

Application for Licensing for an Occupational Retirement Scheme



Name of Applicant:

This Application is (please tick one box):		Date Submitted:
DRAFT	<input type="checkbox"/>	
FINAL	<input type="checkbox"/>	




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INTRODUCTION

Information Concerning the Application for licensing of an Occupational Retirement Scheme

- The Pensions Rules under the Retirement Pensions Act, 2011 should be read carefully before this Application form is completed.
- This application form is to be completed in a **proper and comprehensive** manner and not in a piece-meal fashion. The Application should be accompanied by the appropriate fee and all the relevant documents for the processing of the respective Application to commence. In the instance where application documents are submitted in a piece-meal fashion or are incomplete, the processing of an application will not start and will be delayed until receipt of all the relevant documents and fees concerned. The MFSA may also return the application pack if it is considered to lack the required detail and has missing documentation. An Application is deemed to have been officially submitted once a full application pack (i.e. the Application Form and all relevant supporting documentation) together with the relevant application fee is submitted to the MFSA. The fee structure is found in the Retirement Pensions (Fees) Regulations, 2015 can be downloaded from the MFSA's website.
- If a licence is granted, its terms will depend (inter alia) upon all matters and circumstances discussed as part of the Application process. It is therefore essential that all pertinent matters are brought to the attention of the MFSA to enable the MFSA to form a complete and thorough understanding of the proposed application.
- Responsibility for the submission of all relevant information rests with the Applicant. Timely responses from applicants are expected. Undue and unjustifiably lengthy delays in the submission of responses from applicants may require the re-submission of updated documents.
- The provision of false, misleading or inaccurate information or omission of provision of material information may prejudice the status of the application and may also have a bearing on the fitness and properness of the person providing the information. Any person who knowingly or recklessly furnishes information or makes a statement which is inaccurate, false or misleading in any material respect is guilty of an offence under the Retirement Pensions Act.
- If, after the Application has been submitted, the Applicant becomes aware that the information submitted has changed or if the Applicant becomes aware of any material fact that affects the information submitted, the Applicant must inform MFSA immediately.
- All questions should be answered. If the Applicant believes that a question does not apply, the response should be "Not Applicable". ***None of the questions are to be left unanswered.***
- Hard copies of applications and supporting documents are to be submitted. A scanned copy of the application is also to be emailed to auinsurancepensions@mfsa.mt

- Any supporting documents submitted as part of the application pack which are not in either English or Maltese should be translated into one of these languages before being submitted to the MFSA.

SECTION 1
ESTABLISHMENT AND FORM

1.1	Name of the Scheme (this is the name that will appear in the Licence, if granted):

1.2	Will the Scheme be marketed with a different name than the name given in Q.1.1 above?
	Yes / No:
	If Yes, please indicate marketing name and the rationale for opting to choose a different name for marketing purposes:

1.3	Please identify the Legal Form of the Scheme
	<p>a) Trust:</p> <p>b) Contract</p> <p>c) SICAV</p> <p><i>If the entity is still in formation please indicate the proposed registered address:</i></p> <p><i>If the entity is already incorporated, please indicate:</i></p> <ul style="list-style-type: none"> • Date and Place of incorporation of the entity: • Registration Number (if applicable): • Registered Address (if applicable): • Current Business Address (if applicable): • Email: • Telephone: • Web-site Address: <p>Has the entity ever been known by another name? if in the affirmative, kindly provide the names that the applicant was previously using:</p> <p>Please provide information explaining the nature of the entity and reasons for existence prior to this application.</p>

	<p>Please indicate whether there have been or there are any pending litigations or censures or other complaints related to the entity, providing relevant details.</p> <p>Please submit certified true copies of documents of establishment and if applicable, copies of recent audited accounts.</p> <p>d) Other Legal Form</p> <p>Where (d) is chosen, it is to be noted that the applicant is required to obtain the MFSA's approval, prior to submitting an application form. In this respect, please submit documentation confirming the MFSA's approval.</p>
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1.4	Please explain the rationale for the establishment of the Scheme

1.5	Does the Scheme or any of its proposed Directors (as applicable) have any pending applications in other Jurisdictions; or has ever been refused a licence or ever withdrew an application for licensing? If so, please provide details.

