

Draft



BANK OF PNG



TREASURY DEPARTMENT

Terms of Reference for the Superannuation Task Force: Review of the Regulation of the Superannuation Industry in PNG

Background

This statement sets out the terms of reference for the conduct of a review of the regulation of the superannuation industry in PNG. The Superannuation (General Provisions) Act 2000 (the 'Act') was implemented in 2002 following a review by a Superannuation Task Force. This Task Force recommended in its Further Report to the Government dated April 2002 that a follow-up review should be conducted after a period of implementation of the Act to determine the effectiveness of the new legislation.

The Superannuation (General Provisions) Act 2000 became effective on 9 May 2002. It had a transition period of one year (up to 8 May 2003) to allow existing funds to settle issues on the transfer to the new regime. The Financial Supervision Department of the Central Bank ("the Regulator") processed licensing applications from trustee entities, fund administrators and investment managers during the transitional period, which was extended by six months (up to 8 November 2003) to complete processing of all applications. The legislation became fully effective on 9 November 2003.

This Superannuation Task Force has therefore been re-established, as recommended in the Report and accepted by the Government, to undertake the review of the effectiveness of the administration and prudential management of regulatory regime established by the Act and associated regulation.

Membership of the Task Force

The Task Force is to be comprised of five (5) members. These would include Mr. Madiu Andrew (independent), Mr. Greg Taylor (member of the last TF), Lady Mina Siaguru (member of the last TF), Mr. John Jeffery (President, Employers Federation (PNG)), John Tangitban (nominated by PNGTUC as employee representative) The Chair role is to be determined by the Governors of the Bank (in consultation with Treasury)

Objective of Review

Consistent with maintaining and enhancing the reforms embodied in the Superannuation (General Provisions) Act 2000, the Superannuation Task Force should evaluate, report and recommend on eight specific terms of reference:

1. The effectiveness of the implementation of the Act and the ways in which its administration can be improved, including but not limited to:

Proposed Terms of Reference New

- (a) assess and determine a suitable licensing and regulatory (supervision) fee structure; and
 - (b) assess and determine a suitable minimum financial requirement for a licence holder; and
 - (c) confirm the legality of transfer of fund assets and liabilities from the old trustee to the new trustee entity during the transitional period.
2. The effectiveness of the implementation of the requirements of the Act by superannuation funds and the licensees operating under the Act, drawing as appropriate from the inspections conducted by the Bank and any other relevant advice from the Bank including but not limited to:
- (a) assess and determine the impact of the Act and associated regulation on the financial sustainability of small ASFs (more than 10 members, less than K100m under management) and their ability to comply with the regulatory requirements and to advise on the way forward;
3. The capacity of the BPNG in fulfilling its central responsibilities under the Act including but not limited to:
- (a) its conduct of the licensing process; and
 - (b) the assessment of technical expertise and manpower the Bank requires to effectively enforce the requirements of the legislation; and
 - (c) its power to prosecute breaches of the Act.
4. The awareness of employers, superannuation members and the wider community towards their rights and responsibilities under the legislation including but not limited to:
- (a) their acceptance of the need for regular contribution and the rights of preservation of superannuation monies; and
 - (b) whether employers have met their duty to remit the contributions on a fortnightly basis; and
 - (c) the need for enforcement in the event of breach of those duties.
5. The ways in which the relevant Acts and associated regulation can be enhanced to achieve the objective of sound prudential management of superannuation including but not limited to:
- a) taxation on withdrawal of benefits and fund income
 - b) unemployment withdrawal process
 - c) housing advance rules
 - d) expatriate superannuation
 - e) member insurance within the superannuation environment
 - f) relevance or otherwise of the Public Finances Management Act 1995, Public Accounts Committee & role of the Auditor General.
 - g) competition policy around a level playing field between ASF's

- h) review of preservation age
 - i) protection against attachment
 - j) desired employer and employee contribution rates long term
 - k) women and superannuation and specifically whether maternity benefits within superannuation should be considered
 - l) trustee governance
 - m) transfer of benefits between ASF's
 - n) the desirability or otherwise of releasing benefits to members under compassionate grounds
 - o) review of the inconsistency in the Act in regards to investment in loans against arms length transactions - Section 72
 - p) payment of benefits to beneficiaries
6. The ways in which prudential standards can be enhanced to achieve the objective of sound prudential management of superannuation including the need or otherwise for a prudential standard on
- a) return on fund assets and crediting rate policy
 - b) consistency in dealing with bad and doubtful debts and
 - c) treatment of unfunded liabilities
7. Repeal of all residual POSF and DFRBF Acts;
8. The administrative and regulatory relationship of the Superannuation (General Provisions) Act 2000 with the Life Insurance Act 2000 and/or any other prudential legislation as the Task Force may consider appropriate.

The Task Force shall report to Government within six months.
