

INTRODUCTION

The Malta Financial Services Authority ("MFSA") is established as an autonomous Government agency by Act XVII of 2002. It is the successor of the Malta Financial Services Centre ("MFSC") which was set up in 1994. It is responsible (inter alia) for the licensing, regulation and supervision of financial services in Malta.

The Special Funds (Regulation) Act, 2002 ("the SFA") was enacted to establish a regulatory regime for Retirement Schemes, Retirement Funds and related parties, primarily the Retirement Scheme Administrator, Retirement Fund Administrator and Asset Manager.

The SFA makes it illegal for any person to provide or hold her/himself out as providing a Retirement Scheme and / or maintaining a Retirement Fund situated in Malta, unless such Scheme / Fund is registered under the SFA. In addition, the SFA also prohibits any person from accepting money or other consideration from a Contributor to a Retirement Scheme situated in Malta unless such scheme is a registered scheme complying with the requirements of the SFA.

The responsibility for the registration of Retirement Schemes, Retirement Funds and related parties rests with the MFSA. The SFA provides that in granting a registration, the MFSA, as the competent authority, may impose such conditions, as it may deem appropriate. The conditions which MFSA generally imposes upon Retirement Schemes, Retirement Funds and related parties are laid out in these directives.

Breach of these directives may give rise to disciplinary action being taken against the offending person.

When preparing these directives, the MFSA recognises the need to explain (in general terms): the scope and contents of the SFA; to describe the application process; and lastly to describe the operational conditions which will be applied to Retirement Schemes, Retirement Funds and related parties.

The MFSA aims to provide a stable regulatory environment that supports and encourages the establishment and development of Retirement Schemes and Retirement Funds under the SFA in a sound and professional manner. It is mindful of the need to provide applicants with the freedom to innovate and meet the changing needs of the market.

The framework structure established by the SFA may be utilised in a number of different ways. Some applicants may wish to establish and register the whole of their Retirement Scheme, including the Scheme's Retirement Fund and related parties in Malta. Others may wish to take advantage of the SFA's flexibility to maintain elements of the Retirement Scheme set up in other recognised jurisdictions. To reflect this, the application process takes a modular form with the possibility of each Retirement Scheme, Retirement Fund, Retirement Scheme / Fund Administrator and Asset Manager making its own discrete application for the appropriate form of regulatory approval or clearance. The precise regulatory requirements will depend on the particular structure and circumstances of the applicant.

Notwithstanding this modular approach, the MFSA will look at the various elements of an application as a whole, with a view to ensuring that it has a proper overall understanding of the scheme and its structure, taking an appropriate and pragmatic approach, and avoiding unnecessary duplication and inconsistency.

The MFSA encourages all potential applicants for registration to approach it initially for informal discussions after having a proposed structure in mind. The MFSA will discuss with the applicant the proposed structure and purpose of the Retirement Scheme and/or Retirement Fund concerned and other relevant matters.

The registration procedure and requirements for a Retirement Scheme, Retirement Fund and their related parties are described in these directives. Notwithstanding, the MFSA may by notice in writing require applicants requesting registration to submit to the MFSA whatever additional information and particulars it deems appropriate for the purposes of determining whether it should grant registration.

These directives are divided into five main parts. Part A provides an introductory overview of the SFA and specifies the registration process and registration criteria applicable to Retirement Schemes, Retirement Funds and related parties. Part B sets out the standard operational conditions for Retirement Schemes and Funds and related parties registered under the SFA. Part C contains other general directives. Part D includes the Appendices and reporting schedules for Retirement Schemes, Funds and related parties and Part E contains application forms and related information.

The standard operational conditions set out in Part B do not deal with all circumstances. Where appropriate, they may be supplemented by other conditions or codes of conduct. Each Retirement Scheme, Retirement Fund and related party will be notified of any conditions which are not to be applied, and the text of any additional conditions.

Any questions concerning the contents of these directives and their practical application should be addressed to the Investment Services Unit of the MFSA.

Copies of these directives can be downloaded from the MFSA's web site (www.mfsa.com.mt). Alternatively, electronic copies are available direct from the Investment Services Unit at the MFSA.

These directives refer to various parts of the SFA but do not attempt to reproduce it, and therefore should not be treated as a substitute for reading the SFA itself. Where necessary reference should be made directly to the provisions of the SFA. Capitalised words and expressions used here and defined in the SFA have the same meaning as in the SFA.