

PART C

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APPENDICES TO RULES FOR  
OCCUPATIONAL RETIREMENT SCHEMES

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## APPENDIX 1

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*(SLC 1.1.2 of Part B of the Pension Rules for Occupational Retirement Schemes)*

### *Contents of the Constitutional Document of an Occupational Retirement Scheme (“the Scheme”)*

The Constitutional Document shall provide for the following:

- 1.1 that the objective of the Scheme is limited to the following:
  - (a) the receipt of contributions from one or more Contributor and the investment thereof in accordance with the investment policy of the Scheme with the aim of maximising return on such contributions; and the payment of Retirement Benefits to the Members of the Scheme.
  - (b) the carrying out of all matters or functions connected or ancillary to the above.
- 1.2 for an effective custody function and investment management function outlining the duties as set out in terms of Part B. 2 and Part B.3 of the Pension Rules for Service Providers;
- 1.3 the nature of the costs that may be borne by the Scheme;
- 1.4 may provide for the presence of employee representation;
- 1.5 the principles and method of valuation of the assets, which method shall have been approved by the MFSA;
- 1.6 provisions relating to the allocation and distribution of income;
- 1.7 specify the conditions under which there may be effected, and the procedure to be followed with respect to, the appointment and replacement of the Retirement Scheme Administrator, and any other Service Provider, including a provision that the Scheme or Retirement Scheme Administrator shall have power to replace any Service Provider and any other person providing other services to the Scheme, and including the right of the MFSA to require such replacement. There shall be provisions to ensure the protection of Members and Beneficiaries in such circumstances;
- 1.8 identify the basis upon which any Director (in the case of a SICAV), or any Service Provider and any other person providing services to the Scheme may charge remuneration and expenditure to the Scheme; the method of calculation and the nature of costs to be borne by the Scheme; and the basis on which any other costs or expenses may be charged to the Scheme;
- 1.9 outline the procedure for the amendment of:
  - i. the Constitutional Document;

- ii. any agreement between the Scheme or Retirement Scheme Administrator and a Service Provider and any other person providing services to the Scheme; and
- iii. the Scheme's Document, Scheme's Particulars or similar document giving details of the Scheme;
- iv. any other document affecting the rights of the Members, Beneficiaries and /or Contributors of the Scheme;
- v. a business plan submitted to the MFSA.

*Supplementary Conditions for Schemes established as Investment Companies with Variable Share Capital ("SICAVs")*

- 1.10 the conditions, procedures and limits for the creation and cancellation, redemption or withdrawal of Units;
- 1.11 the procedures and circumstances for the temporary suspension of the calculation of the net asset value and redemption of units. Suspension may be provided for only in exceptional circumstances where circumstances so require and suspension is justified having regard to the interests of Unitholders;
- 1.12 that the value of the Scheme's units shall be issued or sold at a price arrived at by dividing the net asset value of the Scheme calculated on the approved basis by the number of Units outstanding. Such value may be adjusted for duties and charges;
- 1.13 that Units shall not be issued, or if issued must be cancelled or withdrawn, unless the equivalent of the net issue price is paid into the assets of the Scheme within time limits specified in the Constitutional Document; provided that this provision shall not preclude the issue of bonus Units;
- 1.14 that the value of the Scheme's Units shall be redeemed or repurchased at a price arrived at by dividing the net asset value of the Scheme calculated on the approved basis by the number of Units outstanding. Such price may be decreased by duties and charges;
- 1.15 that the Scheme shall be bound to repurchase its Units on the retirement of, or death of a member of the scheme on such terms as may be provided in its Constitutional Document;
- 1.16 that the Scheme or Retirement Scheme Administrator shall issue registered certificates representing one or more portions of the Scheme, or written confirmation of entry in the register of Units or fractions of Units;
- 1.17 that rights attaching to fractions of Units shall be exercisable in proportion to the fractions of a Unit held except for voting rights which shall only be exercisable in whole Units;

*Supplementary Conditions for Schemes established as Umbrella Funds*

- 1.18 provide that the assets and liabilities of each sub-fund shall be treated for all intents and purposes at law as a patrimony separate from the assets and liabilities of each other sub-fund of such Retirement Fund and shall not be used to discharge directly or indirectly the liabilities of or claims against any other sub-fund and shall not be available for any such purpose and in accordance with relevant regulations as may be applicable.
- 1.19 provide that the actual value of the paid up share capital of any sub-fund shall be at all times equal to the value of the assets of any kind of the particular sub-fund after the deduction of such sub-fund's liabilities and this in lieu of what is stated in article 84(2)(c)(i) of the Companies Act (Cap. 386).