES OF TREATING CUSTOMERS FAIRLY

9. (1) For the purposes of these guidelines, “organisational culture” refers to the underlying beliefs, assumptions, values and ways in which a service provider interacts with customers. Organizational culture.

(2) Service providers shall treat customers fairly as part of their organisational culture.

(3) Service providers shall, in order to incorporate fair treatment of customers in their organisational culture, ensure that—

- (a) the board and senior management have been sensitised on the requirements for the fair treatment of customers and the value of organisational culture change;
- (b) the board oversees the implementation of an appropriate organisational culture that supports the fair treatment of customers;
- (c) the board assigns to a specified senior manager the responsibility of ensuring that customers are treated fairly by the service provider;
- (d) senior management conduct initial and annual reviews of the main business processes in order to identify areas that require improvement so as to ensure conformity with an organisational culture that supports the fair treatment of customers;
- (e) senior management demonstrate to customers through practices and communication that the fair treatment of customers is essential to business operations;
- (f) senior management train and maintain staff with knowledge, behaviour and values that align with these guidelines; and
- (g) management information and reporting frameworks have been established to keep the board and senior management informed on the continuous implementation of an organisational culture that supports the fair treatment of customers.

10. (1) Products and services offered by a scheme shall state the type of retirement benefits arrangement that is being offered, information on how to join the scheme, any ongoing information rights as prescribed by the Act, regulations made thereunder, and these guidelines, and the products and services offered to a member on exiting the scheme or retirement such as cash lump sums, pensions and annuities. Products and services.

(2) Service providers shall ensure that products and services are designed to meet the needs of customers by—



- (a) conducting adequate research and targeting when designing the product or service;
- (b) establishing mechanisms to exhibit new innovations in products and services;
- (c) appropriate and continual sensitisation of employees on product or service design and the customers that products or services are targeted at;
- (d) appropriate promotion and distribution of products and services to customers;
- (e) providing adequate information to customers to ensure that they understand the products and services being offered;
- (f) disclosing and mitigating the risks arising from the adoption of products and services;
- (g) providing disclaimers for products and services being offered by the scheme;
- (h) collecting management information in order to track how products and services are targeted at customers; and
- (i) establishing a process for the withdrawal of products or services that are unsuitable for the targeted customers.

(3) The Authority may require service providers to undertake effective and timely remedial action to address material deficiencies in service providers' compliance with these guidelines.

11. (1) This paragraph sets out members' right to certain kinds of information held by the service provider and required to be provided to its customers before, during and after the sale or delivery of a product or service to keep the customer appropriately informed at each stage of the transaction.

Clear and appropriate information.

(2) Trustees shall ensure that members are provided with appropriate information about the products or services offered by service providers including charges, fees, termination conditions and risks associated with the products or services.

(3) To achieve the objectives of this paragraph, service providers shall—

- (a) assess the clarity, suitable font size, appropriateness and fairness of information provided to customers;
- (b) put mechanisms in place to ensure that customers are informed appropriately and in a timely manner about the products and services they may have subscribed to;
- (c) disclose to customers any commissions or benefits received from the sale of products or services;

- (d) put mechanisms in place to protect customers' individual information and maintain the confidentiality of customers' information;
- (e) commission independent internal and external reviews of advertising materials and other customer communication used or published;
- (f) publish clear product or service summaries and answers to questions frequently asked by customers;
- (g) ensure that contract documents are drawn up and signed in time to ensure that customers' rights are protected;
- (h) establish feedback mechanisms to ensure that information received from customers about products or services is acted on appropriately; and
- (i) clearly state the dispute resolution mechanisms available to customers.

12. (1) Trustees and service providers shall provide advice to sponsors and members to ensure that they get access to the best retirement arrangements and benefits under the scheme.

Customer advice.

(2) Trustees and service providers shall ensure that the advice offered to customers is suitable and takes into account the specific circumstances under which the advice has been sought.

(3) To achieve the objectives of subparagraphs (1) and (2), service providers shall—

- (a) establish mechanisms for obtaining information from customers that shall be appropriate for customers' needs before giving customers any advice;
- (b) establish processes for ensuring that clear and appropriate advice is given to customers;
- (c) train their employees to continually give up-to-date advice to customers that is relevant to their needs;
- (d) clearly specify where and whom advice is not expected to be given;
- (e) establish feedback mechanisms about the advice given to customers;
- (f) establish redress mechanisms to mitigate the effects of wrong or misleading advice given to customers; and
- (g) trustees and service providers shall ensure that products and services meet the needs of identifiable customer groups such as persons with disabilities (PWDs), persons suffering from

ill health, and other persons or classes of persons under the Act.

13. (1) Service providers shall ensure that products and services are offered at reasonable cost, conform to the given specifications and associated services are of acceptable standards and what the customer has been led to expect.

Performance and expectations.

(2) Service providers shall, for the purposes of subparagraph (1)—

- (a) employ monitoring tools and mechanisms to track customer satisfaction with products and services offered by the service providers;
- (b) establish mechanisms that ensure the provision of up-to-date information to customers regarding products and services;
- (c) analyse management information to determine reasons for termination of products or services by customers;
- (d) institute awareness programmes on the merits or drawbacks of products or services offered by service providers; and
- (e) establish clear service standards that shall be appropriately communicated to customers and display their key features.

14. (1) Trustees and service providers shall ensure that the benefits payments and complaints management processes are well communicated to customers, particularly to members.

Benefits payments and complaints management.

(2) Trustees and service providers shall not impose on customers any undisclosed post-sale barriers in contravention of the provisions of the Consumer Protection Act, 2012 and shall inform customers about the process of filing complaints with the Authority or Tribunal.

No. 12 of 2012.

(3) For the purposes of this paragraph, service providers shall—

- (a) establish and adhere to clear standards on benefits processing and complaints management;
- (b) establish mechanisms for updating customers on changes to products or services;
- (c) establish mechanisms to ensure that member and scheme records are maintained and updated;
- (d) keep customers informed about the scheme and enable them to track the processing of benefits or complaints including any information about the person or team dealing with the processing of benefits or complaints;
- (e) provide relevant information to customers on the benefits processing and complaints management processes;

- (f) provide customers with adequate information and evidence in case benefits are not payable; and
- (g) advise customers of other options for redress where customers are not satisfied with the handling of benefits processing or complaints management.

#### PART IV—ENFORCEMENT OF THESE GUIDELINES

15. The following principles shall apply in the enforcement of these guidelines—

Principles of enforcement.

- (a) the Act, regulations made thereunder and these guidelines shall provide adequate guidance about the Authority's expectation of minimum standards for treating customers fairly in the management of schemes;
- (b) the Authority shall perform comprehensive evaluations of service providers' policies or strategies for treating customers fairly at regular intervals and assess the implementation of these guidelines; and
- (c) the Authority may require service providers to undertake effective and timely remedial action to address material deficiencies in their compliance with these guidelines.



