



NATIONAL PENSION COMMISSION

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CIRCULAR

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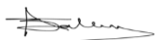
TO: All Licensed Pension Fund Operators And Employers

**SUBJECT: ILLEGAL AND UNETHICAL PRACTICES REGARDING
OPENING OF RETIREMENT SAVINGS ACCOUNT (RSA) AND
RSA TRANSFER**

- 1.0 The National Pension Commission (the Commission) has observed with concern the illegal and unethical practices by certain financial institutions and employers, where their employees and that of their vendors are being coerced or unduly influenced to open or transfer their Retirement Savings Accounts (RSAs) with specific Pension Fund Administrators (PFAs), particularly those directly affiliated with the employer or indirectly through custody of their pension assets with Pension Fund Custodians (PFCs).
- 1.1 This practice is unacceptable and constitutes a clear violation of the following provisions of the Pension Reform Act (PRA) 2014 and relevant Regulation/Circular issued by the Commission:
- i. Section 11(1) of the PRA 2014 provides that every employee to whom the Act applies shall maintain a RSA in his/her name with any PFA of his/her choice.
 - ii. Section 13 of the PRA 2014 also provides that subject to the Guidelines issued by the Commission, a holder of RSA maintained under the Act may, not more than once in a year, transfer his/her account from one PFA to another.
 - iii. Section 2.3 of the Commission's Circular ref: PENCOM/INSP/CIR/SURV/20/131, dated 14 August 2020 on RSA Transfers, explicitly prohibits employers from influencing the choice of PFA by employees.

- 1.2 The choice of PFA and RSA Transfer are the statutory rights of the RSA holders and must not, under any circumstance, be influenced by their employers or their affiliates. Any act of inducement or compulsion whether direct or indirect undermines the integrity of the Contributory Pension Scheme and the credibility of the RSA Transfer Process. .
- 1.3 Accordingly, the Commission hereby issues the following **warning** and **directives** to all Licensed Pension Fund Operators (LPFOs) and employers:
- i. LPFOs must not collude with employers or their agents to solicit, influence or coerce employees to open RSAs or transfer their accounts with a specific PFA.
 - ii. PFCs are reminded of their fiduciary responsibility and must report any attempt by affiliated PFA(s) or employer to compromise the statutory rights of RSA Holders
 - iii. Employers, particularly financial institutions, are strictly prohibited from interfering with the statutory rights of their employees or that of their vendors regarding the choice of PFA and RSA Transfer .
- 1.4 The Commission shall not hesitate to take the following appropriate regulatory and legal actions on any LPFO or employer found to contravene the above directives:
- i. Imposition of monetary penalties and other regulatory sanctions as deemed necessary by the Commission in line with the provisions of extant Regime of Sanctions and Penalties;
 - ii. Suspension of RSA Transfer window for the affected PFA, such that it can only participate as a Transferring PFA and not a Receiving PFA; and
 - iii. Criminal prosecution of any employer or individual infringing on employees' statutory rights to choose their PFA or transfer their RSA, contrary to the provisions of the PRA 2014 and relevant extant subsidiary legislations issued by the Commission.
- 1.5 This Circular takes effect immediately.
- 1.6 All enquiries regarding this Circular should be directed to the undersigned.

Thank you.



A. M. Saleem

Head, Surveillance Department