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RWANDA

Diagnostic Review of Consumer Protection and Financial Literacy (Private Pensions and Securities)

Volume II: Comparison with Good Practices

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DISCLAIMER

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Table of Contents

ACKNOWLEDGEMENTS	i
I. GOOD PRACTICES: PRIVATE PENSIONS SECTOR	1
II. GOOD PRACTICES: SECURITIES SECTOR.....	34
ANNEX: LAWS AND REGULATIONS.....	59

Abbreviations and Acronyms

2013 CPFL Review	WBG CPFL review of the banking and non-banking sectors in Rwanda
2015 CPFL Review	WBG CPFL review of the pension and securities sectors in Rwanda
ADECOR	Rwanda Consumer's Rights Protection Organization
ASSAR	Association of Rwandan Insurers
BID	Basic information document
BNR	National Bank of Rwanda
CEO	Chief executive officer
CIS	Collective investment scheme
CIU	Collective investment undertaking
CMA	Capital Market Authority
CSD	Central Securities Depository
DC	Defined contribution
EAC	East African Community
EIOPA	European Insurance and Occupational Pensions Authority
FISF	Financial Inclusion Support Framework
FSDP	Financial Sector Development Plan
GDP	Gross domestic product
HR	Human resources
IOPS	International Organisation of Pension Supervisors
ILO	International Labor Organization
KFS	Key Facts Statement
KYC	Know your customer
MINECOFIN	Ministry of Finance
MINICOM	Ministry of Trade and Industry
MOU	Memorandum of understanding
NBFI	Non-bank financial institutions
NFES	National Financial Education Strategy
NICA	National Inspectorate and Competition Authority
OPSG	EIOPA Occupational Pensions Stakeholder Group
RSE	Rwandan Stock Exchange
RSSB	Rwanda Social Security Board
SMS	Short messaging service
SRO	Self-regulatory organization
WB	World Bank
WBG	World Bank Group

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The FISF Program is a World Bank Group (**WBG**) initiative supported by the Kingdom of the Netherlands and the Bill & Melinda Gates Foundation, which provides technical assistance and capacity-building support to countries to help them accelerate the achievement of their financial inclusion commitments and targets. The WBG's Good Practices for Consumer Protection and Financial Literacy/Capability were used as a benchmark for the review.¹ CPFL reviews against Good Practices have been conducted by the WBG in more than 30 countries worldwide, including in many African countries.²

The 2015 CPFL Review was undertaken by a team led by Rosamund Grady (Senior Financial Sector Specialist, GFMDR, and Technical Lead). Other members of the team included Fiona Stewart (Senior Financial Sector Specialist, GFMDR, and Pensions Expert) and Richard Symonds (Consultant, Securities Expert). Research support was provided by Stephanie Chu (Consultant, GFMDR) and Marco Traversa (Consultant, Research Analyst, GFMDR). Administrative support was provided by Suran Kc Shrestha (Program Assistant, GFMDR) and Sylvie Ingabire (Team Assistant, AFMRW).

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Extensive consultations were held with relevant stakeholders for the purposes of the review. They included the National Bank of Rwanda (**BNR**), the Ministry of Finance (**MINECOFIN**), the Rwanda Capital Market Authority (**CMA**), other government entities and public agencies, financial institutions, industry associations, consumer associations and professional bodies.

The mission team is grateful for the support and collaboration extended by all stakeholders. The team wishes to express its appreciation particularly to the Rwandan authorities for their strong support for the 2015 CPFL Review and their assistance during, and after, the abovementioned mission.

I. Good Practices: Private Pensions Sector

SECTION	
CONSUMER PROTECTION INSTITUTIONS	
Good Practice A.1	<p>Consumer Protection Regime</p> <p>The law should recognize and provide for clear rules on consumer protection in the area of private pensions and there should be adequate supporting institutional arrangements:</p> <ol style="list-style-type: none"> There should be specific provisions in the law, which create an effective regime for the protection of consumers who deal directly with pension management companies and members/affiliates of occupational plans. There should be a general consumer protection agency or a specialized agency, responsible for the implementation, oversight and enforcement of pension consumer protection, as well as data collection and analysis (including inquiries, complaints and disputes). The law should provide, or at least not prohibit, a role for the private sector, including voluntary consumer organizations and self-regulatory organizations, in respect of consumer protection regarding private pensions.
Description	<p>Paragraph (a)</p> <p>As noted in the 2013 CPFL Review, Law No. 01/2011 of 10/02/2011 Regulating the Capital Market (Capital Market Law) contains consumer protection provisions that apply to all types of 'services' which would include financial services such as pensions. Relevant provisions in the Capital Market Law include those relating to information to be given to consumers, advertising and prejudicial provisions that do not have any 'tangible fairness' (Articles 33, 34 and 39).</p> <p>The newly passed Law No. 05/2015 of 30/03/2015 Governing the Organization of Pension Schemes (Pensions Law) provides sound, general protection of consumers of pension products, including provisions regarding disclosure, conflicts of interest and protection of assets. These provisions are discussed through this report. The Draft Regulation on Minimum Operating Standards and Supervision of (Voluntary and Mandatory) Pension Schemes (Draft Pensions Regulation) includes more detailed provisions that impose additional requirements or that address additional issues (e.g. vesting). Further requirements (around the selling of pension products and the confidentiality of information, amongst other things) have been suggested for inclusion in this report.</p> <p>The new Pensions Law includes general provisions and principles that provide protection for pension fund members. These include: the obligation of the sponsoring employer and service providers to act with due care, skills, diligence, good faith and prudence; the prohibition against misleading and deceptive acts, representations and omissions; and the obligation to promote the interests of pension scheme members (Article 63(1), (2)).</p> <p>The preamble to the Draft Pensions Regulation also appropriately states</p>

that their purpose is ‘to promote the stability security and good governance of pension schemes and service providers, and to protect the interests of pension scheme members and beneficiaries in the country.’

Protection for pension fund members is also provided by the governing body of the fund that is responsible for looking after members’ interests. In Rwanda, the new Pensions Law (Article 52) requires all complementary, occupational pension schemes (except personal retirement savings accounts) to establish trustees, appointed by the sponsoring employer and employee representatives. This means that the general protections of the Law No. 20/2013 of 25/03/2013 Regulating Creation Trusts and Trustees (**Trusts Law**) (to manage funds in the interests of beneficiaries) apply (Article 2).

Article 3(a) of the Draft Pensions Regulation explicitly requires trustees to: (i) exercise, in relation to all matters affecting the pension scheme, the same degree of care, skill and diligence as an ordinary prudent person would exercise in dealing with property of another; and (ii) ensure that the trustee’s duties and powers are performed and exercised in the best interests of the members and beneficiaries.

The Draft Pensions Regulation (Article 6(a)(iii)) states that a pension scheme shall have no less than three and no more than nine trustees, with at least half nominated by the members (unless a licensed corporate trustee is appointed). In addition (Article 6(a)(iv)) provides that a service provider, the chairman or chief executive officer (**CEO**) of the sponsoring company may not be the chair of the Trustee Board. The Board is required to meet four times a year (Article 6(a)(v)). Article 4 of Draft Pensions Regulation highlights that trustees are appointed for a maximum of four years, renewable for one term.

General skill requirements are also set out in the new Pensions Law (Article 53). The Draft Pensions Regulation (Article 54) imposes the following fit and proper requirements:

- Personal qualities (probity, competence and soundness of judgement and diligence);
- Previous business and financial conduct (i.e. must not have been bankrupt); and
- Must not be convicted of corruption, fraud, tax evasion, crimes against humanity or genocide.

For professional trustees (run by a company, rather than individuals), at least two members from top management must be qualified in pensions or social security, finance, insurance, accounting, actuarial science, human resources (**HR**) or investment.

Training requirements for pension fund supervisory boards are becoming good practice in many countries. For example, an online training programme known as the ‘Trustee Toolkit’ has been developed by the UK Pensions Regulator.³ In Ireland, the regulator authorizes external training providers. There are no proposed trustee training requirements as yet in Rwanda, but these could be developed in future.

³ See Pensions Regulator, *The Trustee Toolkit* <<https://trusteetoolkit.thepensionsregulator.gov.uk>> (accessed on 8 July 2015).

	<p>With the exception of the mandatory Rwandan Social Security Board (RSSB),⁴ complementary, occupational pension funds in Rwanda do not currently appoint trustees. As the concept is not widely understood (as confirmed by one of the insurance providers which tried to establish a plan on a trustee basis), awareness-building and training on the role and responsibilities of Trustee Boards under the new Pensions Law will be required.</p> <p>Regulation No 12/2009 of 13/10/2009 on Market Conduct Requirements for Insurers and Insurance Intermediaries (Market Conduct Regulation) cover retirement products sold by insurance companies. As noted in the 2013 CPFL Review, these regulations establish various principles of consumer protection, such as: the principle of utmost good faith (Article 2); directors, managers and staff placing service to policyholders above self (Article 2); at all times acting with integrity, honesty etc. (Article 3); acting with due skill, care and diligence (Article 4); and avoiding conflicts of interest (Article 6).</p> <p>Paragraph (b)</p> <p>As noted in the 2013 CPFL Review, the overall institutional framework for financial consumer protection in Rwanda is fragmented because of a lack of clearly defined roles and responsibilities among different institutions, and unclear enforcement capacity. The National Bank of Rwanda's (BNR) consumer protection responsibilities overlap with those of the Ministry of Trade and Industry (MINICOM) under Law No. 36/2012 of 21/09/2012 Relating to Competition and Consumer Protection (CCP Law) and the competition and consumer protection regulatory body (the National Inspectorate and Competition Authority (NICA), operating under MINICOM).</p> <p>As noted in the 2013 CPFL Review, the main missions of BNR are specified in Article 5 of Law No 55/2007 of 30/11/2007 Governing the Central Bank of Rwanda (Central Bank Law). These include an objective <i>'to enhance and maintain a stable and competitive financial system without any exclusion.'</i> For BNR to achieve its mission as specified in Article 5, it is required to perform the following duties under Article 6: <i>'to supervise and regulate the activities of financial institutions notably banks, micro finance institutions, insurance companies, social security institutions, collective placement companies and pension funds institutions.'</i> (emphasis added)</p> <p>Since 2007, when supervision responsibilities were transferred from the Insurance Commission, BNR has been regulating and supervising the insurance and pensions sector via its Non-Bank Financial Institutions (NBFI) Division. This includes a team of 12 staff overseeing the insurance and pensions sectors. Active steps are being taken to increase regulatory and supervisory capacity, including training for staff on consumer protection issues. There is also ongoing consideration of establishing a division specifically responsible for oversight of the insurance and pensions sectors.</p> <p>In addition to the licensing of pension schemes and service providers (which are covered Articles 36, 44, 45, 47 and 56 of the draft Regulation on the Licensing of Voluntary Pension Schemes, Licensing and Roles of Some Service Providers (Draft Pension Licensing Regulations)), the new</p>
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⁴ For details on the composition of the RSSB Board, see Rwanda Social Security Board <<http://www.csr.gov.rw>> (accessed on 8 July 2015).

	<p>Pensions Law gives BNR, as regulator, considerable powers regarding the protection of pension scheme members, including: revoking licenses (Articles 64, 65 and 83); appointing a special administrator (Articles 66–9); requesting information (Article 83); and applying sanctions (Article 88). As the private pensions sector has previously been unregulated, the BNR team has yet to commence its regulatory and supervisory duties. Capacity-building will be required to help them do so with the passage of the new Pensions Law and the forthcoming adoption of the Draft Pensions Regulation.</p> <p>Paragraph (c)</p> <p>As noted in the 2013 CPFL Review, MINICOM has supported the creation of two consumer associations that advocate for the rights of consumers, the Rwanda Consumer’s Rights Protection Organization (ADECOR) (based in Kigali) and the Consumer Human Rights Organization of Rwanda (based in Rubavu). Consumer associations have standing under the CCP Law to request the regulatory body to commence an investigation into anti-competitive conduct, following which a consultation and consideration of the request must take place. Registered consumer protection organizations may also, under Article 50, commence civil proceedings in respect of a breach of consumer protection law, either at the request of a consumer or if damages are claimed.</p> <p>In practice, financial sector issues are new to ADECOR and the pensions sector has not been covered. Some training and a public awareness campaign on pensions issue could be provided now that the new Pensions Law has been passed.</p> <p>There is no pensions industry association in Rwanda. As noted in the 2013 CPFL Review, there is an insurance association, the Association of Rwandan Insurers (ASSAR). Despite its small staff numbers, ASSAR has prioritized a number of crucial areas, including the development of a code of conduct for insurers and consideration of an insurance training institute to attempt to address the gap in specialist knowledge and experience within the industry. These initiatives are also important for the selling of retail retirement products to individuals.</p>
Recommendation	<p>Relatively to the size of the market, BNR’s supervisory capacity needs to be strengthened as soon as possible so that there is effective supervision of the pensions industry now that the Pensions Law has come into effect. In particular there is a need for early capacity building in respect of the detail of the requirements of the new Pensions Law and the new Regulation (once it is finalized), the current state of the pensions market and appropriate methods for conduction on-site and off-site risk based supervision of the consumer protection aspects of the new regulatory framework. This supplements recommendations made in the 2013 CPFL Review to strengthen BNR’s supervisory capacity more generally with respect to financial consumer protection. As an initial step, the passage of the new Pensions Law should offer a good opportunity to hold a workshop on general pension issues and on consumer protection issues for the sector. The workshop should involve BNR staff and other oversight groups (such as the CMA), consumer associations (e.g. ADECOR) and the Office of the Ombudsman. These recommendations could possibly be facilitated within the broader Financial Inclusion Support Framework (FISF) or Financial Sector Development Program II (FSDP II)).</p> <p>With the passage of the new Pensions Law by Parliament, BNR teams should arrange for a consultation meeting with the HR representatives from</p>

	<p>the existing occupational pension funds and pensions scheme providers to make sure they understand their obligations under the new law and the standards that BNR expects.</p> <p>The following consumer protection provisions should be added to the Draft Pension Regulations:</p> <ul style="list-style-type: none"> • The regulator may introduce trustee training requirements; • Sponsoring employers should be required to designate an HR representative to cover pension scheme issues; • Regulation around the selling of pension products and/or notification that provisions from other financial sectors apply; • Regulator should be given powers to provide guidance on maximum guarantees, and the distribution of profits and bonuses; • Members should be required to be notified of changes to scheme rules; • Scheme rules should be required to include disclosure of fees charged, the existence of any guarantees, and information on withdrawal and transfer arrangements; • Confidentiality of member information should be made explicit (including for cross-selling purposes within financial groups); • A minimum cooling-off period (one week is recommended) should be specified when selling retirement products; • Requirement for pension fund management companies to disclose their financial position; and • All information provided to members (sales material, contracts, annual statements etc.) should be written in clear and easily understood language, using a legible font. <p>The 2013 CPFL Review recommends that consideration be given to amending the CCP Law so that it does not apply to financial services in order to make it clear that BNR has primary responsibility for supervision of laws and regulations applicable to consumer protection in the financial sector. Ideally, perhaps when the market has further developed, there should be an authoritative financial services consumer protection regulator for all financial sectors, including pensions. This would achieve consistency of interpretation, minimize the risk of gaps in regulatory coverage and avoid any real or perceived conflict of interest for the supervisor. Likewise, the roles of BNR, the Office of the Ombudsman, and the Competition and Consumer Protection Regulatory Body should be clarified with respect to consumer protection rule-making, enforcement and dispute resolution in the financial sector.</p>
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Good Practice A.2	<p><i>Other Institutional Arrangements</i></p> <p>a. The judicial system should provide credibility to the enforcement of the rules on pension consumer protection.</p> <p>b. The media and consumer associations should play an active role in promoting pension consumer protection.</p>
Description	<p><i>Paragraph (a)</i></p> <p>The 2013 CPFL Review notes that consumers may commence legal action for breaches of the CCP Law (Article 50), as may registered consumer protection bodies.</p> <p>Article 87 of new Pensions Law gives pension scheme members and beneficiaries the right to take a case to the appropriate court.</p>

	<p>There is no small claims court in Rwanda.</p> <p>Given the nascent development of the voluntary pensions sector, no cases have been brought to any court in practice.</p> <p>Paragraph (b)</p> <p>As noted in the 2013 CPFL Review, the media does cover financial services consumer protection issues in Rwanda, including pensions.</p>
Recommendation	<p>It is encouraged that BNR launch a media strategy on the new Pensions Law, with the aim of explaining the advantages of occupational pension schemes and encouraging more employers to offer these benefits to their employees. This should be coordinated with the National Financial Education Strategy (NFES).</p>
SECTION B	DISCLOSURE AND SALES PRACTICES
Good Practice B.1	<p>General Practices</p> <ol style="list-style-type: none"> a. The information available and provided to the consumer should clearly inform the consumer of the choice of accounts, products and services, as well as the risks associated with each of the options or choices. b. Employers should be responsible for ensuring that new plan members are made fully aware of their rights and obligations under any occupational pension arrangements. c. Employers should be required to vest benefits with employees relatively quickly so as to avoid undesirable personnel practices (such as terminating employment just as employer contributions are about to vest). d. Employers should be obliged to ensure that contributions are properly collected, accounted for and passed on to the pension fund's managers.

