2013-2014 Annual Report
Assuring a future for the Cayman Islands Workforce
NATIONAL PENSIONS BOARD & SUPERINTENDENT OF PENSIONS
2013-14 ANNUAL REPORT

Prepared by the Department of Labour & Pensions:
National Pensions Board & Superintendent of Pensions
Cayman Islands Government

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Department of Labour & Pensions

Vision

To be a valued and trusted partner in supporting excellence in employee-employer relations and compliance with labour and pensions legislation for the private sector in the Cayman Islands.

Mission

To provide through education, engagement and the enforcement of labour and pension legislation, a one-stop-shop for private sector labour and pensions services and support, delivered by competent and caring staff, operating in a prompt, fair and impartial manner and with the highest integrity.

Values

The Department of Labour & Pension (“DLP”) is committed to being a Department that is:

- Professional, pro-active and ethical;
- Fair, consistent and impartial in our decision-making;
- Research and fact-driven;
- Resourced with well-trained, dedicated, honest and attentive staff; and
- Client-focused; communicates well and delivers timely and thorough services.
# TABLE OF CONTENTS

FOREWORD ............................................................................................................................................... 6  
INTRODUCTION ....................................................................................................................................... 11  
BACKGROUND: REGULATORY STRUCTURE AND GOVERNANCE ........................................................... 12  
   National Pensions Board ..................................................................................................................... 12  
COMPOSITION OF THE BOARD ............................................................................................................... 12  
ORGANISATIONAL STRUCTURE ............................................................................................................... 13  
BOARD MEETINGS ................................................................................................................................... 14  
NATIONAL PENSIONS OFFICE .................................................................................................................. 15  
STAFFING LEVELS .................................................................................................................................... 15  
   Year-over-Year Staffing Level & Vacancy Comparisons ...................................................................... 16  
   Recommended Staffing Levels ............................................................................................................ 17  
ADMINISTRATION OF THE LAW AND REGULATIONS .............................................................................. 19  
   National Pensions Law Update ........................................................................................................... 19  
   Superintendent of Pensions Update .................................................................................................... 19  
   Investment Regulations Update ........................................................................................................... 20  
   Registration ......................................................................................................................................... 21  
   Growth & Value of Pension Plan Assets .............................................................................................. 23  
   Pension Plan Type & Contribution In & Benefits Out .......................................................................... 25  
   Compliance, Enforcement, Complaints & Appeals ............................................................................. 27  
   Enforcement Updates ......................................................................................................................... 31  
   Enforcement on Employers of Plans .................................................................................................. 40  
   Supervision of Administrators ........................................................................................................... 41  
PENSION AWARENESS, DEVELOPMENT AND TRAINING ......................................................................... 42  
   Awareness and Promotion of Pensions throughout the Islands ......................................................... 42  
   Development of Pensions Programmes ............................................................................................... 43  
   Training of NPO Staff, Administrators of Plans and Employers of Plans .......................................... 44  
   Pension programmes updates ............................................................................................................ 45  
UPDATES & RECOMMENDATIONS TO THE MINISTRY .......................................................................... 46  
   Updates on matters relating to the Ministry ......................................................................................... 46  
   Recommendation and advice to the Ministry ..................................................................................... 46
FOREWORD

Incoming Chairman’s Introduction:

Following the changes in the membership of the Board reported below (Table 1), the reconstituted Board commenced its duties in February 2014. It was agreed that, notwithstanding the significant progress made in recent years in addressing many areas of arrears, the most pressing issue was the continuing need for personnel to enable the NPO to carry out its functions in a timely manner, monitoring and ensuring both rectification of breaches of the NPL and Regulations and ongoing compliance, by Pension Plan Administrators as well as Employers.

Accordingly, representations were made to the Ministry as well as to the Portfolio of the Civil Service for additional staff, at the right levels and with the necessary skills. Though generally not possible, due to the moratorium on hiring of Civil Servants (despite available fee income within the NPO), both the Ministry and the Hon. Deputy Governor understood the need for urgent action by the NPO and endeavoured to assist by facilitating the employment of some temporary officers. This did help, though clearly the lack of continuity inherent with short-term contracted staff creates certain inefficiencies.

The Board subsequently recommended to the Ministry that a resources audit be carried out to establish the technological and human resource needs of the NPO, to enable it to carry out its statutory functions timely and efficiently. Clearly the two resources are interdependent, and it is necessary to get both right in order to ensure value for money.

A third resource need for the NPO is efficient and timely legal capacities, and again representation was made for major improvements in this. However, the NPB, amongst others, has long recognised that the Country’s legal-judicial system is not suitable for timely resolution of the most common breaches of the NPL.

Another significant matter addressed by the Board during the last half of 2013-14, separate from its work with and through the Superintendent, was to provide the Ministry with its views, and other comments, on the draft amendments to the Investment Regulations.

Mr. Bryan Bothwell, MBE ACIB (Trustee)
Chairman, National Pensions Board
(Commenced: February 2014)
FOREWORD

Outgoing Chairman’s Introduction:

This fiscal year covers the period from 1 July 2013 to 30 June 2014. However, I only chaired the National Pensions Board (NPB) through 31 October 2013, when I stepped down as I had planned to do from before 2013. This Introduction thus focuses only on the period of my tenure.

Following the General Elections in May 2013, Hon. Tara Rivers became the Minister responsible for labour and pensions and MLA Winston Conolly was appointed as her Councillor to assist with these responsibilities. On 15 October 2013, our Board met with the Minister, along with her Councillor and the Chief Officer and Deputy Chief Officer of her Ministry.

At this meeting, we provided a status report on private sector pensions supervision as well as a forward-looking discussion on pending pensions legislation and regulations. We also discussed improved use of IT-database sharing to increase efficiency of inter-agency information sharing and Departmental tendering for legal services outside the Legal Department.

During the period 1 July 2013 to 31 October 2013, the NPB also met on September 19, October 3 and October 17. Among other matters, we dealt with Compliance and Delinquency Reports, Review of NPO Resources and Current Role of the Superintendent of Pensions, Review of NPO-CIMA MOU 2009, Actuarial Valuations Project, Investment Regulations Compliance Consultancy Project, FACTA in Relation to Cayman Islands Pension Accounts, Pending Amendments to the Trade & Business Licensing Law as an aid toward enhancing effective compliance, and possible establishment of an Employment Relations Authority.

As requested by the Ministry’s Chief Officer, we dedicated considerable time and effort tackling and approving seriously backlogged minutes of the NPB from 2008 through 2013. Once these minutes were finalized and approved, as also requested by the Ministry’s Chief Officer, we focused on, finalized and approved backlogged annual reports for the fiscal years 2008-09, 2009-10, 2010-11, 2011-12 and 2012-13.

On 31 October 2013, I sent the Minister all five of these annual reports. In my transmittal email, I stated *inter alia: "Owing to limited human resources in the [NPO] and many other pressing priorities (including the need to bring approval of our Board minutes up to date as an important source of input for these annual reports), ... fulfillment of [our] statutory duty has indeed lagged behind... Thankfully, with the support of my Board, the Director of*
Labour and Pensions and his pensions support staff, we have now been able to produce [these] annual reports…”

I wish to thank all DLP staff for their dedicated work and all my fellow NPB members who served diligently without receiving any fee or stipend. I also wish my successor, Mr. Bryan Bothwell, and his new Board members all the best as they carry on the important work of the NPB.

Mr. Orren Merren, AB, LLB, MBA, LLM
Chairman, National Pensions Board
(Resigned: October 2013)
Executive Summary:

The 2013-14 fiscal year of operations of the National Pensions Office was a year of consolidation and the cementing of a strategic working relationship with the Superintendent of Pensions, and the National Pensions Board, in order to endure the host of challenges facing the institution.

In concert with this was a conscious and sustained effort, in line with resources and competing time and priorities, to strengthen the capacity of the human resources within the National Pensions Office, which still operated as a Unit or Division within the Department of Labour & Pensions. Where necessary and prudent, operational and administrative systems, procedures, and due diligence protocols were agreed and introduced throughout the year.

Recognizing that the Pension Plan Administrators (PPA's) are crucial to the success of the Mission of the NPO and the Department, sustained efforts were devoted to improving relations and communication with the PPA liaisons, fostering stability in the sector, and also actively encouraging and monitoring best practices in governance. This year saw the continuation of dealing with legacy and "backlog" issues, as well as improved governance and operational excellence, as well as improving of tracking and statistics (for example on the Retirement Savings Arrangements or (RSA's) as seen in this Report).

In this fiscal year, the NPO also experienced a number of positive milestones. As can be seen in Figure 1.4 in this Report, there was a material growth in the number of members enrolled in registered Pensions Plans in the Islands. Not surprisingly there was also a corresponding increase in the dollar value of Assets Under Management, as shown in Figure 1.3. The increase in resolved cases shown in Figure 1.6 demonstrates the sterling efforts, diplomacy, and skill of the NPO staff in pursuing non-compliance cases, and satisfactorily resolving these disputes without referral to prosecution, despite the former approach resulting in a serious investment of time by the NPO Senior Pensions Officers. This extra effort is however to the benefit of the member/employee, because prosecutions in Court do not necessarily result in the employer being ordered to pay the employee pensions arrears, but normally only the payment of a Fine or other specified penalty upon conviction.

