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THE MICRO PENSION PLAN – THE "INFORMAL SECTOR" MAY NOW BE ABLE TO CONTRIBUTE TOWARDS THEIR PENSION

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1.0. Introduction

The Pension Reform Act (PRA) 2014, in order to establish the rules, standard and regulations for the provision of retirement benefits to private and public employees, created the Contributory Pension Scheme ("the Scheme").

However, the applicability of the Scheme is limited to employees in the public sector and persons in the employment of private organizations with 15 (fifteen) or more employees.

Although Section 2(3) of the PRA 2014 makes self -employed persons and employees in an organization with less than 3 (three) employees entitled to participate in the Scheme, it notably subjects their participation to the provisions of "guidelines" issued by the National Pension Commission ("the Commission") on same.

Furthermore, the PRA 2014 did not consider persons in the employment of private organizations with 4 -14 employees.

Perhaps in a bid to bridge the existing gap, which has largely accounted for the lack of pension coverage in the informal sector of the economy, the Commission developed a set of guidelines ("the Guidelines")[1] to give effect to the provision of S. 2(3) of the PRA 2014, through the mechanism of a "Micro Pension Plan".

We have summarized below, the key features of the Micro Pension Plan.

2.0. Scope/Eligibility

The Guidelines make the underlisted persons with legitimate sources of income eligible for participation in the Micro Pension Plan under Section 2 (3) of the PRA 2014:

a. Self-employed persons that belong to a Trade, Profession or Business Association.
b. Self-employed persons with a business registration as a company, partnership or enterprise.
c. Employees operating in the "informal sector" who work with or without formal written employment contracts.
d. Other self-employed individuals

In other words, all self-employed persons and employees in the "informal sector" with legitimate sources of income are eligible to participate in the Micro Pension Plan.

The informal sector is defined in the Guidelines to mean "*employees in companies that are not mandated to implement the Contributory Pension Scheme*". Accordingly, considering the category of employees that the Scheme is applicable to; i.e. employees in the public sector and employees in companies with 15 or more employees, it appears that employees of an organization with 14 or less employees may be classified as employees in the informal sector and thus, eligible to participate in the Micro Pension Plan.

It is, however, pertinent to note that to be registered under the Micro Pension Plan, an individual must be resident in Nigeria and must be above the age of 18 (eighteen) years. Notwithstanding same, persons between the ages of 15 - 18 may be able to participate if the approval of their guardians have been obtained.

3.0. Features of the Micro Pension Plan

3.1. Registration

Unlike the Scheme under the PRA 2014, the Micro Pension Plan appears not to be mandatory. Accordingly, an eligible person may choose to register under the Micro Pension Plan by opening a Retirement Savings Account (RSA) with its Pension Fund Administrator (PFA) of choice and providing the requisite documentation as specified by the PFA.

3.2. Contributions

In a bid to accommodate the flexibility and irregu arity of income streams common to the informal sector, a Micro Pension Contributor may make contributions towards his/her pension either daily, weekly, monthly or as may be convenient. All contributions are however expected to be made in Nigerian Naira (NGN).

Furthermore, contributions are made entirely by the Micro Pension Contributor as opposed to the requirements of the PRA 2014 that an employer must contribute a minimum of ten percent (10%) of the employee's monthly emoluments towards the employee's pension. In other words, an employer of a Micro Pension Contributor (where applicable) is not required to make contributions into the RSA of such contributor.

3.3. Withdrawals

Contributions under the Micro Pension Plan is to be divided and managed as two separate funds namely: Micro Pension Contingent Fund wherein 25% of the contributions will be payable for contingent withdrawals; and the Micro Pension Retirement Benefits Fund wherein 75% of the con-

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[1] Draft Guidelines for the Extension of Pension Coverage in Accordance with Section 2(3) of the PRA 2014 (Micro Pension Plan) 2018

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tributions will be payable as retirement benefits.