Description	<p>Paragraph (a)</p> <p>The complementary, occupational pension products currently offered in Rwanda do not offer individual members any form of choice. Individual pension savings accounts, which the new Pensions Law allows to be established, have not been offered to date.</p> <p>Paragraph (b)</p> <p>The new Pensions Law (Article 80) requires pension schemes themselves to provide members with information on the status of their scheme, the duties of the scheme, decisions taken in relation to members and their rights under the pension scheme. Article 43 outlines the information that must be provided in the scheme rules, with the Draft Pensions Regulation to provide further details (Article 4).⁵ Article 43 also states that the information must be written in plain language in Kinyarwanda, French and English.</p>
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⁵ Information required to be provided in the scheme rules includes: appointment, term of office, removal, powers and remuneration of the trustees of the fund; power of investment scheme funds; pension benefits; contribution rate; interest charged on non-remittance and late payment of benefits; how to recover unremitted contributions; vesting formula; surplus/deficit determination and treatment; withdrawal and transfer rights; procedure for amending scheme rules; procedure to

	<p>Article 16(a) of the Draft Pensions Regulation requires at least the following to be provided to a scheme member, along with a membership number and a membership booklet that summarizes the provisions of the scheme rules:</p> <ol style="list-style-type: none"> i. Member benefits; ii. Scheme design; iii. Rights and obligations of members and beneficiaries; iv. Complaint resolution procedure; v. Procedure of claiming benefits; vi. Contribution rates; vii. Covenants of trustees and sponsoring employers; and viii. The names and contact information of trustees and service providers. <p>Insurance companies confirmed that an information package is included along with the master policy document signed with corporate clients. Employees are also given individual certification of membership, which they countersign, that includes the summary information on the scheme. Basic information on membership of their company's scheme will be included in their employment contract.</p> <p>In practice, the quality of information provided to scheme members differs between employers. Some of the scheme sponsors interviewed provide fairly comprehensive information to members. Others (as suggested by anecdotal evidence of former members of occupational schemes whom the World Bank (WB) mission team met) pass on little information to employees and many employees have a low understanding of the benefits and functioning of the scheme. Standards should improve under the new Pensions Law and once the Draft Pensions Regulation setting minimum standards of disclosure is adopted.</p> <p>Paragraph (c)</p> <p>Article 17 of the Draft Pensions Regulation requires payment into defined contribution (DC) schemes to vest immediately. For defined benefit plans, accrual of the promised benefits commences from the date of membership, provided that the member satisfies the minimum period of service. A member's period of service is determined without regard to temporary interruptions of employment of continuous periods of up to nine months. The mandatory scheme run by the RSSB provides for a lump sum payout to members for less than 15 years of membership.</p> <p>In practice, insurance companies and plan sponsors confirmed that occupational funds have been run as 'savings schemes' with immediate vesting.</p> <p>Paragraph (d)</p> <p>The new Pensions Law (Articles 9–13) prescribes obligations on employers regarding the collection of mandatory contributions.</p> <p>In practice, compliance rates at the RSSB run between 70 to 80 per cent on average (lower for the smaller employers), with some problems around non-remittance of employee contributions. This is higher than for many mandatory social security schemes in the region. The RSSB confirmed that it is able to fine companies or even seize assets to cover non-payments.</p>
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appoint an auditor and an actuary; custody arrangements; procedures for appointing a liquidator and scheme dissolution procedures; and the manner in which disputes between parties of the pension scheme shall be resolved.

	<p>However, the RSSB generally proceeds with negotiation, not wanting to put struggling employers out of business. The RSSB also undertakes extensive awareness and outreach programs (from radio and TV discussions, to brochures and quarterly magazines, to regional events held with employers and employees) aimed at improving knowledge of the benefits and responsibilities around social security, which also assists with compliance. The RSSB is piloting mobile phone, text and short-messaging service (SMS)-based communication with members so that they can track contributions in their accounts and ask questions, which should also help to improve compliance rates.</p> <p>The new Pensions Law (Article 86) requires employers to transfer an employee's contributions to the scheme of which the employee is a member. Article 58(6°) also obligates sponsoring employers to make timely payments of contributions into voluntary funds. Articles 59 and 60 require trustees and administrators to notify the regulator of any contributions that are more than 30 days overdue.</p> <p>Article 4 of the Draft Pensions Regulation requires the non-remittance of contributions to be covered in the pension scheme rules. A fine can be imposed on the sponsoring employer by the pension fund if non-remittance occurs and the non-transferred contributions should be treated as a civil debt, recoverable summarily by a pension scheme from the sponsoring employer. The Draft Pensions Regulation (Regulation 14(a)(ix)) requires the audited annual statement of the scheme to include the number of occasions on which any sponsoring employer or member contributions have not been paid within 10 days after the end of the calendar month in which they are due or deducted, as the case may be.</p> <p>The insurance company providers confirmed that late or nonpayment of contributions have not been a problem in practice.</p>
Recommendation	<p>Regulations around investment choice may need to be developed in future, should providers start to offer such products.</p> <p>With the passage of the new Pensions Law by Parliament, BNR should review the information which is provided by pension schemes to their members and provide further guidance if necessary.</p>

Good Practice B.2	<p><i>Advertising and Sales Materials</i></p> <ol style="list-style-type: none"> a. Pension management companies should ensure their advertising and sales materials and procedures do not mislead the customers. b. All marketing and sales materials of pension management companies should be easily readable and understandable by the average public. c. The pension management company should be legally responsible for all statements made in marketing and sales materials related to its products, and for all statements made by any person acting as an agent for the company.
Description	<p><i>Paragraphs (a) and (b)</i></p> <p>As noted in the 2013 CPFL Review, a key provision of the CCP Law is Article 37, which prohibits a seller of goods or services from providing consumers with information that is, in all of the circumstances, deceiving or misleading.</p> <p>The selling of pension products is not covered in the new Pensions Law or</p>

	<p>Draft Pensions Regulation.</p> <p>Pension management companies in Rwanda currently work directly with sponsoring employers to provide occupational pension schemes. They do not advertise directly to the public. The relationships with sponsoring employers are either built through brokers (a few of which are said to specialize in relationships with corporate clients) or directly through their own marketing departments. One regional pension consultant company has opened an office in the country. Currently they are only providing general HR advice to clients, though they expect to grow their pension advisory business in future once the legislative and regulatory framework for the sector is in place.</p> <p>Retail retirement products are currently sold mostly by insurance agents and, less commonly, by brokers. The 2013 CPFL Review made the following comments regarding the selling of insurance products, which also apply to the long-term savings/retirement products they provide.</p> <p><i>'Article 7 of the Market Conduct Regulations requires that insurers and intermediaries pay "due regard" to the information needs of customers. The insurer must provide a brochure about each product that clearly states the scope of benefits, charges, estimated returns and the extent of insurance cover, and that explicitly explains the warranties, exceptions and conditions of the cover. The insurer and intermediary must ensure that the consumer receives all "material information" in respect of the cover to enable the consumer to make a balanced and informed decision regarding most suitable product in their best interest. There is, however,</i></p> <ul style="list-style-type: none"> <i>• no requirement that the brochure contain specific information on the risks of insurance (such as the risk of under-insurance in home insurance, or of non-disclosure generally) and</i> <i>• no specific requirement that the brochure and other relevant information be provided prior to the purchasing decision being made by the consumer.</i> <p><i>The insurer and insurance intermediaries must also take reasonable care to ensure that the information provided to customers be accurate in all material respects, not misleading and is easily understandable (Article 7 Market Conduct Regulations).</i></p> <p><i>Article 9 of the Market Conduct Regulations deals with advertisements by insurers and insurance intermediaries. It prohibits the conduct, facilitation, acceptance or publication of unfair or misleading advertisements and the announcement of false information. The provision clarifies that unfair or misleading advertisements include those that fail to clearly identify the product as insurance, make claims beyond the reasonable expectation of performance, describe benefits that do not match the policy provisions, and make unfair or incomplete comparisons to products or disparages competitors.</i></p> <p><i>The Code of Conduct for insurance brokers [set out as Appendix I to the Market Conduct Regulation) (Insurance Brokers' Code of Conduct)] imposes additional requirements, including that brokers ensure that statements are not misleading, they must not limit advertisements to policies of one insurer without fully explaining the reasons, and the advertisements cannot be positioned to take advantage of the lack of experience or knowledge of consumers (Article 9). Article 17 further obligates intermediaries to provide accurate information regarding the</i></p>
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	<p><i>policy to the consumer before the policy is signed, although there does not appear to be a specific requirement to provide the brochure prepared by the insurer.</i>⁶</p> <p>The 2013 CPFL Review notes that, following a comparison of Articles 7 and 9 of the Market Conduct Regulation, it is not clear that there is an absolute prohibition on misleading and deceptive conduct in respect of an insurer's published materials or statements generally (such as brochures and advice) other than items that would qualify as 'advertising' or 'announcements'.</p> <p>It is also unclear what rights the consumer has for the breach of these provisions, although BNR may impose sanctions under Article 14.</p> <p>In respect of life investment products (i.e. the retirement products which insurers sell to individuals in Rwanda), the 2013 CPFL Review notes that, although there is a general requirement that claims cannot be made beyond the reasonable expectation of performance, there is the risk that this may be broadly interpreted.</p> <p>In providing advice, insurers or intermediaries must provide all material information about the coverage to enable the consumer to make a balanced and informed decision regarding the most suitable insurance coverage in their best interest (Article 7 of the Market Conduct Regulation). Prospective customers must be fully informed about their duty of disclosure, including the consequences of non-disclosure (Article 8).</p> <p>Insurance brokers must provide advice objectively and independently, and ensure, as far as possible, that the policy proposed is suitable to the needs and resources of the potential customer (Articles 2(d) and 1(f) of the Insurance Brokers' Code of Conduct). They must promptly identify and explain the degree of choice in the products on offer, explain the reasons for their recommendations and, where available, offer comparisons of price, cover and service (Articles 2(e) and (f) of the Insurance Brokers' Code of Conduct). Furthermore, the broker must explain the coverage in order to ensure that the consumer understands it, bring to their attention any warranties or unusual terms, and explain how to cancel the coverage.</p> <p>In practice, many individuals purchasing retirement products from insurers do not understand the nature of the product. These are guaranteed savings products with a life insurance component. They are sold by insurance agents to individuals, often through workplace contracts (e.g. the largest provider of these products confirmed that most of the contracts had been signed with teachers at schools). However, most individuals choose to cash out these products after a few years and are unable to understand why they get less back than they had put in (due to the life insurance element which they had purchased), or less than they could have received in a bank account (due to the long-term guarantee of the return). There are also no provisions on maximum guarantees that can be offered under these contracts or how profits or bonuses should be applied to guarantee products. Improvements in how information on these products is presented, and how they are sold by insurance representatives (including know-your-customer (KYC) and suitability requirements), are clearly needed.</p> <p>Paragraph (c)</p> <p>Pension scheme management companies should deal with sponsoring</p>
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⁶ 2013 CPFL Review, p 115.

	<p>employers only and not directly with scheme members or the public.</p> <p>Retirement products are sold on a retail basis by insurance companies. As the 2013 CPFL Review notes, even though broader agency rules may apply, there are no provisions in Rwanda's law that specifically make an insurer liable for the conduct of its agents in the distribution of insurance. This would cover all aspects of an agent's role, including the provision of pre- and post-sale information on the insurance, advice regarding appropriate products, the ongoing servicing of policies and assistance in respect of claims.</p>
Recommendation	<p>The Market Conduct Regulation and Insurance Brokers' Code of Conduct contain fairly comprehensive provisions on marketing and sales practices in relation to the selling of retirement products to individuals. However, in practice, the provision of information and sales practices need to be improved. BNR should meet with life insurance companies and ASSAR now the new Pensions Law has been passed by Parliament to clarify the new obligations that apply and the industry standards that the regulator expects. Guidance on maximum guarantees and how to determine profit/bonus payouts may also be required.</p> <p>BNR teams could also conduct a survey of the retirement products which are currently being sold on a retail basis to understand the types of product that are being offered and how they are being sold.</p> <p>The selling of retirement products should be covered in the Draft Pensions Regulation. As retail pension products are provided by insurance companies, the Draft Pensions Regulation should clearly state that the legislation and regulations regarding advertising, marketing and selling practices by insurance companies and their agents also apply to pension products sold by insurance companies. The Draft Pensions Regulation should also allow for the regulator to provide guidance on maximum guarantees applied to products, and how profits and bonuses should be applied.</p> <p>In terms of retirement products, the 2013 CPFL Review recommends that more specific regulatory guidance be provided to ensure consumers are not misled about the potential investment returns for life investment products. This would include a requirement that the insurer take into account the type of assets, the terms of the contract and ensure there is a clear statement that past investment performance is no indicator of future performance.</p>
	<p>The 2013 CPFL Review also made the following general recommendations that apply to retirement products, which should be implemented.</p> <p><i>'Although insurers and intermediaries are required to take all necessary steps to ensure that brochures and other materials provided to the consumer under Article 7 of the Market Conduct Regulations are accurate and not misleading, it is not clear whether brochures and other materials provided to the consumer under Article 7 are included in the definition of "advertising" and "announcements" under Article 9, and thus subject to the absolute rule that they not be misleading. The obligation to present accurate and complete information should be absolute for all materials presented to the consumer by the insurer and intermediary, and it is recommended that an amendment be introduced that would make any misleading and deceptive conduct on the part of insurers and intermediaries [a] breach and thus actionable. Some relief for breaches can be given where, for example, statements of future expectations are</i></p>

based upon reasonable expectations.

In addition, it is recommended that the consumer should have clear recourse in the event that the information does not comply, including for damages.

It is also recommended that additional, specific disclosure requirements be considered for brochures, such as risk disclosure, the requirement that unusual exclusions or other terms be given prominence, the amount of any deductibles and information about internal and external dispute resolution schemes. Ideally, information about basic consumer insurance products should be presented in a standardized format to enable comparison across insurers.

It is further recommended that the requirements in Article 7 make it clear that the brochure and any information outlined [need] to be provided to the consumer prior to their purchasing decision, that the consumer acknowledges its receipt and that they have read and understood it.

Benefit could also be gained by focusing on the level of consumer understanding of the insurance relationship and by facilitating requirements that will maximize the likelihood that consumers understand the basics concerning their insurance purchase, including what the product is that they are acquiring, who the insurer is, how to make a claim or access other benefits under the contract and what their obligations are as policy holders.

...

It is recommended that BNR consider the benefits of structures that ensure insurance advisers obtain information about their client and ensure that suitable products are sold to them, and over time introducing regulatory or code provisions to enhance the suitability of advice and products. This could potentially be achieved through a written fact find, or through other more appropriate means based on the consumer's levels of literacy and the maturity of the intermediary market. A fact find would, for instance, record the customer's situation, needs and objectives and could be retained for a set period, and a copy provided to the consumer with a copy of the advice given.

It is also recommended that BNR consider whether insurance agents should meet the higher standard of conduct when understanding their client and giving advice to clients. It is further recommended that consideration be given to implementing requirements for intermediaries to take steps to ensure the consumer understands the advice and the product that they are acquiring.⁷

As noted in the 2013 CPFL Review, although it may be otherwise covered in general law, it is recommended that BNR ensure that it is clear in the law that insurance companies are liable for the conduct of their agents, concerning the sales and marketing process, the ongoing management of customer service and in respect of claims. This recommendation still stands and is important for protecting consumers who purchase retirement products from insurance companies. The 2013 CPFL Review also recommends that consideration be given to whether it is clear to all parties that an insurer is liable for the conduct of its agents and, if not, that clarity is provided on this issue in a manner that is enforceable and well understood.

⁷ 2013 CPFL Review, pp 116, 117.

Good Practice B.3	<p>Key Facts Statement</p> <p>A Key Facts Statement disclosing the key factors of the pension scheme and its services should be presented by the pension management company before the consumer signs a contract.</p>
Description	<p>No requirements for Key Facts Statements (KFSs) are included in the new Pensions Law or the Draft Pensions Regulation. The 2013 CPFL Review notes that this is also the case for insurance products, including pension products.⁸</p> <p>Much work on these types of document in relation to the pensions sector has been undertaken by the European Insurance and Occupational Pensions Authority (EIOPA). For example, a statement of the EIOPA Occupational Pensions Stakeholder Group (OPSG) includes a recommendation for a Basic Information Document (BID). This would include: the name of the pension scheme; the nature and main features of the scheme; a brief indication of whether loss of capital is possible; an indication of the consequences of an early exit; a risk and reward profile of the scheme; contributions to be paid by the member and all costs and charges; the scheme's past performance; and not legally binding projections of possible retirement benefits. Such a BID could then form the first layer in a multi-layer disclosure approach.⁹</p>
Recommendation	<p>The 2013 CPFL Review recommends that, ideally, a summary form of disclosure about the key terms of the insurance contract be included on the front page of the policy document. This should also apply to retirement products sold by pension companies to individuals.</p> <p>BNR should study international examples of KFSs for pension products, develop a form of statement suitable for use in Rwanda and require pension fund management entities and plan sponsors to provide such information to occupation fund members.</p>

Good Practice B.4	<p>Special Disclosures</p> <ol style="list-style-type: none"> a. Pension management companies should disclose information relating to the products they offer, including investment options, risk and benefits, fees and charges, any restrictions or penalties on transfer, fraud protection over accounts, and fee on closure of account. b. Customers should be notified of any planned change in fees or charges a reasonable period in advance of the effective date of the change. c. Pension management companies should inform consumers upfront of the nature of any guarantee arrangements covering their pension products. d. Customers should be informed upfront regarding the time, manner and process of disputing information on statements and in respect of transactions.
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⁸ It should be noted that all retail pension products in Rwanda are effectively insurance products, so many of the recommendations from the 2013 CPFL Review relating to insurance products may be applicable

⁹ For further detail, see: EIOPA, *Risks Related to DC Pension Plan Members* (2011); EIOPA, *Risk Mitigation Mechanisms for DC Related Risks* (2011); EIOPA, *Report on Pre-Enrolment Information to Pension Plan Members* (2011); EIOPA, *Good Practices on Information Provision for DC Schemes* (2013).