Another significant achievement was the completion of the Actuarial Assessments of all Pension Plans, the majority of which are now Defined Contribution Plans. These Actuarial Assessments and Valuations confirmed the suspected low Income Replacement Ratios for all Pension Funds, but the positive outcome of this was that it served to inform the anticipated legislative amendments to the National Pensions Law. This Report also
provides a good overview of the sustained efforts on the NPO and the Ministry which resulted in significant progress in addressing many of the Findings in the Own Motion Investigation by the Office of the Complaints Commissioner.

During this year, with its “triumphs and disasters”, and with my own struggle with trying to balance the pressures of serving as: Director of Labour & Pensions, Deputy Director of Pensions, and Acting Superintendent of Pensions, I often reflected on the words of R. Frost from one of his famous poems: “The woods are lovely, dark and deep, but I have promises to keep, and miles to go before I sleep, and miles to go before I sleep”. I thank all of the stakeholders who have assisted along the path of progress during the fiscal year, whether they were voluntary (such as the National Pensions Board) or paid professionals. I also thank God for giving me wisdom, good health, vision, good judgement & discernment, and resilience, which all enabled me to complete another year while serving in multiple roles. To God be the glory, great things He has done.

Mr. Mario E. Ebanks, MBA
Chief Administrative Officer & Acting Superintendent of Pensions
National Pensions Office
INTRODUCTION

The 2013-14 Annual Report, pursuant to S. 85 (1) of the National Pensions Law (2012 Revision), provides an overview of the background and composition of the Board and the National Pensions Office (“NPO” or “Office”), with the objective of delivering the newly formed vision of the Department of Labour and Pensions:

“To be a valued and trusted partner in supporting excellence in employee-employer relations and compliance with labour and pensions legislation for the private sector in the Cayman Islands.”

The second section of this report aims to outline key updates in respect to the administration of the National Pensions Law (2012 Revision) & Regulations, and presents essential information relating to the registration, growth, value and types of private sector pension plans registered through the National Pensions Office.

In the third section of this report, pertinent information relating to pension compliance and enforcement will be discussed, particularly as it relates to Employers and Pension Plan Administrators. Specific updates relating to Appeals filed with the Board and the Superintendent of Pensions will be reviewed, and a detailed discussion in relation to the enforcement on Employers and Pension Plan Administrators will be examined.

The fourth section of this report will discuss the importance of pension awareness, development and training. Within this section, an outline of the various training sessions that were delivered during the course of this fiscal year will be showcased and a report on the development of pension programmes in conjunction with the Office will be presented.

At the end of this report, specific updates and recommendations made to the Ministry of Education, Employment and Gender Affairs (“MEEGA” or “Ministry”) will be presented in an effort to meet the strategic objectives of the Board and Office respectively.

While Section 84 of the National Pensions Law (2012 Revision) requires the Auditor General to examine annually the accounts and financial transactions of the Superintendent and the Board, the Board is not vested with any authority in respect of funds or accounts and consequently is not involved in these matters. The accounts and financial transactions of the Superintendent (NPO) are examined as part of the Auditor General’s annual audit of the Department of Labour and Pensions.
BACKGROUND: REGULATORY STRUCTURE AND GOVERNANCE

National Pensions Board

Under Section 78 of the National Pensions Law (2012 Revision) (the “Law”), the National Pensions Board was established.

The structure of the Board consists of a Chairman, a Deputy Chairman, and between five (5) to nine (9) additional members. The Superintendent of Pensions serves as the Chief Administrative Officer of the Board.

The term for each Board member is for a period of years as in the letter of the appointment of the Member as Gazetted, and its duties, responsibilities and powers are laid out in Section 80 of the Law. The duties and responsibilities of the Board include:

- To administer the Law and Regulations;
- To promote the establishment, extension and improvement of pension plans throughout the Islands;
- To advise the Minister in respect of the business of the Board; and
- To make recommendations to the Minister in respect of pension plans.

COMPOSITION OF THE BOARD

In observance with staggered appointment terms to ensure the Board’s continuity, the composition of the Board during the fiscal year was as follows:

Table 1: Composition of the Board

<table>
<thead>
<tr>
<th>NAME</th>
<th>POSITION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mr. Orren Merren</td>
<td>Chairman (resigned in Oct 2013)</td>
</tr>
<tr>
<td>Mr. Bryan Bothwell</td>
<td>Chairman (commenced in Feb 2014)</td>
</tr>
<tr>
<td>Mr. Sean Glidden</td>
<td>Deputy Chairman</td>
</tr>
<tr>
<td>Mrs. Phillippa McFarlane Ebanks</td>
<td>Member</td>
</tr>
<tr>
<td>Mr. Billy Adam</td>
<td>Member</td>
</tr>
<tr>
<td>Mrs. Deloris Gordon</td>
<td>Member (resigned October 2013)</td>
</tr>
<tr>
<td>Mrs. Linda Bush</td>
<td>Member (resigned October 2013)</td>
</tr>
<tr>
<td>Mr. John Pitcairn</td>
<td>Member</td>
</tr>
<tr>
<td>Mr. Edward Bodden</td>
<td>Member (resigned October 2013)</td>
</tr>
<tr>
<td>Mr. Balan Murugesu</td>
<td>Member (commenced Feb 2014)</td>
</tr>
<tr>
<td>Mr. Stephen Price</td>
<td>Member (commenced Feb 2014)</td>
</tr>
<tr>
<td>Mr. Mario Ebanks</td>
<td>Chief Administrative Officer</td>
</tr>
<tr>
<td>Mr. Bennard Ebanks</td>
<td>Acting Superintendent of Pensions (April 2014)</td>
</tr>
<tr>
<td>Ms. Dorcas Watson</td>
<td>Recording Secretary</td>
</tr>
</tbody>
</table>
ORGANISATIONAL STRUCTURE

The organisational chart of the National Pensions Office (“NPO”) as of 30 June 2014 was as follows:

Figure 1: The Organisational Chart of the National Pensions Office

Source: National Pensions Board
BOARD MEETINGS

Throughout the 2013-14 financial year, members of the National Pensions Board (the “Board”) held a number of strategic board meetings, including those dedicated to discuss specific subjects on the amendments to the National Pensions Law & Regulations, the enforcement on non-compliance pension matters, and the need to implement inter-agency/inter-ministerial collaboration.

The Board also conducted strategic planning sessions to discuss its ongoing concerns, as it pertains to pensions. The schedule of all Board meetings for this fiscal period was as follows:

Table 2: Scheduled Board Meetings

<table>
<thead>
<tr>
<th>DATES</th>
<th>PURPOSE OF MEETING</th>
<th>PERCENTAGE IN ATTENDANCE (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>19th September 2013</td>
<td>Board Strategic Meeting</td>
<td>75%</td>
</tr>
<tr>
<td>3rd October 2013</td>
<td>Board Strategic Meeting</td>
<td>88%</td>
</tr>
<tr>
<td>10th October 2013</td>
<td>Board Strategic Meeting</td>
<td>63%</td>
</tr>
<tr>
<td>15th October 2013</td>
<td>Board Meeting with the Honourable Minister Tara Rivers, Councillor Winston Connolly, Chief Officer Mary Rodrigues, Deputy Chief Officer Tammy Ebanks, and Chief Administrative Officer and Acting Superintendent of Pensions Mario Ebanks</td>
<td>63%</td>
</tr>
<tr>
<td>17th October 2013</td>
<td>Board Strategic Meeting</td>
<td>88%</td>
</tr>
<tr>
<td>31st October 2013</td>
<td>Board Strategic Meeting</td>
<td>75%</td>
</tr>
<tr>
<td>20th February 2014</td>
<td>Board Strategic Meeting</td>
<td>100%</td>
</tr>
<tr>
<td>3rd April 2014</td>
<td>Board Strategic Meeting</td>
<td>100%</td>
</tr>
<tr>
<td>23rd April 2014</td>
<td>Board Meeting with the Honourable Minister Tara Rivers, Councillor Mr. Winston Conolly, Chief Officer Mrs. Mary Rodrigues, Senior Pensions Officer Mr. Bennard Ebanks</td>
<td>100%</td>
</tr>
<tr>
<td>13th May 2014</td>
<td>Board Strategic Meeting</td>
<td>88%</td>
</tr>
<tr>
<td>10th June 2014</td>
<td>Board Strategic Meeting</td>
<td>88%</td>
</tr>
</tbody>
</table>

Note: Percentage of National Pensions Board members in attendance. Percentages were rounded to the nearest percentage.
NATIONAL PENSIONS OFFICE

In collaboration with the National Pensions Board ("NPB"), the National Pensions Office ("NPO" or "Office") functions as the regulatory body designed to oversee and regulate the registered private pension plans in the Cayman Islands.