Accordingly, and unlike the Scheme under the PRA 2014, a Micro Pension Contributor will be able to make contingent withdrawals i.e. access the portion of his/her contribution available for withdrawal one month after making the initial contribution, and subsequently at any time till the balance therein is exhausted. However, a Micro Pension Contributor has the option of transferring part of his/her outstanding balance on the contingent portion to the retirement benefits portion. All contingent withdrawals are subject to applicable tax laws.

The retirement contributions will only be accessible upon the Contributor attaining the age of 50 (fifty) years or on health grounds in accordance with the Regulation for the Administration of Retirement and Terminal Benefits.

3.4. Conversion

Conversion may occur in two ways: i.e. from the Micro Pension Plan to the Contributory Pension Scheme under Section 2(1) of the PRA 2014; and vice versa.

3.4.1. Conversion from the Micro Pension Plan to the Contributory Pension Scheme under Section 2(1) of the PRA 2014

In this regard, the Guidelines provide that a Micro Pension Contributor shall be eligible to convert to the Contributory Pension Scheme in accordance with Section 2(1) of the Pension Reform Act, 2014 if he/she secures employment in the formal sector with an organization that has *three (3) or more* employees.

However, a critical issue arises in this regard as the PRA 2014 limits the applicability of the contributory pension scheme to employees in a private organization where there are 15 or more employees. Accordingly, and in our view, a conversion from the Micro Pension Plan upon securing an employment in an organization that has 3-14 employees serves no useful purpose as no mandatory pension coverage exists within that bracket.

Upon conversion from the Micro Pension Plan to the Contributory Pension Scheme, the contingent portion of the Micro Pension Contributor’s RSA (if not withdrawn) will be treated as additional voluntary contribution as no contingent withdrawal is applicable under the Scheme.

3.4.2. Conversion from the Contributory Pension Scheme under Section 2 (1) of the PRA 2014 to the Micro Pension Plan

An RSA holder under the Scheme may request for conversion to the Micro Pension Plan upon disengagement from formal employment. Upon conversion, the RSA holder may withdraw up to a maximum of 25% of the balance in the RSA in line with the contingency withdrawal option available to a Micro Pension contributor.

The relevant conditions and procedures to be met to achieve the conversions discussed in paragraphs 3.4.1 and 3.4.2 above are also provided for in the Guidelines.

4.0. Inherent Issues and Probable Challenges in the Guidelines

4.1. Lack of clarity in the applicability of the Guidelines

On one hand, it appears from the definition of “informal sector” therein that the Micro Pension Plan will be applicable to all employees who are not mandated to participate under the Scheme. However, further review of the Guidelines particularly the provisions on conversion[2], seems to suggest that the Micro Pension Plan is not applicable to persons employed in organizations where there are more than 3 employees.

4.2. Non-Mandatory nature of the Micro Pension Plan

It appears from the Guidelines that the Micro Pension Plan is not mandatory. Consequently, self-employed persons and employees in the informal sector are at liberty as to whether to register or make contributions under the Micro Pension Plan.

Whilst it is recognised that the operational modalities and widely dispersed nature of the informal sector may not permit the enforceability of a mandatory scheme, it is our recommendation that there should be some incentives attached to participation in the Micro Pension Plan such as would make it desirable to the informal sector.

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2 Section 6.6 of the Draft Guidelines for the Extension of Pension Coverage in Accordance with Section 2(3) of the PRA 2014 (Micro Pension Plan) 2018

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5.0. Conclusion

The attempt to extend coverage of the pen sion scheme to the informal sector – which hosts category of workers that constitute the larger percentage of the working population in the country, is laudable.

There is, however, no gainsaying that adequate machineries, taking into account, the peculiarities of the informal sector, must be in place to aid the implementation of the Guidelines in order for the target persons to take advantage of its provisions.

For any comments and additional information on the issues discussed, please contact any of the under-listed persons:

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