	<p>e. Customers should be informed in writing, at the time of sale or when joining an occupational plan, of the options available to them if they decide to change employer, move or retire.</p>
Description	<p>Paragraph (a)</p> <p>See Private Pensions Good Practice B.1(a) and (b).</p> <p>In terms of retirement products sold by insurance companies to individuals, the 2013 CPFL Review notes that insurers must issue brochures for each of their insurance products which clearly state the scope of benefits, the extent of insurance coverage, charges and estimated returns, and which explicitly explain the warranties, exceptions and conditions of the coverage (Article 7 of the Market Conduct Regulation). Customers must also be informed about the insurer's duty of disclosure, although there is no specific requirement that this information appear in writing, such as on the proposal form.</p> <p>There are no specific requirements regarding the presentation of the material, such as type size.</p> <p>There is a general obligation for insurers and intermediaries to provide all material information about the coverage to the consumer in order to enable them to make a balanced and informed decision (Article 7 of the Market Conduct Regulation).</p> <p>Before an insurance contract is signed, insurance brokers and agents are required to provide accurate information about the purpose of the policy, what is and is not covered, risk selection requirements, the application, terminology used in the contract, how the policy will be issued, the estimated price and any other information relating to the contract (Article 17 of the Regulation No. 06/2009 of 29/07/2009 on Licensing Requirements and Other Requirements for Insurance Intermediaries (Insurance Intermediaries Licensing Regulation)).</p> <p>See Private Pensions Good Practice B.2 on the selling of retirement products by insurance companies in practice.</p> <p>Paragraph (b)</p> <p>The new Pensions Law (Article 44) requires that, in case of amendment of the voluntary pension scheme rules of procedure, a copy shall be submitted to the regulator, the Trustee, the Administrator, the Investment Manager, and the Custodian within seven days from the date of approval of the amendment.</p> <p>There is no explicit requirement to inform members of changes to the scheme rules, including changes to fees. Article 26 of the Draft Pensions Regulation requires fees to be covered in the initial contract for Personal Retirement Savings Account, but does not expressly specify a requirement for notification of fee changes.</p> <p>Paragraph (c)</p> <p>The Draft Pensions Regulation does not contain a specific requirement to provide consumers with information on guarantees.</p> <p>In practice, the guaranteed return agreed between the insurance company providing an occupational pension and the employer sponsoring the scheme is included in the master contract signed between these parties. Insurance companies also confirmed that the guarantee is included in the policy document which individuals sign when purchasing a retail product.</p>

	<p>Paragraph (d)</p> <p>See Private Pensions Good Practice E.1(a)</p> <p>Paragraph (e)</p> <p>Articles 4 and 26 of the Draft Pensions Regulation require withdrawal and transfer rights to be included in the scheme rules of a Complementary Occupational Pension Scheme and the contract establishing a Personal Retirement Savings Account.</p> <p>The insurance companies confirmed that information on transfer rights is included in the policy documents signed with sponsoring employers. Some providers also include this in the summary information sent to individual members. Some, though not all, sponsoring employers are understood also to provide such information to new members when they join the scheme.</p>
Recommendation	<p>The Draft Pensions Regulation should specify that scheme members must be informed of:</p> <ul style="list-style-type: none"> • the fees charged, as well as any changes to fees; • any changes in the scheme rules; • any guarantees provided; and • any changes in the scheme regulations. <p>The Draft Pensions Regulation should specify that all information provided to members (e.g. sales material, contracts and annual statements) should be written in clear and easily understood language, using a legible font.</p> <p>As recommended in Private Pensions Good Practice B.1, with the passage of the new Pensions Law, BNR should review the information provided by pension schemes to their members, and provide further guidance and take enforcement actions if necessary.</p> <p>The 2013 CPFL Review recommends that information about the insured's duty of disclosure, including the consequences of failing to meet the duty, and the times at and until which the duty applies, be required to be provided in writing to the consumer in clear language prior to their signing any application or proposal form.</p>
Good Practice B.5	<p>Professional Competence</p> <p>a. Marketing personnel, officers selling and approving transactions, and agents, should have sufficient qualifications and competence, depending on the complexities of the products they sell.</p> <p>b. The law should require agents to be licensed, or at least be authorized to operate, by the regulator or supervisor.</p> <p>c. Personnel departments with responsibility for occupational arrangements should have at least one suitably qualified individual who can explain the plan to members and deal with third-party providers such as asset management companies.</p>
Description	<p>As previously discussed, retirement products in Rwanda are sold mostly by insurance agents and, less commonly, by brokers. Insurance companies offering complementary, occupational pension schemes contract directly with sponsoring employers. As noted above, since all retail pension products in Rwanda are effectively insurance products, the comments in this section reiterate the findings of the 2013 CPFL Review on insurance.</p>

	<p>Paragraph (a)</p> <p><i>'Article 4 of the Market Conduct Regulation requires that insurers and insurance intermediaries ensure that:</i></p> <ul style="list-style-type: none"> • <i>they act with due skill, care and diligence;</i> • <i>their staff members are competent, suitable and have been given adequate training; and</i> • <i>a system is in place to monitor the quality of advice.</i> <p><i>An insurance broker can only provide advice on insurance matters in which he or she is knowledgeable and must refer a consumer to another specialist for advice when needed (Article 2(a) [Insurance Brokers' Code of Conduct]).</i></p> <p><i>Article 10 of the Brokers' Code [the Insurance Brokers' Code of Conduct] contains specific requirements in relation to training. In addition to other requirements in the law [Law No. 02/2008 of 10/09/2008 Governing the Organization of Insurance Business (Insurance Business Law)], the Code also mandates that staff is aware of all applicable legal and regulatory requirements, including the Code, and that they comply with those requirements.¹⁰</i></p> <p>The insurance companies confirmed to the WBG mission team during the 2015 CPFL Review that some training is provided to agents and brokers on all products, including long-term savings products. However, there was agreement that some of the misunderstanding of these products by clients may be due to a lack of understanding on the part of the selling agents as well.</p> <p><i>'The Financial Sector Development Plan contains a proposal to introduce an internationally-recognized standard of education for insurance intermediaries or insurer technical staff (the Certificate of Proficiency or similar) with a substantial lead-time to enable members of the industry to meet the standard.</i></p> <p><i>The insurance industry association, ASSAR, is currently developing a proposal for a training institute for the insurance industry and intermediaries.¹¹</i></p> <p>Paragraph (b)</p> <p>All insurance intermediaries must be licensed, as outlined in the Insurance Intermediaries Licensing Regulation.</p> <p><i>'The [Insurance Intermediaries Licensing Regulations] and the Market Conduct Regulations require that any broker or agent must make disclosures about their status (that is, whether they are independent or associated with any insurance companies and whether they are authorized to conclude insurance contracts) (Article 16 and Article 7, respectively). There is no requirement for the time at or the form in which this information is to be provided.</i></p> <p><i>Under [the Insurance Brokers' Code of Conduct], the broker must also</i></p>
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¹⁰ 2013 CPFL Review, p 119.

¹¹ Ibid.

	<p><i>take appropriate steps to see that the consumer understands the broker's role and on whose behalf the broker is acting (Article 1(b)).</i></p> <p>...</p> <p><i>Although there is no explicit provision requiring insurance brokers disclose commissions, insurance brokers must avoid conflicts of interest or if conflicts arise, ensure fair treatment to all policyholders or prospective customers by disclosure or other means (Article 6 Market Conduct Regulation).¹²</i></p> <p>Insurance companies confirmed to the WBG mission team during the 2015 CPFL Review that commissions are not disclosed when long-term savings such as retirement products are being sold.</p> <p><i>'BNR has advised that a person cannot operate as a broker and an agent at the same time.</i></p> <p>...</p> <p><i>Article 24 of the [Insurance Intermediaries Licensing Regulation] confers on BNR a broad range of enforcement powers to address breaches of the law, including temporary suspensions, the imposition of additional capital requirements, prohibitions against selling new or certain products, and may require training or refresher courses or "any other directives the Central Bank may deem appropriate".</i></p> <p><i>Article 14 of the Market Conduct Regulations also empowers BNR to impose sanctions for breaches of those provisions.¹³</i></p> <p>Paragraph (c)</p> <p>There are no requirements for employers to have specialist HR staff interacting with pension fund management companies in the new Pensions Law and Draft Pensions Regulation.</p>
<p>Recommendation</p>	<p>The 2013 CPFL Review makes the following recommendations regarding insurance agents.</p> <p><i>'It is recommended that the requirements in Article 16 [of the Insurance Intermediaries Licensing Regulation] on the status of intermediaries be clarified by the addition of a requirement that the information be provided at the start of the relationship or at least before any advice or recommendation being acted upon and consideration be given to the information to be provided in writing and/or any other means tailored to the particular needs of the consumer.</i></p> <p><i>It is recommended that brokers be required to disclose their commissions (both in dollar terms and also non-financial commissions such as rewards, operational and marketing support or office space) at the same time that any product is recommended to the consumer. It is also recommended that the amount of commission be prominently disclosed in the insurance contract, preferably with an upfront summary of the terms of the policy.</i></p> <p>...</p> <p><i>It is recommended that Rwanda continue with the proposals contained in the Financial Sector Development Plan II. Education and experience</i></p>

¹² Ibid p 114.

¹³ Ibid.

	<p><i>requirements should apply both at the time of licensing and at the time of appointment by the insurer (in the case of agents), and there should also be ongoing educational requirements such as a minimum number of hours per year spent in updating or increasing relevant education.</i></p> <p><i>There is an ongoing need to provide training to staff and intermediaries in the insurance industry. Such training should be extensive to build appropriate skills within the industry and, from a consumer protection perspective, should cover products (including features and suitability), the underwriting process, claims handling and assessment and training on consumer protection issues.</i></p> <p><i>Given the real need to increase experience within the industry, any industry training institute should be encouraged and, if possible, assisted to meet the internationally recognized standards consistent with the proposals in FSDP II.</i></p> <p><i>It is further recommended that BNR staff receive specific training to enable them to understand how the process of advice in the insurance context works and potential consumer issues arising from the advice field.¹⁴</i></p> <p>As part of its ongoing supervisory oversight, BNR should check the qualifications and information provided by pension consultants employed by the external managing entities.</p> <p>The Draft Pensions Regulation should specify that sponsoring employers should designate an HR representative to cover pension scheme issues.</p> <p>BNR should invite HR representatives of sponsoring employers to any workshops or events to ensure they understand their role and responsibilities under the new Pensions Law. In future, if the occupational pension market grows, BNR may wish to introduce training for HR staff responsible for pension issues.</p>
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Good Practice B.6	<i>Know Your Customer</i>
Description	<p>The sales officer should examine important characteristics of any potential customer, such as age, employment prospects and financial position, and be aware of the customer’s risk appetite and his or her long-term objectives for retirement, and recommend relevant financial products accordingly.</p> <p>The new Pensions Law and Draft Pensions Regulation do not specifically cover KYC rules. As all funds are currently managed on a group/occupational basis and have not been sold to individuals, the KYC tests are not currently required in Rwanda.</p> <p>International research on how to apply such a test to pensions has been undertaken by the International Organization of Pension Supervisors (IOPS). For example, as part of the test being conduct to compliance with KYC rules, consumers in many countries (Australia, Colombia, Costa Rica, Israel, Mexico and Thailand, among others) are notified if providers lack sufficient information. In some instances, the sale may not go ahead where information is lacking (e.g. Hong Kong, India and Pakistan). Many jurisdictions require that the consumer’s circumstances and the advice given be put in writing and retained (Australia and Hong Kong, among</p>

¹⁴ Ibid p 114, 119.

	<p>others). These suitability checks may be supervised, and form the basis of complaints and compliance testing (for instance in Colombia, Israel and Slovakia).¹⁵</p> <p>In terms of retirement products sold by insurance companies, the 2013 CPFL Review notes that Article 8 of the Market Conduct Regulation requires insurers and intermediaries to seek from their prospective customers the necessary information to make an appropriate assessment of the customer's insurance needs before giving advice or concluding a contract.</p> <p>According to the 2013 CPFL Review:</p> <p><i>'The mandatory [Insurance Brokers' Code of Conduct] provides more specifics, and requires that the broker</i></p> <ul style="list-style-type: none"> • <i>understand the type of customer he is dealing with and the extent of the customer's awareness of risk and insurance (Article 1(d)) and</i> • <i>ensure, as far as possible, that the policy proposed is suitable for the consumer's needs and resources (Article 1(g)).</i> <p><i>Although insurers and brokers must</i></p> <ul style="list-style-type: none"> • <i>have in place risk management policies and internal control systems (Article 19 of [Regulation No. 05/2009 of 30/10/2012 on Insurers Licensing Requirements (Insurers Licensing Regulation)]); Article 19 of the [Insurance Intermediaries Licensing Regulation]) and</i> • <i>have a system to monitor the quality of advice given by their staff (Article 4 Market Conduct Regulations),</i> <p><i>both of which would arguably include an obligation to record and retain a copy of the customers' needs, but there is no specific requirement in this regard.</i>¹⁶</p> <p>In practice, it is not clear that consumers understand the retirement products that are being sold to them directly as a retail product, or that the products meet their needs (given they are often cashed out after only a few years).</p>
Recommendation	<p>BNR should review international experience in KYC rules applicable to pensions, and could introduce regulations and/or provide guidance should a retail market develop in future.¹⁷</p> <p>See Private Pensions Good Practice B.2 for recommendations on selling of pension retirement products.</p>
Good Practice B.7	<p><i>Disclosure of Financial Situation</i></p> <ul style="list-style-type: none"> a. The regulator or supervisor should publish annual public reports on the development, health and strength of the pensions industry either as a special report or as part of its disclosure and accountability requirements under the law that governs these. b. All pension management companies should disclose information

¹⁵ See IOPS, 'Supervision of Pension Intermediaries' (IOPS Working Paper on Effective Pensions Supervision No. 17, December 2012).

¹⁶ 2013 CPFL Review, p117.

¹⁷ IOPS states in that, in terms of what client information is required to be collected in order to establish suitability of product or advice, age is standard in virtually all countries that have such suitability requirements. Risk appetite and income are requested in many cases. Investment experience, family situation, tax position and net worth are less common. IOPS, above n 15, 22.

	<p>regarding their financial position and profit performance.</p> <p>c. Actuarial reports on funding levels should be required annually for defined benefit plans and members and affiliates should be advised of the condition of the plan in a short and clear written report.</p> <p>d. Investment reports for defined contribution plans should at least match best practice mutual fund reporting.</p>
Description	<p>Paragraph (a)</p> <p>The new Pensions Law (Article 57) requires the regulator to establish, keep, update and publish the list of all pension schemes and their service providers licensed under the Pensions Law on an annual basis (and whenever deemed necessary).</p> <p>Currently, BNR does not have accurate records of the existing complementary occupational pension funds. (It has an ‘informal’ list of 54 funds as at September 2014.)</p> <p>BNR could consider becoming a central source of comparative information between service providers (e.g. providing a table of returns and fees). Increasingly, this is becoming common practice in countries such as Australia, Bulgaria, Hong Kong, Chile, Israel, Jamaica, Mexico or Turkey. As IOPS Working Paper No. 15 states:¹⁸</p> <p><i>‘The fact that information comes directly from the supervisor may contribute to maintaining public confidence in the functioning of the pension system — a goal which has risen in prominence following the global financial and economic crisis of recent years.’</i></p> <p>Paragraph (b)</p> <p>Article 21 of the Draft Pensions Regulation requires the trustee of a pension fund to inform members that the audited financial statements of the scheme and the investment reports are available, and to provide them with a summary.</p> <p>There are no requirements in the new Pensions Law for the pension fund management company (as opposed to the pension fund) to disclose its financial position.</p> <p>Pension fund management companies are in practice insurance companies. Likewise, retail retirement products are sold by insurance companies. In terms of insurance companies selling retirement products, the 2013 CPFL Review notes the following:</p> <p><i>‘BNR is empowered under the Insurer Licensing Regulations to publish reports containing statistical data as well as economic and financial studies and can require insurers or any other person to provide it with statistics and information needed for the analysis (Article 68 Insurer Licensing Regulations).</i></p> <p><i>Insurers must maintain accounting records that are sufficient to enable its financial position to be determined at any time with reasonable accuracy (Article 24 of the Insurer Licensing Regulation).</i></p>

¹⁸ For further details and international examples (including links to individual country websites), see IOPS, ‘Comparative Information Provided by Pension Supervisory Authorities’ (Working Paper on Effective Pension Supervision No. 15, 2011), available at <<http://www.oecd.org/site/iops/principlesandguidelines/49354396.pdf>>.