The ultimate goal of this Office, as an independent unit within a department of the Cayman Islands Government, is to promote pension compliance and regulation. It is also charged with the responsibility of meeting service delivery standards and addressing evolving needs, while being mindful of legitimate interests of employees, employers, legislators, beneficiaries, and Pension Plan Administrators respectively.

As a regulatory body of the Cayman Islands Government, this Office aims to carry out its regulatory responsibilities, including the oversight of the Pension Plan Administrators. It investigates, enforces and recommends cases for non-compliance against employers in breach of the National Pensions Law (2012 Revision) to the Director of Public Prosecutions to commence legal proceedings in Summary Court. Other responsibilities also include administering specific pension-driven programmes while educating the general public about the importance of complying with the Law and Regulations in respect to pensions.

The staffing levels of the Office consist of a small team of seven (7) full-time staff members, four (4) of which are Pension Inspectors ("PI"), and two (2) Administrative Assistants, including the Deputy Director (Pensions) / former Superintendent of Pensions, under the headship of the Director of Labour and Pensions and Acting Superintendent of Pensions Mr. Mario Ebanks.

The Office is located on the 2nd Floor of Midtown Plaza on Elgin Avenue, Grand Cayman, Cayman Islands. The contact details for the Office are: Tel: (345) 945-8960, Fax: (345) 945-8961, Email: npo@gov.ky and Website: www.npo.gov.ky.

STAFFING LEVELS

The staffing levels of the National Pensions Office trended steadily year-over-year with minimal cyclical movements over the last seven (7) years since June 2008. In fact, throughout the period 30 June 2013 – 30 June 2014, there were four (4) Pensions Inspectors and three (3) Administrative staff, which included the Superintendent of Pensions.
As recorded in the previous report, it was noted that the Superintendent of Pensions was seconded to the Ministry of Education, Employment and Gender Affairs (formerly Ministry of Education, Training and Employment) to complete a host of special projects, including the coordination of the National Pensions Law (Amendment) Bill work, the Regulations reviews and the pending National Pension Board Annual Reports for prior years.

During this time, the Director of the Department of Labour and Pensions Mr. Mario Ebanks was appointed as the Acting Superintendent of Pensions. In his role, Mr. Ebanks continued to provide exemplary leadership required to meet the strategic objectives of the Office. He spearheaded major undertakings to improve the public awareness and education initiatives, as well as partnered with other agencies within the Cayman Islands Government to create a ‘culture of compliance’, particularly as it related to the regulation of the pension regime for the Pension Plan Administrators.

*Year-over-Year Staffing Level & Vacancy Comparisons*

The illustration below provides a greater insight to the staffing levels and vacancies recorded year-over-year. Additionally, it presents a detailed breakdown of the full-time Pension Inspectors and other full-time Administrative personnel against the staff vacancies as recorded year-over-year.

**Table 3: Staffing Level & Vacancy Comparisons**

<table>
<thead>
<tr>
<th>YEAR END</th>
<th>FULL-TIME PENSION INSPECTORS</th>
<th>OTHER FULL-TIME POSITIONS</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>FULL-TIME POSITIONS FILLED</td>
<td>FULL-TIME VACANCIES</td>
<td></td>
</tr>
<tr>
<td></td>
<td>FULL-TIME POSITIONS FILLED</td>
<td>FULL-TIME VACANCIES</td>
<td></td>
</tr>
<tr>
<td></td>
<td>TOTAL POSITIONS FILLED</td>
<td>TOTAL VACANCIES</td>
<td></td>
</tr>
<tr>
<td>June 2008</td>
<td>3</td>
<td>0</td>
<td>6</td>
</tr>
<tr>
<td>June 2009</td>
<td>3</td>
<td>0</td>
<td>7</td>
</tr>
<tr>
<td>June 2010</td>
<td>3</td>
<td>2</td>
<td>6</td>
</tr>
<tr>
<td>June 2011</td>
<td>2</td>
<td>1</td>
<td>5</td>
</tr>
<tr>
<td>June 2012</td>
<td>4</td>
<td>0</td>
<td>7</td>
</tr>
<tr>
<td>June 2013</td>
<td>4</td>
<td>0</td>
<td>7</td>
</tr>
<tr>
<td>June 2014</td>
<td>4</td>
<td>0</td>
<td>7</td>
</tr>
</tbody>
</table>

*Note: Excludes the tracking of temporary staff members*
As illustrated in Table 3, the records show during the 2013-14 fiscal year that the Office maintained a steady staff complement of four (4) full-time Pension Inspectors and three (3) full-time Administrative staff, which included the Superintendent of Pensions (on secondment).

During this timeframe, it was recorded that there were no staff departures, due to the heavy importance being placed upon recognizing and motivating staff for their hard work and positive contributions made to the Office, with the consideration of their heavy workloads.

The underlying issue remains that there is an insufficient level of staffing available to service the general public across all Islands. Due to the moratorium on hiring full-time staff, it is critical to note that an approval was granted for the employment of temporary Senior Pensions Officers for three-month periods, and some were approved for a three-month extension. These approvals were granted by the Office with the support and consent of the Ministry of Education, Employment and Gender Affairs, and the approval of the Deputy Governor and the Moratorium Exemption Committee.

**Recommended Staffing Levels**

As a result of the increased demand for services levied on the National Pensions Office, the Director and the Acting Superintendent of Pensions Mr. Mario Ebanks confirmed that additional staffing levels were required to meet the interests of employees, employers, legislators, beneficiaries, and Pension Plan Administrators respectively.

Through the review of the organizational chart of the Office, the Director and Acting Superintendent of Pensions advised the Ministry of Education, Employment and Gender Affairs (the "Ministry") that at least five (5) to six (6) permanent Pension Inspectors and another Administrative Assistant, as well as filling the position of the Superintendent of Pensions / Deputy Director (Pensions) (on secondment), were required to meet anticipated demand.

The use of temporary Senior Pension Officers for special projects was agreed to be used as a strategy to address the backlog and legacy issues, and to assist with the newly integrated Department’s transition.

The ongoing challenge of the staff recruitment moratorium established within the Cayman Islands Government played a major role in its ability to attract and recruit additional staff. Therefore, an appeal was submitted to the Ministry, the Head of the Portfolio of Civil Service and other respective civil servants for further consideration.
Due to the immediate need for additional staff to meet the high demands of the Office since the passage of the National Pensions Law (2012 Revision) & Regulations, three (3) positions were approved and these included the new posts of the Assistant Director, the Senior Labour Officer, and the Senior Pensions Officer respectively.
ADMINISTRATION OF THE LAW AND REGULATIONS

National Pensions Law Update

Through joint efforts, the Office, the Ministry of Education, Employment and Gender Affairs, and the National Pensions Board (“Board”) continued to review and update proposals for changes to the National Pensions Law (2012 Revision) & Regulations, with the view to put forward to the Legislative Assembly the amendments to the National Pensions Bill & Regulations before the end of the previous fiscal year. However, it was decided by the former Minister to defer the passage of the Bill until after the General Elections on 22nd May 2013.

Following the General Elections, the newly named Minister of Education, Employment and General Affairs, Hon. Tara Rivers, and Councillor Winston Conolly met with members of the Board to become abreast of the structure, budgetary and operational challenges faced by the Board and the Office. Until further updates were made on the progress of these challenges, it was decided a thorough review of the Bill & Regulations was required.

During this time, several additional amendments were made to these critical documents due to the publications of the 2007 Mercer Report drafted by Mercer Human Resource Consulting, and the 2010 Own Motion Investigation Report, which remains widely known as the “Penny Pinching Pensions”, as written by the Office of the Complaints Commissioner. Detailed discussions with the Board and the Ministry remained ongoing at the end of this fiscal period.

Superintendent of Pensions Update

The Director of Labour and Pensions Mr. Mario Ebanks continued to serve as an Ex-Officio member in the capacity of the Chief Administrative Officer and as the Acting Superintendent of Pensions of the Board. During this timeframe, Ms. Amy Wolliston who was the former Superintendent of Pensions at the National Pensions Office was seconded to the Ministry to spearhead critical amendments to the National Pensions legislation.

The roles for Mr. Ebanks and Ms. Wolliston were both critical. The implementation of the necessary changes to establish a sound framework to further enhance the pension regime had proven to be beneficial to all of the stakeholders in our Islands.
Ms. Wolliston conducted research, executed special pension projects, and assisted in the drafting of the National Pensions (Amendment) Bill & Regulations in conjunction with the Ministry. Mr. Ebanks also played a vital role in providing through education, engagement and enforcement of pension legislation and delivering a one-stop-shop experience for private sector pension services and support.

The country will benefit greatly from the contributions made as supported by the Board, Office and the Ministry. The journey towards enhancing the pension framework year after year remains a vital goal for all involved and together it is achievable, as it benefits all stakeholders of this country.

