

23 March 2020

## Circular on the publication of the new Pension Rules for Occupational Retirement Schemes

### 1.0 Introduction

Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs) (hereinafter referred to as the "IORP II Directive") is a minimum harmonisation Directive. The IORP II Directive introduces a new regulatory framework for occupational retirement schemes, and its main objective is to provide for adequate protection of members and beneficiaries of occupational retirement schemes. It aims to ensure higher standards of governance and a modern risk-based governance system to improve risk management and transparency of institutions for occupational retirement provision.

On the 22nd October 2018, the MFSA issued a Consultation Document on the proposed amendments to the Retirement Pensions Act (MFSA Ref: 14 – 2018) highlighting the main changes proposed to be carried out to the Retirement Pensions Act (Cap. 514), primarily as a consequence of transposing the IORP II Directive. The said Consultation closed on the 16th November 2018. Furthermore, on the 4th February 2019, the MFSA published a Consultation Document (MFSA Ref: 02-2019) on the proposed amendments to regulations issued under the Act. The said Consultation closed on the 25th February 2019.

Following the aforementioned consultations, on the 15th July 2019, the MFSA issued a Consultation Document on Amendments to Pension Rules for Occupational Retirement Schemes issued under the Retirement Pensions Act (MFSA Ref: 11-2019). In order to complete the transposition of the IORP II Directive, various amendments were required to be made to the Pension Rules for Occupational Retirement Schemes (hereinafter referred to as the "Pension Rules"). The purpose of the said consultation was to highlight the proposed amendments to such Pension Rules. Following the publication of the said consultation documents, no feedback was received from the market.

The MFSA published the Pension Rules for Occupational Retirement Schemes issued under the Retirement Pensions Act (Cap. 514) (hereinafter referred to as the "Pension Rules") on the 18 March 2020.

### 2.0 Framework of Maltese Pension Legislation transposing IORP II Directive

The Pension Rules issued under the Retirement Pensions Act (Cap.514) supplement the Retirement Pensions Act (as amended by Act No. V of 2020 published on the 3 March 2020 in the Government Gazette of Malta No. 20,357) and the following Legal Notices published on the 13th March 2020 in the Government Gazette of Malta No. 20,366:

- Legal Notice 48 of 2020 - Retirement Pensions (Cross-Border Activities and Cross-Border Transfers) Regulations, 2020;

- Legal Notice 50 of 2020 - Retirement Pensions (General Provisions of Supervision) Regulations, 2020;
- Legal Notice 46 of 2020 - Retirement Pensions (Transitional Provisions on Back-Office Administrators) Regulations, 2020;
- Legal Notice 47 of 2020 - Retirement Pensions (Control of Assets) (Amendment) Regulations, 2020;
- Legal Notice 49 of 2020 - Retirement Pensions (Exemption) (Amendment) Regulations, 2020;
- Legal Notice 45 of 2020 - Retirement Pensions (Defined Benefit Retirement Schemes) (Amendment) Regulations, 2020;
- Legal Notice 51 of 2020 - Retirement Pensions (Transitional Provisions) (Revocation) Regulations, 2020.

The main reason for the publication of the Pension Rules is to transpose the remaining provisions of the IORP II Directive, which had not been included in the Act and regulations issued thereunder. The amendments also aligned the Pensions Rules for Occupational Retirement Schemes with some of the requirements that have been introduced in the Pension Rules for Personal Retirement Schemes.

### 3.0 Way Forward

The MFSA will shortly be issuing a circular providing Retirement Scheme Administrators with further guidance as to the requirements established in the Retirement Pensions Act, Regulations and Pension Rules issued thereunder.

### 4.0 Contacts

Any queries or requests for clarifications in respect of the above should be sent by email on [ipsu@mfsa.com.mt](mailto:ipsu@mfsa.com.mt).