SCHEDULE

TREATING CUSTOMERS FAIRLY ASSESSMENT TOOLKIT

Annex I – ASSESSMENT TOOL FOR TRUSTEES					
		<i>Actual score</i> %	<i>Target score</i> %	<i>Variance</i>	<i>*Remarks</i>
(a)	(b)	(c)	(d)	(e) = (c) less (d)	
	<b>OUTCOME 1 – TCF CULTURE IN THE ORGANISATION</b>				
	Customers are confident that they are dealing with a company where the fair treatment of customers is at the core of the company's culture				
	<b>Leadership</b>				
1	The Board has been sensitized on the TCF Guidelines		3.0%		
2	The Board has passed a resolution to adhere to the TCF Guidelines		3.0%		
3	The Board has assigned a trustee or committee of the Board the responsibility of implementing the TCF Guidelines		2.0%		
4	All trustees understand their role in ensuring adherence to the TCF Guidelines		2.0%		
5	There is a process for identifying the areas that require improvement to ensure adherence to the TCF Guidelines		2.0%		
6	The Board has communicated the TCF Guidelines to relevant internal and external stakeholders		2.0%		
7	Delivery on the TCF Guidelines is a feature of the Board's stated values, code of conduct, ethics policy or other relevant policy documents		1.0%		
	Subtotal on leadership	0.0%	15.0%		
	<b>Performance management</b>				
1	The induction process for employees of internal administrators includes sensitization on the TCF Guidelines and tools		2.0%		
2	Trustees undergo training on TCF objectives and deliverables		3.0%		
	Subtotal on performance management	0.0%	5.0%		
	<b>Information</b>				

1	There are processes for analyzing and acting on information findings to improve TCF outcomes for customers		2.0%		
2	There is regular communication to the Authority on the Board's progress in achieving and adhering to TCF Guidelines		2.0%		
3	Information on the implementation of TCF Guidelines is readily available to all relevant stakeholders		1.0%		
	Subtotal information	0.0%	5.0%		
	Grand total TCF culture in the organisation	0.0%	25.0%		
	<b>OUTCOME 2—PRODUCTS AND SERVICES</b>				
	Products and services marketed and sold in the retail market are designed to meet the needs of identified customer groups and are targeted accordingly				
1	Trustees are adequately trained on products and services in the market and the target customers		2.0%		
2	Trustees, in consultation with service providers, provide relevant information to members to ensure understanding of products and services		2.0%		
3	There are measures for identifying and mitigating risks that a product or service may pose to targeted customers		2.0%		
4	There are mechanism for trustees to review products and services issued by service providers		2.0%		
5	Trustees ensure that unfair trade practices are not used while members access products and services		2.0%		
	Total products and services	0.0%	10.0%		
	<b>OUTCOME 3—CLEAR AND APPROPRIATE INFORMATION</b>				
	Customers are given clear information and kept appropriately informed before, during and after the time of sale of products and services				
1	Trustees monitor and act on feedback, complaints and suggestions from members on the need for improvement in product and service information		2.0%		

2	Trustees, in collaboration with service providers, provide members with clear summaries and Frequently Asked Questions about each service and product sold to them		2.0%		
3	Trustees maintain up-to-date contact details of current members		1.0%		
4	Trustees ensure that customers have current and accessible contact points if they need to get in touch with the business		2.0%		
5	Trustees have accurate, retrievable and secure records of all product and service information provided to customers and any other material interactions with customers		1.0%		
6	Trustees have a procedure for the identification of information that should be maintained and retained		1.0%		
7	Trustees have clearly stated and provided to members information on dispute resolution mechanisms		1.0%		
	Total clear and appropriate information	0.0%	10.0%		
	<b>OUTCOME 4 – CUSTOMER ADVICE</b>				
	Where customers receive advice, the advice is suitable and takes into account their specific circumstances				
1	There is a process to ensure service providers offer suitable advice to members		2.0%		
2	Trustees are adequately trained to enable them to offer suitable advice to members		2.0%		
3	Trustees monitor feedback and complaints from members regarding the quality of advice from trustees to identify any training needs and/or risk of inappropriate advice		3.0%		
4	There are compensation mechanisms to compensate customers who have suffered a negative financial impact as a result of inappropriate advice provided by the service providers		3.0%		
	Total customer advice	0.0%	10.0%		
	<b>OUTCOME 5 – PERFORMANCE AND EXPECTATION</b>				
	Customers are provided with products and services that perform as the service providers have led them to expect and the associated				

	service is of an acceptable standard and what they have been led to expect				
1	Trustees monitor and act on feedback, complaints and suggestions from members and service providers that identify where to improve in services or service standards		2.0%		
2	There are processes for alerting customers in reasonable time to risks of particular actions by members such as early termination of a product, investment portfolio switches and benefits reductions for members to respond to or act on the information		2.0%		
3	There are processes for alerting customers to the risks of non-action by members such as non-payment of contributions or non-completion of beneficiary nominations or not meeting certain statutory requirements		2.0%		
4	There are clear service standards which have been communicated to customers		2.0%		
5	There are processes for protecting the confidentiality of members' information		2.0%		
	Total performance and expectation	0.0%	10.0%		
	<b>OUTCOME 6 – BENEFITS PAYMENT AND COMPLAINTS HANDLING</b>				
	Customers do not face undisclosed post-sale barriers in accordance with the Consumer Protection Act, 2012				
	Benefits processing				
1	There are clear procedures for processing benefits		2.0%		
2	Trustees have informed members of the procedures for processing benefits		2.0%		
3	Trustees have provided customers with Frequently Asked Questions on the processing of benefits		2.0%		
4	Trustees pay benefits within the period set out in service charter/procedures and frequently review processes and services to improve members' experience		2.0%		
5	Key requirements and information required in benefits processing are available and prominently displayed		2.0%		



6	Before making a decision to deny payment of benefits, trustees consider the member's rights and reasonable expectations and give clear reasons for non-payment with supporting evidence		2.0%		
7	There are redress mechanisms where members are dissatisfied with the decisions made on benefits processing		2.0%		
8	There are follow-up processes to determine member's satisfaction levels after benefits are paid		2.0%		
9	Trustees have clear procedures for retention of members' information		2.0%		
	Subtotal benefits processing	0.0%	18.0%		
	Complaints handling				
1	There are clear procedures for processing complaints		3.0%		
2	The trustees test the complaints process to ensure that it is accessible and appropriate for members		2.0%		
3	Members are well-informed on the complaints procedure and redress mechanisms available including contact information of persons dealing with the complaint		2.0%		
4	Once a complaint has been received, trustees keep the member regularly informed of the progress		2.0%		
5	When responding to a complaint, trustees provide clear reasons for responses with supporting evidence where relevant		2.0%		
6	Complaints processes are structured to ensure that decisions are objective and consistent for similar complaint		2.0%		
7	There are conflict of interest policies for ensuring impartiality in decision-making		2.0%		
8	There are follow-up processes for determining members' satisfaction levels after complaints have been finalised		2.0%		
	Subtotal complaints handling	0.0%	17.0%		
	Total claims and complaints handling	0.0%	35.0%		
	GRAND TOTAL	0.0%	100.0%		
	SUMMARY OF TCF PERFORMANCE FOR THE YEAR				

		Actual%	Target%	Threshold***
1	TCF culture	0.0%	25.0%	
2	Products and services	0.0%	15.0%	
3	Clear and appropriate information	0.0%	15.0%	
4	Customer advice	0.0%	10.0%	
5	Performance and expectation	0.0%	10.0%	
6	Claims and complaints management	0.0%	25.0%	
		0.0%	100.0%	
<b>Annex II – ASSESSMENT TOOL FOR ADMINISTRATORS</b>				
		Actual score % (c)	Target score % (d)	Variance (e) = (c) less (d)
(a)	(b)			
	<b>OUTCOME 1 – TCF CULTURE IN THE ORGANISATION</b>			
	Customers are confident that they are dealing with a company where the fair treatment of customers is at the core of the company's culture			
	<b>Leadership</b>			
1	The Board and management have been sensitized on the TCF Guidelines		1.0%	
2	The Board has passed a resolution to adhere to the TCF Guidelines		2.0%	
3	The Board has assigned a senior manager the specific responsibility of implementing the TCF Guidelines		1.0%	
4	Senior management in all areas of the business understand their role in ensuring adherence to the TCF Guidelines		2.0%	
5	There is a process for identifying the areas that require improvement to ensure adherence to the TCF Guidelines		1.0%	
6	The TCF Guidelines have been communicated to all relevant internal and external stakeholders		1.0%	
7	There is a process for assessing employees' and management's understanding of TCF and the service provider's TCF commitments		1.0%	
8	Delivery on the TCF Guidelines is a feature of the service provider's stated values, code of conduct, ethics policy or other relevant policy documents		1.0%	