	<p><i>Insurers must submit various financial reporting to the Central Bank including Margin of Solvency Reports, Quarterly Financial Statements, and prudential reports such as valuations of technical provisions, and n compliance with investment restrictions, loans and exposures (Article 26 Insurer Licensing Regulations).</i></p> <p><i>Insurers must submit audited financial statements to the Central Bank by April 30 each year. After the Central Bank has reviewed insurers' financial statements, they are required to publish their audited financial statements in a newspaper and on their websites (Article 25 Insurer Licensing Regulations).</i></p> <p><i>The Financial Sector Development Program II recognizes the need for increased information on the insurance industry to be published, both on websites and in regular publications. There needs to be more comprehensive data, which should be separated between the life and non-life sectors and is expected to include balance sheet information, income/expense data and key ratios.</i></p> <p><i>Very few companies in Rwanda are rated by credit agencies, and no insurers operating in Rwanda are currently rated, making publication by the Central Bank of accessible data on the financial strength of insurers a priority.¹⁹</i></p> <p>Paragraph (c)</p> <p>Article 15 of the Draft Pensions Regulation requires an actuarial study for the mandatory RSSB every five years. The last two studies were carried out in 2007 and 2012 by the International Labor Organization (ILO).</p> <p>Article 14(a) of the Draft Pensions Regulation requires all pension schemes to submit an annual report to the regulator. For defined benefit funds, this must include the fund value as at the last actuarial valuation, funding and solvency ratios, the date of valuation, the definition and interpretation of ratios, and the audited financial statements for all schemes. Article 31 requires similar annual reports and statements for personal retirement savings accounts.</p> <p>Numerous provisions in the new Pensions Law (including Articles 58, 59, 77, 84 and 85) and the Draft Pensions Regulation (including Articles 8–10 and 12) cover the obligations of trustees regarding audits and actuarial reports, and how audits must be conducted.</p> <p>The Draft Pensions Regulation (Article 12(e)) requires the pension scheme to report to members within three months of the actuarial study and the results are available to them upon request.</p> <p>Aside from the RSSB, there are no defined benefit funds operating in Rwanda. Actuarial reviews are not therefore required in practice. However, the insurance companies managing complementary occupational funds confirmed that these are regularly audited.</p> <p>Paragraph (d)</p> <p>See Private Pensions Good Practice C.1(b).</p>
Recommendation	With the passage of the new Pensions Law, BNR should ensure a thorough stocktake of complementary occupational funds.

¹⁹ 2013 CPFL Review p 121.

	<p>BNR should improve the information it has on the pensions sector, including the number and nature of funds, membership and asset data and performance and fee information, and publish such information at least annually, both on its website and in an annual report format.</p> <p>The 2013 CPFL Review recommended that BNR regularly publish an overview of the financial strength of the insurance industry, with key information that would include market share in key segments, solvency margins and regulatory capital.</p> <p>It is also recommended that BNR conduct an education campaign regarding the importance of an insurer's financial strength.</p> <p>The Draft Pensions Regulation should require a pension fund management company to disclose its financial position.</p>
Good Practice B.8	<p>Contracts</p> <p>There should be consistent contracts or membership forms for pension products and the contents of a contract should be read by the customer or explained to the customer before it is signed.</p>
Description	<p>The new Pensions Law does provide for contract-based, Personal Retirement Savings accounts. Article 39 provides that these accounts should be set up using a standard contract.</p> <p>The Draft Pensions Regulation (Article 26) provides detailed minimum requirements for these written contracts including: names of parties; address and contact details of provider and contract holder; date of contract; definitions; contract termination details; benefit entitlement; provider obligations; investment issues; contribution rate; interest charge for late payment of benefits; vesting (if employer contributions); costs; transfer rights; withdrawal rules; procedures for amending contract; details of service providers; information entitlement; and dispute mechanisms</p> <p>In practice, such personal pension products do not yet exist in Rwanda and individuals join pooled, occupational pension schemes set up by their employer.</p> <p>In terms of retirement products sold by insurance companies to individuals, the 2013 CPFL Review notes that current insurance contract rules are governed by the Decree Law No 20/75 of 20/06/1975 on Insurance (Insurance Law) and has been modified and completed by Law No 01/2002 of 19/01/2002.</p> <p>The 2013 CPFL Review lists a number of essential consumer elements contained in the draft Law on Insurance Contracts and notes how extra protection could be provided by the passing of such a law. It is understood that the draft Law on Insurance Contracts will be tabled in Parliament in 2015.</p>
Recommendation	The draft Law on Insurance Contracts should be enacted, as recommended in the 2013 CPFL Review.
Good Practice B.9	<p>Cooling-off Period</p> <p>There should be a reasonable cooling-off period associated with any individual pension product.</p>
Description	<p>There is no mention of a cooling-off period in the new Pensions Law or Draft Pensions Regulation.</p> <p>The 2013 CPFL Review notes that there is no cooling-off period for</p>

	<p>insurance products.</p> <p>In practice, one of the insurance companies confirmed that they offer a 30-day cooling-off period for long-term savings/retirement products in order to offset some of the risks associated with consumers' misunderstanding the contracts for these products (as acknowledged by industry and earlier in this report). Another company confirmed that in practice there is a pseudo cooling-off period between the time the proposal is made to a client and when the agent returns with the actual prepared policy for the client to sign. Others sign contracts immediately.</p>
Recommendation	A minimum cooling-off period (one week is recommended) should be included in the Draft Pensions Regulation. This is consistent with the 2013 CPFL Review recommendation that consideration be given to reasonable cooling-off periods for non-mandatory classes of insurance and, in particular, to long-term savings contracts.
SECTION C	CUSTOMER ACCOUNT HANDLING AND MAINTENANCE
Good Practice C.1	<p>Statements</p> <ul style="list-style-type: none"> a. Members and affiliates of a defined contribution pension plan should not be locked into a specified investment profile (and shares in their employer in particular) for more than a short period (e.g. one week) after providing notification of a desire to switch investment profiles. b. Customers or occupational plan members should receive a regular streamlined statement of their account that provides the complete details of account activity (including investment performance on a standardized basis) in an easy-to-read format, making reconciliation easy. c. Customers should have a means to dispute the accuracy of any transaction recorded in the statement within a reasonable, stipulated period. d. When customers sign up for paperless statements, such statements should be in an easy-to-read and readily understandable format.
Description	<p>Paragraph (a)</p> <p>See Private Pensions Good Practice B.1(a). Pension schemes in Rwanda do not currently offer investment choices to individual fund members.</p> <p>Paragraph (b)</p> <p>The new Pensions Law (Article 80) states that the pension scheme itself has the obligation to provide its members with information on the status of their scheme, the scheme's duties, decisions taken in regard to members and their rights under the pension scheme. Article 60 also imposes the requirement on the administrator to: (1^o) maintain accurately all records necessary for the successful maintenance and operation of the pension scheme, including information related to members; and (2^o) ensure that all information to be provided to members pursuant to the Pensions Law is delivered in a timely and accurate manner to all members.</p> <p>The Draft Pensions Regulation (Article 26) outlines the content that must be included in an individual pension account contract. This includes the right to information including an annual statement and audited financial reports of the scheme and annual investment reports.</p>

	<p>An interesting and innovative clause in the Draft Pensions Regulation (Article 27(xiii)) requires the providers of personal retirement savings accounts to develop a communication strategy intended to enable regular communication to accountholders with respect to the affairs of their personal retirement savings and furnishing them with annual benefits statements showing the contributions in the year, earned interest, liabilities incurred and the net savings.</p> <p>In practice, the RSSB, being a defined benefit fund, does not provide annual statements. However, individuals can receive statements on request and individual account information can accessed online. As noted above, the RSSB is also currently piloting mobile phone, text and SMS-based interactions with members (informing of when contributions have been made etc.) to try to improve compliance rates amongst employers.</p> <p>The insurance companies confirmed that they provide information to corporate clients annually, quarterly or monthly, as requested. Some are just starting to roll out services whereby individual employees can get information on their accounts online. As noted, the quality and regularity of information provided to scheme members currently varies between employers and will certainly benefit from standardization and guidance which the Draft Pensions Regulation will provide.</p> <p>Paragraph (c)</p> <p>See Private Pensions Good Practice - Section E on dispute resolution.</p> <p>Paragraph (d)</p> <p>Electronic statements are just starting to become available to members of pension funds. These, and other disclosure practices, will need to be checked by the regulator as they develop.</p>
Recommendation	See Private Pensions Good Practice B.1 on investment choice and supervision of information provision.
SECTION D	PRIVACY AND DATA PROTECTION
Good Practice D.1	<p><i>Confidentiality and Security of Customers' Information</i></p> <p>a. The financial activities of any customer of a pension management company should be kept confidential and protected from unwarranted private and governmental scrutiny.</p> <p>b. The law should require pension management companies to ensure that they protect the confidentiality and security of personal information of their customers against any anticipated threats or hazards to the security or integrity of such information, and against unauthorized access to, or use of, customer information that could result in substantial harm or inconvenience to any customer.</p>
Description	<p>Paragraph (a)</p> <p>The 2013 CPFL Review notes that Article 22 of Rwanda's Constitution provides for the right to privacy.</p> <p>The Draft Pensions Regulation (Article 7(c)(vi)) states that the service level agreement between a pension scheme and an external pension administrator must require the service provider to provide for the confidentiality, privacy and security of information.</p>

	<p>In practice, the RSSB confirmed that the confidentiality of personal information is indeed maintained. For example, even the actuaries conducting the official review of a pension fund are required to sign a confidentiality agreement and all information provided to them on members' salaries etc. has personal information redacted.</p> <p>The insurance companies confirmed that the individual information of members of corporate funds is kept confidential and is never sold or handed over to third parties. One provider mentioned that some information was passed within the financial group (from the life to the general insurance company) for the purpose of cross-selling products, but this has been stopped as it was not well-received by clients. This provider may still give presentations to corporate client employees on their other products, but this is done at the invitation or with the approval of the employer, and individual membership data is not used.</p> <p>There do not appear to have been any material problems around breaches of confidentiality relating to personal information of pension fund members (mandatory or voluntary) in Rwanda.</p> <p>In terms of retirement products sold by insurance companies, the 2013 CPFL Review notes that the insurance laws provide some general protection for confidentiality, as follows:</p> <ul style="list-style-type: none"> • <i>'Under Article 5 of the Market Conduct Regulation, insurers and insurance intermediaries must maintain the confidentiality of information obtained from policyholders or prospective customers. The use of that information is restricted to the normal course of negotiating, maintaining or renewing an insurance contract, unless either</i> <ul style="list-style-type: none"> - <i>the policyholder or prospective customer's consent is obtained or</i> - <i>the information must be disclosed by law or by a Court.</i> • <i>Under the Market Conduct Regulations, the mandatory Codes of Practice for Insurance Brokers, Agents and Loss Adjusters contain requirements that recipients of information received in professional confidence may only be revealed to others who are entitled to that information. It is not clear who is regarded as being "entitled" to the information, such as whether this extends beyond the insurer to government authorities; and</i> • <i>Under [Regulation No. 07/2009 of 29/27/2009 on Corporate Governance Requirements for Insurance Business (Insurance Corporate Governance Regulations)], Article 44 establishes that the confidentiality of relations and dealings between the insurer and policyholders is paramount, and directors, officers and staff members must take precaution to protect it.'</i>²⁰ <p>The 2013 CPFL Review does, however, note that there are no specific data protection laws in Rwanda under the oversight of a dedicated agency.</p> <p>Paragraph (b)</p> <p>The Draft Pensions Regulation (Article 7(c)(ix)) states that the service level</p>
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²⁰ Ibid 123.

	<p>agreement between a pension scheme and an external pension administrator must provide for business continuity planning, including transfer protocols relating to the handover of functions from the service provider to either a successor service provider or to the trustees (where applicable) on the cessation of the service level agreement.</p> <p>The RSSB confirmed that it has data protection and disaster recovery systems, including new cloud-based storage.</p> <p>The insurance companies also confirmed that they have such systems in place.</p>
Recommendation	<p>The confidentiality of pension scheme member information should be explicitly specified as a requirement in the Draft Pensions Regulation.</p> <p>The 2013 CPFL Review notes that, in some cases, personal information in relation to insurance may be obtained from a person other than the policyholder or prospective customer. For example, an insured or prospective insured may provide information in the proposal or during the underwriting process. The insurer may also give confidential information to third parties, such as medical professionals. The 2013 CPFL Review therefore recommended that consideration be given to expanding the application of the confidentiality provisions to such third parties.</p> <p>In the longer term, it is recommended that a specific data protection law be introduced in Rwanda to ensure that personal data receive consistent and specific protection across all financial services sectors.</p>

Good Practice D.2	<p><i>Sharing Customer's Information</i></p> <ol style="list-style-type: none"> a. Pension management companies should inform the consumer of third-party dealings for which the pension management company intends to share information regarding the consumer's account. b. Pension management companies should explain to customers how they use and share customers' personal information. c. Pension management companies should be prohibited from selling (or sharing) account or personal information to (or with) any outside company not affiliated with the pension management company for the purpose of telemarketing or direct mail marketing. d. The law should allow a customer to stop or opt out of the sharing by the pension management company of certain information regarding the customer, and the pension management company should inform its customers of their opt-out right. e. The law should prohibit the disclosure of information of customers by third parties.
Description	<p><i>Paragraphs (a)–(e)</i></p> <p>See Private Pensions Good Practice D.1.</p>
Recommendation	<p>See Private Pensions Good Practice D.1 recommendations.</p>
Good Practice D.3	<p><i>Permitted Disclosures</i></p> <ol style="list-style-type: none"> a. The law should state specific procedures and exceptions concerning the release of customer financial records to government authorities. b. The law should provide for penalties for breach of confidentiality laws.

Description	See Private Pensions Good Practice D.1.
Recommendation	See Private Pensions Good Practice D.1 recommendations.
SECTION E	DISPUTE RESOLUTION MECHANISMS
Good Practice E.1	<p><i>Internal Dispute Settlement</i></p> <ol style="list-style-type: none"> a. An internal avenue for claim and dispute resolution practices within the pension management company should be required by the supervisory agency. b. Pension management companies should provide designated employees available to consumers for inquiries and complaints. c. The pension management company should inform its customers of the internal procedures on dispute resolution. d. The regulator or supervisor should investigate whether pension management companies comply with their internal procedures regarding dispute resolution.
Description	<p><i>Paragraph (a)</i></p> <p>The new Pensions Law (Article 87) covers the right of appeal of pension fund members, stating that any member or beneficiary of a pension scheme who is aggrieved by the decision of the pension scheme may request, in writing, that such a decision be reviewed by the Board of Directors of the organ which took the decision within a period not exceeding six months.</p> <p>Article 4(a)(xxiii) of the Draft Pensions Regulation requires the scheme rules to include the manner in which disputes between the parties of the pension scheme shall be resolved. This is also required to be included the contract for an individual pension account contract (Article 26(a)(xxviii)).</p> <p>In practice, RSSB confirmed that any problems with mandatory contributions are handled at the local level. They have 30 offices covering each region of the country, and the regional offices are responsible for and have relationships with local employers. Problems, which are mostly administrative, have so far been settled internally with no need to seek external arbitration or to go to court.</p> <p>In terms of insurance companies selling retirement products, the 2013 CPFL Review notes that Article 10 of the Market Conduct Regulation requires insurers to have an internal dispute resolution process that addresses policyholders' complaints in a timely and fair manner. Insurers must communicate the processes and procedures to policyholders. Other potential complainants are not mentioned.</p> <p>Brokers must also comply with certain basic requirements for complaints-handling. Complaints must be accepted by phone or in writing, must be dealt with at a suitably senior level and the broker must have a system for recording and monitoring them (Article 7 of the Insurance Brokers' Code of Conduct).</p> <p>The BNR Directive on Customer Service Delivery also contains certain benchmarks that are required to be met by insurers and brokers in relation to complaints-handling, including a requirement to address complaints within 15 days.</p> <p>In practice, the insurance companies selling retirement products have had issues with clients receiving less than expected when cashing out their</p>

	<p>retirement savings products early. However, no complaints have been taken to court.</p> <p>Paragraph (b)</p> <p>The new Pensions Law and the Draft Pensions Regulation do not expressly require pension management companies to provide dedicated customer complaints-handling staff. However, in practice, the insurance companies confirmed they have dedicated customer relationship management (including complaints-handling) staff in charge of corporate accounts.</p> <p>Paragraph (c)</p> <p>The Draft Pensions Regulation (Article 7(c)(iii)) requires a service level agreement if an external administrator is appointed, which must include dispute resolution mechanisms between the parties.</p> <p>The pension fund management companies consulted confirmed that, as with the customer relationship management staff, these procedures are made known to employer sponsor-clients.</p> <p>Paragraph (d)</p> <p>BNR has yet to commence supervising pension schemes.</p>
Recommendation	<p>See Private Pensions Good Practice E.2.</p> <p>The 2013 CPFL Review recommends that access to the insurer's dispute resolution mechanism be extended to any person with an interest under a policy, including beneficiaries.</p> <p>Provisions should be implemented that require insurers and brokers to inform consumers about the existence of the internal dispute resolution scheme, as well as processes for accessing it, both in marketing materials about each product (including written materials and on the company's website) and at the time a complaint is made. Requirements should be implemented that specify in detail the timeframes within which a response should be provided to the consumer. There should also be requirements for the insurer or broker to report on their scheme and to monitor trends in complaints-handling.</p>
Good Practice E.2	<p>Formal Dispute Settlement Mechanisms</p> <p>A system should be in place that allows consumers to seek third-party recourse in the event they cannot resolve a pensions-related issue with their employer or a pension management company.</p>
Description	<p>Article 87 of the draft Pension Act states that, where a member or beneficiary is not satisfied with the response of the Board of Trustees of the pension scheme, they have the right to refer the matter to the Office of the Ombudsman within a period not exceeding 30 days. In addition, where a person who appealed to the Office of the Ombudsman is not satisfied with the decision, he or she may file a case with a competent court.</p> <p>Since the 2013 CPFL Review took place, the Office of the Ombudsman confirmed that it would be responsible for handling financial consumer issues going forward. Though capacity is still limited and needs to be developed in this regard, two staff members have been assigned to the financial sector unit, and initial training on financial consumer protection issues and international best practice financial ombudsman scheme rules and processes has taken place under the Rwanda FISF Program. However the need remains to provide resources and capacity within the Office of the Ombudsman in relation to the handling of pension related disputes since</p>

