

**National Pensions Board
ANNUAL REPORT
JANUARY 2004 – JUNE 2005**

BACKGROUND

The National Pensions Board (Board) is established under Section 78 of the National Pensions Law (2000 Revision). The Board is to consist of a Chair, a Deputy Chair and between 5 and 9 additional members. The appointment of Board Members is to be gazetted and its duties and powers are laid out in the National Pensions Law and its Regulations. The Superintendent of Pensions is the Chief Administrative Officer of the Board.

The duties and responsibilities of the Board and the Superintendent include:

- Administer the Law and regulations;
- Promote the establishment, extension and improvement of pension plans throughout the Islands;
- Advise the Minister in respect of business of the Board; and
- Make recommendations to the Minister in respect of pension plans.

COMPOSITION

In January 2004 the Board was comprised of the following:

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| 1. Chair – | Mr. Carlyle McLaughlin, Jr. |
| 2. Deputy Chair – | Mr. Kirkland Nixon |
| 3. Member – | Mr. William Adam |
| 4. Member – | Mr. Benson Ebanks |
| 5. Member – | Mrs. Ina Orr |
| 6. Member – | Mr. Hubert Bodden |
| 7. Member – | Ms Amy Wolliston |

In addition Ms Gail Bush of the National Pensions Office acted as recording secretary for the Board and handled meeting logistics.

The Board was re-appointed in April 2004 and the new composition was as follows:

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|----------------------|--------------------------------------------|
| 1. Chair – | Mr. Carlyle McLaughlin, Jr. |
| 2. Deputy Chair – | Mr. Kirkland Nixon |
| 3. Member – | Mr. William Adam |
| 4. Member/Min Rep. – | Mr. Doss Solomon |
| 5. Member – | Mrs. Rhonda Kelly |
| 6. Member – | Mr. Bryan Bothwell |
| 7. Member – | Ms. Sharon Roulstone |
| 8. Member – | Mr. Hubert Bodden (resigned during 04/05) |
| 9. Member – | Mr. Stephen Ebanks (resigned during 04/05) |
| 10. Secretary - | Ms Amy Wolliston |

In November 2004 Cyril Theriault was appointed as Superintendent of Pensions, thereby becoming the CAO of the Board, and in December 2004 Ms Gwen Facey began work with the National Pensions Office and became recording secretary and responsible for meeting logistics.

BOARD MEETINGS

The Board meeting schedule, although interrupted by the occurrence of Hurricane Ivan on September 11 and 12, 2004, has been hectic and will continue to be so. The Board held Regular Board meetings and Special Board meetings to deal exclusively with the review of the National Pensions Law.

The schedule of meetings was as follows:

Regular Board Meetings	Special Board Meetings
21 January, 2004	22 April, 2004
25 March, 2004	27 April, 2004
20 January, 2005	2 June, 2004
16 February, 2005	8 June, 2004
20 April, 2005	17 June, 2004
15 June, 2005	23 June, 2004
	28 July, 2004
	4 August, 2004
	1 June, 2005
	8 June, 2005

NAME CHANGE

When the National Pensions Law (NPL) was implemented several years ago, it established the Office of the Superintendent of Pensions however in January 2004; a name change was approved by the Ministry to the National Pensions Office (NPO) to more accurately reflect its role as the private pension plan regulator within the Cayman Islands. The Law still refers to the NPO by its former name.

REGISTRATION

During the period covered by this report, the NPO completed its annual renewal of registrations. In 2004/5, the number of pension plans on record was 186 with over 28,000 employees covered and in excess of \$250,000,000 in invested assets. Currently, the registration and annual renewal process is managed manually, however discussions have commenced with Computer Services to track this information electronically, which will improve the office's efficiency as well as allow the production of better and more meaningful statistical reports (reported on elsewhere in this report).

The NPL has been enacted for seven (7) years. The Board is concerned that there are still unregistered, and thus unregulated, pension providers who have been allowed to operate, accepting pension monies and the National Pensions Office (NPO) is still unable to determine if such funds are being managed within the safeguards established by the Law. A number of these plans were registered in error, and the Board has requested that the NPO work diligently with those involved to ensure the plans gain compliance with all aspects of the Law.