SECTION 2
NATURE AND OPERATION

2.1	<p>Please specify the nature of the Scheme:</p> <ul style="list-style-type: none"> a) Defined Contribution b) Defined Benefit
2.2	<p>Will the Scheme be providing cover to any biometrical risks or guarantee a level of benefits or investment performance? If this is the case, the MFSA may require the Scheme to hold additional assets above the technical provisions to serve as a buffer.</p>
2.3	<p>If the Scheme is to be a Defined Benefit Scheme or the Scheme intends to cover to any biometrical risks or guarantees a level of benefits or investment performance, please explain how this defined benefit and/ or element of biometric or investment risk cover will be achieved.</p>
2.4	<p>Please specify whether the Scheme is to be a/ an:</p> <ul style="list-style-type: none"> a) Open Scheme (Scheme usually established at the initiative of the Retirement Scheme / Retirement Scheme Administrator as applicable and whose membership is open to a number of unrelated employers and self-employed persons acceptable to the Retirement Scheme Administrator): <p>If yes, please indicate the criteria, if any, for membership to the Scheme:</p> <ul style="list-style-type: none"> b) Closed Scheme (Schemes established at the initiative of a single employer or a group of related employers or an association representing employers and membership is limited thereto): <ul style="list-style-type: none"> i) Single employer: ii) Group of related employers: iii) Association representing employers: <p>If any of the above are chosen, please give further details of the employer /s sponsoring the Scheme (including name, address, contact person, profile of employer/s):</p>
2.5	<p>Does the Scheme intend to provide for employee / employer representations in its structure and governance?</p>

	<p>Yes / No:</p> <p>If Yes, please provide details:</p>
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2.6	<p>Please state the base currency of the Scheme.</p>

2.7	<p>Please provide details of any applicable charges, fees and expenses associated with the Scheme which will be incurred by the Sponsoring Undertaking. Please also indicate where and when these are disclosed.</p>

2.8	<p>If the Scheme is to be established as an Open Scheme, please describe briefly how the Scheme is to attract membership in the Scheme.</p>

Benefits

3.6	Please indicate the eligibility criteria for benefits by Members of the Scheme and whether Members will have any vested right in the Scheme.

3.7	Please indicate the nature of benefits to be paid out by the Scheme:
	<ul style="list-style-type: none">a) Initial Cash Lump sumb) Life Annuityc) Programmed Withdrawalsd) Additional Cash Lump Sum <p>It is to be noted that Schemes which at withdrawal stage offer a stream of income payments to its respective Members may be required to appoint an actuary prior to effecting the first withdrawal, unless an actuary is appointed beforehand.</p>

3.8	Where programmed withdrawals are opted for, please provide the methodology of such withdrawals:

3.9	Please indicate the earliest date for commencement of Retirement Benefits / latest date for commencement of Retirement Benefits being not earlier than 50 and not later than 75 years.

3.10	Please outline the procedure that has to be followed by the Member in order to elect to take Retirement Benefits.

Investment of Scheme Assets

3.11	Please provide details as to how the pooled contributions will be invested. The contributions shall be in line with the investment restrictions provided for in the Pension Rules for Occupational Retirement Schemes.
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3.12

Please provide details as to how the Scheme intends to have an equitable spread of risks and benefits between generations to ensure the inter-generational balance of the Scheme in line with Standard Licence Conditions B.1.2.6 of the Pension Rules for Occupational Retirement Schemes.

SECTION 4

GOVERNANCE ARRANGEMENTS AND RELATED PARTIES

The Retirement Scheme Administrator

4.1	Please indicate the Retirement Scheme Administrator who shall be responsible for the administration of the Scheme.
4.2	Is the administrator already licensed as a Retirement Scheme Administrator under the Retirement Pensions Act? If the answer to this is no, please confirm that an application for such licensing will be/ was submitted in conjunction with this application.
4.3	List the names of any other Schemes (if any) administered by the Retirement Scheme Administrator.
4.4	Please detail any fact, arrangement, relationship or circumstance which compromises or which might compromise the independence of the Retirement Scheme Administrator.
4.5	Please provide us with the names and positions of the key functionaries within the Retirement Scheme Administrator who shall be responsible for the administration, management and supervisory functions of the Scheme. Please also attach an organigram clearly indicating the reporting lines.
4.6	In the case where the Scheme will be established as a SICAV, please list the Members of the Board of Directors and their position.