	<p>neither appeared present at the time of the Diagnostic Review and especially given the complexity of pension products and related schemes.</p> <p>The 2013 CPFL Review notes that from 2010–11, there were nine insurance-related cases out of a total of 3,644 cases, being the smallest complaints category. No cases concerning pensions have so far been received.</p> <p>Given the nascent development of the voluntary pensions sector, no cases have in practice been brought to arbitration or court.</p>
Recommendation	<p>Both resources and capacity at the Office of the Ombudsman should be enhanced to cover the handling of pensions-related disputes. Relevant staff at the Office of the Ombudsman should also be invited to attend any workshops or training on the new Pensions Law.</p> <p>BNR should include a review of internal and external dispute mechanisms (including how these mechanisms are made known to members) in their supervisory oversight as it develops (e.g. it should be noted in off-site, on-site supervisory manuals).</p> <p>BNR should monitor complaints data received from pension scheme providers and service providers, and publish statistics as appropriate.</p>
SECTION F	GUARANTEE SCHEMES AND SAFETY PROVISIONS
Good Practice F.1	<p><i>Guarantee Schemes and Safety Provisions</i></p> <p>Guarantee and compensation schemes are less common in the pensions sector than in banking and insurance. There are more likely to be fiduciary duties and custodian arrangements to ensure the safety of assets.</p> <p>a. There needs to be a basic requirement in the law to the effect that pension management companies should seek to safeguard pension fund assets.</p> <p>b. There should also be adequate depository or custodian arrangements in place to ensure that assets are safeguarded.</p>
Description	<p><i>Paragraph (a)</i></p> <p>The new Pensions Law (Article 76) confirms that a pension scheme managed by a public institution (i.e. the mandatory scheme managed by the RSSB) is guaranteed by the government. The new Pensions Law also states that the rules of procedure shall determine modalities relating to insurance of voluntary pension benefit, though it is not clear what this means in practice.</p> <p>See Private Pensions Good Practice A.1 relating to ‘fiduciary duty’.</p> <p>The Draft Pensions Regulation (Article 3 (a)) requires scheme trustees to keep the money and other assets of the pension scheme separate from any money and assets held by the trustees to finance administrative expenses. Article 70 of the Draft Pensions Regulation and Article 59 of the new Pensions Law require every pension scheme to establish an investment policy containing investment guidelines for its development and in the best interest of beneficiaries ‘<i>pursuant to the national investment policy</i>’. (It is not clear what the last requirement refers to.) This is supported by the Draft Pensions Regulation (Article 3) which also sets out the requirements of the trustees to establish and follow an investment policy (including risks,</p>

	<p>liquidity, valuation and benchmarks).</p> <p>Article 13 of the Draft Pensions Regulation also outlines rules for the investments of pension schemes, including reviewing the investment policy every three years (Article 13(d)). Investment class restrictions are also outlined in an Annex to the Draft Pensions Regulation.</p> <p>Article 30(c) also requires providers of personal retirement savings accounts to formulate an investment strategy, to be revisited every three years in line with investment regulations, and to be properly valued and monitored.</p> <p>Article 71 requires pension scheme performance monitoring to be measured every three months against investment performance measurement benchmarks. Article 72 requires the investment manager of every pension scheme to prepare, update and submit to the trustee and regulator a document on all pension investments. Article 74 provides protection in that no more than 10 per cent of the assets can be invested in the plan sponsor, no assets can be invested in service providers, and pension fund scheme assets cannot be used to make loans or mortgages to members.</p> <p>Additionally, Article 82 requires pension schemes to establish and enforce internal control, audit and compliance processes on recordkeeping, investment activities and any other activities identified by the regulator.</p> <p>The Draft Regulation on the Licensing of Voluntary Pension Schemes, Licensing and Roles of Some Service Providers (Draft Pensions Licensing Regulation) (Articles 7–9) also requires all occupational schemes to develop a risk management plan.</p> <p>The Draft Pensions Regulation (Article 12) outlines when the regulator can require a remedial plan to improve or repair the funding position of the scheme.</p> <p>Article 29 of the Draft Pensions Regulation clearly states that the account owner of a personal retirement savings account is the beneficial owner of the assets in the account. Article 37 also requires personal retirement savings accounts to be kept separately from other assets of the financial institution and provides that they shall not be part of the general assets of such financial institution.</p> <p>The RSSB has a well-articulated investment policy,²¹ although it is not necessarily implemented fully in practice. A review of the policy and practice is currently underway.</p> <p>Insurance companies managing pension schemes have rudimentary investment policies, with portfolios (basically consisting of bank deposits and some property holdings) structured around liquidity requirements. Industry practice will need to be improved now that the new Pensions Law has been passed by Parliament. Requirements to manage pension scheme assets separately are in place.</p> <p>Paragraph (b)</p> <p>Article 51 of the new Pensions Law states that each pension scheme shall have a custodian approved by the regulator. The requirements to be a</p>
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²¹ See Rwanda Social Security Board <<http://www.csr.gov.rw>> (accessed 8 July 2015).

	<p>custodian are also set out, and there is also a prohibition against custodians acting in any other capacity for a pension scheme. Articles 54–6 sets out prohibitions for custodians concerning related parties and conflicts of interest. Article 62 outlines their obligations. Further details on the custodian’s role and obligations are also set out in the Draft Pensions Licensing Regulation (Articles 26–37).</p> <p>Article 30 of the Draft Pensions Regulation requires contributions into a personal retirement savings account be made to a licensed custodian appointed by the provider.</p> <p>In practice, custodial services are not used by pension schemes (including the RSSB, whose assets under management constitute eight per cent of gross domestic product (GDP)). Instead, pension assets are managed and held by insurance companies themselves.</p>
Recommendation	BNR should organize a workshop on the roles and responsibilities of the different service providers (including custodians) for stakeholders (see Private Pensions Good Practice A.1).
SECTION G	CONSUMER EMPOWERMENT
Good Practice G.1	<p><i>Using a Range of Initiatives and Channels, including the Mass Media</i></p> <ol style="list-style-type: none"> a. A range of initiatives should be undertaken to improve people's financial capability. b. The mass media should be encouraged by the relevant authority to provide financial education, information and guidance to the public, including on the private pensions sector. c. The government should provide appropriate incentives and encourage collaboration between governmental agencies, the supervisory authority for private pensions, the private pension industry and consumer associations in the provision of financial education, information and guidance to consumers, particularly on the private pensions sector.
Description	<p><i>Paragraph (a)</i></p> <p>The 2013 CPFL Review notes that, under the Rwandan Government's Vision 2020 development program, the goal is to increase financial inclusion to 80 per cent by 2017, and to 90 per cent by 2020.</p> <p>Through the work of the Ministry of Finance and Economic Planning, BNR, and Access to Finance Rwanda, Rwanda is in the process of implementing an NFES. The aim of an NFES is to assess the state of financial inclusion in Rwanda and to provide a framework to coordinate and implement future financial education activities. The Rwandan Government announced an ambitious NFES in 2013 that, in addition to those aims, prioritizes crucial sectors of the population for financial education (children, youth, elders and women), and outlines multiple delivery channels for each sector. Key performance indicators have also been established to measure success under the regular FinCap survey. The Ministry of Finance (MINECOFIN) has assumed responsibility for coordinating stakeholder involvement in the initial formulation of an implementation plan and is in the process of hiring dedicated staff for this project. Support will be provided through Rwanda's FISF program through technical assistance and capacity-building, and to assist in the execution of the robust monitoring and evaluation plan set out in Rwanda's NFES to ensure that there is effective progress on improving financial literacy and capability.</p>

	<p>The 2013 CPFL Review states that <i>‘financial education is required to increase the currently small available pool of qualified financial services workers, as recruiting staff even with basic financial skills is currently a challenge. This has the flow-on effect of enabling customer service staff to assist with the education of financial consumers.’</i>²²</p> <p>In terms of insurance, it appears that there is a high level of awareness of the national health insurance scheme, with the FinCap survey indicating that the level of awareness of insurance is nearly as high as awareness of savings products. However, a separate survey noted that 20.4 per cent of surveyed Rwandans had not heard of insurance and 29.6 per cent did not know how to use it; 22.1 per cent said they could not afford it.</p> <p>No specific surveys or campaigns have as yet been conducted on pensions on a national level. However, information of savings in general is a key part of the campaign. MINECOFIN is keen to adopt a ‘life-cycle’ approach to their messaging, to explain the importance of short-term savings (e.g. for mobile phones), mid-term savings (e.g. for housing) and long-term savings (for retirement). MINECOFIN has previously undertaken campaigns to disseminate various laws, and agrees that the new Pensions Law could provide a good opportunity to highlight the issue of pensions.</p> <p>Paragraph (b)</p> <p>See Private Pensions Good Practice A.2.</p> <p>Paragraph (c)</p> <p>As previously noted, the RSSB undertakes extensive awareness and outreach programs (from radio and TV discussions, to brochures and quarterly magazines, to regional events held with employers and employees) aimed at improving knowledge of the benefits and responsibilities around social security, with the goal of improving understanding and compliance. These have not been coordinated with the national campaigns, but could form a basis for, or certainly should be a part of, broader programs on long-term savings and retirement income in general.</p> <p>No campaigns have as yet been launched on pensions at an industry level. The insurance companies expressed some interest in launching such awareness campaigns on insurance and savings, mentioning radio dramas and broadcasts as a possible mechanism.</p>
Recommendation	<p>Implementation of the ambitious NFES should continue to be supported as part of Rwanda’s FIF program.</p> <p>An awareness campaign on pensions could be launched now that the new Pensions Law has been passed by Parliament (see also Private Pensions Good Practice A.2 recommendations).</p>
Good Practice G.2	<p><i>Unbiased Information for Consumers</i></p> <p>a. Financial regulators and consumer associations should provide, via the internet and printed publications, independent information on the key features, benefits and risks –and where practicable the costs- of the main types of financial products and services, including private pensions.</p> <p>b. The relevant authority should adopt policies that encourage non-</p>

²² 2013 CPFL Review, p 127.

	government organizations to provide consumer awareness programs to the public in the area of pensions.
Description	<p><i>Paragraph (a)</i> See Private Pensions Good Practice B.7.</p> <p><i>Paragraph (b)</i> See Private Pensions Good Practice A.2.</p>
Recommendation	See Private Pensions Good Practices B.7 and A.2 recommendations.
Good Practice G.3	<p><i>Consulting Consumers and the Financial Services Industry</i></p> <p>The relevant authority should consult consumer associations and the private pension industry to help the authority develop financial capability programs that meet the needs and expectations of financial consumers, especially pension fund members and affiliates.</p>
Description	<p><i>Paragraph (a)</i> See Private Pensions Good Practice A.2.</p>
Recommendation	See Private Pensions Good Practice A.2 recommendations.

II. GOOD PRACTICES: SECURITIES SECTOR

SECTION A	INVESTOR PROTECTION INSTITUTIONS
Good Practice A.1	<p><i>Consumer Protection Regime</i></p> <p>The law should provide for clear rules on investor protection in the area of securities markets products and services, and there should be adequate institutional arrangements for the implementation and enforcement of investor protection rules.</p> <ol style="list-style-type: none"> a. There should be specific legal provisions that create an effective regime for the protection of investors in securities. b. There should be a governmental agency responsible for data collection and analysis (including complaints, disputes and inquiries) and for the oversight and enforcement of investor protection laws and regulations.
Description	<p>The legal and regulatory framework for the securities sector has been generally well-prepared and the Capital Markets Authority (CMA) and industry participants are currently in the process of completing and implementing the legal provisions for investor protection (for example, general operating procedures and procedures for conducting an audit of licensed entities are currently being developed). The RSE is slowly adding listed companies. It just listed a private IPO in July 2015. It has also been cross-listing companies from Kenya. It is the hope of the RSE and CMA to become more integrated in the East African Community (EAC) and regional inspections of registrants by the East African Regulatory Association are expected next year.</p> <p><i>Paragraph (a)</i></p> <p>Rwanda has passed a series of laws regulating the capital markets, among the most important of which are: Law No. 11/2011 of 18/05/2011 Establishing the Capital Markets Authority (CMA Law); Law No. 01/2011 of 10/02/2011 Regulating the Capital Market in Rwanda (Capital Market Law); and Law No. 40/2011 of 20/09/2011 Regulating Collective Investment Schemes in Rwanda (CIS Law). Other laws of a more specialized nature are part of the regulatory framework and are cited as necessary in this report.²³ Taken together with the regulations implementing the laws, they form a large part of a comprehensive regulatory framework for the capital markets in Rwanda and specifically for investor protection. However, the development of the framework is not complete and there are some areas that need further development, such as the procedures for conducting an examination of a registrant, which will be noted in more detail in the following analysis.</p> <p><i>Paragraph (b)</i></p> <p>The CMA Law provides for the creation of the CMA. Under Article 3(12) of the CMA Law, one of the CMA's primary duties is 'to protect citizens and investors in capital market from unfair and unsound practices or practices</p>

²³ See Annex A for a full list of the laws and regulations that were reviewed for the purpose of this 2015 CPFL Review.

	<p><i>involving fraud, deceit, cheating or manipulation</i>'. Due to its recent establishment, the CMA is still developing a set of operating procedures and the staff to implement them. The Inspection Department set up last year has only one staff member. It is also currently developing a set of procedures for conducting inspections.</p> <p>The CMA is also charged with reviewing and settling investor disputes and can review customer complaint logs at firms as required. Additionally, in order for an entity to obtain a license to '<i>conduct the business of a securities exchange</i>', it must show that it has effective arrangements for investigating customer complaints and share such information with the CMA. See Regulation No. 01/2012 of 25/06/2012 on Capital Markets (Licensing Requirements) (Regulation on Licensing), Article 7(d).</p>
Recommendation	<p>The CMA will need additional resources to complete its supervisory and regulatory procedures. It will also need to train a sufficient number of staff to carry out its responsibilities in this area. The current number of one auditor is insufficient and one or two more auditors will need to be added given the additional responsibility of conducting reviews of filings by companies registered with the CMA and listed on the RSE. Forensic accounting training will initially be the most important training needed by the audit and examination staff. Lastly, as the capital market develops, there should be communication and consultation between BNR and the CMA in relation to supervision of banks which distribute, and advise on, securities. It is understood that there is an MoU in place between BNR and CMA which may be helpful in this regard, but it should be reviewed and amended as appropriate to ensure that it adequately covers consumer protection issues.</p>
Good Practice A.2	<p><i>Code of Conduct for Securities Intermediaries, Investment Advisers and Collective Investment Undertakings</i></p> <ol style="list-style-type: none"> a. Securities intermediaries, investment advisers and CIUs should have a voluntary code of conduct. b. If such a code of conduct exists, securities intermediaries, investment advisers and CIUs should publicize the code to the general public through appropriate means. c. Securities Intermediaries, Investment Advisers and CIUs should comply with the code and an appropriate mechanism should be in place to provide incentives to comply with the code.
Description	<p>There are currently no industry associations, apparently due to the relatively early state of the securities industry. As such, there are no voluntary codes of conduct. Nonetheless, the CMA, by regulation, has set forth a series of basic principles for the conduct of firms in the market.</p> <p><i>Paragraph (a)</i></p> <p>There are no industry associations to create and administer a code of conduct in the capital markets. Although there is no provision in the law that provides for a self-regulatory organization (SRO), the Rwanda Stock Exchange (RSE) considers itself to be a de facto SRO due to its 'exempt' status under Article 13 of the Capital Market Law. However, in practice, the RSE has not developed the capacity of an SRO. For example, it has not yet completed developing its trading manual or its disciplinary procedures for market members. As to code of conduct, the Capital Markets Regulations</p>

	<p>contain a set of principles of conduct that must be followed by all firms (Regulation No. 05/2012 of 02/07/2012 on Capital Market Principles (Regulation on Capital Market Principles)).²⁴ These principles function as a mandatory code of conduct, but are administered by the CMA.</p> <p>Paragraph (b)</p> <p>There are no current formal publication efforts to publicize a voluntary, industry code of conduct since one does not currently exist. However, the subject of proper market conduct that is required by the CMA is covered in the general programs for public education regarding the stock market that are put on by the CMA and RSE.</p> <p>Paragraph (c)</p> <p>Failure to comply with the mandatory principles for conduct will result in a disciplinary action.</p>
Recommendation	<p>When the market grows to make it financially feasible, the various subsectors of the securities sector should form associations to regulate their activity and advocate for the members of the association. In addition, the industry associations should issue enforceable codes of conduct governing the conduct of their members to complement the regulatory activity of the CMA.</p>
Good Practice A.3	<p>Other Institutional Arrangements</p> <ul style="list-style-type: none"> a. The judicial system should provide an efficient and trusted venue for the enforcement of laws and regulations on investor protection. b. The media should play an active role in promoting investor protection. c. The private sector, including voluntary investor protection organizations, industry associations and, where permitted, self-regulatory organizations should play an active role in promoting investor protection.
Description	<p>The judicial system is inexperienced in handling retail securities matters, but the CMA's complaint procedures can handle these matters as discussed below. The media are just beginning to get involved in investor protection.</p> <p>Paragraph (a)</p> <p>There is no small claims court in Rwanda and thus all retail securities cases would need to go through the courts of general jurisdiction. Due to the nascent nature of the stock market, there has not been enough experience with the court system to determine how effective it would be in handling retail securities cases. The process would, in all likelihood, be long and the CMA estimates that its complaints procedure would be more expeditious.</p> <p>Paragraph (b)</p> <p>The financial media is just beginning to develop an interest in the stock market and there has been some coverage, particularly in regard to new cross-listings from Kenya. The CMA is trying to develop more interest among journalists through the use of workshops for journalists. Nonetheless, the current main source of information appears to be the official news releases made by government agencies, the RSE and</p>

²⁴ The securities laws in Rwanda use the term 'firm' to mean any entity that has received a license to conduct business in the capital market.