	Subtotal on leadership	0.0%	10.0%		
	Performance management				
1	The induction process for employees includes sensitization on the TCF Guidelines and tools		2.0%		
2	Employees undergo training on TCF objectives and deliverables		2.0%		
3	There is a reporting framework to keep the Board and management informed on the implementation of the TCF Guidelines that is aligned to internal reporting policies		1.0%		
	Subtotal on performance management	0.0%	5.0%		
	Governance and control				
1	Monitoring of TCF delivery has been assigned to appropriate control functions such as board committee, risk management, internal audit or compliance functions		1.0%		
2	There are processes for regularly reporting organisation-wide progress in achieving TCF deliverables to the Board and senior management		1.0%		
3	Management of TCF and market conduct risks are formally included in risk-management framework		1.0%		
4	There are processes for identifying and reporting organization-wide level TCF risks or failures to senior management and Board		1.0%		
5	The governance framework supports TCF requirements		1.0%		
	Subtotal governance and control	0.0%	5.0%		
	Management information (MI)				
1	There are processes for collating and summarizing TCF related MI for reporting on organization-wide TCF progress to the Board and senior management		1.0%		
2	There are processes for analyzing and acting on MI findings to improve TCF outcomes for members		2.0%		
3	There is regular communication to the Authority on the service provider's progress in achieving and adhering to the TCF Guidelines		1.0%		
4	Information on implementation of the TCF Guidelines is readily available to all relevant stakeholders		1.0%		

	Subtotal management information	0.0%	5.0%		
	Grand total TCF culture	0.0%	25.0%		
	OUTCOME 2—PRODUCTS AND SERVICES				
	Products and services marketed and sold in the retail market are designed to meet the needs of identified customer groups and are targeted accordingly				
1	When designing products or services, the service provider identifies particular customer groups for which the products or services will be suitable		2.0%		
2	Employees and agents are properly trained on products and services and target customers		2.0%		
3	Promotion and distribution processes are suitable for the needs of identified customer groups		2.0%		
4	Relevant information is provided to customers to ensure understanding of products and services		2.0%		
5	There are measures for identifying and mitigating risks that a product or service may pose to targeted customers		2.0%		
6	The products or service approval process includes senior management confirmation that a product or service adequately meets the requirements of the TCF Guidelines including that it will perform as customers have been led to expect		2.0%		
7	There is a product or service withdrawal process for products or services that are unsuitable for identified customer groups		1.0%		
8	The service provider includes evaluation of TCF objectives when reviewing products and services		1.0%		
9	The service provider ensures that unfair trade practices are not used while selling products and services		1.0%		
	Total products and services	0.0%	15.0%		
	OUTCOME 3—CLEAR AND APPROPRIATE INFORMATION				
	Customers are given clear information and kept appropriately informed before, during and after the time of sale of products and services				



1	There are mechanisms for assessing the clarity, appropriateness and fairness of product and service information provided to customers		2.0%		
2	There are mechanisms for rectification where a product or service does not meet its intended purpose		2.0%		
3	The service provider monitors and acts on feedback, complaints and suggestions from customers on the need for improvement in product and service information		2.0%		
4	The service provider provides customers with clear summaries and Frequently Asked Questions about each service and product sold to them		2.0%		
5	The service provider provides customers with contracting documents within the period specified in the service charter or operating procedures		2.0%		
6	The service provider maintains up-to-date contact details of current members		1.0%		
7	The service provider ensures that customers have current and accessible contact points if they need to get in touch for any reason		1.0%		
8	The service provider has accurate, retrievable and secure records of all product and service information provided to customers and any other material interactions with customers		2.0%		
9	The service provider has clearly stated and provided to members information on dispute resolution mechanisms		1.0%		
	Total clear and appropriate information	0.0%	15.0%		
	<b>OUTCOME 4 – CUSTOMER ADVICE</b>				
	Where customers receive advice, the advice is suitable and takes into account their specific circumstances				
1	The service provider has a business process for ensuring that suitable advice is given for its products and services		1.0%		
2	Employees who market specific products or services offered by the service provider have been adequately trained so that they can provide suitable advice to customers		1.0%		
3	The service provider, when giving advice, excludes groups where information shall not be shared		1.0%		

4	The service provider monitors feedback and complaints from customers regarding the quality of advice from employees and agents of the service provider in order to identify training needs or the risk of inappropriate advice being given		1.0%		
5	There are processes for identifying and mitigating risks to customers where the service provider's employees or agents have provided inappropriate or misleading advice or information		2.0%		
6	The service provider monitors potential TCF indicators such as the retirement benefits claims experience and early termination data to identify and mitigate the risk of inappropriate advice or poor customer experiences		2.0%		
7	There is a compensation mechanism to compensate customers who have suffered a negative financial impact because of inappropriate advice given by employees of the service provider		2.0%		
Total customer advice		0.0%	10.0%		
<b>OUTCOME 5 – PERFORMANCE AND EXPECTATION</b>					
Customers are provided with products and services that perform as the service providers have led them to expect and the associated service is of an acceptable standard and what they have been led to expect					
1	There are mechanisms for mitigating risks that emanate from the regulatory environment that may impact expectations of products or services		2.0%		
2	The service provider monitors and acts on feedback, complaint and suggestions from customers, members, intermediaries or employees that identify where improvements are needed in respect of products and services		2.0%		
3	The service provider has a process for alerting customers about the risks of particular actions by customers (such as early termination of a product, investment portfolio switches and benefits reductions) in reasonable time for customers to act on the information		2.0%		
4	The service provider has a process for alerting customers about the risks of non-action by customers (such as non-payment of		2.0%		

	contributions, non-completion of beneficiary nominations and not meeting statutory requirements)				
5	The service provider has clear service standards and the same have been communicated to customers		1.0%		
6	The service provider has a process for protecting the confidentiality of customer information		1.0%		
	Total performance and expectation	0.0%	10.0%		
	<b>OUTCOME 6—BENEFITS PAYMENT AND COMPLAINTS HANDLING</b>				
	Customers do not face undisclosed post-sale barriers in accordance with the Consumer Protection Act, 2012				
	Benefits processing				
1	The service provider has clear service standards for processing benefits		1.0%		
2	The service provider informs customers of its service standards/SLAs/contract for processing benefits		1.0%		
3	The service provider provides its customers with Frequently Asked Questions on the processing of benefits		1.0%		
4	The service provider pays out benefits within the period specified in its service charter/SLA and reviews its processes to improve customer experience		1.0%		
5	The service provider avails and prominently displays key requirements and information on the processing of benefits		1.0%		
6	The service provider provides the contact details of the person or team dealing with the processing of a customer's benefits		1.0%		
7	Before making a decision to deny benefits, the service provider considers the customer's rights and reasonable expectations for non-payment with supporting evidence		1.0%		
8	The service provider has redress mechanisms for customers who are dissatisfied with the decisions made on benefits processing		1.0%		
9	The service provider has follow-up processes for determining customer satisfaction levels after benefits are paid		1.0%		