The External Auditor

The Scheme shall appoint an auditor approved by the MFSA in terms of the Retirement Pensions Act. The appointed auditor is to send a declaration confirming the statements contained in Annex II below.

4.7	Please indicate the proposed external auditor of the Scheme.

The Actuary

Where the Scheme provides cover against biometric risks or guarantees an investment performance for a given level of benefits, the Retirement Scheme Administrator shall appoint an actuary to carry out the duties as may be specified by regulations issued under the Retirement Pensions Act and the Pension Rules for Occupational Retirement Schemes.

4.7	Please indicate the proposed Actuary of the Scheme.

Governance Arrangements

4.8	Please provide details where records pertaining to the Scheme will be kept. Please also provide details of where such records will be backed up.

4.9	Please describe the monitoring arrangements to be put in place over appointed third parties to whom certain activities are delegated.

SECTION 5

MANDATORY FUNCTIONS AND THE INVESTMENT ADVISOR

Investment Manager

5.1	Please indicate the proposed Investment Manager.
5.2	Where the Investment Manager is outsourced, please elaborate on the due diligence (initial and on-going) process that shall be adopted by the Retirement Scheme Administrator or the Scheme (as applicable) on the said Investment Manager.
5.3	Please provide details of the regulated status of the proposed Investment Manager, stating the name of the Regulatory Authority and the details of licence held. If the Investment Manager is not licensed, please provide explanations as to how the Investment Manager is compliant with B.1.4.7 of the Pension Rules for Occupational Retirement Schemes.
5.4	If the Investment Manager is licensed in another EU or EEA jurisdiction, please indicate whether the Investment Manager has already passported the provision of its services into Malta or whether it intends to do so (if applicable).
5.5	If the Investment Manager is licensed in a jurisdiction outside the EU or EEA, please indicate whether the Investment Manager has any pending application for licensing in an EU or EEA jurisdiction. Moreover, please provide the MFSA with the assessment carried out to determine that the jurisdiction where the Investment Manager operates satisfies the criteria of an equivalent level of regulatory supervision.
5.6	Please provide details of the main functions of investment management to be carried out and provide a draft copy of the agreement governing the appointment of the said Investment Manager.

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5.7	Please provide the names of any other Retirement Schemes (if any) serviced by the same Investment Manager.

5.8	Details of any fact, arrangement, relationship or circumstance which in the view of the Retirement Scheme Administrator compromises or which at any stage might compromise, the independence of the Investment Manager.

5.9	If the Scheme is an open scheme, please advise whether the Scheme intends to appoint an Investment Manager for each Sponsoring Undertaking, or otherwise.

Custodian

5.10	Please indicate the proposed Custodian who will be responsible for the safe-keeping of assets and the oversight duties of the Scheme.

5.11	Where the Custodian is outsourced, please elaborate on the due diligence (initial and on-going) process that shall be adopted by the Retirement Scheme Administrator or the Scheme (as applicable) on the Custodian.

5.12	Please provide details of the regulated status of the proposed Custodian, stating name of Regulatory Authority and details of licence held. If Custodian is not licensed, please provide explanations as to how the Custodian is compliant with B.1.4.9 of the Pension Rules for Occupational Retirement Schemes:

5.13	Please provide details of the main functions which the Custodian is to carry out. In addition, please provide a draft copy of the agreement governing the appointment of the Custodian.
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5.14	Details of any fact, arrangement, relationship or circumstance which in the view of the Scheme compromises or which at any stage might compromise, the independence of the Custodian.

Investment Advisor (if applicable)

5.15	Please indicate the proposed Investment Advisor.

5.16	Please provide details of the regulated status of the proposed Investment Advisor, stating the name of the Regulatory Authority and details of the licence held. If the Investment Advisor is not licensed, please provide explanations as to how the Investment Advisor is compliant with B.1.4.14 of the Pension Rules for Occupational Retirement Schemes.

