PENSION REFORM BILL 2014

Key Notables for Employer Reference

INTRODUCTION

As a leading Oil & Gas recruitment consultancy, Energi Talent Resourcing constantly engages our clients in a positive manner in other to truly understand how we can support their recruitment needs. In view of this and as an extension of our value added services, we present a summary of the recently introduced Pension reform with key focus on the sections related to employers.

Overview

The President of the Federal Republic of Nigeria, Goodluck Jonathan, recently signed into law a Pension Reform Act repealing the previous Pension Reform Act No. 2 of 2004.

The key notables in the new act include an upward review of the contribution rate by workers and their employers. It also stiffens the penalties and sanctions for employers having non-compliance issues on remittance of pension contributions.

This review had become necessary in view of having a structure to support and harness the potentials in the schemes growth.
As noted by the Director General, PenCom, Chinelo Anohu-Amazu, the Contributory Pension Scheme (CPS) Fund has seen an increase from N2 trillion investible funds to over N4.5 trillion within the span of 10 years.

The commission also recorded contributory growth at 58% per annum with the value of total pension fund assets growing at an annual average of 25%.
Further growth is anticipated with the expanded coverage of the scheme to include private sector employers with a minimum of three staff, as against the previous standard of mandatory cover for organizations with more than 15 employees.

Notable Points of the Act

Pension Contribution Rate:

The newly signed act has seen an overall increase from 15% (repealed 2014 act) to 18%, with the employer contributing 10% and the employee 8%. Where the employer wishes to take full responsibility for the contribution, a remittance of not less than 20% should be made on behalf of the employee.
The act also expands to allow an employee make voluntary contributions to his retirement savings account. It also charges the employer to maintain, at thrice the employees' yearly emolument, a Group Life Insurance Policy with the premium being paid at a date not later than the commencement of the cover.

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Review of the Penalties and Sanctions:

According to the guidelines outlined in the act, misappropriation or diversion of pension funds by a Pension Fund Administrator or Pension Fund Custodian is liable on conviction to attract a fine equal in amount to three times the misappropriated or diverted fund or to a term not less than 10 years imprisonment or both.
The 2014 act also makes provisions for PenCom, under the power of the Attorney General of the Federation, to institute legal proceedings against employers who default on deduction and remittance of pension contributions from their employees within the specified time frame.

Temporary Retirement Savings Account:

As stated in the guidelines issued by the commission, in the event an employee fails to open a Retirement Savings Account within six months after resumption of current employment, his employer is required to make provisions through a Pension Fund Administrator for the opening of a nominal savings account for remittance of the employees' pension contribution.

Early Access to Retirement Savings Account:

The revised act allows any worker below the age of 50, to make a withdrawal from their Retirement Savings Account, on the basis that he/she has been unable to secure work within four months of disengagement from paid employment. This is limited to 25% of the overall sum of their savings.

Conflict Resolution:

Disputes arising from the misadministration of an employee or beneficiary's Retirement Savings Account by an employer or Pension Fund Custodian will be reviewed in accordance with the Act by the commission.

Pension Protection Fund:

The commission, on the authority of the act, is allowed an annual subvention of 1% of the employee's gross monthly pay towards the funding of a minimum guaranteed pension.
The Pension Protection Fund will also be supported with a percentage of the income accrued from investments made with the use of the Pension Protection Fund and an annual levy payable by the commission and all licensed pension operators at a rate set by the commission.
This only applies to public sector workers.

Tax Exemption:

Under this act, all payable forms of dividends, interest, profits and investments accruable to pension funds and assets will be untaxed. Similarly, any retirement benefit payable will also not be taxed.

National Social Insurance Trust Fund:

Any person who contributed to the National Social Insurance Trust Fund, and is retired before the reformed act was signed into law, is entitled to payment from the Retirement Savings Account opened under the reformed act.
The due funds will be paid either in lump sum or in accordance with the guidelines set by the commission. Where the retiree is deceased, the estate or a named beneficiary will be paid the entitlements as set by the provisions of the NSITF.

Investment of Funds:

The Act widens the range to which the pension funds can be invested. Investments in financial institutions are subject to approval by the commission.

Confidentiality:

It maintains that all employees and agents in the employ of a PFA or PFC are expected to treat all and any information as confidential and should not for any reason be disclosed. A breach of this may attract a fine of N10 million or jail term of 5 years or both.

CONCLUSION

The reforms stated in the Act will further serve to strengthen the commissions' regulatory powers and also provide a framework in achieving the objectives of the reform as it relates to security in employees' retirement and safety of pension assets.
Issues with reference to defaulting remittance by employers are addressed with the use of an application called Risk Management Analysis which monitors remittance of pension contributions of employees by employers.

An interesting point to note is the separation of the pension fund between management and custody. As noted by PenCom, with the Pension Fund Administrator managing the assets and the Pension Fund Custodian handling custody of the funds, fears from both employer/employee on the security of their remittance should be allayed in due course.

Concerning the increased remittance rate for employers, how this will impact on the structure of employee remuneration going into 2015 is still a subject opened to consideration.