

The Retirement Benefits (Mortgage Loans)(Amendment) Regulations 2020 (“MLAR 2020”)

ARBS Position Statement

There has been a fair amount written in the press recently purporting to set out ARBS’ position on the proposals for members of retirement benefits schemes to be allowed to access part of their retirement savings for use towards purchasing a residential property. The Chairman and Council of ARBS find it necessary to set out clearly their position in order to dispel any misunderstandings.

ARBS Council’s position outlined below has been communicated in writing to the Retirement Benefits Authority (RBA) in response to its invitation to members of the public to comment on the MLAR 2020.

1. ARBS holds firmly to the view that the most important goals which a working person should seek to achieve during his/her working life are:
 - To accumulate a retirement fund which should deliver an income replacement ratio of 70%-80% based on global benchmark standard with a view to ensuring adequate comfort and independence in retirement
 - To acquire a home which can accommodate the contributor and his/her family during working life and afterwards and which should be substantially paid for before retirement.

In addition, members seek to save for acquisition of a medical cover for the principal contributor and his/her dependants from a reputable insurance company to guarantee good health care management in retirement.

2. ARBS fully supports the principle that accumulated retirement savings may, where appropriate, be used to work for the saver during his/her working life, provided that the value of the ultimate pot of money at retirement does not significantly reduce below the target income replacement ratio of 70% or above. The current average income replacement ratio in Kenya is around 35% which is very low when compared against this target.
3. ARBS is aware that early access to benefits is not a new phenomenon as countries like New Zealand, Australia, Switzerland, USA, South Africa and Singapore have this type of arrangement. The difference these countries have with Kenya is that although they permit early access for home purchase, they have robust well-developed retirement benefit systems which guard against scheme members drifting into poverty in retirement.
4. ARBS hold the position that any government policy proposal should be done according to the law and following international best practice. Accordingly, a regulatory impact assessment should be undertaken to holistically determine the impact of the MLAR 2020 to the retirement benefits sector and adequate time should be given for stakeholders to read, interpret and give informed views.
5. ARBS believes that the amendments proposed in the MLAR 2020 curtail the achievement of the goals above because they will result in a significant reduction in the level of retirement savings. This will not only work against the achievement of adequate retirement savings, but will also substantially reduce the retirement benefits sector’s considerable and important ability to make a major contribution to national development through its investments.
6. It is important to note that the Retirement Benefits (Mortgage Loans) Regulations 2009 (“MLR 2009”) which are in force, were intended to achieve the main goals stated above but they have unfortunately not made

any major headway. ARBS believes that although the idea behind the MLR 2009 was good, the regulations failed to make a significant impact owing to poorly structured and communicated regulations.

7. ARBS believes that the shortcomings in MLR 2009 can be satisfactorily overcome by amending the regulations to make the structure work for scheme members. Note that in its present form MLR 2009 provides for member access to affordable housing through use of 60% of the member's accrued benefit as a guarantee to secure a home mortgage. The primary security however remains the charge registered against the residential property by the financial institution which provides the mortgage finance.
8. ARBS further believes that there should be an appropriate degree of convergence between the government policies which surround the main goals above so that the achievement of one goal is not at the expense of the other.

ARBS has put a lot of time and effort into developing outline proposals to RBA which will achieve these purposes without the defects inherent in the MLAR 2020 proposals.

We have submitted our outline proposals to RBA and are ready to work with the Authority to develop an alternative, workable MLAR 2020 which will achieve the goals stated above. If we work together, these amendments can be achieved within a relatively short time for members benefit.

If you require any additional information you may contact:

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