**Investment Regulations Update**

*Compliance Report*

Morneau Shepell, one of Canada’s leading consulting firms, authored the “Recommendations on the Revision of the National Pensions (Pensions Fund Investments) Regulation (1998 Revision) Report” and presented its findings to the Board, the Office, and the Ministry on the appropriate steps to address the incidents of non-compliance discovered amongst Pension Plan Administrators.

The objectives of this report captured the following:

- Incidents of non-compliance;
- Incidents that have been resolved completely; and
- Incidents that have been resolved partially with additional future action required.

The report clearly identified critical non-compliance issues that were practiced amongst some of the Pension Plan Administrators. However, the report concluded that there was no systemic patterns of non-compliance across pension plans and revealed that specific issues for some pension plans required immediate regulatory attention.

Based on the recommendations proposed by the consulting firm and through extensive research conducted to further verify these non-compliance discrepancies, the Office, in conjunction with the Board and the Ministry, issued directive letters highlighting the critical components of the incidents of non-compliance to all pension plans. Strict deadlines to address each issue for the respective pension plans were enforced and through consultation with the Cayman Islands Government’s Legal Department, decisions were made to mitigate risks and safeguard the interests of all stakeholders.
Registration

Categories of Registered Pension Plans

The records indicated that there are seventeen (17) pension plans registered and approved by the National Pensions Office. Of the total, there are six (6) multi-employer pension plans, and eleven (11) single-employer pension plans that are categorized under the type of pension plans, as illustrated below.

Table 4: Multi-Employer Pension Plans

The six (6) Multi-Employer Pension Plans registered at the National Pensions Office are:

<table>
<thead>
<tr>
<th>MULTI-EMPLOYER PENSION PLANS</th>
<th>TYPE OF PENSION PLANS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Silver Thatch Pension Plan</td>
<td>Defined Contribution Plan</td>
</tr>
<tr>
<td>Cayman Islands Chamber of Commerce Pension Plan</td>
<td>Defined Contribution Plan</td>
</tr>
<tr>
<td>BAF Guaranteed Pension Plan</td>
<td>Defined Contribution Plan</td>
</tr>
<tr>
<td>The Cayman National Pension Plan</td>
<td>Defined Contribution Plan</td>
</tr>
<tr>
<td>British Caymanian / Colonial Pension Plan</td>
<td>Defined Contribution Plan</td>
</tr>
<tr>
<td>The Fidelity Pension Plan</td>
<td>Defined Contribution Plan</td>
</tr>
</tbody>
</table>

Table 5: Single-Employer Pension Plans

The eleven (11) Single-Employer Pension Plans registered at the office are as follows:

<table>
<thead>
<tr>
<th>SINGLE-EMPLOYER PENSION PLANS</th>
<th>TYPE OF PENSION PLANS</th>
</tr>
</thead>
<tbody>
<tr>
<td>First Caribbean International Bank Limited Pension Plan – Cayman</td>
<td>Defined Contribution Plan</td>
</tr>
<tr>
<td>McCormick Pension Plan Inc., Pension Plan</td>
<td>Defined Benefit Plan</td>
</tr>
<tr>
<td>Merrill Lynch Third Country National Pension Plan</td>
<td>Defined Benefit Plan</td>
</tr>
<tr>
<td>Scotiabank Pension Plan</td>
<td>Defined Benefit Plan</td>
</tr>
<tr>
<td>The Barclays Bank Cayman Islands Retirement Plan</td>
<td>Defined Contribution Plan</td>
</tr>
<tr>
<td>Cable &amp; Wireless International Retirement Benefits Plan</td>
<td>Defined Contribution Plan</td>
</tr>
<tr>
<td>Jacques Scott Pension Plan</td>
<td>Defined Contribution Plan</td>
</tr>
<tr>
<td>The Mighty Oaks Pension Plan</td>
<td>Defined Contribution Plan</td>
</tr>
<tr>
<td>Schroder Cayman Retirement Benefits Scheme</td>
<td>Defined Contribution Plan</td>
</tr>
<tr>
<td>Wyvern Retirement Trust</td>
<td>Defined Contribution Plan</td>
</tr>
<tr>
<td>CIBC International Pension Plan</td>
<td>Defined Benefit Plan</td>
</tr>
</tbody>
</table>
Annual Registrations of Pension Plans

Approximately 88.2 percent of the total number of annual registrations received from pension plans accounted for renewals of annual registrations during the 2013-14 fiscal period. Nearly 6.0 percent each consisted of pension plan registrations that were being wound up and terminated, as graphically depicted in Figure 2 and Table 6 below.

Figure 2: Pension Plans by Annual Registrations for the 2013-14 Fiscal Year End

![Pie chart showing the distribution of annual registrations as percentages: 88.2% Renewal, 5.9% New, 5.9% Winding Up, 0.0% Termination, 0.0% Late.]

Table 6: Pension Plans by Annual Registrations as of June 2013 and June 2014

<table>
<thead>
<tr>
<th>Pension Plan by Registration Category</th>
<th>2012-13 FYE</th>
<th>2013-14 FYE</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Annual Registrations</td>
<td>0.0</td>
<td>0.0</td>
</tr>
<tr>
<td>Renewal of Annual Registrations</td>
<td>94.1</td>
<td>88.2</td>
</tr>
<tr>
<td>Winding Up Annual Registrations</td>
<td>0.0</td>
<td>5.9</td>
</tr>
<tr>
<td>Termination of Annual Registrations</td>
<td>0.0</td>
<td>5.9</td>
</tr>
<tr>
<td>Late Annual Registrations</td>
<td>5.9</td>
<td>0.0</td>
</tr>
<tr>
<td>Total Percentage (%)</td>
<td><strong>100.0</strong></td>
<td><strong>100.0</strong></td>
</tr>
</tbody>
</table>
Growth & Value of Pension Plan Assets

The records indicated as illustrated in Figure 3 that the total estimated asset under management (“AUM”) in the underlying pension funds valued increased by 17.7 percent to over CI$ 1.0 billion by the 2013-14 fiscal year end compared to the previous year.

Notably, the fiscal year end varies for each registered pension plan. The total average was used to calculate the total estimated pension AUM for the 2013-14 fiscal year end, of which, five (5) international pension plans were excluded from this calculation due to the fact that these plans provide pensions for employees of an employer or a group of affiliated employers in more than one country.

Figure 3: The Value of Assets under Management

Value of Assets Under Management

<table>
<thead>
<tr>
<th>Year</th>
<th>Value of Assets Under Management</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013</td>
<td>$866,370,244.54</td>
</tr>
<tr>
<td>2014</td>
<td>$1,019,422,105.08</td>
</tr>
</tbody>
</table>

Currency (CI$)
**Enrollment of Pension Plan Members**

Through the review of the enrollment of the pension plan members, it was further revealed that the total estimated number of members as reported by the registered pension plans grew from 49,979 members by 5.6 percent to 52,764 by the 2013-14 fiscal year end.

As indicated earlier, there are five (5) International pension plans that were excluded from the calculation of the data and therefore, the results are based on twelve (12) pension plans as indicated earlier.

**Figure 4: Number of Members in Registered Pension Plans**

![Bar Chart showing the number of members enrolled in 2013 and 2014.](chart.png)
**Pension Plan Type & Contribution In & Distributions**

*The Annual Movements of Pension Contributions v. Distributions*

Figure 5 reveals the estimated contributions, including pension transfers that were remitted into the private sector pension plans, and the estimated benefits distributed from the pension plans throughout the 2013-14 fiscal period. Exclusions are found in Figure 3.

The records indicated that a total amount of CI$91.9 million (down from CI$96.1 million in the prior year) was remitted into the registered pension plans in the 2013-14 fiscal year compared to the total estimated amount of CI$57.0 million (up from CI$55.8 million in the prior year) distributed to members / beneficiaries in the year. Therefore, the value of continuing contributions to registered pension plans exceeded distributions by CI$34.9 million in the 2013 - 2014 fiscal year compared to CI$ 40.2 million in the previous year.

**Figure 5: Annual Movement of Pension Contributions v. Distributions**

![Bar graph showing contributions and distributions for 2013 and 2014](image-url)
Consolidated Statistical Information on Pension Plans

Table 7 illustrates the value of assets under management, the number of members enrolled, as well as contributions received and funds distributed, respectively. The currency is stated in CI$ Dollars.

The records indicated that while the number of members enrolled into the registered pension plans jumped by 5.6 percent in the year ended 20th June 2014 to 52,764 members, the market value of assets under management increased by 17.7 percent to over CI$1.0 billion during this fiscal period. These changes in the value of assets under administration would be the result of the vagaries of a number of discrete variables, including changes in the relative number and pensionable earnings of contributing members as well as market values of the assets held at year-end and the total of the types of distributions made in the year.