5.17	If Investment Advisor is licensed in another EU or EEA state, please indicate whether the Investment Advisor has already passported the provision of its services into Malta or whether it intends to do so.

5.18	If Investment Advisor is licensed in a jurisdiction outside the EU or EEA state, please indicate whether the Investment Advisor has any pending application for licensing in an EU or EEA State. Moreover, please provide the MFSA with the assessment carried out to determine that the jurisdiction where the Investment Advisor operates satisfies the criteria of an equivalent level of regulatory supervision.

SECTION 6
GOVERNANCE REQUIREMENTS

A Retirement Scheme Administrator of an Occupational Retirement Scheme, irrespective of its legal form, is required to have in place the following key function: a risk-management function, an internal audit function, and where applicable, an actuarial function.

6.1	Please indicate the person within the Retirement Scheme Administrator who will be responsible for the implementation and oversight of the remuneration policy.
6.2	Please provide the name of the person who is proposed to be responsible for the Risk Management System within the Retirement Scheme Administrator.
6.3	Please identify the person and indicate the position of such person who is proposed to carry out the Risk Management Function. Where the Risk Management function is outsourced, please indicate the entity and person who will be responsible for such function and the assessment that has been undertaken to determine the fitness and properness of this individual.
6.4	Please identify the person and indicate the position of such person who is proposed to carry out the Internal Audit Function. Where the Internal Audit Function is outsourced, please indicate the entity and person who will be responsible for such function and the assessment that has been undertaken to determine the fitness and properness of this entity or person.
6.5	Where the Scheme provides cover against biometric risks or guarantees either investment performance or a given level of benefits, please identify the person and indicate the position of such person who is proposed to carry out the Actuarial Function. Where the Actuarial function is outsourced, please indicate the entity and person who will be responsible for such function and the assessment that has been undertaken to determine the fitness and properness of this individual.

6.6	<p data-bbox="300 472 1402 658">Please provide details as to how the Retirement Scheme Administrator of the Scheme plans to have an effective system of governance which provides for the sound and prudent management of their activities and which is proportionate to the nature, scale and complexity of the activities of the Scheme in line with Standard Licence Conditions B.3.1.2 of the Pension Rules for Occupational Retirement Schemes.</p>
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SECTION 7
INFORMATION TO MEMBERS AND BENEFICIARIES

7.1	Please indicate how the Retirement Scheme Administrator intends to provide information to prospective Members in line with Section B.6.5 of the Pension Rules for Occupational Retirement Schemes including a copy of the document to provided.

7.2	Please indicate how the Retirement Scheme Administrator intends to provide information to Members during the pre-retirement phase in line with Section B.6.6 of the Pension Rules for Occupational Retirement Schemes including a copy of the document to provided.

7.3	Please indicate how the Retirement Scheme Administrator intends to provide information to Members during the pay-out phase in line with Section B.6.7 of the Pension Rules for Occupational Retirement Schemes, including a copy of the document to provided.

Section 8
PENSION BENEFIT STATEMENT

8.1	Please provide details on the economic deterministic assumptions used by the Scheme when calculating the pension benefit projections including the method of calculation for such projections.

SECTION 9

DOCUMENTATION

The following information should be provided together with this Application. Kindly confirm that all the documents are submitted by ticking the checklist:

	Yes	No
The Covering Letter		
A final draft version of the Constitutional Document and Scheme Document (where these two documents are different) clearly indicating where the matters specified in Appendix 1 and 2 in Part C of the Pension Rules for Occupational Retirement Schemes are contained in the documents.		
A final draft version of the Scheme Particulars and any other document affecting the rights of contributors into the Scheme clearly indicating where the matters specified in Appendix 3 in Part C of the Pension Rules for Occupational Retirement Schemes are contained in the documents.		
Where the Scheme is to be established as a SICAV, please provide the following: <ul style="list-style-type: none"> - Supporting Board Resolution; - Documents of Incorporation <p>Where the Scheme is already established, please provide true copies of the documents of incorporation and copies of recent audited accounts.</p>		
Detailed business plan for the Scheme covering three years . In particular, the following details should be given: <ul style="list-style-type: none"> - Administration of the Scheme; - Investment Policy; - Service Providers; - Target markets and the countries in which the Scheme is or will be promoted; - The method of promotion; - Details of the estimated contributions and the basis of these assumptions; - Three years financial projections duly signed by a Certified Public Accountant. The projections are to clearly indicate the basis of the calculations. 		
Final draft version of the agreements to be entered into with the Investment Manager, Custodian and the Investment Advisor (where applicable).		
Where the Risk Management function, the Internal Audit function and, where applicable, the Actuarial Function are outsourced, a final draft version of the agreements to be entered into with the entities carrying out such functions.		
Submission of application fee .		
Submission of declaration from the Retirement Scheme Administrator as contained in Annex I.		
Submission of declarations from the Auditor / Actuary (where applicable) as contained in Annex II and Annex III.		