10	The service provider has mechanisms for ensuring that the retention of documents is done		1.0%		
11	The service provider has mechanisms for ensuring that the confidential handling of benefits payments		1.0%		
	Subtotal benefits processing	0.0%	12.0%		
	Complaints handling				
1	The service provider has clear procedures for processing complaints		1.0%		
2	The service provider tests the complaints process to ensure that it is accessible and appropriate for members		1.0%		
3	The service provider has a complaints management, record-keeping and cause analysis process		2.0%		
4	The service provider ensures that customers are well informed about the complaints procedure and available redress mechanisms (including contact information of the person or team dealing with the customer's complaint)		2.0%		
5	The service provider keeps the customer regularly informed once a complaint has been received		2.0%		
6	The service provider provides clear reasons for its responses (with supporting evidence where relevant) when responding to a complaint		2.0%		
7	The service provider's complaints process is structured to ensure that decisions are objective and consistent for similar complaints		1.0%		
8	The service provider has conflict of interest policies to ensure impartiality in decision-making		1.0%		
9	The service provider has follow-up processes to determine customer satisfaction levels after complaints have been finalised		1.0%		
	Subtotal complaints handling	0.0%	13.0%		
	Total claims and complaints handling	0.0%	25.0%		
	GRAND TOTAL	0.0%	100.0%		
	SUMMARY OF TCF PERFORMANCE FOR THE YEAR				
		<i>Actual%</i>	<i>Target%</i>	<i>Threshold***</i>	
1	TCF culture	0.0%	25.0%		



2	Products and services	0.0%	15.0%		
3	Clear and appropriate information	0.0%	15.0%		
4	Customer advice	0.0%	10.0%		
5	Performance and expectation	0.0%	10.0%		
6	Claims and complaints management	0.0%	25.0%		
		0.0%	100.0%		

Annex III – ASSESSMENT TOOL FOR MANAGERS

		Actual score %	Target score %	Variance (e) = (c) less (d)	*Remarks
(a)	(b)	(c)	(d)	(e) = (c) less (d)	
	<b>OUTCOME 1 – TCF CULTURE IN THE ORGANISATION</b>				
	Customers are confident that they are dealing with a company where the fair treatment of customers is at the core of the company's culture				
	<b>Leadership</b>				
1	The Board and management have been sensitized on the TCF Guidelines		1.0%		
2	The Board has passed a resolution to adhere to the TCF Guidelines		2.0%		
3	The Board has assigned the responsibility of implementing the TCF Guidelines to a senior manager		1.0%		
4	Senior managers in all areas of the business understand their role in ensuring adherence to the TCF Guidelines		2.0%		
5	The service provider has a process for reviewing the main business processes to identify areas that require improvement to ensure adherence to the TCF Guidelines		1.0%		
6	The service provider has communicated the TCF Guidelines to all relevant internal and external stakeholders		1.0%		
7	The service provider has a process for assessing employees' and management's understanding of TCF and the service provider's TCF commitments		1.0%		
8	Delivery on the TCF Guidelines is a feature of the service provider's stated values, code of conduct, ethics policy and other relevant policy documents		1.0%		



	Subtotal on leadership	0.0%	10.0%		
	Performance management				
1	The induction process for employees includes exposure to the TCF Guidelines and tools		2.0%		
2	Employees undergo periodic training on TCF objectives and deliverables		2.0%		
3	The service provider has a reporting framework for keeping the Board and management informed of the implementation of the TCF Guidelines which is aligned to the service provider's internal reporting policies		1.0%		
	Subtotal on performance management	0.0%	5.0%		
	Governance and control				
1	Monitoring of TCF delivery has been assigned to appropriate control functions such as board committee, risk management, internal audit or compliance functions		2.0%		
2	There are processes for regularly reporting organisation-wide progress in achieving TCF deliverables to the Board and senior management		2.0%		
3	Management of TCF and market conduct risks are formally included in risk-management framework		2.0%		
4	There are processes for identifying and reporting organization-wide level TCF risks or failures to senior management and Board		2.0%		
5	The governance framework supports TCF requirements		2.0%		
	Subtotal governance and control	0.0%	10.0%		
	Management information (MI)				
1	There are processes for collating and summarizing TCF related MI for reporting on organization-wide TCF progress to the Board and senior management		1.0%		
2	There are processes for analyzing and acting on MI findings to improve TCF outcomes for members		2.0%		
3	There is regular communication to the Authority on the service provider's progress in achieving and adhering to the TCF Guidelines		1.0%		

4	Information on implementation of the TCF Guidelines is readily available to all relevant stakeholders		1.0%		
	Subtotal management information	0.0%	5.0%		
	Grand total TCF culture	0.0%	25.0%		
	<b>OUTCOME 2—PRODUCTS AND SERVICES</b>				
	Products and services marketed and sold in the retail market are designed to meet the needs of identified customer groups and are targeted accordingly				
1	When designing products or services, the service provider identifies particular customer groups for which the products or services will be suitable		2.0%		
2	Employees and agents are properly trained on products and services and target customers		2.0%		
3	Promotion and distribution processes are suitable for the needs of identified customer groups		2.0%		
4	Relevant information is provided to customers to ensure understanding of products and services		2.0%		
5	There are measures for identifying and mitigating risks that a product or service may pose to targeted customers		2.0%		
6	The products or service approval process includes senior management confirmation that a product or service adequately meets the requirements of the TCF Guidelines including that it will perform as customers have been led to expect		2.0%		
7	There is a product or service withdrawal process for products or services that are unsuitable for identified customer groups		1.0%		
8	The service provider includes evaluation of TCF objectives when reviewing products and services		1.0%		
9	The service provider ensures that unfair trade practices are not used while selling products and services		1.0%		
	Total products and services	0.0%	15.0%		
	<b>OUTCOME 3—CLEAR AND APPROPRIATE INFORMATION</b>				
	Customers are given clear information and kept appropriately informed before, during and after the time of sale of products and services				

1	The service provider has mechanisms for assessing the clarity, appropriateness and fairness of product and service information provided to customers		2.0%		
2	The service provider has for rectification where a product or service does not meet its intended purpose		2.0%		
3	The service provider monitors and acts on feedback, complaints and suggestions from customers on the need for improvement in product and service information		2.0%		
4	The service provider provides customers with clear summaries and Frequently Asked Questions about each service and product sold to them		2.0%		
5	The service provider provides customers with contracting documents within the period specified in the service charter or operating procedures		2.0%		
6	The service provider maintains up-to-date contact details of current members		2.0%		
7	The service provider ensures that customers have current and accessible contact points if they need to get in touch for any reason		1.0%		
8	The service provider has accurate, retrievable and secure records of all product and service information provided to customers and any other material interactions with customers		1.0%		
9	The service provider has clearly stated and provided to members information on dispute resolution mechanisms		1.0%		
	Total clear and appropriate information	0.0%	15.0%		
	OUTCOME 4—CUSTOMER ADVICE				
	Where customers receive advice, the advice is suitable and takes into account their specific circumstances				
1	The service provider has a business process for ensuring that suitable advice is given for its products and services		1.0%		
2	Employees who market specific products or services offered by the service provider have been adequately trained so that they can provide suitable advice to customers		1.0%		

3	The service provider, when giving advice, excludes groups where information shall not be shared		1.0%		
4	The service provider monitors feedback and complaints from customers regarding the quality of advice from employees and agents of the service provider in order to identify training needs or the risk of inappropriate advice being given		1.0%		
5	The service provider has processes for identifying and mitigating risks to customers where the service provider's employees or agents have provided inappropriate or misleading advice or information		2.0%		
6	The service provider monitors potential TCF indicators (such as the retirement benefits claims experience and early termination data) to identify and mitigate the risk of inappropriate advice or poor customer experiences		2.0%		
7	There is a compensation mechanism to compensate customers who have suffered a negative financial impact because of inappropriate advice given by employees of the service provider		2.0%		
	Total customer advice	0.0%	10.0%		
	<b>OUTCOME 5 – PERFORMANCE AND EXPECTATION</b>				
	Customers are provided with products and services that perform as the service providers have led them to expect and the associated service is of an acceptable standard and what they have been led to expect				
1	The service provider has mechanisms for mitigating risks that emanate from the regulatory environment that may impact expectations of products or services		2.0%		
2	The service provider monitors and acts on feedback, complaint and suggestions from customers, members, intermediaries or employees that identify where improvements are needed in respect of products and services		2.0%		
3	The service provider has a process for alerting customers about the risks of particular actions by customers (such as early termination of a product, investment portfolio switches and benefits reductions) in reasonable time for customers to act on the information		2.0%		