Table 7: Consolidated Statistical Information on Pension Plans

<table>
<thead>
<tr>
<th>Fiscal Year End</th>
<th>Value of Assets Under Management (CI$)</th>
<th>Number of Members</th>
<th>Contributions In (CI$)</th>
<th>Distributions (CI$)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>758,981,176.62</td>
<td>50,447</td>
<td>84,120,856.79</td>
<td>(52,141,487.03)</td>
</tr>
<tr>
<td>2013</td>
<td>866,370,244.54</td>
<td>49,979</td>
<td>96,052,192.64</td>
<td>(55,830,748.15)</td>
</tr>
<tr>
<td>2014</td>
<td>1,019,422,105.08</td>
<td>52,764</td>
<td>91,891,816.63</td>
<td>(57,041,469.93)</td>
</tr>
</tbody>
</table>
Compliance, Enforcement, Complaints & Appeals

The National Pensions Office received Appeals from persons that were impacted by decisions made by the Superintendent of Pensions during the fiscal year. These were submitted to the Cayman Islands Government’s Legal Department for legal advice and counsel.

New Appeal

In February 2014, the National Pensions Office received a formal Appeal from a pension plan member that sought a refund from his pension plan account, having been absent from the Islands for more than a period of six (6) months.

After reviewing the specific details of the case, the National Pensions Board approved for the Acting Superintendent of Pensions to seek legal advice on the pension matter. Through researching precedents and court rulings, and reviewing historical information pertaining to this case, the decision to permit the Pension Plan Administrator to process the refund application for the pension plan member was satisfied as per Section 53(3) of the National Pensions Law (2012 Revision).

Ongoing Appeal:

Records indicated that an Appeal was filed with the National Pensions Board by a well-established company against the Director and Acting Superintendent of Pensions Mr. Mario Ebanks for refusing to approve the registration of a new pension plan.

Due to the fact that the application to register a new pension plan did not follow the National Pensions Law (2012 Revision) and Regulations, the request made by the company was denied. This led to a formal complaint being made by the company and for the Appeal Panel of the National Pensions Board to schedule a hearing for this complaint. The matter remains ongoing and further details will be captured in the next publication should the matter be resolved at that time.
Actuarial Reviews:

The Director and Acting Superintendent of Pensions Mr. Mario Ebanks revealed to the National Pensions Board ("Board") that Pension Plan Administrators failed to comply with Section 16(2)(c) of the National Pensions Law (2012 Revision)(the “Law”) and Regulations, which stipulates that Pension Plan Administrators (“PPA”) must ensure that:

“...every three years during the continuation of a defined benefit pension plan and every five years during the continuation of a defined contribution pension plan with the assistance of an actuary, to review the financial operation of the pension plan and to file an actuarial report within six (6) months of the completion of the review, or such longer period as the Superintendent of Pensions may allow”.

“...The administrator shall file a report prepared in accordance with paragraph (c) of Section 16(2) within six months of the valuation date.”

The result led to the ordering of each PPA to complete an Actuarial Valuation Report to fulfill the obligations as outlined in the relevant sections of the Law and Regulations. This order made by the Director and Acting Superintendent of Pensions required for all PPAs to investigate the financial condition of their pension plans, with particular focus on the funding levels and the required employer contribution rate. A specific deadline was provided for all PPAs to comply and for the final results to be provided by the PPA’s Actuary to the National Pensions Office and National Pensions Board respectively.

Evidence of Compliance Proposed for Trade & Business Licensing

Proposals made by the National Pensions Board, the National Pensions Office, the Health Insurance Commission ("HIC") and the Department of Commerce and Investment ("DCI") led all to agree that the Trade and Business Licensing Law (2007 Revision) required amendments to be made to form a new Draft Bill.

The key provision within the Draft Bill was to introduce and enforce the new requirement that applicants for grants and renewals of Trade and Business Licenses would be required to submit evidence of compliance as mandated under the applicable laws and regulations that relate to pensions and health insurance.

The combined DCI, HIC, the Board and Office remained confident that such a requirement (and the inter-agency/inter-ministerial cooperation that it mandates) would increase the awareness of the culture of compliance in the regulation of private sector pensions (and health insurance).
**NPO Developments – Administrative & Operational Matters**

The National Pensions Office (the “Office”) identified the following critical projects that transpired throughout the fiscal year and these included:

**Backlogged Cases**

The records indicated that of the initial three hundred and seventy-eight (378) backlogged cases that were investigated by the National Pensions Office (the “Office”) during the 2012-13 fiscal year, one hundred and eighty-five (185) cases were submitted for closure in that given year.

Of the total 378 cases, the results revealed the following by the end of June 2014:

- Two hundred and nineteen (219) cases were submitted for closure; and
- One hundred and fifty-nine (159) cases were re-assigned to Senior Pensions Officers for further investigation.

The statistics showed a total of thirty-four (34) cases (219 – 185) resolved as compared to 185 reported for the previous year.

Despite a limited staff complement within the Pensions Investigations Unit, the team of Senior Pensions Officers will continue to address this ongoing backlogged issue. An update will be captured in the next report.

**Interest Calculator**

Currently, members of the Office have been actively using an Excel manual software application to calculate outstanding pension contributions with accrued interest. However, an electronic platform to deliver quicker outcomes remains an immediate need for the Office.

Extensive research was conducted to determine the proposed specifications of a new software application. Once this was established, requests for proposals were completed to obtain quotes on the software for Ministry’s consideration. The ongoing matter continues and once completed, the Office is confident that a viable solution such as this advanced electronic platform would add greater value for money.
Retirement Savings Arrangements

The Retirement Savings Arrangements (“RSA”) programme of the National Pensions Office is governed in accordance with the provisions of Sections 34 and 53 of the National Pensions Law (2012 Revision).

The tracking of the RSAs came into effect within the Office on January 2014. From this date until the end of June 2014, a total of three hundred and fifty-six (356) RSAs were processed during the 2013-14 fiscal year.

The table below provides a snapshot of the number of RSAs processed by certain categories.

**Table 8: Types of Pension Distributions by Category & Month**

<table>
<thead>
<tr>
<th></th>
<th>JANUARY</th>
<th>FEBRUARY</th>
<th>MARCH</th>
<th>APRIL</th>
<th>MAY</th>
<th>JUNE</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Normal Retirement</td>
<td>22</td>
<td>25</td>
<td>9</td>
<td>22</td>
<td>16</td>
<td>23</td>
<td>117</td>
</tr>
<tr>
<td>Early Retirement</td>
<td>58</td>
<td>42</td>
<td>27</td>
<td>16</td>
<td>35</td>
<td>22</td>
<td>200</td>
</tr>
<tr>
<td>Annuities</td>
<td>1</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>3</td>
</tr>
<tr>
<td>Medical</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>3</td>
<td>7</td>
</tr>
<tr>
<td>Death Benefits</td>
<td>5</td>
<td>0</td>
<td>0</td>
<td>2</td>
<td>4</td>
<td>2</td>
<td>13</td>
</tr>
<tr>
<td>Early Disbursement</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>2</td>
<td>5</td>
<td>10</td>
</tr>
<tr>
<td>Overseas Transfers</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>2</td>
<td>4</td>
<td>0</td>
<td>6</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>87</strong></td>
<td><strong>70</strong></td>
<td><strong>38</strong></td>
<td><strong>44</strong></td>
<td><strong>62</strong></td>
<td><strong>55</strong></td>
<td><strong>356</strong></td>
</tr>
</tbody>
</table>

While it is too early to draw any conclusions, the high number of early retirement cases (relative to normal retirement-age cases) in these initial statistics might suggest that these need to be watched in future years to see how matters develop.
**Enforcement Updates**

**Embezzlement of Pension Funds**

The matter involving the embezzlement of pension funds committed by one of the Pension Plan Administrator’s personnel was ongoing and was being closely monitored by the National Pensions Board and the Director of Labour and Pensions and Acting Superintendent of Pensions Mr. Mario Ebanks.

Through a thorough investigation, it was reported to the Office and the Board that the Pension Plan Administrator was able to recover a significant amount of pension funds that had been stolen from the investment portfolios of its valued clients.

In collaboration with the Board, the Director and Acting Superintendent of Pensions worked with the Pension Plan Administrator on a number of remedies, including requesting a Fiduciary Performance & Operational Integrity Review, ensuring that proper controls and procedures were established to prevent a re-occurrence in the future. The matter remains unresolved and continues to be an ongoing pension matter.

**Cease and Desist (C&D) Order**

Following the review of Morneau Shepell’s recommendations on the Revision of the National Pensions (Pensions Fund Investments) Regulation Report, incidents of non-compliance in relation to domestic and international pension plans were identified.

In conjunction with the National Pensions Board and the Cayman Islands Monetary Authority (“CIMA”), the Director and Acting Superintendent of Pensions Mr. Ebanks sent directive letters to the pension plans that failed to maintain full compliance in accordance with the Law.

This report confirmed that there were a host of compliance irregularities and breaches of the Law that one of the Pension Plan Administrators (“PPA”) ignored. As such, a Cease and Desist Order (“C&D”) by the Acting Superintendent was issued to the PPA in respect to soliciting and/or registering new pension business.