Lack of information available to the Board prevented their oversight of the NPO's operation in this area of the Law's administration, where the timeliness of the NPO's response to both applications lodged and renewals overdue could often be open to criticism. This is one of the subjects which the Board seeks to address in the review of the Law mentioned elsewhere in this report.

Additionally, the NPO's response to the Board's request for interim reporting measures on pension plan applications and renewals has been inadequate. The NPO advised the Board that they continue to be hampered by inadequate management reporting systems.

The Board had requested that the NPO take effective action on pension plan Registrations and Renewals, particularly with respect to the multi-employer pension plans, during the 05/06 financial year to ensure that pension plans are meeting the minimum requirements of the Law.

Over the past several years, the NPO has received various requests to register offshore pension plans. Under the NPL, such plans can not be registered in the Cayman Islands. In 2004/5, the NPO commenced a feasibility study of establishing the Cayman Islands as an offshore pension plan registration jurisdiction. The results of this study are expected in the 2005/6 financial year (have subsequently been submitted to the Ministry). The Board has expressed tentative approval to registering these plans, subject to the findings of the study.

ENFORCEMENT

The Board continues, as in previous years, to be frustrated and concerned by the absence of effective enforcement of the NPL's requirements by pension plan administrators and employers. Some pension plan administrators and employers have, for years, been allowed to operate and continue to operate while they are not in compliance with the NPL.

The Pensions Superintendent reported to the Board that there are individual employers owing sums of up to CI\$840,000 in overdue pension contributions and, in at least some cases, the deductions from employees' salaries after being made, have been misappropriated in various ways.

The magnitude of this growing problem to Government cannot be overlooked any longer. The Board has found that only a small percentage of employers openly flaunt their disregard of the Law, but most do this, so far, with impunity.

The resources for oversight and enforcement still appear to be inadequate, as a result of which the Board is unable to determine the extent of the problem or even whether those employers already owing hundreds of thousands of dollars are continuing to misappropriate further funds from the current earnings of employees, and thus increase the potential liability, even after being warned of criminal prosecution. Resources deemed necessary by the NPO must be made available; to ensure that they, as well as the Board, can carry out the mandated function assigned them by the NPL. Anything less, and the continued lack of emphasis in this area will, in the long term, result in an increased need for social support programs due to under funded pension plans.

To date, the information available to the Board on those employers in violation of the NPL has been limited; however the Board has worked with the NPO to develop prioritization procedures so that the Board can be informed of the most serious cases.

The Board therefore commends the Ministry and the Attorney General's Office on the steps which were taken by the NPO and the Solicitor General to enforce the Law more fully upon those who have put employees' pension benefits at unnecessary risk. These steps include the securing of necessary legal expertise through the Attorney General's Department, engaging a qualified Pensions Inspector, the commencement of legal proceedings against at least one employer and securing the necessary budget enhancements to engage a further inspector in the 05/06 financial year. The Board also recognizes that the NPO has resolved a number of outstanding cases without having to resort to legal proceedings.

Some seven years after enactment of the Law, there can no longer be any reasonable excuse for allowing employers to ignore it. Consequently, and events in other jurisdictions will bear this out, when the public's sense of moral outrage in respect of this situation inevitably surfaces, it will be directed at the Government, the Board, the NPO and the business community.

PUBLIC EDUCATION

The NPO continued its work on the enhancement of public education within the Cayman Islands. The Office produced two significant brochures: one focused on employees and the other on employers. Additionally, the background work commenced on the development of the NPO's (and Board's) website (subsequently implemented).

The Board is very supportive of any initiatives taken in this area, as it believes that one of the keys to ensuring compliance with, and better understanding of, the NPL through education of the public, as well as the employers.

BOARD/MINISTRY

In late 2004 the NPO developed its first mission statement and work plan for the balance of 2004/05 and a draft for 05/06. This work plan is meant to complement the Annual Performance Agreements and the Annual Budget Submission. This document was well received by the Board and it will continue to be referred to throughout the upcoming years.