4	The service provider has a process for alerting customers about the risks of non-action by customers (such as non-payment of contributions, non-completion of beneficiary nominations and not meeting statutory requirements)		2.0%		
5	The service provider has clear service standards and the same have been communicated to customers		1.0%		
6	The service provider has a process for protecting the confidentiality of customer information		1.0%		
	Total performance and expectation	0.0%	10.0%		
	<b>OUTCOME 6—BENEFITS PAYMENT AND COMPLAINTS HANDLING</b>				
	Customers do not face undisclosed post-sale barriers in accordance with the Consumer Protection Act, 2012				
	<b>Benefits processing</b>				
1	The service provider has availed to all relevant stakeholders the key requirements and information required in the processing of benefits		2.0%		
2	The service provider ensures the prudent management of investments to ensure schemes are liquid to be able to pay out benefits		2.0%		
3	The service provider has mechanisms to ensure the retention of documents is done		2.0%		
	Subtotal benefits processing	0.0%	6.0%		
	<b>Complaints handling</b>				
1	The service provider has clear service standards for processing complaints		2.0%		
2	The service provider tests the complaints process to ensure that it is accessible and appropriate for members		1.0%		
3	The service provider has a complaints management, record-keeping and cause analysis process		2.0%		
4	The service provider ensures that customers are well informed about the complaints procedure and available redress mechanisms (including contact information of the person or team dealing with the customer's complaint)		2.0%		



5	The service provider keeps the customer regularly informed once a complaint has been received		2.0%		
6	The service provider provides clear reasons for its responses (with supporting evidence where relevant) when responding to a complaint		2.0%		
7	The service provider's complaints process is structured to ensure that decisions are objective and consistent for similar complaints		1.0%		
8	The service provider has conflict of interest policies to ensure impartiality in decision-making		1.0%		
9	The service provider has follow-up processes to determine customer satisfaction levels after complaints have been finalised		1.0%		
	Subtotal complaints handling	0.0%	14.0%		
	Total claims and complaints handling	0.0%	20.0%		
	GRAND TOTAL	0.0%	100.0%		
SUMMARY OF TCF PERFORMANCE FOR THE YEAR					
		<i>Actual%</i>	<i>Target%</i>	<i>Threshold***</i>	
1	TCF culture	0.0%	25.0%		
2	Products and services	0.0%	15.0%		
3	Clear and appropriate information	0.0%	15.0%		
4	Customer advice	0.0%	10.0%		
5	Performance and expectation	0.0%	10.0%		
6	Claims and complaints management	0.0%	25.0%		
		0.0%	100.0%		

Annex IV – ASSESSMENT TOOL FOR CUSTODIANS					
		<i>Actual score %</i>	<i>Target score %</i>	<i>Variance</i>	<i>*Remarks</i>
(a)	(b)	(c)	(d)	(e) = (c) less (d)	
	OUTCOME 1 – TCF CULTURE IN THE ORGANISATION				
	Customers are confident that they are dealing with a company where the fair treatment of customers is at the core of the company's culture				
	Leadership				

1	The Board has been sensitized on the TCF Guidelines		2.0%		
2	The Board has passed a resolution to adhere to the TCF Guidelines		2.0%		
3	The Board has assigned a trustee or committee of the Board the responsibility of implementing the TCF Guidelines		2.0%		
4	Senior management in all areas of the service provider's business understand their role in ensuring adherence to the TCF Guidelines		2.0%		
5	The service provider has a process for identifying the areas that require improvement to ensure adherence to the TCF Guidelines		2.0%		
6	The service provider has communicated the TCF Guidelines to relevant internal and external stakeholders		2.0%		
7	The service provider has a process for assessing employees' and management's understanding of TCF and the service provider's TCF commitments		2.0%		
7	Delivery on the TCF Guidelines is a feature of the Board's stated values, code of conduct, ethics policy or other relevant policy documents		2.0%		
	Subtotal on leadership	0.0%	15.0%		
	Performance management				
1	The induction process for employees includes sensitization on the TCF Guidelines and tools		2.0%		
2	Employees undergo training on TCF objectives and deliverables		2.0%		
3	The service provider has a reporting framework for keeping the Board and management informed on the implementation of the TCF Guidelines which is aligned to the service provider's internal reporting policies		2.0%		
	Subtotal on performance management	0.0%	5.0%		
	Governance and control				
1	The service provider has assigned the monitoring of TCF delivery to appropriate control functions (such as Board committee, risk management, internal audit and compliance function)		2.0%		
2	The service provider has processes for reporting organization-wide progress in achieving TCF deliverables to the Board and senior management		2.0%		

3	The service provider has included the management of TCF and market conduct risks in the risk management framework		2.0%		
4	The service provider has a process for identifying and reporting organization-wide TCF risks or failures to senior management and the Board		2.0%		
5	The service provider's governance framework support TCF requirements		2.0%		
	Subtotal governance and control	0.0%	10.0%		
	Management information (MI)				
1	The service provider has processes for collating and summarizing TCF related MI for reporting on organization-wide TCF progress to the Board and senior management		2.0%		
2	The service provider has processes for analyzing and acting on MI findings to improve TCF outcomes for customers		2.0%		
3	The service provider has regular communication with the Authority on its progress in achieving and adhering to the TCF Guidelines		1.0%		
	Subtotal information	0.0%	5.0%		
	Grand total TCF culture in the organisation	0.0%	35.0%		
	<b>OUTCOME 2 – CUSTODIAN SERVICES</b>				
	Products and services marketed and sold in the retail market are designed to meet the needs of identified customer groups and are targeted accordingly				
1	Employees and agents are properly trained on the services they offer to schemes		2.0%		
2	The service provider provides relevant information to schemes to ensure understanding services		2.0%		
3	The service provider has measures for identifying and mitigating risks that a product or service may pose to targeted schemes		2.0%		
4	The service provider's approval process includes senior management confirmation that a service adequately meets the requirements of the		2.0%		

	TCF Guidelines including the requirement that it shall perform as the schemes were let to expect				
5	The service provider evaluates TCF objectives when reviewing its services		1.0%		
6	The service provider ensures that unfair trade practices are not used when selling services to schemes		1.0%		
	Total custodian and services	0.0%	10.0%		
OUTCOME 3 – CLEAR AND APPROPRIATE INFORMATION					
	Customers are given clear information and kept appropriately informed before, during and after the time of sale of products and services				
1	The service provider has mechanisms for assessing the clarity, appropriateness and fairness of service information provided to schemes		2.0%		
2	The service provider has mechanisms for rectifying where a service does not meet its intended purpose		2.0%		
3	The service provider monitors and acts on feedback, complaints and suggestions from customers, employees and others that identify the need for improvement in service information		2.0%		
4	The service providers provide schemes with clear summaries and Frequently Asked Questions for each service sold through brochure or posts on its website		2.0%		
5	The service providers provide schemes with contracting documents within the period specified in its service charter or operating procedures		2.0%		
6	The service provider maintains up-to-date contact details of its current customers		1.0%		
7	The service providers ensure that customers have current and accessible contact points if they need to get in touch for any reason		1.0%		
8	The service provider has accurate, retrievable and secure records of all service information it has provided to customers and any other material interactions with schemes		2.0%		