SECURITIES SECTOR

	<p>corporations. One quarterly publication, the 'Bull and Bear', provides capital markets information.</p> <p>Paragraph (c)</p> <p>Again, due to the nascent nature of the securities market, there are no significant consumer protection organizations or industry associations. The RSE considers itself an SRO, but this is not an official designation. In any event, the RSE, along with the CMA, is active in promoting the capital markets to the public.</p>
Recommendation	<p>The CMA and RSE should continue to educate members of the media on the securities markets and investor protection, and encourage reporting on these issues.</p>

Good Practice A.4	<p>Licensing</p> <p>a. All legal entities or physical persons that, for the purpose of investment in financial instruments, solicit funds from the public should be obliged to obtain a license from the supervisory authority.</p> <p>b. Legal entities or physical persons that give investment advice and hold customer assets should be licensed by the securities supervisory authority.</p> <p>c. If a jurisdiction does not require licensing for legal entities or physical persons that give only investment advice, such persons should be supervised by an industry association or self-regulatory organization and the anti-fraud provisions of the securities laws or other consumer laws should apply to the activity of such persons.</p>
Description	<p>All securities industry participants must obtain a license from the CMA in order to conduct business in the securities markets. Salespersons that work for firms do not have to obtain a separate license.</p> <p>Paragraph (a)</p> <p>Article 6 of the Capital Market Law requires all persons who carry out capital market business in Rwanda to be licensed. Article 10 of the Regulation on Licensing provides a mechanism for applying and receiving a license for a broker or dealer. The CIS Law requires the participants in a collective investment scheme (CIS) to be licensed: promoters and distributors of schemes (Article 5), asset managers (Article 7) and the schemes themselves must also be registered (Article 10). Even though the laws are worded generally, there does not appear to be a requirement that salespeople for firms be licensed in their capacity as salespeople.</p> <p>As of June 2015, there are no natural persons who are licensed representatives or brokers. There are also no current CISs licensed to operate in Rwanda.</p> <p>Paragraph (b)</p> <p>Article 6 of the Capital Market Law and Article 12 of the Regulation on Licensing apply to investment advisors and require that they be licensed. Similar to brokers, there is no requirement that natural persons employed by a licensed investment advisor also be licensed in their individual capacity.</p> <p>Paragraph (c)</p> <p>Not applicable.</p>
Recommendation	<p>Natural persons who act as salespeople or advisors for firms should be individually licensed and qualified.</p>
SECTION B	DISCLOSURE AND SALES PRACTICES
Good Practice B.1	<p>General Practices</p> <p>There should be disclosure principles that cover an investor's relationship with a person offering to buy or sell securities, buying or selling securities, or providing investment advice, in all three stages of such relationship: pre-sale, point of sale, and post-sale.</p> <p>a. The information available and provided to an investor should inform the investor of:</p> <p>(i) the choice of accounts, products and services;</p>

	<ul style="list-style-type: none"> (ii) the characteristics of each type of account, product or service; (iii) the risks and consequences of purchasing each type of account, product or service; (iv) the risks and consequences of using leverage, often called margin, in purchasing or selling securities or other financial products; and (v) the specific risks of investing in derivative products, such as options and futures. <p>b. A securities intermediary, investment adviser or CIU should be legally responsible for all statements made in marketing and sales materials related to its products.</p> <p>c. A natural or legal person acting as the representative or tied-agent of a securities intermediary, investment adviser or CIU should disclose to an investor whether the person is licensed to act as such a representative and who licenses the person.</p> <p>d. If a securities intermediary, investment adviser or CIU delegates or outsources any of its functions or activities to another legal entity or physical person, such delegation or outsourcing should be fully disclosed to the investor, including whether the person to whom such function or activity is delegated is licensed to act in such capacity and who licenses the person.</p>
<p>Description</p>	<p>The Regulation on Capital Market Principles provides that a firm should give potential investors sufficient information about its services for the investor to make an informed decision. The regulations implement this requirement.</p> <p>Paragraph (a)</p> <p>(i) Article 5 of the Regulation No. 02/2012 of 25/06/12 on the Conduct of Business (Regulation on the Conduct of Business) provides that a firm should disclose to clients, <i>inter alia</i>, ‘the regulated activities it is permitted to undertake and the activities that it does undertake, and ... the nature of its services and the risks associated with those services ... [s]o that the client is reasonably able to understand the nature, costs and risks of those services and is able to take an informed investment decision’.</p> <p>(ii) There is no provision that requires a firm to provide a description of every type of security it offers. However, Article 13 of the Regulation on Conduct of Business provides that a firm must provide a general description of capital market instruments it is discussing or recommending to a client and ‘that description must explain the nature of the specific type of instrument concerned, as well as the risks particular to that specific type of instrument in sufficient detail to enable the client to take investment decisions in an informed manner.’</p> <p>(iii) Article 10 of the Regulation on the Conduct of Business provides that information provided to clients ‘shall be accurate and in particular shall not emphasize any potential benefits of a capital markets service or instrument without also giving fair and prominent indication of relevant risks and disadvantages.’</p> <p>(iv) Article 13 provides that the description of risks should include ‘the risks associated with that type of capital markets instrument including where relevant an explanation of the effect of borrowing and the risk of losing the</p>

	<p><i>entire investment</i>, as well as <i>any margin requirements or similar obligations, applicable to instruments</i> of the type being described.</p> <p>(v) The general risk disclosure requirements in Article 13 of the Regulation on the Conduct of Business discussed above would also apply to derivatives.</p> <p>Paragraph (b)</p> <p>Article 66 the Capital Market Law provides that any person who knowingly makes a false or misleading statement to induce a person to enter into or refrain from entering into a transaction in a financial instrument commits an offense punishable by a fine or imprisonment.</p> <p>Paragraph (c)</p> <p>Representatives of firms who conduct sales activities are not licensed in Rwanda.</p> <p>Paragraph (d)</p> <p>Article 5 of the Regulation on the Conduct of Business permits a firm to delegate some of its functions to third parties, subject to its responsibility to supervise and be responsible for the third party's activity. The information regarding such delegations should be available to the CMA on request, but there is no obligation for the firm to disclose these delegations to its clients.</p> <p>A firm must ensure that the entity to which it has delegated responsibility is authorized to conduct the delegated activity, but it is not required to disclose this to the client. However, Article 8 of Regulation on the Conduct of Business regarding capital market research requires any third party research that is given to clients be identified as third party research.</p>
Recommendation	The firms to whom the firm delegates responsibilities should be disclosed to the client.

Good Practice B.2	<p>Terms and Conditions</p> <p>a. Before commencing a relationship with an investor, a securities intermediary, investment adviser or CIU should provide the investor with a copy of its general terms and conditions, as well as any terms and conditions that apply to the particular account.</p> <p>b. The terms and conditions should always be in a font size and spacing that facilitates easy reading.</p> <p>c. The terms and conditions should disclose:</p> <ul style="list-style-type: none"> (i) details of the general charges; (ii) the complaints procedure; (iii) information about any compensation scheme that the securities intermediary or CIU is a member of, and an outline of the action and remedies which the investor may take in the event of default by the securities intermediary or CIU; (iv) the methods of computing interest rates paid or charged; (v) any relevant non-interest charges or fees related to the product; (vi) any service charges; (vii) the details of the terms of any leverage or margin being offered
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	<p>to the client and how the leverage functions;</p> <p>(viii) any restrictions on account transfers; and</p> <p>(ix) the procedures for closing an account.</p>
Description	<p>The Regulation on the Conduct of Business requires firms to give to a client a document setting out the terms and services provided by the <i>'firm'</i> that is party to the contract.</p> <p>Note that the term <i>'firm'</i> is used extensively in the Regulation on the Conduct of Business, but not in other laws or regulations. However, it is not defined in the Regulation on the Conduct of Business or other laws and regulations. The term <i>'société'</i> is used for <i>'firm'</i> in the official French translation of the regulation. The word <i>'société'</i> is generally translated as <i>'company'</i> in the other laws and regulations. Consequently, it is assumed that <i>'firm'</i> is the same as <i>'company'</i> and is a generic term for any business enterprise engaged in the conduct of business in the capital market and registered with the CMA.</p> <p>Paragraph (a)</p> <p>Articles 5, 11 and 17 of the Regulation on the Conduct of Business require <i>'firms'</i> to give a potential client a document setting out the basic terms and conditions that apply to an account between the firm and the client, such as the licenses that the firm has, the services that firm engages in, the charges and fees for activity in the account, the venue where transactions will take place and the risks involved in investing.</p> <p>Paragraph (b)</p> <p>There is no specific regulation regarding the font size of the contract, but Article 10 of the Regulation on the Conduct of Business provides that information given to clients shall be <i>'presented in a way that is likely to be understood by the average member of the group to which it is directed or by whom it is likely to be received.'</i></p> <p>Paragraph (c)</p> <p>(i) Articles 9 and 15 of the Regulation on the Conduct of Business require all fees and charges to be disclosed.</p> <p>(ii) Article 29 of the Regulation on the Conduct of Business and Article 22 of Regulation No. 04/2012 of 02/07/2012 on Capital Market Complaints (Regulation on Complaints) require the internal complaints procedure and appellate process discussed below to be disclosed to the client.</p> <p>(iii) The law and regulations do not contain such a requirement.</p> <p>(iv) Articles 9 and 15 of the Regulation on the Conduct of Business require all fees and charges to be disclosed.</p> <p>(v) See above paragraph (iv).</p> <p>(vi) See above paragraph (iv).</p> <p>(vii) Article 13 (i) and (iv) of the Regulation on the Conduct of Business require margin lending and the effects on the client's account profitability be disclosed to the client.</p> <p>(viii) The capital markets law and regulations do not contain such a requirement.</p> <p>(ix) The capital markets law and regulations do not contain such a requirement.</p>
Recommendation	The existence of the compensation scheme and how to make claims under it

	<p>should be disclosed to the client.</p> <p>In addition, the Regulation on the Conduct of Business should be amended to define the meaning of the term <i>'firm'</i> and to require disclosure of any restrictions on account transfers and the procedures for closing an account.</p>
Good Practice B.3	<p><i>Professional Competence</i></p> <p>Regulators should establish and administer minimum competency requirements for the sales staff of securities intermediaries, investment advisers and CIUs, and collaborate with industry associations where appropriate.</p>
Description	<p>There is no obligation for a salesperson of a firm to obtain a separate license or to pass a competency examination to qualify him or her to act as a salesperson for the firm.</p> <p>The Capital Market Law does not provide for an authorized licensing procedure by the CMA, industry association or professional training service. Instead, it leaves the responsibility for training and qualifying employees to the capital market firms. Article 5 of the Regulation on the Conduct of Business requires firms to <i>'ensure that its personnel are aware of the procedures which must be followed for the proper discharge of their responsibilities.'</i> Article 24 of the Capital Market Law requires licensed persons to hire only <i>'qualified'</i> persons. However, there is no definition in the CMA Law or the Regulation on the Conduct of Business as to the characteristics of a qualified person.</p>
Recommendation	The Regulation on the Conduct of Business should be amended to provide for licensing and qualification of salespersons of firms.

Good Practice B.4	<p><i>Know Your Customer (KYC)</i></p> <p>Before providing a product or service to an investor, a securities intermediary, adviser or CIU should obtain, record and retain sufficient information to enable it to form a professional view of the investor's background, financial condition, investment experience and attitude toward risk in order to enable it to provide a recommendation, product or service appropriate to that investor.</p>
Description	<p>The Capital Market Law and the mandatory principles both require a broker or investment advisor to obtain sufficient information about a customer to enable them to give appropriate advice.</p> <p>Article 16 of the Regulation on the Conduct of Business requires firms to obtain sufficient information from a client to enable the firm to give suitable recommendations to the client.</p>
Recommendation	None.
Good Practice B.5	<p><i>Suitability</i></p> <p>A securities intermediary, investment adviser or CIU should ensure that, taking into account the facts disclosed by the investor and other relevant facts about that investor of which it is aware, any recommendation, product or service offered to the investor is suitable to that investor.</p>
Description	<p>The Capital Market Law and mandatory principles require a broker and investment advisor to make suitable recommendations only to their customers.</p> <p>Article 16 of the Regulation on the Conduct of Business requires firms to determine if an investment is suitable for a client before recommending it to the client. The regulation is silent on the actions that the firm should take if the client wishes to enter into the transaction against the advice of the firm or if the transaction is client initiated.</p>

Recommendation	The Regulation on the Conduct of Business should be amended to set out the actions that should be taken by a firm in the event that a customer wishes to engage in a transaction against the advice of the firm.
Good Practice B.6	<p>Sales Practices</p> <p>a. Legislation and regulations should contain clear rules on improper sales practices in the solicitation, sale and purchase of securities. Thus, securities intermediaries, investment advisers, CIUs and their sales representatives should:</p> <ul style="list-style-type: none"> (i) Not use high-pressure sales tactics; (ii) Not engage in misrepresentations and half truths as to products being sold; (iii) Fully disclose the risks of investing in a financial product being sold; (iv) Not discount or disparage warnings or cautionary statements in written sales literature; (v) Not exclude or restrict, or seek to exclude or restrict, any legal liability or duty of care to an investor, except where permitted by applicable legislation. <p>b. Legislation and regulations should provide sanctions for improper sales practices.</p> <p>c. The securities supervisory agency should have broad powers to investigate fraudulent schemes.</p>
Description	<p>The capital market laws and regulations prohibit fraudulent sales practices. The CMA is given considerable authority to investigate fraud but, as the result of a principles-based regulatory system, the CMA is oriented towards voluntary compliance rather than strict enforcement of the laws.</p> <p>Paragraph (a)</p> <ul style="list-style-type: none"> (i) The law and regulations do not contain such a requirement. (ii) Article 66 of the Capital Market Law makes it a violation to make false, misleading or deceptive statements to induce a person to buy or sell a security. (iii) Articles 10 and 13 of the Regulation on the Conduct of Business require full disclosure of the risks of investing in a financial instrument. (iv) Article 10 of the Regulation on the Conduct of Business provides that when disseminating information, a firm ‘<i>shall not disguise, diminish, obscure or omit important items, statements and warnings.</i>’ (v) Article 5 of the Regulation on the Conduct of Business forbids any attempt by a firm to restrict or exclude any duty or liability provided by law. <p>Paragraph (b)</p> <p>The capital markets laws and regulations provide for sanctions for improper sales practices. Article 19 of the Capital Market Law gives the CMA the power to issue a broad range of sanctions, such as warnings, fines, injunctions, and suspension of licenses and withdrawal of licenses, for violations of the Regulation on Capital Market Principles, including sales fraud. Articles 24–7 provide additional authority for injunctions prohibiting unlicensed activity.</p> <p>Article 66 provides criminal penalties for violations of the law and regulations</p>

	<p>that prohibit improper sales practices, including fines and imprisonment of six months to two years. The CMA has not issued a significant number of sanctions over the last six years.</p> <p>Paragraph (c)</p> <p>Article 38 of the Capital Market Law gives the CMA the right to conduct investigations if there are justifiable reasons to do so. Article 36 gives the CMA the right to request information from any licensed or authorized person as needed by it to carry out its functions. Under Article 37, the CMA has the authority to enter the premises of any registered or approved person to obtain information.</p> <p>Article 39 gives the CMA the authority to request a court order to enter premises person and seize records. It appears that this ‘<i>search order</i>’ can be obtained against any person. However, the right to interview anyone on a mandatory basis appears to apply only to licensed and approved persons.</p> <p>Article 9 of Regulation No. 06/2012 of 02/07/2012 on Capital Market Enforcement Guidance (Regulation on Enforcement Guidance) states that the CMA is following a principles-based approach to enforcement which focuses more on guidance and dialogue with regulated entities, rather than disciplinary actions. Even so, the CMA has the authority to bring disciplinary action if necessary. Nonetheless, it has not conducted many audits due to the lack of an inspection procedures manual and the light staffing of the Inspections Department which has only one staff member.</p>
<p>Recommendation</p>	<p>The legal prohibitions against false and misleading sales practices are well laid out. The principles-based approach to regulation was used and advocated by the Financial Services Authority in the United Kingdom. After the market crisis of 2007, it was determined that this approach did not function well and it has been replaced by a ‘Twin Peaks’ model for regulation. The CMA should monitor carefully the extent to which the principles-based approach results in compliance with the law in Rwanda. If there is significant increase in the number of violations, erroneous filings with the CMA and restatements of annual accounting statements, then the CMA should consider whether a more detailed, rules-based regulatory structure would provide better compliance.</p>
<p>Good Practice B.7</p>	<p>Advertising and Sales Materials</p> <ul style="list-style-type: none"> a. All marketing and sales materials should be in plain language and understandable by the average investor. b. Securities intermediaries, investment advisers, CIUs and their sales representatives should ensure their advertising and sales materials and procedures do not mislead the customers. c. Securities intermediaries, investment advisers and CIUs should disclose in all advertising, including print, television and radio, the fact that they are regulated and by whom.
<p>Description</p>	<p>Promotional material for CISs is subject to prior approval by the CMA and must be fair, accurate and not misleading.</p> <p>Paragraph (a)</p> <p>Article 10 of the Regulation on Conduct of the Business provides that information provided to clients must be ‘<i>presented in a way that is likely to be understood by, the average member of the group to which it is directed or by whom it is likely to be received.</i>’ Article 40 of CIS Law provides that all</p>

	<p>advertising for CISs should be <i>'fair, clear and not misleading.'</i> Article 43 of the CIS Law provides that the information needs of investors must be met and the scheme directors must communicate to investors meaningful information in a <i>'clear and understandable manner.'</i></p> <p>Paragraph (b)</p> <p>Article 5 of the Regulation on the Conduct of Business provides that where a firm <i>'issues or approves an advertisement in respect of capital markets business it must be able to show that it believes it on reasonable grounds to be accurate, fair and not misleading.'</i> Article 41 of CIS Law provides that all promotional material must be submitted to the CMA for approval and must not be <i>'misleading or incomplete.'</i></p> <p>Paragraph (c)</p> <p>Article 5 of the Regulation on the Conduct of Business provides that a firm must provide to a client, in a durable medium,²⁵ information regarding, <i>inter alia</i>, its licensed status and the activities it is authorized to undertake. However, the requirement does not extend to making such disclosures in media presentations.</p>
Recommendation	The Regulation on the Conduct of Business should be modified to require disclosure of the license status of their licenses in all advertising.
Good Practice B.8	<p>Relationships and Conflicts</p> <p>a. A securities intermediary, investment adviser or CIU should disclose to its clients all relationships that it has which impact on the client's account, such as banks, custodians, advisers or intermediaries which are used to maintain and manage the account.</p> <p>b. A securities intermediary, investment adviser or CIU should disclose all conflicts of interest that it has with the client and the manner in which the conflict is being managed.</p>
Description	<p>The capital markets laws and regulations require a firm to have a conflicts policy and procedures, and to disclose these to a client. There is no obligation to disclose all of the firm's relationships that can have an impact on a client's account.</p> <p>Paragraph (a)</p> <p>The capital markets laws and regulations do not contain such a requirement.</p> <p>Paragraph (b)</p> <p>Article 7 of the Regulation on the Conduct of Business provides that a firm shall <i>'establish, implement and maintain'</i> a conflicts of interest policy which specifies the procedures to be taken to manage the conflict. Disclosure of the conflicts policy to a client <i>'shall be in a durable medium and contain sufficient detail, taking into account the nature of the client, to enable that client to take an informed decision.'</i></p>
Recommendation	The Regulation on Conduct of Business should be amended to require a firm to disclose all service providers that can have an impact on a client's account.
Good Practice B.9	Specific Disclosures by CIUs

²⁵ 'Durable medium' is defined in Article 2 of the Regulation on the Conduct of Business to mean *'any instrument which enables a client to store information addressed personally to that client in a way accessible for future reference for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored'*.