Any other documentation which are material to the operation of the Scheme.		
Structural organigram of the Retirement Scheme Administrator and where the Scheme is set up as a SICAV, a structural organigram of the Scheme.		
The Pension Benefit Statement		
Final draft version of the agreements to be entered into with the Investment Manager, Custodian and the Investment Advisor (where applicable).		
Where the Risk Management function, the Internal Audit function and, if applicable, the Actuarial Function, a final draft version of the agreements to be entered into with the entities carrying out such functions.		
A Final draft version of the Remuneration Policy, the Outsourcing Policy, the Risk Management policy, the Internal Audit policy and where applicable, Actuarial Policy.		

Completed forms together with any supporting material should be sent by email to auinsurancepensions@mfsa.mt and by post to:

Head - Authorisations
The Malta Financial Services Authority
Triq l-Imdina, Zone 1
Central Business District, Birkirkara,
CBD

1010,

Malta

Annex IV

Glossary Of Terms

Retirement Scheme or Scheme – means a scheme or arrangement established for or by an employer(s) or by employer(s) and employees, by employees through an employment relationship with the principle purpose of providing Retirement Benefits.

A Scheme or arrangement does not constitute an Occupational Retirement Scheme under the Act, if it provides for:

- (a) the payment of Retirement Benefits to five or fewer Members; or
- (b) the commencement of payment of Retirement Benefits to a Member on a date that is earlier than that on which such member has attained the age of fifty, or later than that specified in the Pension Rules, except in those cases where the retirement Scheme or arrangement provides that:
 - (i) the payment is made by reason of the disability or death of a Member; or
 - (ii) the payment, is made to the Member as may be determined by the Pension Rules for Occupational Retirement Scheme in the event that the Member is no longer employed by the employer.

Notwithstanding the foregoing, a Scheme or arrangement described in paragraph (a) may, by written notice to the MFSA, apply to be considered as an Occupational Retirement Scheme for purposes of the Act and such Scheme shall comply with the provisions of Article 32 to 35 of the Occupational Pensions Directive.

Annex I

DECLARATION BY THE APPLICANT/ RETIREMENT SCHEME ADMINISTRATOR

This declaration is to be signed by the Retirement Scheme Administrator if it is already licenced, otherwise by the applicant behind this application.

The Retirement Scheme Administrator or applicant, hereby declares that:

- The information supplied in this Application Form is complete and correct;
- There are no inconsistencies between the provisions in the various documents supporting this Application;
- The MFSA will be notified immediately if the information provided changes in any material way either prior to or subsequent to licensing;
- The person(s) whose signature appears below is duly authorised by the Applicant to make this Application;

The MFSA is hereby being authorised to make such enquiries as it may consider necessary in connection with this Application. This includes, but is not limited to, the MFSA to contact other regulatory bodies and also those parties of which details are given in this application.

Furthermore, the applicant/ Retirement Scheme Administrator, is to:

- notify every Scheme Sponsoring Undertaking or Member of the entry in the Scheme and provide them with a copy of the Constitutional Document, the Scheme Document and the Scheme Particulars upon joining the Scheme;
- ensure that the investments are in line with the investment restrictions as specified in the Pension Rules for Occupational Retirement Schemes and the corresponding risk profile;
- inform the Member or Sponsoring Undertaking and Investment Manager/ Advisor of any material changes which may affect the Scheme; and
- provide the Sponsoring Undertaking or Member with details contained in B.6 of the Pension Rules for Occupational Retirement Schemes.