9	The service provider has clearly stated and provided all its schemes with information on dispute resolution		1.0%		
	Total clear and appropriate information	0.0%	15.0%		
	<b>OUTCOME 4—CUSTOMER ADVICE</b>				
	Where customers receive advice, the advice is suitable and takes into account their specific circumstances				
1	The service provider has a business process to ensure that suitable advice is given to the target market of its services		2.0%		
2	Employees who market specific services offered by the service provider are provided with adequate training to enable them to provide suitable advice to schemes		2.0%		
3	The service provider monitors feedback and complaints received from schemes about the quality of advice schemes have received from employees and agents to identify any training needs or the risks of inappropriate advice		2.0%		
4	The service provider has processes for identifying and mitigating the risk to schemes where employees or agents have provided inappropriate advice or misleading information to customers		2.0%		
5	The service provider has compensation mechanisms for compensating customers who have suffered a negative financial impact as a result inappropriate advice provided by the employees		2.0%		
	Total customer advice	0.0%	10.0%		
	<b>OUTCOME 5—PERFORMANCE AND EXPECTATION</b>				
	Customers are provided with products and services that perform as the service providers have led them to expect and the associated service is of an acceptable standard and what they have been led to expect				
1	The service provider has mechanisms for mitigating risks that emanate from the regulatory environment that may impact the expectations of the services		1.0%		
2	The service provider monitors and acts on feedback, complaints and suggestions received from customers, members, intermediaries or		2.0%		



	employees that identify the need for improvements in types of services or service standards				
3	The services provider has processes for alerting customers to the risks of particular actions (such as early termination of a service) in reasonable time for customers to respond to, or act on, the information		2.0%		
4	The service provider has processes for alerting customers to the risks of non-action (such as non-payment of contributions, non-completion of beneficiary nominations and not meeting certain statutory requirements)		2.0%		
5	The service provider has clear service standards which have been communicated to customers		1.0%		
6	The service provider has processes for the protection of the confidentiality of customer information		2.0%		
	Total performance and expectation	0.0%	10.0%		
	<b>OUTCOME 6—BENEFITS PAYMENT AND COMPLAINTS HANDLING</b>				
	Customers do not face undisclosed post-sale barriers in accordance with the Consumer Protection Act, 2012				
	Benefits processing				
1	The service provider has clear service standards for the payment of benefits		2.0%		
2	The service provider pays benefits within the period specified in the service charter/SLA and reviews its processes and services to improve customer experience		2.0%		
3	The service provider has availed key requirements and information that is required for the processing of benefits		1.0%		
4	The service provider, in consultation with administrators and trustees, ensures that there are sufficient resources to pay out benefits		1.0%		
5	The service provider has mechanisms to ensure that the documents are retained		1.0%		
6	The service provider has mechanisms to ensure that benefits payments are done confidentially		2.0%		

	Subtotal benefits processing	0.0%	9.0%		
	Complaints handling				
1	The service provider has clear service standards for processing complaints		1.0%		
2	The service provider tests the complaints process to ensure that it is accessible and appropriate for its customers		2.0%		
3	The service provider has a complaints management, record keeping and root cause analysis process		1.0%		
4	The service provider has informed customers on the available complaints procedure and redress mechanisms including the contact information of the person or team dealing with the complaint		2.0%		
5	The service provider keeps customers regularly informed of the progress of a complaint once it has been received		1.0%		
6	The service provider, when responding to a complaint, provides clear reasons with supporting evidence for its response		1.0%		
7	The service provider's complaints process is structured to ensure that decisions are objective and consistent for similar complaints		1.0%		
8	The service provider has conflict of interest policies to ensure impartiality in decision-making		1.0%		
9	The service provider has a follow-up process to determine customer satisfaction levels after complaints have been finalised		1.0%		
	Subtotal complaints handling	0.0%	11.0%		
	Total claims and complaints handling	0.0%	20.0%		
	GRAND TOTAL	0.0%	100.0%		
	SUMMARY OF TCF PERFORMANCE FOR THE YEAR				
		<i>Actual%</i>	<i>Target%</i>	<i>Threshold***</i>	
1	TCF culture	0.0%	25.0%		
2	Products and services	0.0%	15.0%		
3	Clear and appropriate information	0.0%	15.0%		
4	Customer advice	0.0%	10.0%		
5	Performance and expectation	0.0%	10.0%		

6	Claims and complaints management	0.0%	25.0%		
		0.0%	100.0%		

TOOL V – ASSESSMENT TOOL FOR APPROVED ISSUERS					
		Actual score %	Target score %	Variance	*Remarks
(a)	(b)	(c)	(d)	(e) = (c) less (d)	
	<b>OUTCOME 1 – TCF CULTURE IN THE ORGANISATION</b>				
	Customers are confident that they are dealing with a company where the fair treatment of customers is at the core of the company's culture				
	Leadership				
1	The Board and senior management have been sensitized on the TCF Guidelines		1.0%		
2	The Board has passed a resolution to adhere to the TCF Guidelines		2.0%		
3	The Board has assigned a senior manager the responsibility of implementing the TCF Guidelines		1.0%		
4	Senior management in all areas of the business understand their role in ensuring adherence to the TCF Guidelines		2.0%		
5	The service provider has a process to review the man business processes in order to identify areas that require improvement to ensure adherence to the TCF Guidelines		1.0%		
6	The Board and senior management have communicated the TCF Guidelines to relevant internal and external stakeholders		1.0%		
7	The service provider has a process for assessing employees' and management's understanding of TCF and the business's TCF commitments		1.0%		
8	Delivery on the TCF Guidelines is a feature of the business's stated values, code of conduct, ethics policy or other relevant policy documents		1.0%		
	Subtotal on leadership	0.0%	10.0%		
	Performance management				

1	The induction process for employees includes exposure to the TCF Guidelines and tools		2.0%		
2	Employees undergo periodic training on TCF objectives and deliverables		2.0%		
3	The service provider has a reporting framework that is aligned to the internal reporting policies for keeping the Board and management informed on the implementation of the TCF Guidelines		1.0%		
	Subtotal on performance management	0.0%	5.0%		
	Governance and control				
1	Monitoring of TCF delivery has been assigned to appropriate control functions including a board committee, risk management, internal audit and/or compliance functions		1.0%		
2	The service provider has a process for periodically reporting organization-wide progress in achieving TCF deliverables to the Board and senior management		1.0%		
3	The management of TCF and market conduct risks are included in the service provider's risk management framework		1.0%		
4	The service provider has a process for identifying and reporting organization-wide TCF risks or failures to senior management and the Board		1.0%		
5	The service provider's governance framework supports TCF requirements		1.0%		
	Subtotal governance and control	0.0%	5.0%		
	Management information (MI)				
1	The service provider has a process for collating and summarising TCF related MI for reporting on organization-wide TCF implementation to the Board and senior management		1.0%		

