

06 May 2022

Circular on the Amendments to the Pension Rules Issued under the Retirement Pensions Act

1.0 Introduction

On 1 December 2021, the MFSA issued a [Consultation Document on the Proposed Amendments to the Pension Rules issued under the Retirement Pensions Act](#) (MFSA Ref: 06-2021). The purpose of the said Consultation Document was to propose various amendments to the Pension Rules for Occupational Retirement Schemes, the Pension Rules for Personal Retirement Schemes, the Pension Rules for Service Providers, and the Pension Rules for Retirement Funds.

2.0 Amendments to the Pension Rules for Personal Retirement Schemes and the Pension Rules for Occupational Retirement Schemes

Following the Consultation Document and the [Feedback Statement](#) issued on 6 May 2022, the MFSA removed the concept of sufficient retirement income and amended the Pension Rules for Personal Retirement Schemes and the Pension Rules for Occupational Retirement Schemes to clarify the age when retirement benefits can commence to be paid. Another main amendment effected by the MFSA pertains to the removal of the possibility of establishing a retirement scheme as a SICAV and of having a retirement scheme constituted as a multi-fund company (Umbrella Fund) from the Pension Rules for Personal Retirement Schemes and the Pension Rules for Occupational Retirement Schemes.

3.0 Amendments to the Pension Rules for Personal Retirement Schemes

Another amendment effected by the MFSA pertains to standard licence condition 9.6 (b) (i) (bb) (now renumbered to 8.6 (b) (i) (bb)) of the Pension Rules for Personal Retirement Schemes. The MFSA amended this standard licence condition to clarify that, where the product is an insurance-based investment product and the investment advisor is registered under the Directive 2016/97 (Insurance Distribution Directive), a discretionary fund manager or an investment advisor authorised under Directive 2014/65/EU would need to be appointed in order to manage the underlying funds.

4.0 Amendments to the Pension Rules for Occupational Retirement Schemes

The MFSA amended the Pension Rules for Occupational Retirement Schemes to clarify that the role of a custodian is not solely limited to the safekeeping of assets but also includes oversight duties.

With respect to the Pension Rules for Occupational Retirement Schemes, the MFSA also amended the definition of “waiting period”, the conditions governing the acquisition of rights, and the provisions pertaining to the provision of information. The MFSA also introduced a capital sum threshold under the Pension Rules for Occupational Retirement Schemes, to commence allowing retirement schemes not to retain the rights of an outgoing worker, but to pay with the worker’s informed consent, including applicable charges, a capital sum.

5.0 Amendments to the Pension Rules for Service Providers

With respect to the Pension Rules for Service Providers, the MFSA has removed Appendix II which was incorporated under the said Pension Rules and has retained the separate document entitled ‘Appendix II – Complaints Procedure’, which is more up to date and which can be found on the MFSA website. The MFSA also amended the Pension Rules for Service Providers to clarify the requirements on the audited and annual financial statements contained therein. Another fundamental amendment that was proposed by the MFSA pertains to the proposed introduction of a professional indemnity cover in the Pension Rules for Service Providers. In view of the concerns raised by the pensions market on this proposal, the MFSA has gone back to the market seeking its recommendations. Following these discussions, further information will be published at a later stage.

6.0 Amendments to the Pension Rules for Retirement Funds

The Pension Rules for Retirement Funds have also been amended to bring the requirements of the submission of the half-yearly reports for Retirement Funds in line with the requirements of the Pension Rules for Personal Retirement Schemes and the Pension Rules for Occupational Retirement Schemes.

7.0 Applicability

The MFSA gathered the feedback received from the pensions market following the end of the consultation period and is publishing a [Feedback Statement](#) highlighting the MFSA’s replies to the comments raised by the pensions market. These amendments will come in force on the date on which this circular is issued.

8.0 Contacts

Any queries or requests for clarifications in respect of the above should be sent by email on ips_legal@mfsa.mt.