Name	
Signature	
Title	
Company	
Date	
Telephone Number	
Email address	

Annex II

DECLARATION – SCHEME EXTERNAL AUDITOR

Any appointed External Auditor of an Occupational Retirement Scheme is required to submit the following declaration to the MFSA. The Declaration should be attached together with this Application.

The declaration is to include the following:

- A confirmation that the Auditor has agreed to accept the appointment as Auditor of the Scheme in question;
- The responsibilities of the Auditor of the Scheme;
- That the Auditor holds adequate and appropriate Professional Indemnity Insurance in the context of the application;
- That the Auditor is a member of the following professional bodies / associations / correspondent memberships;
- That the Audit firm satisfies the eligibility criteria specified in Standard Licence Condition B.1.5.2 of the Pension Rules for Occupational Retirement Schemes;
- The Auditor shall report to the MFSA in accordance with the applicable requirements of the Pension Rules for Occupational Retirement Schemes;
- That, in accordance with article 35(1) of the Retirement Pensions Act, the Audit Firm undertakes to report immediately to the MFSA any fact or decision about which they become aware in their capacity as Auditors which:
 - is likely to lead to a serious qualification of, or refusal to issue, the Auditor's report;
 - constitutes or is likely to constitute a material breach of the legal or regulatory requirements applicable to the applicant in or under the Retirement Pensions Act;
 - seriously impairs the ability of the applicant to meet the current or future liabilities attributable to it;
 - negatively and materially affects the interests of members and beneficiaries; or
 - relates to any other matter, which has been prescribed.

Moreover, in terms of the said Act the Auditor is bound to report to the MFSA any fact or decisions as specified above pertaining to any person having close links with the applicant within the meaning of article 9(9)(a) of the Retirement Pensions Act, of which the Audit Firm becomes aware in their capacity as Auditor of the applicant and of a person having close links with the former.

Annex III DECLARATION – SCHEME ACTUARY

Where a Retirement Scheme provides cover against biometric risks or guarantee an investment performance or a given level of benefits, the Actuary of such Scheme is required to submit the following declaration to the MFSA. The Declaration should be attached together with this Application.

The letter is to include the following declarations:

- A confirmation that the Actuarial Firm has agreed to accept appointment as Actuary of the Scheme in question;
- The responsibilities of the Actuarial Firm as the Actuary of the Scheme;
- A confirmation that the Actuarial Firm undertakes to abide by the MFSA's requirements relating to the role of the appointed Actuary as outlined in the Retirement Pensions Act and supporting Regulations and Pension Rules;
- That the Actuarial Firm holds adequate and appropriate Professional Indemnity Insurance in the context of the application;
- A list of the professional bodies/ associations/ memberships within which the Actuarial Firm is affiliated;
- That the Actuarial Firm satisfies the eligibility criteria specified in Standard Licence Condition B.7.3.3 and B.7.3.4 of the Pension Rules for Occupational Retirement Schemes;
- That the Actuarial Firm is satisfied that the Schedule of Payments has been prepared in accordance with the directives laid down by the MFSA;
- The Actuarial Firm shall report to the MFSA in accordance with the applicable requirements of the Pension Rules issued by the Malta Financial Services Authority;
- That, in accordance with article 35(1) of the Retirement Pensions Act, the Actuarial Firm undertakes to report immediately to the MFSA any fact or decision about which they become aware in their capacity as Actuaries which:
 - is likely to lead to a serious qualification of, or refusal to issue, the Actuary's report;
 - constitutes or is likely to constitute a material breach of the legal or regulatory requirements applicable to the applicant in or under the Retirement Pensions Act;
 - seriously impairs the ability of the applicant to meet the current or future liabilities attributable to it;
 - negatively and materially affects the interests of members and beneficiaries; or

- relates to any other matter, which has been prescribed.

Moreover, in terms of the said Act, the Actuarial Firm is bound to report to the MFSA any fact or decisions as specified above pertaining to any person having close links with the applicant within the meaning of article 9(9)(a) of the Retirement Pensions Act, of which we become aware in our capacity as actuary of the Applicant and of a person having close links with the former.