2	There is a process for analyzing and acting on MI findings to improve TCF outcomes for customers		2.0%		
3	The service provider has periodic communication to the Authority on the company's progress in achieving and adhering to TCF Guidelines		1.0%		
4	Information on the implementation of TCF Guidelines is readily available to all stakeholders		1.0%		
	Subtotal management information	0.0%	5.0%		
	Grand total TCF culture in the organisation	0.0%	25.0%		
	<b>OUTCOME 2— PRODUCTS AND SERVICES</b>				
	Products and services marketed and sold in the retail market are designed to meet the needs of identified customer groups and are targeted accordingly				
1	When designing a product or service, the service provider identifies the particular customer groups the product or service will be suitable for		2.0%		
2	Employees and agents of the service provider are properly trained on the products, services and the intended customers		2.0%		
3	The service provider's product and service promotion and distribution processes are suitable for the needs of identified customer groups		2.0%		
4	The service provider provides relevant information to customers to ensure understanding of the products or services offered		2.0%		
5	The service provider has measures for identifying and mitigating risks that a product or service may pose to identified customer groups		2.0%		
6	The service provider's product or service approval process includes senior management confirmation that the products or services adequately meets the requirements of the TCF Guidelines including		2.0%		



	the requirements that it will perform as customers have been led to expect				
7	The service provider has product and service withdrawal processes for products or services that become unsuitable for the identified customer group		1.0%		
8	The service provider includes the evaluation of TCF objectives when reviewing our products or services		1.0%		
9	The service provider ensures that unfair trade practices are not used while selling products and services		1.0%		
	Total products and services	0.0%	15.0%		
	<b>OUTCOME 3—CLEAR AND APPROPRIATE INFORMATION</b>				
	Customers are given clear information and kept appropriately informed before, during and after the time of sale of products and services				
1	The service provider has mechanisms to assess clarity, appropriateness and fairness of product or service information provided to customers		2.0%		
2	The service provider has mechanisms to rectify where a product or service does not meet its intended purpose		2.0%		
3	The service provider monitors and acts on feedback, complaints and suggestions from customers, employees and any other person that show where to improve product or service information		2.0%		
4	The service provider provides customers with clear summaries and Frequently Asked Questions (FAQs) for each product or service		2.0%		
5	The service provider provides customers with contract documents within the period specified in its service charter or operating procedures		2.0%		
6	The service provider maintains up-to-date contact details of current customers		1.0%		

7	The service provider ensures that customers have current and accessible contact points if they need to get in touch		1.0%		
8	The service provider has accurate, retrievable and secure records of all product and service information provided to customers and any other material interactions with customers		2.0%		
9	The service provider clearly states and provides to all customers information on available dispute resolution mechanisms		1.0%		
	Total clear and appropriate information	0.0%	15.0%		
	<b>OUTCOME 4—CUSTOMER ADVICE</b>				
	Where customers receive advice, the advice is suitable and takes into account their specific circumstances				
1	The service provider has business processes that ensure advice is given to the target market for products and services		1.0%		
2	The service provider's employees who market specific products and services offered by the organization are provided with adequate training to enable them to provide suitable advice to customers		1.0%		
3	The service provider ensures that while giving advice, it excludes groups where advice will not be shared		1.0%		
4	The service provider monitors feedback and complaints from customers regarding the quality of advice from employees and agents to identify any training needs and/or risk of inappropriate advice		1.0%		
5	The service provider has processes for identifying instances and mitigating the risk to customers where employees or agents have provided inappropriate advice or misleading information to customers		2.0%		
6	The service provider monitors potential TCF indicators (such as retirement benefits claims experiences and early termination data) to identify and mitigate risks of inappropriate advice or poor customer experience		2.0%		

7	The service provider has compensation mechanisms to compensate customers who have suffered a negative financial impact as a result of inappropriate advice provided by employees		2.0%		
	Total customer advice	0.0%	10.0%		
OUTCOME 5—PERFORMANCE AND EXPECTATION					
	Customers are provided with products and services that perform as the companies have led them to expect and the associated service is of an acceptable standard and what they have been led to expect				
1	The service provider has mechanisms for mitigating risks emanating from the regulatory environment that may impact the expectations of the products or services		2.0%		
2	The service provider monitors and acts on feedback, complaints and suggestions from customers, members, intermediaries or employees that identify where to improve in services or service standards		2.0%		
3	There are processes for alerting customers to risks of particular actions on their part such as early termination of a product, investment portfolio switches and benefit reductions in reasonable time for them to respond to or act on the information		2.0%		
4	The service provider has processes for alerting customers to the risks of non-action on their part (such as non-payment of contributions or non-completion of beneficiary nominations or not meeting certain statutory requirements)		2.0%		
5	The service provider has clear service standards which have been communicated to customers		1.0%		
6	The service provider has processes for protecting the confidentiality of customer information		1.0%		
	Total performance and expectation	0.0%	10.0%		

	OUTCOME 6—BENEFITS PAYMENT AND COMPLAINTS HANDLING				
	Customers do not face undisclosed post-sale barriers in accordance with the Consumer Protection Act, 2012				
	Benefits processing				
1	The service provider has clear standards for processing benefits		1.0%		
2	The service provider informs customers of service standards/SLAs/contracts for processing benefits		1.0%		
3	The service provider provides customers with Frequently Asked Questions on the processing of benefits		1.0%		
4	The service provider pays benefits within the period set out in the service charter/SLAs and frequently reviews processes and services to improve customer experience		2.0%		
5	The service provider avails and prominently displays the key requirements and information required in benefits processing		1.0%		
6	The service provider provides contact details of the person or team dealing with the processing of a customer's benefits or complaint		1.0%		
7	Before making a decision to deny payment of benefits, the service provider considers the customer's rights and reasonable expectations and gives clear reasons for non-payment with supporting evidence		1.0%		
8	The service provider has redress mechanisms where customers are dissatisfied with the decisions made on benefits processing		1.0%		
9	The service provider has follow-up processes to determine customer satisfaction levels after benefits have been paid		1.0%		
10	The service provider has mechanisms for ensuring retention of documents		1.0%		
11	The service provider has mechanisms for ensuring the confidential handling of benefits payments		1.0%		



	Subtotal benefits processing	0.0%	12.0%		
	Complaints handling				
1	The service provider has clear service standards for processing complaints		1.0%		
2	The service provider tests its complaints process to ensure that it is accessible and appropriate for our customers		1.0%		
3	The service provider has a complaints management, record-keeping and root-cause analysis process		2.0%		
4	The service provider informs customers of the complaints procedure and redress mechanisms available including contact information of persons dealing with the complaint		2.0%		
5	Once a complaint has been received, the service provider keeps the customer regularly informed of the progress		2.0%		
6	When responding to a complaint, the service provider provides clear reasons for responses with supporting evidence where relevant		2.0%		
7	The service provider's complaints processes are structured to ensure that decisions are objective and consistent for similar complaint		1.0%		
8	There are conflict of interest policies for ensuring impartiality in decision-making		1.0%		
9	The service provider has follow-up processes for determining customer satisfaction levels after complaints have been finalised		1.0%		
	Subtotal complaints handling	0.0%	13.0%		
	Total claims and complaints handling	0.0%	25.0%		
	GRAND TOTAL	0.0%	100.0%		
	SUMMARY OF TCF PERFORMANCE FOR THE YEAR				
		<i>Actual%</i>	<i>Target%</i>	<i>Threshold***</i>	
1	TCF culture	0.0%	25.0%		



		<i>Actual%</i>	<i>Target%</i>	<i>Threshold***</i>	
2	Products and services	0.0%	15.0%		
3	Clear and appropriate information	0.0%	15.0%		
4	Customer advice	0.0%	10.0%		
5	Performance and expectation	0.0%	10.0%		
6	Claims and complaints management	0.0%	25.0%		
		0.0%	100.0%		

How to score:

1. Approved Issuers will insert their self-score in column (c); column (d) is constant and auto-generated; the variance in (e) will appear once the score in (c) is inserted.
2. Where a required indicator is partially completed, the Approved Issuer will score themselves 50% of the target score.
3. Approved Issuers may insert remarks on progress towards achieving the activity required
4. The Threshold refers to minimum score a well-managed Approved Issuer is expected to attain as it works with the Authority towards full compliance.

Dated the 25th June, 2019.