	<p>a. CIUs should disclose to prospective and existing investors:</p> <ul style="list-style-type: none"> (i) the CIU’s policies with regard to frequent trading and the risks to investors from such policies; (ii) any inducements that it receives to use particular intermediaries or other financial firms, such as “soft-money” arrangements; and (iii) a fair and honest description of the performance of the CIU’s investments over several different periods of time that accurately reflect the CIU’s performance. <p>b. In addition, a CIU should provide a Key Facts Statement for each fund that it is offering to the client that succinctly explains the fund in clear language. Such document is in addition to any other disclosure documents required by law.</p>
<p>Description</p>	<p>There is no requirement in the capital markets laws or regulations for a CIS to give an investor a KFS regarding the characteristics of the CIS, or to disclose any inducements given to it by service providers.</p> <p>Paragraph (a)</p> <ul style="list-style-type: none"> (i) There is no such requirement in the capital markets laws or regulations. (ii) There is no such requirement in the capital markets laws or regulations (iii) There is no obligation to give information on past performance, but if it is given, Article 10 of the Regulation on the Conduct of Business requires that a description of past performance be five years or the life of the instrument or service (whichever is shorter), and be based on discrete 12-month periods. <p>Paragraph (b)</p> <p>There are no KFS requirements in the capital markets law or regulations.</p>
<p>Recommendation</p>	<p>The Regulation on the Conduct of Business should be amended to require CISs to provide a KFS to new investors. In addition, policies and practices regarding frequent trading and inducements from service providers should also be disclosed in the KFS and prospectus.</p>
<p>Good Practice B.10</p>	<p>Specific Disclosures by Investment Advisers</p> <p>a. Investment advisers should disclose to prospective and existing clients:</p> <ul style="list-style-type: none"> (i) whether the investment adviser is also registered in another capacity and whether the adviser deals with the client’s account in the second registered capacity; and (ii) whether the financial instruments that the investment adviser is recommending are held in the adviser’s own inventory or the inventory of a legal or natural person related to the adviser and will be bought from or sold to its own inventory or the inventory of a related party. <p>b. An investment adviser should provide prospective and existing clients with a Key Facts Statement for each product or service that is being offered or sold to the client that succinctly explains the product or service in clear language.</p>
<p>Description</p>	<p>There is no requirement for an investment advisor to give an investor a KFS of its services.</p> <p>Paragraph (a.)</p>

	<p>(i) There is no such requirement in the capital markets laws or regulations</p> <p>(ii) There is no such requirement in the capital markets laws or regulations.</p> <p>Paragraph (b)</p> <p>There are no KFS requirements in Rwandan laws or regulations.</p>
Recommendation	<p>Investment advisors should give prospective clients a KFS regarding their services. The full nature of the advisor’s relationship with the client should also be disclosed including, for example, the fee structure, the extent to which the advisor will have discretion over the client’s account, whether the assets are held by the advisor and whether the advisor sells assets to the client from a related entity.</p>
SECTION C	CUSTOMER ACCOUNT HANDLING AND MAINTENANCE
Good Practice C.1	<p>Segregation of Funds</p> <p>Funds of investors should be segregated from the funds of all other market participants.</p>
Description	<p>The capital markets laws and regulations in Rwanda provide for the segregation of client assets from the assets of other clients and all other market participants.</p> <p>Articles 6 and 30 of the Regulation on the Conduct of Business provide that assets of clients held by a firm or a custodian on behalf of a firm be held so that it is clear that they do not belong to the firm, custodian or any other third party holding client assets.</p> <p>Article 30 of the CIS Law provides that the assets of a CIS should be kept separate from the assets of the custodian, promoter, or asset manager. Article 18 provides that the custodian should keep the assets separately from the assets of any other CIS for whom it acts as the custodian. The CMA has licensed several banks as custodians, although due to the lack of CISs in Rwanda, their custodial activity is mainly directed towards natural persons and business activities. Article 10 of the Law No. 26/2010 of 28/05/2010 Governing the Holding and Circulation of Securities (CSD Law) provides that the Central Securities Depository (CSD) and its participants shall keep records separating the assets of each client from their own.</p>
Recommendation	None.
Good Practice C.2	<p>Contract Note</p> <p>a. Investors should receive a detailed contract note from a securities intermediary or CIU confirming and containing the characteristics of each trade executed with them, or on their behalf.</p> <p>b. The contract note should disclose the commission received by the securities intermediary, CIU and their sales representatives, as well as the total expense ratio (expressed as total expenses as a percentage of total assets purchased).</p> <p>c. In addition, the contract note should indicate the trading venue where the transaction took place and whether (i) the intermediary for the transaction acted as a broker in the trade, (ii) the intermediary or CIU acted as the counterparty to its customer in the trade, or (iii) the trade was conducted internally in the intermediary between its clients.</p>

<p>Description</p>	<p>The Regulation on the Conduct of Business requires a contract note to be sent to a client after a transaction, but does not set out the contents of the note.</p> <p>Paragraph (a)</p> <p>Article 18 of the Regulation on the Conduct of Business provides that a broker must send a detailed contract note confirming a trade for the client as soon as possible and no later than one day from the execution. The regulation does not contain details as to the content of the contract note, merely stating that it must contain the ‘essential information’ of the transaction. Whilst Rule 12.7 of the RSE Rule Book provides for details of the contents of a contract note to be given to a client after a transaction, it is considered that the CMA’s own regulations should also contain a detailed list of contents (in co-ordination with the RSE Rules). This is so that CMA can bring an enforcement action for failure to provide all necessary information required to be in a contract note to an investor after a transaction.</p> <p>Paragraph (b)</p> <p>See paragraph (a).</p> <p>Paragraph (c)</p> <p>See paragraph (a).</p>
<p>Recommendation</p>	<p>The Regulation on the Conduct of Business should be amended to include, at least, the content requirements for a contract note that are contained in this Good Practice.</p>
<p>Good Practice C.3</p>	<p>Statements</p> <p>a. An investor should receive periodic, streamlined statements for each account with a securities intermediary or CIU, providing the complete details of account activity in an easy-to-read format.</p> <p>(i) Timely delivery of periodic securities and CIU statements pertaining to the accounts should be made.</p> <p>(ii) Investors should have a means to dispute the accuracy of the transactions recorded in the statement within a stipulated period.</p> <p>(iii) When an investor signs up for paperless statements, such statements should also be in an easy-to-read and readily understandable format.</p> <p>b. If a legal or natural person who provides only investment advice to customers also holds client assets, the client statements should be prepared by and sent from the custodian for the assets and not from the investment adviser.</p>
<p>Description</p>	<p>The Regulation on the Conduct of Business contains a requirement to send an account statement, but it does not set out the contents of the statement, how often the statement should be sent to the client and the readability of the statements.</p> <p>Paragraph (a)</p> <p>Article 20 of the Regulation on the Conduct of Business requires that statements of an account be sent to clients at least once a year. There is no specific requirement of readability.</p> <p>(i) There is no requirement as to delivery time.</p> <p>(ii) There is no specific provision allowing for the client to dispute the statement, although the filing of a complaint as set out in Good Practice E.1</p>

	<p>below would provide a mechanism for disputing a statement.</p> <p>(iii) There is no requirement as to readability for a paperless statement.</p> <p>Paragraph (b)</p> <p>There is no specific provision in the capital markets law or regulations regarding assets held by an advisor.</p>
Recommendation	<p>The Regulation on the Conduct of Business should be amended to provide for statements to be sent at least once a year and also on a periodic basis relating to activity in the client's account — for example, a statement should be sent for each quarter or each month during which a transaction is made. The Regulation on the Conduct of Business should also contain provisions as to format and readability, such as minimum font size, to avoid the situation where there is technical compliance with the requirement to send statements, but the statement is not useful due to poor format or lack of readability.</p>
Good Practice C.4	<p>Prompt Payment and Transfer of Funds</p> <p>When an investor requests the payment of funds in his or her account, or the transfer of funds and assets to another securities intermediary or CIU, the payment or transfer should be made promptly.</p>
Description	<p>There is no specific requirement in the capital markets laws or regulations regarding the prompt payment and transfer of funds.</p>
Recommendation	<p>The Regulation on the Conduct of Business should be amended to contain a requirement that, on a client's request, funds be transferred promptly to his or her bank account or to another brokerage account.</p>
Good Practice C.5	<p>Investor Records</p> <p>a. A securities intermediary, investment adviser or CIU should maintain up-to-date investor records containing at least the following:</p> <ul style="list-style-type: none"> (i) a copy of all documents required for investor identification and profile; (ii) the investor's contact details; (iii) all contract notices and periodic statements provided to the investor; (iv) details of advice, products and services provided to the investor; (v) details of all information provided to the investor in relation to the advice, products and services provided to the investor; (vi) all correspondence with the investor; (vii) all documents or applications completed or signed by the investor; (viii) copies of all original documents submitted by the investor in support of an application for the provision of advice, products or services; (ix) all other information concerning the investor which the securities intermediary or CIU is required to keep by law; (x) all other information which the securities intermediary or CIU obtains regarding the investor. <p>b. Details of individual transactions should be retained for a reasonable number of years after the date of the transaction. All other records</p>

	required under a. to j. above should be retained for a reasonable number of years from the date the relationship with the investor ends. Investor records should be complete and readily accessible.
Description	<p>Article 28 of the Regulation on the Conduct of Business requires records related to the firm's business and dealings with clients to be maintained for 10 years. However, the regulation does not prescribe the specific records that must be maintained.</p> <p>Paragraph (a)</p> <p>Article 28 of the Regulation on the Conduct of Business provides that a firm must keep records on its own activities and those of its clients. The regulation does not set out a detailed list of the records that must be maintained.</p> <p>(i) –(ix) Not specified in Article 28.</p> <p>Paragraph (b)</p> <p>Article 28 provides that all records that set out the rights and obligations of the firm and client must be maintained 10 years.</p>
Recommendation	The Regulation on the Conduct of Business should be amended to specifically set out the minimum types of records that must be maintained by a firm containing at a minimum the records set out in this Good Practice.
SECTION D	PRIVACY AND DATA PROTECTION
Good Practice D.1	<i>Confidentiality and Security of Customers' Information</i>
	Investors of a securities intermediary, investment adviser or CIU have a right to expect that their financial activities will remain private and not subject to unwarranted private and governmental scrutiny. The law should require that securities intermediaries, investment advisers and CIUs take sufficient steps to protect the confidentiality and security of a customer's information against any anticipated threats or hazards to the security or integrity of such information, and against unauthorized access to, or use of, customer information.
Description	<p>There are no privacy or data protection laws of general application in Rwanda. However the 2013 CPFL Review notes that Article 22 of Rwanda's Constitution provides for the right to privacy.</p> <p>Article 49 of the Capital Market Law provides for privacy provisions that apparently apply to governmental agencies that have obtained information in the course of their duties. It is not clear if this provision is applicable to capital market firms.</p>
Recommendation	<p>The Capital Market Law should be amended to provide for the privacy of information of customers in regards to firms that hold their financial information as provided for by this Good Practice.</p> <p>In the longer term, it is recommended that a specific data protection law be introduced in Rwanda to ensure that personal data receive consistent and specific protection across all financial services sectors.</p>
Good Practice D.2	<i>Sharing Customer's Information</i>
	Securities intermediaries and CIUs should:
	(i) inform an investor of third-party dealings in which they are required to share information regarding the investor's account, such as legal enquiries by a credit bureau, unless the law provides otherwise;

	<p>(ii) explain how they use and share an investor’s personal information;</p> <p>(iii) allow an investor to stop or "opt out" of certain information sharing, such as selling or sharing account or personal information to outside companies that are not affiliated with them, for the purpose of telemarketing or direct mail marketing, and inform the investor of this option.</p>
Description	<p>There are no provisions in the law or regulations regarding the sharing of confidential information.</p> <p>(i) There is no such requirement in the law or regulations.</p> <p>(ii) There is no such requirement in the law or regulations.</p> <p>(iii) There is no such requirement in the law or regulations.</p>
Recommendation	<p>If the decision is made to allow the sharing of customer information between commercial entities, the law and regulations should contain provisions defining the permissible scope of this sharing, such as credit information, and income and purchase history.</p>
Good Practice D.3	<p><i>Permitted Disclosures</i></p> <p>a. If there are to be any specific procedures and exceptions concerning the release of customer financial records to government authorities, these procedures and exceptions should be stated in the law.</p> <p>b. The law should provide for penalties for breach of investor confidentiality.</p>
Description	<p>Articles 49 and 50 of the Capital Market Law set out the circumstances in which information held by the government can be released without the consent of the concerned person, such as by court order, during a criminal proceedings, for use by an investigator of the CMA, or use by an agency administering the compensation scheme.</p> <p><i>Paragraph (a)</i></p> <p>The existing disclosure provisions relate to the circumstances in which information held by the government can be disclosed to other persons. It does not deal with the reverse situation concerning the circumstances in which client information held by a firm is released to government authorities.</p> <p><i>Paragraph (b)</i></p> <p>Article 72 of the Capital Market Law provides that any person convicted for disclosing restricted information shall be liable for ‘imprisonment for six (6) months to two (2) years and a fine of five million Rwandan francs (RfW 5,000,000) or one of these penalties.’</p>
Recommendation	<p>The Capital Market Law should provide for penalties for the disclosure of confidential, restricted information relating to investors by a non-governmental entity, such as a broker or advisor.</p>
SECTION E	DISPUTE RESOLUTION MECHANISMS
Good Practice E.1	<p><i>Internal Dispute Settlement</i></p> <p>a. An internal avenue for claim and dispute resolution practices within a securities intermediary, investment adviser or CIU should be required by the securities supervisory agency.</p> <p>b. Securities intermediaries, investment advisers and CIUs should</p>

	<p>provide designated employees available to investors for inquiries and complaints.</p> <p>c. Securities intermediaries, investment advisers and CIUs should inform their investors of the internal procedures on dispute resolution.</p> <p>d. The securities supervisory agency should provide oversight on whether securities intermediaries, registered investment advisers and CIUs comply with their internal procedures on investor protection rules.</p>
<p>Description</p>	<p>The Regulation on the Conduct of Business has extensive provisions on the establishment of an internal complaints-handling procedure at firms. However, complaints statistics are only required to be sent to the CMA for review on request by the CMA.</p> <p>Paragraph (a)</p> <p>Article 29 of the Regulation on the Conduct of Business requires all firms to have an internal complaints system for existing and potential clients, although it does not specify the exact nature of the procedure or the proceedings to be conducted under the complaint system.</p> <p>Paragraph (b)</p> <p>There is no provision in the laws or regulations requiring a firm to have designated individuals to handle complaints.</p> <p>Paragraph (c)</p> <p>Article 29 of the Regulation on the Conduct of Business requires all firms to inform their clients of the internal complaints procedure. This includes how to file a complaint and what actions the client can take, if the firm does not address the problem to the satisfaction of the client.</p> <p>Paragraph (d)</p> <p>Article 29 of the Regulation on the Conduct of Business requires all firms to maintain a log of all complaints and to provide the log to the CMA on request. These requests are commonly made during the course of an annual audit by the regulatory agency, but since the CMA currently only has one person assigned to audits, these audits may be done on an irregular basis until additional staff are added to the audit/inspection unit. Consequently, as explained by the CMA, it will not have a good view of the extent of customer complaints until it puts examination procedures in place and the examinations unit is properly staffed.</p>
<p>Recommendation</p>	<p>The Regulation on the Conduct of Business should require firms to send their complaint log to the CMA on a regular basis, such as once a month in order for the CMA to analyze the extent of complaints and problems in the securities sector in order to evaluate the effectiveness of the regulatory system. The CMA should publish analyses of this data so that investors will have information as to the problems in the securities sector that they should look out for.</p>
<p>Good Practice E.2</p>	<p>Formal Dispute Settlement Mechanisms</p> <p>There should be an independent dispute resolution system for resolving disputes that investors have with their securities intermediaries, investment advisers and CIUs.</p>