The Cayman Islands Government and other local media outlets aired the news on the C&D Order. In one of the press releases published on www.npo.gov.ky, it was stated that the PPA was forced to cease all marketing / business development and new pensions clients’ enrollments until the pension plan and Fund were brought into strict compliance with the National Pensions Law and Regulations.
An article dated 12 February 2014 through the Caymanian Compass online, referenced that the National Pensions Office and the National Pensions Board would continue collaborating with other stakeholders and strategic partners including CIMA, the Trustees of the PPA, the auditors, financial and systems analysts, and other professional advisors, as well as the counterpart regulator in the Commonwealth of the Bahamas, as needed to address this critical pension issue.

This pension matter will continue to be investigated with urgency and attention. Further updates will be presented in the next publication.

Own Motion Investigation

The Office of the Complaints Commissioner conducted its Own Motion Investigation on the Cayman Islands National Pensions System and published the “Penny Pinching Pensions” report in September 2010, which became a widely popular discussion on the pension regime.

The scope of the investigation as outlined in this report aimed:

“...to investigate the ability of the National Pensions Office to effectively investigate, charge and convict private sector companies who are non-compliant with pension contributions as mandated under the law, including examining the effectiveness of existing legislation and entities responsible for the prosecutions of delinquent employers”.

The investigation by the Office of the Complaints Commissioner (“OCC”) led to the following comments made by the author, Ms. Nicola Williams, the Complaints Commissioner:

- “On a whole, the staff of the National Pensions Office, both past and present, are committed to ensuring delinquent employers do not flout the system and are doing the best they can with the limited resources (both budgetary and personnel) and other constraints imposed on them. They are also often frustrated by a system that allows unscrupulous employers to take advantage of loopholes and inherent weaknesses. However, the NPO has also failed to effectively use its existing enforcement powers under the Law to their fullest extent”.


• “Lack of resources in the NPO has led to ineffective supervision of the Multi-employer Pension Plans and Single-Employer Pension Plans”.

• “The roles of the National Pensions Office and the National Pensions Board in relation to each other are unclear, further taxing the already stretched resources of the NPO”.

• “Until very recently, there was little political will both by the Ministry responsible to implement improvements, and generally – for example, with regard to not issuing work permits to delinquent employers; forcing delinquent employers to either comply with their pension obligations or to cease trading”.

• “Despite Government proposals, there is still clear evidence of the inability of related Government departments (for example, the NPO, Immigration, and Health) to share communication effectively, if at all”.

• “The existing legislation applicable to pensions needs substantial revision, both to impose harsher penalties for non-compliance, and to close loopholes that dishonest employers take full advantage of”.

• “Once the NPO has made a determination of non-compliance, too many chances are given to non-compliant businesses to pay the pension arrears, which are routinely ignored; and in the meanwhile, the outstanding level of arrears increases. Once a decision has been made to prosecute a delinquent employer, prosecutions through the Court system are too slow and are not an effective enough deterrent to prevent non-compliance. It could take as long as 4 – 5 years for justice by the time a non-compliant employer is prosecuted”.

• “Employees fear being victimized if they take action against their non-compliant employer. There is little or no protection for whistleblowers, and therefore no incentive to bring delinquent employers to the attention of the NPO”.
The OCC report highlighted twenty-one (21) recommendations to help further enhance the current functionality of the private sector pension regime. The recommendations reported and paraphrased are outlined below:

**Table 9: Recommendations from OCC's Penny Pinching Pensions Report**

<table>
<thead>
<tr>
<th>NO.</th>
<th>RECOMMENDATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Recruit at least one (1) Crown Counsel with dedicated responsibility for prosecuting non-complaint employers.</td>
</tr>
<tr>
<td>2.</td>
<td>Extend the same power to enter private residences to inspect documents as outlined in Section 87 of the National Pensions Law (the “Law”).</td>
</tr>
<tr>
<td>3.</td>
<td>Amend the Law to prevent the Court to allow for payment of costs, legal, fines and other expenses to be paid out of monies held in trust or in the pension plans.</td>
</tr>
<tr>
<td>4.</td>
<td>Treat deliberate and dishonest misappropriation of pension monies as theft with the same penalty options, including terms of imprisonment.</td>
</tr>
<tr>
<td>5.</td>
<td>Ensure that fines – whether administrative or those imposed by the courts are set at levels that act as true deterrents.</td>
</tr>
<tr>
<td>6.</td>
<td>Change the Law to allow penalties for victimization in order to protect reporters of wrongdoing aka “Whistleblowers”.</td>
</tr>
<tr>
<td>7.</td>
<td>Increase public education on pensions by the National Pensions Office.</td>
</tr>
<tr>
<td>8.</td>
<td>Utilize existing enforcement powers under the Law with vigor and without fear or favour and receive further powers as per point #2 above.</td>
</tr>
<tr>
<td>9.</td>
<td>Update the Standard Operating Procedures Manual to give clear and firm guidance as it relates to non-compliance for pensions.</td>
</tr>
<tr>
<td>10.</td>
<td>Clearly define the roles of the National Pensions Office, the National Pensions Board and the Ministry of Education, Employment and Gender Affairs.</td>
</tr>
<tr>
<td>11.</td>
<td>Increase the number of Pension Inspectors to address non-compliance reports, delinquency reports and onsite inspections of employers and pension plans.</td>
</tr>
<tr>
<td>12.</td>
<td>Ensure that all approved Board minutes are formally signed in accordance with best practice.</td>
</tr>
<tr>
<td>NO.</td>
<td>RECOMMENDATIONS</td>
</tr>
<tr>
<td>-----</td>
<td>-----------------</td>
</tr>
<tr>
<td>13.</td>
<td>Establish a Confidential Hotline to encourage employees and other members of the public to come forward with information on non-compliant employers.</td>
</tr>
<tr>
<td>15.</td>
<td>Implement a system to effectively track employers who are non-compliant and continue re-opening businesses under different names.</td>
</tr>
<tr>
<td>16.</td>
<td>Move cases to prosecution much sooner than current practice to reduce the outstanding amount of contributions due by the time the matter reaches court.</td>
</tr>
<tr>
<td>17.</td>
<td>Consider implementing a policy where no payment plans are agreed for sums owing that are greater than a fixed amount to be decided by the Superintendent.</td>
</tr>
<tr>
<td>18.</td>
<td>Create a checklist to assist with preparing case files before it is fit for prosecution.</td>
</tr>
<tr>
<td>19.</td>
<td>Form an inter-agency working group with Immigration and Trade &amp; Business Licensing Board.</td>
</tr>
<tr>
<td>20.</td>
<td>Ensure that private sector companies tendering for Government contracts are up-to-date with pensions, health, other employment and business conduct obligations.</td>
</tr>
<tr>
<td>21.</td>
<td>Train investigators in investigations and evidence gathering with at least one investigator having gained additional forensic accounting skills to lessen the time it takes to quantify outstanding amounts.</td>
</tr>
</tbody>
</table>
In response to the recommendations published in the OCC report, the National Pensions Board and the National Pensions Office in conjunction with the Ministry presented a progress report in February 2013 to the OCC. During the course of the 2013-14 fiscal year all parties involved continued to work closely towards resolving any challenges that failed to comply with the applicable law and regulations.

The Ministry in partnership with the National Pensions Office provided critical updates pertaining to each recommendation that was presented by the OCC.

Each update was discussed in accordance with each recommendation:

**Table 10: The Implementation of the OCC Report Recommendations**

<table>
<thead>
<tr>
<th>NO.</th>
<th>STATUS</th>
<th>KEY UPDATES TO OCC ON THE IMPLEMENTATION OF THE OMI REPORT RECOMMENDATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>PARTIALLY COMPLETED</td>
<td><strong>Recruit a Crown Counsel:</strong> To be implemented: a) Schedule meeting with the Department of Public Prosecutions to improve communication with the Department of Labour and Pensions; b) Introduce a fixed penalty regime in the National Pensions Bill to reduce NPO’s need for court proceedings.</td>
</tr>
<tr>
<td>2.</td>
<td>PARTIALLY COMPLETED</td>
<td><strong>Extend Power to Enter Private Residences for Inspections:</strong> To be implemented: a) Establish an inter-agency working group; b) Review draft National Pensions Bill in line with legal opinion, including making a determination on the wording “business premises”, and reviewing the applicability of privacy rights.</td>
</tr>
<tr>
<td>3.</td>
<td>COMPLETED</td>
<td><strong>Amend Law to Prevent Costs Being Paid from Pension Plans:</strong> The recommendation for the Attorney General was to amend the National Pensions Law. This action for this recommendation has been completed and has been added to Section 55(12) of the National Pensions Bill. No further action required.</td>
</tr>
<tr>
<td>4.</td>
<td>PARTIALLY COMPLETED</td>
<td><strong>Treat Deliberate Misappropriation as Theft:</strong> This recommendation taken forward to the Attorney General and the agreement in principle was achieved. However, the National Pensions Office will need to identify cases suitable for this type of prosecution.</td>
</tr>
<tr>
<td>NO.</td>
<td>STATUS</td>
<td>KEY UPDATES TO OCC ON THE IMPLEMENTATION OF THE OMI REPORT RECOMMENDATIONS</td>
</tr>
<tr>
<td>-----</td>
<td>-----------------</td>
<td>--------------------------------------------------------------------------</td>
</tr>
<tr>
<td>5.</td>
<td>COMPLETED</td>
<td><strong>Set Fines As True Deterrents:</strong> Recommendations were incorporated in the National Pensions Bill and will be tabled to be presented before the Legislative Assembly.</td>
</tr>
<tr>
<td>6.</td>
<td>COMPLETED</td>
<td><strong>Amend Law to Prevent Victimization Against Whistleblowers:</strong> Recommendations were incorporated in the National Pensions Bill and will be tabled to be presented before the Legislative Assembly.</td>
</tr>
<tr>
<td>7.</td>
<td>COMPLETED</td>
<td><strong>Increase Public Education:</strong> Both the quality and frequency of public education efforts have been improved significantly and there are plans for continued improvements.</td>
</tr>
<tr>
<td>8.</td>
<td>PARTIALLY COMPLETED</td>
<td><strong>Utilize Existing Power without Fear or Favour:</strong> The enforcement powers of the National Pensions Office have been enhanced within the new National Pensions Bill, and cases are being advanced for prosecution.</td>
</tr>
<tr>
<td>9.</td>
<td>COMPLETED</td>
<td><strong>Amend the Standard Operating Procedures:</strong> The Standard Operating Procedures have been updated and the payment plan terms are included in this document. It has been noted that this document will need to be updated periodically as time passes.</td>
</tr>
<tr>
<td>10.</td>
<td>PARTIALLY COMPLETED</td>
<td><strong>Clearly Defined Roles for NPB, NPO and Ministry:</strong> Resource identified for the development of a clear Governance Policy to clearly define the roles and relationships of the National Pensions Office, the National Pensions Board and the Ministry of Education, Employment and Gender Affairs. The National Pensions Office remains committed towards establishing interim policies to support protocols in short-term as a matter of priority.</td>
</tr>
<tr>
<td>11.</td>
<td>COMPLETED</td>
<td><strong>Recruit More Pension Inspectors:</strong> Additional permanent staff were provided within the available resources and complemented by temporary staff members who have made a significant impact on dealing with delinquencies in the short time that they have been employed.</td>
</tr>
<tr>
<td>NO.</td>
<td>STATUS</td>
<td>KEY UPDATES TO OCC ON THE IMPLEMENTATION OF THE OMI REPORT RECOMMENDATIONS</td>
</tr>
<tr>
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</tr>
<tr>
<td>12.</td>
<td>PARTIALLY COMPLETED</td>
<td><strong>Receive Approval of Board Minutes:</strong> The backlog of the preparation of the Board Minutes has been addressed and will be prepared within a standard template. Some of the backlogged Minutes have been tabled and await Board approval. The Minutes that have been approved are tabled to be audited for signatures and the Minute Book is being maintained in accordance with best practices.</td>
</tr>
<tr>
<td>13.</td>
<td>COMPLETED</td>
<td><strong>Establish Confidential Hotline:</strong> The Confidential Hotline was already established and is checked daily by the Director. No further action required.</td>
</tr>
<tr>
<td>14.</td>
<td>PARTIALLY COMPLETED</td>
<td><strong>Re-classify Non-Compliance Cases:</strong> The investigation of this recommendation undertaken distinction to be reflected in the new National Pensions Bill. No further action required at this time.</td>
</tr>
<tr>
<td>15.</td>
<td>PARTIALLY COMPLETED</td>
<td><strong>Track Non-Compliant Employers Re-Opening Businesses Under Different Trading Names:</strong> The tracking of employers who are non-compliant and are re-opening businesses under different names does not fall under the National Pensions Office. However, positive steps have been taken to liaise with relevant agencies on the issue and to facilitate an inter-agency approach.</td>
</tr>
<tr>
<td>16.</td>
<td>PARTIALLY COMPLETED</td>
<td><strong>Expedite Non-Compliance Cases:</strong> The backlog of complaints are being aggressively pursued and categorized for action and resolution.</td>
</tr>
<tr>
<td>17.</td>
<td>COMPLETED</td>
<td><strong>Create and Implement Payment Plan:</strong> The policy on the payment plans is already in place and has been implemented by all SPOs accordingly.</td>
</tr>
<tr>
<td>18.</td>
<td>PARTIALLY COMPLETED</td>
<td><strong>Create a Case Preparation for Court Checklist:</strong> The format of recent submissions of a checklist to assist with preparing case files before it is fit for prosecution has been accepted. However, the format is being reviewed by the Department of Public Prosecutions.</td>
</tr>
<tr>
<td>NO.</td>
<td>STATUS</td>
<td>KEY UPDATES TO OCC ON THE IMPLEMENTATION OF THE OMI REPORT RECOMMENDATIONS</td>
</tr>
<tr>
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</tr>
<tr>
<td>19.</td>
<td>PARTIALLY COMPLETED</td>
<td><strong>Establish Inter-agency Working Group:</strong> The communications and liaison have been improving, which will further enhance the agreed protocols and procedures through the establishment of the inter-agency working group.</td>
</tr>
<tr>
<td>20.</td>
<td>PARTIALLY COMPLETED</td>
<td><strong>Ensure Full Compliance of Companies Tendering Government Contracts:</strong> The compliance with the National Pensions Law as a prerequisite for the award of Government tenders is not within the control of the National Pensions Office or Ministry. However, steps are being taken to facilitate a resolution and decision by relevant authority.</td>
</tr>
<tr>
<td>21.</td>
<td>PARTIALLY COMPLETED</td>
<td><strong>Train and Develop Pension Inspectors:</strong> Significant progress made in resourcing of NPO with trained investigators, through focused recruitment. New Deputy for Labour brings extensive skills and experience and will facilitate access to relevant training within RCIPs.</td>
</tr>
</tbody>
</table>
Enforcement on Employers of Plans

Figure 6 illustrates the number of new complaints that were filed with the National Pensions Office and the number of complaints that were resolved and closed for each fiscal year since the 2009-10 fiscal period.

Due to the re-activation of the Delinquency enforcement programme, this led to a huge increase in the number of complaints recorded in the 2012-13 fiscal year. The backlogged complaints recorded from previous periods were also captured within this particular fiscal year, leading to this huge peak in the number of complaints as recorded for this period.

However, during the 2013-14 fiscal year, the number of new cases fell significantly by 73.7 percent to 266 from 1,012 cases as recorded in the previous fiscal year. The reverse trend in the number of resolved cases occurred, as the number of cases jumped by 1,022.1 percent from 68 cases resolved to 763 cases resolved due to the re-activation of the Delinquency enforcement programme.

Figure 6: Enforcement on Employers of Plans
Supervision of Administrators

Update on Delinquencies

The respective Pension Plan Administrators are required under Section 48 of the National Pensions Law (2012 Revision) (the “Law”) “to notify the Superintendent in writing of any contribution which is in arrears within forty-five (45) days of becoming aware that such contribution has not been paid”.

During the 2013-14 fiscal year, the Director and Acting Superintendent of Pensions received a significant number of delinquencies reported by the Pension Plan Administrators against employers that failed to pay pension contributions into the pension accounts of their respective members.

By the end of the fiscal year, the records indicated that employers owed an estimated total of CI$13.4 million. This meant that members across all pension plans were adversely impacted due to the mountain of arrears accrued. This required the NPO to enforce the applicable sections of the Law as necessary to ensure that employers repaid the correct outstanding balances with immediate effect and to avoid compounding interest on these arrears.

Through the re-activation of the Delinquency enforcement programme, Delinquency letters were dispatched to employers, instructing them of their failure to comply in accordance with the Law. Employers were informed of their outstanding arrears and were advised to pay their arrears in full or via payment plan agreements to avoid legal proceedings against them in Summary Court.

The results revealed following this action by the National Pensions Office that through public education on pensions and working closely with the Pension Plan Administrators (“PPA”), employers quickly established payment plan agreements through their PPAs and by the end of the fiscal year, the outstanding balance reduced from CI$13.4 million to an estimated CI$12.3 million, a total cash difference of CI$ 1.1 million recovered from remittances into the pension plans.

This Office will continue to address this pressing issue expeditiously to reclaim unpaid pensions for the valued members enrolled in private sector pension plans. Further details relating to this national financial concern will be provided in the next report.
PENSION AWARENESS, DEVELOPMENT AND TRAINING

Awareness and Promotion of Pensions throughout the Islands

In conjunction with the Ministry of Education, Employment and Gender Affairs and the National Pensions Board, the National Pensions Office increased the awareness and promotion of pension education through hosting monthly radio talk shows commonly known on island as the *Workplace Excellence Clinics*, which were held at Radio Cayman through the fiscal year.