LAW REVIEW

During this period, the Board commenced work on a much needed review of the NPL. The review started in December 2003 with a public input period. These suggestions were then vetted by the Board. Shortly thereafter, the Board decided to divide the review into two components: administrative and investment. To that end, meetings were held with pension plan administrators as well as investment professionals to facilitate the inclusion of their professional opinions in the review process.

Due to the complexity of the changes required, the Board opted to work on the administrative changes first. During the period, the NPO retained the services of an external legal advisor who worked with the Legislative Drafting Department to assist the Board with the initial drafting of the legislation and the implications of these changes. The review was interrupted by Hurricane Ivan but resumed in June 2005.

It was planned that the Board and NPO would be able to forward to the Ministry for consideration, at least the administrative changes in the 2005/06 fiscal year. The Board was striving to conclude consideration of the more substantive changes that year as well, however supporting actuarial advice will need to be considered carefully. The Board held 10 special meetings in the 04/05 year and the last special meeting that was able to be scheduled prior to the Board appointments expiring in April 2006, was August 17, 2005, due to the availability of a quorum.

TECHNOLOGY

In the period covered by this report the NPO worked in conjunction with Computer Services to develop an automated complaint tracking system. It has been dubbed Pennat. The initial version was delivered in December 2004 and at the end of June 2005 was still not being used to alleviate any of the workload on the NPO or to produce any meaningful management information. System documentation and necessary user manuals are still lacking. The Board was encouraged to see that the work plan for 05/06 places priority on having this system fully developed and implemented.

Besides keeping track of complaints and their priority ranking, the system will also be used as an inventory of pension plans registered and in the annual renewal process. Significant improvements should be gained in the provision of management information for both the Board and the Ministry. Pennat ultimately will incorporate the prioritization procedures developed by the Board and the NPO to handle NPL violations and replace the manual system currently being used.

FUTURE PLANS

1. Legislative

In the 2005/6 and following financial years, the NPO and the Board plan to continue the much needed review of the NPL and submit their recommendations to the respective Ministry. There are also plans to conduct three significant projects: the national actuarial evaluation (or a reasonable substitute for a complete valuation), the benchmarking standardisation and the completion of the offshore pension plan study.

2. Consultancy Services

The national actuarial evaluation is required by statute and should have been completed in 2003. The results of the evaluation will guide the Board and Government in formulating policy for the further enhancement of pensions in the Cayman Islands and specifically the appropriate contribution rate, retirement age and benefit level for the population. Should data not be readily available from the various pension plans to complete a full valuation, actuarial input will be retained by the NPO to complete a general examination of the issues (this is what was subsequently tendered and awarded in June 2006 and which is currently being undertaken).

3. Investment Matters

The benchmarking standardisation project will be conducted to develop a standard format for all pension plans to report their investment performance. Currently, it is difficult for the public to equitably compare the returns of one plan versus another. It is envisioned that, in the coming years, these returns will eventually be released to the public by the plans themselves, or the NPO.

Additionally, the Investment Regulations of the Law are badly in need of revision to ensure that the investment managers have the necessary flexibility to allow them to get the best returns for the pension funds within acceptable risk parameters. These items will be addressed through the Consultancy Services.

4. Offshore Registration

Lastly, the offshore pension plan study will be completed and submitted to the Ministry with the NPO's and Board's recommendations on the feasibility of establishing the Cayman Islands as an offshore pension plan registration jurisdiction. This will provide the financial services in the Cayman Islands with yet another product to offer in the global marketplace.

5. General

While the NPO and the Board have made various plans for the coming years, it also acknowledges that the funding for these plans must first be secured. To that end, they will specifically address revenue enhancement as part of the review of the Law. Both the Board and the multi plan administrators have long recognized that, for the NPO to carry out its mandate, the revenue stream must be increased. The Plans support this move, so that the tasks assigned the NPO are not offloaded onto them.

The Board recognizes and appreciates the cooperation and support that the Ministry has provided the NPO, with recent staffing level increases and support for further resource increases in the future.