	<p>a. A system should be in place to allow investors to seek third-party recourse, such as an ombudsman or arbitration court, in the event the complaint with their securities intermediary, investment adviser or CIU is not resolved to their satisfaction in accordance with internal procedure, and it should be made known to the public.</p> <p>b. The independent dispute resolution system should be impartial and independent from the appointing authority and the industry.</p> <p>c. The decisions of the independent dispute resolution system should be binding on the securities intermediaries and CIUs. The mechanisms to ensure the enforcement of these decisions should be established and publicized.</p>
<p>Description</p>	<p>The Complaints Regulation provides for an independent review of a client complaint by the CMA Complaints Committee. It can render an award, including costs for a frivolous complaint, and the aggrieved party in the award can appeal to the CMA’s Independent Review Panel. The Office of the Ombudsman in Rwanda can also independently review complaints.</p> <p>Paragraph (a)</p> <p>Article 3 of the Regulation No. 04/2012 of 02/07/2012 on Capital Markets Complaints (Complaints Regulation) provides for the creation of a Complaints Committee at the CMA to hear complaints of investors and other participants in the capital markets, including complaints against the CMA. Article 8 is to the effect that the powers of the Committee include (in summary) power to facilitate resolution of complaints against any person licensed or approved to perform a regulated activity under the Capital Market Law, to approve any agreed settlement and to adjudicate complaints which do not settle. Under Article 12 of the Complaints Regulation, a client of a firm must first go through the internal complaint procedures of the firm before filing a complaint with the CMA. However, notwithstanding the regulation, the CMA has stated that currently a customer of a broker can start the complaint process directly with the CMA without going through the broker first, as well as coming to the CMA directly for complaints about the CMA itself. The procedures for filing a complaint must be disclosed to a client in the account-opening documents with the firm pursuant to Article 29 of the Regulation of the Conduct of Business and Article 22 of the Complaints Regulation.</p> <p>Law No. 25/2003 of 15/08/2003 Establishing the Organization and Functioning of the Office of the Ombudsman (Ombudsman Law I) established the Office of the Ombudsman. The powers and responsibilities of the Office of the Ombudsman are set out in Law No. 76/2013 of 11/9/2013 Determining the Mission, Powers, Organization and Functioning of the Office of the Ombudsman (Ombudsman Law II). Under Article 4 of the Ombudsman Law II, the Office of the Ombudsman is authorized to receive complaints in regards to, <i>inter alia</i>, private institutions which would include securities firms. Under Article 8, the Office of the Ombudsman should refer complaints to another institution that specializes in the matters the subject of the complaint. As a result, securities markets complaints should be referred to the CMA. However, the complainant can return to the Office of the Ombudsman if the expert agency has neglected the matter. The Ombudsman can request that the CMA take action or explain why it has not done so and can even request the CMA to take specific sanctions. The Ombudsman can also act as an institution with the powers of the Judicial Police under Article 11. This could create conflict with the CMA, if the CMA determines that there is no substance to the complaint.</p>

	<p>Paragraph (b)</p> <p>The Complaints Committee of the CMA is made up of members of the Board of Directors of the CMA. It is independent of the firms and their clients, but not of the regulatory structure. However, if a client is dissatisfied with the decision of the CMA regarding the complaint, he or she can, pursuant to Article 19 of the Complaint Regulation, appeal to the Independent Review Panel created under Article 63 of Capital Market Law. The powers of the Independent Review Panel include (in summary) power to review decisions of the CMA in relation to the issue of licenses and other authorizations, disputes and disciplinary proceedings and also any award made by the Complaints Committee. The exact makeup of the Independent Review Panel was under consideration at the time of the Review. However it is to be noted that, under Article 16 of the Regulation on Enforcement Guidance, the Panel is independent of the CMA.</p> <p>Paragraph (c)</p> <p>Under Article 19 of the Complaints Regulation, the award of the Complaints Committee is final subject to appeal to the Independent Review Panel. Article 21 states that the award is final and if the award of the complaints committee or order of the Panel is not implemented by the firm against whom it is issued, then the CMA can take disciplinary action as it sees fit.</p>
Recommendation	<ol style="list-style-type: none"> 1. The CMA and the Office of the Ombudsman should enter into a memorandum of understanding (MOU) regarding their enforcement efforts, so as not to conflict with each other. 2. The CMA needs to take strong measures if the decision of the Complaints Committee is not implemented. Such measures should be set out in the Regulation on Enforcement Guidance.
SECTION F	GUARANTEE SCHEMES AND INSOLVENCY
Good Practice F.1	<p>Investor Protection</p> <ol style="list-style-type: none"> a. There should be clear provisions in the law to ensure that the regulatory authority can take prompt corrective action on a timely basis in the event of distress at a securities intermediary, investment adviser or CIU. b. The law on the investors' guarantee fund, if there is one, should be clear on the funds and financial instruments that are covered under the law. c. There should be an effective mechanism in place for the pay-out of funds and transfer of financial instruments by the guarantee fund or insolvency trustee in a timely manner. d. The legal provisions on the insolvency of securities intermediaries, investment advisers and CIUs should provide for expeditious, cost-effective and equitable provisions to enable the timely payment of funds and transfer of financial instruments to investors by the insolvency trustee of a securities intermediary or CIU.
Description	<p>The CMA has the power to take prompt action in the event that a firm is in distress or engaging in fraud. Capital Market Regulation No. 11/2012 of 31/12/2012 Establishing the Compensation Scheme in Rwanda (Regulation on the Compensation Scheme) provides a mechanism for compensating investors who have been defrauded by a firm.</p>

	<p>Paragraph (a)</p> <p>The capital markets laws and regulations give the CMA the authority to take corrective action as necessary if a firm is in distress or engaged in fraud. Since no firms have as yet required the use of these procedures, it is not clear how well they will work in practice. Article 30 of Capital Market Law provides a mechanism for the CMA to place the assets of a licensed person under the control of an independent trustee for the protection of the assets. Articles 55–60 provide for the appointment of a Special Administrator if the CMA determines that it is in the interests of the investors.</p> <p>Article 53 of the CIS Law gives the CMA the power to mandatorily liquidate a CIS if it is in the interests of the investors to do so. The CMA can also transfer the management of the company to another management company. Under Article 55 of the CIS Law, the CMA can appoint a Special Administrator to manage, reorganize or oversee the liquidation or transfer of the CIS management and assets.</p> <p>Paragraph (b)</p> <p>Articles 55 and 56 of the Capital Market Law provide for the creation of a compensation scheme for investors. The Regulation on the Compensation Scheme provides for coverage of the fund for <i>‘persons who suffer pecuniary loss from any defalcation or fraud committed by any licensed dealer, its representative or investment adviser’</i>. It does not cover investors in CISs. Article 5 of the Regulation on the Compensation Scheme does not deal with specific instruments held by the firm, but allows a client of a regulated person to apply for compensation if the client <i>‘sustains a loss as result of any defalcation or fraud committed’</i> by any licensed person or its representative. The regulation does not detail the method for calculating the loss, but leaves it to the discretion of the Compensation Committee created under the regulation to determine the loss.</p> <p>Paragraph (c)</p> <p>The Regulation on the Compensation Scheme does not have specific provisions on the timing of a payout. It does provide for an application process for payment, an adjudication procedure and an appellate process, but there are no time period given.</p> <p>Paragraph (d)</p> <p>Article 35 of Capital Market Law provides for mandatory winding-up of a firm if the CMA applies to a court and the court decides such an order is just and equitable, or the entity is insolvent. There are no specific provisions as to payout mechanisms or timing. Article 55–60 of CIS Law provides for a special administrator for CIS to wind it up. There are also no specific provisions as to payout mechanisms or timing in the CIS Law.</p>
Recommendation	The Regulation on the Compensation Scheme should provide for the speedy resolution of claims with a prescribed timeframe in order to provide for a prompt payout to investors in a firm covered by the Scheme.
SECTION G	CONSUMER EMPOWERMENT
Good Practice G.1	<p><i>Broadly based Financial Capability Program</i></p> <p>a. A broadly based program of financial education and information should be developed to increase the financial capability of the</p>

	<p>population.</p> <p>b. A range of organizations—including government, state agencies and non-governmental organizations—should be involved in developing and implementing the financial capability program.</p> <p>c. The government should appoint an institution such as the central bank or a financial regulator to lead and coordinate the development and implementation of the national financial capability program.</p>
Description	<p>The Government of Rwanda has established a financial education strategy that is under the overall leadership of MINECOFIN. The CMA is taking the lead in the securities sector where it spends approximately 50 per cent of its budget on financial literacy, which includes outreach to business entities to use the securities market for capital formation. There is no breakdown on the amount of resources spent on the education of retail investors and business entities. For details of the CMA's retail investor program, see Securities Good Practice G.2(a). The RSE provides mainly corporate informational programs to businesses to explain the purpose and operation of the exchange, as well as the advantages of listing on the exchange as a means of capital formation.</p> <p>Paragraph (a)</p> <p>MINECOFIN, with the active engagement of BNR, has developed a NFES for Rwanda. For a general description of the strategy, see above Pensions Good Practice G.1(a). The strategy includes in its objectives education on capital markets for urban adults between the ages of 36 and 65. However, so far no specific programs have been put in place to meet this goal. On the other hand, the CMA has developed its own strategy which is more specifically geared towards the securities markets and which it feels is effective in the securities sector because of its narrower focus. However, this strategy is not as formally laid out as the NFES.</p> <p>Paragraph (b)</p> <p>In the securities sector, the CMA and RSE are the main implementers of the education program. However, brokers and other participants in the securities markets participate in the securities education program that is set forth in Securities Good Practice G.2(a).</p> <p>Paragraph (c)</p> <p>MINECOFIN, with the active engagement of BNR, has overall responsibility for financial education strategy. However, the CMA, due to its mandate for securities market development, takes the lead in financial education in the securities sector.</p>
Recommendation	None.
Good Practice G.2	<p><i>Using a Range of Initiatives and Channels, including the Mass Media</i></p> <p>a. A range of initiatives should be undertaken to improve people's financial capability.</p> <p>b. This should include encouraging the mass media to provide financial education, information and guidance.</p>
Description	<p>The CMA has used a variety of channels for its securities sector education programs both for investors and for corporations regarding the benefits of listing on the RSE.</p> <p>Paragraph (a)</p> <p>The CMA, BNR and RSE all conduct public education in the finance sector.</p>

	<p>The majority of the effort in the securities sector is educating corporations, particularly SMEs, in the value and benefit of using the capital markets to raise capital for their businesses. In the view of these institutions, the development of the securities market needs to precede the education of the investors.</p> <p>Nonetheless, financial literacy regarding the markets is provided to potential retail investors. The CMA, the institution with the responsibility for market development, uses a number of different channels for providing consumer financial education. Roadshows are given in other parts of the country where brokers are included in the presentations. The CMA also conducts roadshows and presentations with BNR. They provide internships for students and have included quizzes in the university curriculum the last three years. In addition, a radio program and a TV talk show were used for several months to provide information to listeners regarding the capital markets. One publication, the quarterly 'Bull and Bear', is issued to discuss capital markets issues.</p> <p>Paragraph (b)</p> <p>The CMA has conducted workshops for journalists to encourage them to cover the securities sector.</p>
Recommendation	None.

Good Practice G.3	<p><i>Unbiased Information for Investors</i></p> <p>a. Financial regulators should provide, via the Internet and printed publications, independent information on the key features, benefits and risks—and where practicable the costs— of the main types of financial products and services.</p> <p>b. Non-governmental organizations should be encouraged to provide consumer awareness programs to the public regarding financial products and services.</p>
Description	<p>The CMA provides some information on its website regarding basic financial instruments such as bonds and unit trusts, but due to the lack of product this information is limited.</p> <p>Paragraph (a)</p> <p>The CMA provides some information on its website, such as information on bonds and unit trusts. It also provides such information in more detail in its workshops and investor outreach programs.</p> <p>Paragraph (b)</p> <p>Due to the nascent nature of the securities markets in Rwanda, non-governmental programs in Rwanda dealing with investor protection issues in the securities markets have not been established.</p>
Recommendation	<p>The dissemination of market information by the CMA and RSE is limited due to the small size of the market. As the market develops, more information in a clear format will help investors in making their investment decisions. This information on the RSE would include complete daily and monthly analyses of activity on the market going back at least five years. In addition, information sheets regarding the different types of financial instruments that investors can buy should be available on both the CMA and RSE websites in hard copy. All filings made by listed companies, intermediaries and mutual funds should be available on the CMA website.</p>
Good Practice G.4	<p><i>Measuring the Impact of Financial Capability Initiatives</i></p> <p>a. The financial capability of consumers should be measured through a</p>

	<p>broad-based household survey that is repeated from time to time.</p> <p>b. The effectiveness of key financial capability initiatives should be evaluated.</p>
<p>Description</p>	<p>The financial capability of consumers was measured in 2012, but the securities sector was not included due to its small size and lack of retail investor involvement at this stage of the development of the securities sector.</p> <p>Paragraph (a)</p> <p>A study has been done of the capability of consumers, FinCap Rwanda 2012, which evaluated the financial literacy of Rwanda citizens. However, due to the nascent nature of the RSE, no data was gathered regarding consumer attitudes towards, and the use of, the securities markets.</p> <p>Paragraph (b)</p> <p>The CMA has stated in interviews that there have not been reviews done of the financial capability initiatives as of this date.</p>
<p>Recommendation</p>	<p>The securities sector should be included in the next consumer financial capability survey, if the market has developed sufficiently to justify it.</p>

ANNEX: LAWS AND REGULATIONS

The following table contains a list of the principal laws, regulations, codes and guidelines considered for the purposes of this 2015 CPFL Review.

Abbreviation	Law
Capital Market Law	Law No. 01/2011 of 10/02/2011 Regulating the Capital Market.
CCP Law	Law No. 36/2012 of 21/09/2012 Relating to Competition and Consumer Protection.
Central Bank Law	Law No 55/2007 of 30/11/2007 Governing the Central Bank of Rwanda.
CIS Law	Law No. 40/2011 of 20/09/2011 Regulating Collective Investment Schemes in Rwanda.
CMA Law	Law No. 11/2011 of 18/05/2011 Establishing the Capital Markets Authority.
CSD Law	Law No. 26/2010 of 28/05/2010 Governing the Holding and Circulation of Securities.
CSR Law	Decree Law 22/08/1974 on the Organization of Social Security in Rwanda.
Direct Tax Law	Law No. 16/2005 of 18/08/2005 on Direct Taxes on Income.
Insurance Law	Decree Law 20/75 of 20/06/1975 on Insurance, as modified and completed by Law No 01/2002 of 19/01/2002.
Insurance Business Law	Law No. 02/2008 of 10/09/2008 Governing the Organization of Insurance Business.
Ombudsman Law I	Law No. 25/2003 of 15/08/2003 Establishing the Organization and Functioning of the Office of the Ombudsman.
Ombudsman Law II	Law No. 76/2013 of 11/9/2013 Determining the Mission, Powers, Organization and Functioning of the Office of the Ombudsman.
Pensions Law	Law No. 05/2015 of 30/03/2015 Governing the Organization of Pension Schemes.
RSSB Law	Law No. 45/2010 of 14/12/2010 Establishing Rwanda Social Security Board (RSSB) and Determining its Mission, Organisation and Functioning.
Trusts Law	Law No. 20/2013 of 25/03/2013 Regulating Creation Trusts and Trustees.
Abbreviation	Regulation / Code
Complaints Regulation	Regulation No. 04/2012 of 02/07/2012 on Capital Markets Complaints.
Draft Pensions Licensing Regulation	Draft Regulation on the Licensing of Voluntary Pension Schemes, Licensing and Roles of Some Service Providers. ²⁶
Draft Pensions Regulation	Draft Regulation on Minimum Operating Standards and Supervision of (Voluntary and Mandatory) Pension Schemes. ²⁷
Insurance Corporate Governance Regulation	Regulation No. 07/2009 of 29/07/2009 on Corporate Governance Requirements for Insurance Business.
Insurance Intermediaries Licensing Regulation	Regulation No. 06/2009 of 29/07/2009 on Licensing Requirements and Other Requirements for Insurance Intermediaries.
Insurers Licensing Regulation	Regulations No. 05/2009 of 30/10/2012 on Insurers Licensing Requirements.

²⁶ This report refers to provisions of the Draft Pensions Licensing Regulation set out in the version submitted to Parliament in the fourth quarter of 2014.

²⁷ This report refers to provisions of the Draft Pensions Regulation set out in the version submitted to Parliament in the fourth quarter of 2014.

SECURITIES SECTOR

Market Conduct Regulation	Regulation No 12/2009 of 13/10/2009 on Market Conduct Requirements for Insurers and Insurance Intermediaries.
Regulation on Enforcement Guidance	Regulation No. 06/2012 of 02/07/2012 on Capital Market Enforcement Guidance.
Regulation on Licensing	Regulation No. 01/2012 of 25/06/2012 on Capital Markets (Licensing Requirements).
Regulation on Capital Market Principles	Regulation No. 05/2012 of 02/07/2012 on Capital Market Principles.
Regulation on the Compensation Scheme	Capital Market Regulation No. 11/2012 of 31/12/2012 Establishing the Compensation Scheme in Rwanda.
Regulation on the Conduct of Business	Regulation No. 02/2012 of 25/06/2012 on Capital Market Conduct of Business.
Insurance Brokers' Code of Conduct	Code of Practice for Insurance Brokers, set out as Appendix I to the Market Conduct Regulation.