With the view to boost the promotion aimed at focusing primarily on the pension framework, law and compliance throughout the islands, pension training sessions were also aimed at educating and engaging employees, employers and stakeholders respectively.

The key topics presented within these training sessions included illustrations of the National Pensions Law & Regulations, Pension Eligibility, as well as showing the List of Registered Pension Plans, Key Reminders to Employees and Employers, and other pertinent information critical for all stakeholders to be aware of as it pertains to pensions.

Due to the high demand for pension services, only two (2) training sessions were conducted during this period and these included the following:

**Table 11: Pensions Training & Development Sessions**

<table>
<thead>
<tr>
<th>DATES</th>
<th>TITLES</th>
<th>LOCATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>February 2013 – May 2014</td>
<td>Pensions Basics</td>
<td>Cayman Islands Immigration Department</td>
</tr>
<tr>
<td>April 2013</td>
<td>Entrepreneurship Day “The Importance of Pensions”</td>
<td>Family Life Centre</td>
</tr>
</tbody>
</table>
Development of Pensions Programmes

In June 2014, members of the National Pensions Office met with representatives of the Multi-Employer Pension Plans ("MEPP") at an offsite location to discuss the following topics in an effort to streamline the internal procedures and policies, improve regular communication and resolve ongoing operational challenges as it relates to pension matters experienced between all parties involved:

- Annuities
- Interest Calculator
- Delinquency Reporting
- Advertising / Public Relations
- Registrations of Pension Plan Members
- Property Housing Withdrawal Programme
- Policy on Application of Payment of Contributions
- Enforcement / Prosecution of long-standing Delinquencies
- Governance, including Offsite and Onsite Inspection Process
- Overview of the procedure for selecting or changing Pension Providers
- Procedures & Schedule for the Retirement Savings Arrangements ("RSA")

The discussions at the meetings were engaging and interactive, which offered invaluable feedback from the Pension Plan Administrators to the National Pensions Office. This forum served to help this Office gain a greater understanding of the legal and operational challenges faced by each MEPP and the respective private sector pension plan membership as well.

It was further noted that these meetings would serve as the beginning of improving the pension framework, including the enhancement of the National Pensions Law & Regulations.

Subsequent meetings will be scheduled at a time agreed by all.
Training of NPO Staff, Administrators of Plans and Employers

The internal training and development sessions to fulfill the duties and responsibilities of Pension Inspectors were conducted throughout the fiscal year.

Specialized training sessions were held at the Office of the Complaints Commissioner, the Family Life Centre, and at the Hilton Barbados Resort in Barbados as shown in Table 12. This was an effort to carve out new training opportunities for staff which would help them to continue to perform effectively in their roles as Pension Inspectors.

Through partnerships with other trainers and local professional associations, the next steps for the Office will be aimed at organizing and conducting training for all of its staff, employers and Pension Plan Administrators respectively. This plan will be scheduled in the next fiscal year.

Table 12: Staff Training & Development Sessions

<table>
<thead>
<tr>
<th>DATES</th>
<th>TITLES</th>
<th>LOCATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>March 2014</td>
<td>Difficult Complainants &amp; How to Best Deal With Them</td>
<td>Office of the Complaints Commissioner</td>
</tr>
<tr>
<td>March 2014</td>
<td>Annual ICP Seminar</td>
<td>Office of the Complaints Commissioner</td>
</tr>
<tr>
<td>March 2014</td>
<td>JURIS Consulting: International Legal Challenges</td>
<td>Family Life Centre</td>
</tr>
<tr>
<td>June 2014</td>
<td>Caribbean Association of Pension Supervisors (“CAPS”) Conference and AGM: Planning and Strategizing for Pension Reform</td>
<td>Hilton Barbados Resort, Barbados</td>
</tr>
</tbody>
</table>
Pension programmes updates

The inter-agency / inter-ministerial collaboration that was established as previously reported will consist of a strong alliance between the National Pensions Office, the Department of Commerce and Investment, Health Insurance Commission, General Registry and the Immigration Department respectively, to combat non-compliance by employers that remained in breach of the relevant laws.

Through this strategic partnership, the inter-agency working group will aim to work together to identify and enforce incidents of non-compliance amongst delinquent employers. It is also envisioned that through this group that several advantages will come to fruition such as:

- Fostering stronger and closer working relationships;
- Improving communication; and
- Proactively identifying non-compliance against employers in respect to pensions, health coverage, work permits, and business registration and licensing.

Nonetheless, until the passage of the Trade & Business Licensing Law (2014 Revision) comes into effect, the inter-agency working group will remain in a holding position so to speak. Through the passage of the amended legislation of this law, as well as to the National Pensions Law & Regulations, this group will be able to work closer to address incidents of non-compliance as it relates to pensions as well as in other critical areas as mandated under applicable laws and regulations.
UPDATES & RECOMMENDATIONS TO THE MINISTRY

Updates on matters relating to the Ministry

Following the review of the recommendations outlined within the Penny Pinching Pensions Report published by the Office of the Complaints Commissioner, the National Pensions Office in conjunction with the National Pensions Board and the Ministry of Education, Employment and Gender Affairs (the “Ministry”) were in agreement that certain provisions as mandated under the National Pensions Law (2012 Revision) required immediate amendments as stated in previous years.

In keeping in line with legal opinion, it was also decided as before that following the re-review of the 2007 Mercer Report conducted by the Mercer Human Resource Consulting that an extensive exercise to revamp the General Regulations and the Investment Regulations required urgent action. This had proven to be even more critical as time passed. Therefore, a joint effort by all involved continued and extensive research was conducted in respect to enhancing the pension regime, and all updates on the proposed amendments were presented to the Ministry.

Recommendation and advice to the Ministry

In order to effectively achieve the strategic goals of the National Pensions Office, a number of recommendations were presented to the Ministry. However, the critical points included:

- Increase staffing levels to improve pension compliance, supervision and governance;
- Amend the National Pensions Law & Regulations to improve the pensions regime for the country following the extensive research that had been conducted previously and as result of the 2007 Mercer Report and OCC's Penny Pinching Pensions Report;
- Address the incidents of non-compliance amongst the Pension Plan Administrators following the review of historical and current discoveries of non-compliance issues and the review of the compliance report conducted by Morneau Shepell; and
- In conjunction with the National Pensions Board and the Ministry, establish an inter-agency collaboration with Immigration, Health, General Registry and the Department of Commerce and Investment to enforce the powers as stated under the applicable laws.
These proposals by the Office and an action plan by the Ministry will serve to address these critical concerns to further enhance the pension framework for this country. Additionally, the Board provided its comments and recommendations to the Ministry on the proposed changes to the Investment Regulations with the view that key enhancements could be reviewed for consideration to improve the pension regime.

ACKNOWLEDGEMENT

The National Pensions Board, the Director of Labour & Pensions and Acting Superintendent of Pensions and the National Pensions Office submit this Report to the Ministry of Education, Employment and Gender Affairs for tabling in the Legislative Assembly of the Cayman Islands as required.

Once again our gratitude is extended to Morneau Shepell and the Office of the Complaints Commissioner for publishing their reports, as well as to Mercer Human Resource Consulting for providing a detailed publication to assist with the pensions regime.

A special thank you is also extended to the Government Information Systems Unit of the Cayman Islands Government for designing the front cover of this report.

The NPO also wishes to record its thanks to the Health Insurance Commission, Immigration, Department of Commerce and Investment and the Cayman Islands Monetary Authority who during the year were steadfast in providing support with joint enforcement initiatives.

Grateful thanks is also extended to Radio Cayman and particularly the host of Talk Today for hosting the monthly DLP educational and public outreach show, “Workplace Excellence Clinic”.

We also wish to take this opportunity to thank all volunteer members of the National Pensions Board for serving diligently without receiving any fee or stipend. A heartfelt thanks is also extended to all staff members of the National Pensions Office for their hard work and commitment over the years; the Country thanks you all for your excellence in service!
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APPENDIX

Acronyms

DLP: Department of Labour and Pensions
MEPP: Multi-Employer Pension Plans
SEPP: Single Employer Pension Plans
METE: Ministry of Education, Training and Employment
NPL: National Pensions Law
NPO: National Pensions Office
OCC: Office of the Complaints Commissioner
PPA: Pension Plan Administrator
SOP: Superintendent of Pensions

Sections of the National Pensions Law (2012 Revision) referenced in this report:

Section 3: Definitions
Section 4: Establishment of pension plans
Section 16: Duties of administrator
Section 25: Eligibility for membership
Section 48: Notice to Superintendent of arrears of contributions
Section 52: Withdrawal of pension funds to purchase or construct dwelling unit, purchase residential land or pay off an existing mortgage in the Islands.
Section 78: National Pensions Board

Illustrations: All tables, graphs and/or illustrations were sourced using relevant data from the National Pensions Office.