NZOMO MUTUKU,  
*Chief Executive Officer*  
*of the Retirement Benefits Authority.*

**EXPLANATORY MEMORANDUM TO THE RETIREMENT BENEFITS (TREATING CUSTOMERS FAIRLY) GUIDELINES, 2019**

**LEGAL NOTICE NO. 151 OF 2019**

**PART I**

<b>Name of Statutory Instrument:</b>	Retirement Benefits (Treating Customers Fairly) Guidelines, 2019
<b>Name of the Parent Act</b>	: Retirement Benefits Act (Cap. 197)
<b>Enacted Pursuant to</b>	: Section 55 (3) of the Retirement Benefits Act
<b>Name of the Ministry</b>	: The National Treasury and Planning
<b>Gazetted on</b>	: 27 <sup>th</sup> September, 2019
<b>Tabled on</b>	:

**PART II**

**1. Purpose of the Statutory Instrument**

The purpose of the Retirement Benefits (Treating Customers Fairly) Guidelines, 2019 is to ensure that the customers (trustees, members and beneficiaries of retirement benefits schemes) are treated fairly by service providers (administrators, fund managers, custodians and approved issuers). The Guidelines require service providers to:-

- i. focus on the customers' needs and provide customers with suitable information and advice;
- ii. offer timely products and services of an acceptable standard and reasonable cost;
- iii. issue reasonable rules, conditions and costs; and
- iv. fully disclose to customers the merits and demerits of the product or service at the point of sale.

**2. Legislative Context**

The legal framework for the Guidelines is provided for under Article 46 of the Constitution of Kenya, 2010 which provides that consumers have the right to services of reasonable quality; to the information necessary for them to gain full benefit from services; to the protection of their

economic interests; and to compensation for loss arising from defects in services. To give effect to this provision, Parliament has enacted the Competition Act, 2010 which in section 56 makes it an offence for a person in connection with the supply of services to another person, to engage in conduct that is unconscionable. Such conduct shall arise *inter alia* where a consumer is required to comply with conditions that were not reasonably necessary for the protection of the legitimate interests of the service provider. The law also considers if the consumer was able to understand any documents relating to the supply or possible supply of the services and if unfair tactics were used against the consumer. The amount for which, and the circumstances under which, the consumer could have acquired identical or equivalent services from another supplier is also considered. The section prohibits unilateral imposition of charges and fees which have not been brought to the attention of the consumer prior to their imposition. A consumer is entitled by the section to be informed by a service provider of all charges and fees to be imposed for the provision of a service.

Parliament has also enacted the Consumer Protection Act, 2012 whose purpose is *inter alia* to promote fair and ethical business practices, protect consumers from improper trade practices, improve consumer awareness and enable informed consumer choices and behavior. Section 12 stipulates that it is an unfair practice for a person to make a false, misleading or deceptive representation with regard to the nature and cost of services. Section 13 prohibits unconscionable representations. In determining whether a representation is unconscionable, various factors are to be taken into account including the consumer's ability to understand an agreement; the price compared to similar services; benefit to the consumer; ability to pay; equity of terms and misleading representations.

Section 55 (3) of the Retirement Benefits Act empowers the Retirement Benefits Authority to issue Guidelines, practice notes or codes of conduct for better administration of the retirement benefits schemes.

### **3. Policy Background**

The Retirement Benefits Authority has the mandate of protecting the interests of members and sponsors of retirement benefits schemes. Service providers to schemes offer complex products that may not be readily understandable to the customers in the pre-sale engagement and even during the duration of the contract.

In order to protect consumers against unethical and unfair business practices the Constitution and Acts of Parliament have put in place various safeguards to regulate the conduct of service providers. The Authority has consolidated these safeguards into Guidelines as a reference point.

The Guidelines seek to ensure high quality and responsibly delivered services are offered to the customer thereby increasing customer confidence in the retirement benefits industry. Specifically, the Guidelines aim to ensure that customers are offered products that they need, and that customers make informed choice among a range of products, services and providers, based



on appropriate and sufficient information and advice available in a transparent and easy-to-understand way.

#### 4. Consultation Outcome

In developing the Guidelines, the Authority consulted with key stakeholders. This ensured that the drafting process addressed all the pertinent issues and the interests of members, trustees, employers and service providers.

The Authority arranged public participation forums in five regions namely Nyeri, Nakuru, Kisumu, Mombasa and Nairobi to expose the draft guidelines to the public while receiving their views, as follows:-

DATE	REGION	VENUE	INVITED PERSONS	NO. OF PARTICIPANTS
29th October 2018	Nyeri	Outspan Hotel	50	25
30th October 2018	Nakuru	Hotel Waterbuck	50	15
31st October 2018	Mombasa	Sarova Whitesands	50	18
1st November 2018	Kisumu	Imperial Hotel	50	45
5th November 2018	Nairobi	Sarova Panafric	50	48
6th November 2018	Nairobi	Sarova Panafric	50	42
			<b>300</b>	<b>193</b>

The Guidelines were well received by the public with majority of the stakeholders opining that the Guidelines were critical in ensuring members' rights are well protected in the Retirement Sector.

The Guidelines were reviewed with most of the comments from stakeholders incorporated in the final draft. The revised draft was exposed to stakeholders in a validation exercise that incorporated service providers as well as the different associations in the retirement sector. The Authority was also guided by research on global developments and best practices in the banking and insurance sector. The Guidelines will be the first in this area in the Retirement Benefits Industry.

#### 5. Guidance

The draft Guidelines were uploaded on the Authority's website for ease of access by stakeholders and the public. Stakeholder workshops were organized to engage and inform stakeholders on the principles in the Guidelines considering that the concepts were new in the retirement benefits industry. Further, the Authority has been creating awareness by educating the public on the existence of the Guidelines and is planning for sensitization sessions where



trustees, employers, service providers as well members will be educated on the requirements of the Guidelines.

The Authority shall keep posting updates on its website, annual pension magazine and social media sites such as Facebook and Twitter to create awareness.

Documents incorporated into these Guidelines by reference are:-

- a. The Constitution of Kenya, 2010
- b. The Retirement Benefits Act ( Cap. 197)
- c. The Competition Act ( No. 12 of 2010)
- d. The Consumer Protection Act, (No. 12 of 2012)

All available at [www.kenyalaw.org](http://www.kenyalaw.org)

## **6. Impact**

### *6.1 Impact on Fundamental Rights and Freedoms*

The Guidelines seek to lay out a legal framework for the fair treatment of customers by service providers. The Guidelines have taken into consideration Chapter 4 of the Constitution by incorporating the principles of right and access to information. The Guidelines do not limit or infringe upon any right or fundamental freedom under the Bill of Rights. On the contrary, they ensure mechanisms are in place to promote transparency, efficiency and accountability in the provision of services to retirement benefits schemes.

### *6.2 Impact on the Private Sector*

The Guidelines will boost confidence in the Retirement Benefits sector by enhancing transparency. It is anticipated that services shall be more accurately priced, and more faithfully rendered as a result. Unfair competition shall be discouraged and this shall lead to market stability.

### *Impact on the Public Sector*

By enhancing transparency and setting readily identifiable industry standards, the Guidelines shall enhance customer protection and satisfaction. This is expected to boost uptake of pension products and grow the market.

### *6.3 Summary of Impact Assessment*

The Guidelines provide a framework for the fair treatment of customers by service providers of retirement benefits schemes. Such a framework will guide and increase public confidence, which

will greatly promote the development of the retirement benefits sector and the country's economy.

**7. Monitoring and review**

The Retirement Benefits Authority is responsible for ensuring compliance with these Guidelines. It shall regularly perform evaluation, analysis and inspection of the schemes to assess the implementation of these Guidelines. In the event of any non-compliance, the Authority will take regulatory actions as provided for in the Retirement Benefits Act and related Regulations

**NZOMO MUTUKU**

**Chief Executive Officer – Retirement Benefits Authority**

**8<sup>th</sup> October, 2019**