

**LESSONS LEARNED FROM
INTERNATIONAL AND UKRAINIAN
EXPERIENCE WHICH CAN BE USED
IN THE MANDATORY
PENSION ACCUMULATION
PLAN**

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Pension Fund Board

- The Board should have at least one member who has specialized expertise as a financial markets expert, investment expert and accounting expert
- Board members should be independent of service providers
- The Board needs its own administrative staff

Codes of Ethics and Conflicts of Interest

- Explicit fiduciary duties and conflict rules for Board members and service providers should be based in law
- A Code of Ethics for the pension fund industry should be promulgated to guide the industry
- Conflict of interest rules should be comprehensive and cover all affiliated parties of fund service providers

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Disclosure and Transparency

- The experience of executives of entities related to a fund should be disclosed in detail
- There should be a management discussion and analysis of the financial and investment activities of the fund in the fund's Annual Report
- A section on risk disclosure should be added to the Prospectus and Annual Report
- The Investment Policy Declaration should be given to participants
- NPFs' financial reports should be IFRS compliant

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NAV Calculation

- Net Asset Value (NAV) is the primary mechanism for determining the value of a fund
- The disclosure of NAV/per unit is critical for investors to evaluate a Fund
- The daily calculation of NAV/per unit should be done for funds that accept funds on a daily basis
- Forward Pricing should be used to calculate the daily NAV/per unit value

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Marketing and Distribution

- Sales persons should be licensed and both they and their employer should be held liable for their activities
- Improper sales practices should be forbidden, such as forced selling, "tie-ins," and vitiation of warnings in the sales literature
- A risk statement should be placed in all sales literature and advertising

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Asset Management

- Internal risk management policies and departments should be required for AMC's and administrators of funds
- Boards should evaluate AMC's based on their risk management department and practices when choosing to hire and retain an AMC
- AMC should be permitted to use other forms of risk management than portfolio limits
- Currency controls should be amended to allow prompt investment in foreign securities

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Custodians and the Safekeeping of Assets

- The duties of the custodian should include the duty to "control" the activity of a fund
- Independence - The ultimate owner of a custodian should be disclosed
- There should be clear provisions in the law related to the segregation of assets of a fund which are clear provisions as to the title of fund assets and the rights of fund participants in the assets

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Regulation

- The staffing, training and equipment of the FSR and SSMSC should be enhanced
- “Fit and proper” tests for fund board members, administrators, AMCs and custodians should be used
- The authority of the regulators to collect information during onsite inspections should be broadened

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Enforcement

- The investigative authority of the regulatory authorities should be broadened, including the ability to obtain information from third party entities and natural persons who are not registered with the authorities
- The authorities should have the power to obtain “extraordinary relief” such as injunctions and asset freezes
- The sanctions for natural persons should be increased to enhance their deterrent effect

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Fees and Costs

- Capitalization should be increased to encourage larger funds which can achieve greater economies of scale and reduce fees
- A relatively low cap on fees should be put in place for the benefit of participants
- Performance-based fee structures that do not encourage speculation should be permitted

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Winding Up and Liquidation

The regulatory authority's powers need to be enhanced to give it:

- more effective intervention powers
- the ability to initiate proceedings

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