

**RETIREMENT PENSIONS ACT  
(CAP. 514)**

**Retirement Pensions (Control of Assets) (Amendment) Regulations, 2019**

IN EXERCISE of the powers conferred by paragraph (b) of sub-article (1) of article 37 of the Retirement Pensions Act, the Minister responsible for the regulation of financial services, acting on the advice of the Malta Financial Services Authority, has made the following regulations.

Citation and commencement.

1. (1) The title of these regulations is the Retirement Pensions (Control of Assets) (Amendment) Regulations, 2019 and they shall be read and construed as one with the Retirement Pensions (Control of Assets) Regulations, 2015, hereinafter referred to as “the principal regulations”.

(2) These regulations shall come into force on the [...].

Amends regulation 15 of the principal regulations.

2. Regulation 15 of the principal regulations shall be amended as follows:

(a) in paragraph (b) thereof:

(i) for the words, “an entity constituted in a Member State or EEA State”, there shall be substituted the words, “an entity established in another Member State or EEA State”;

(ii) for the words, “and duly authorised in accordance with Directive 2004/ 39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments or Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions (recast), or accepted as a depositary”, there shall be substituted the words, “and duly authorised to carry out custodian services in accordance with Directive 2013/36/EU or Directive 2014/65/EU, or accepted as a depositary”;

(iii) for the words, “Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS), as amended from time to time, and carries on such services in Malta by way of freedom of establishment or freedom of services under the

respective Directives providing the services of a custodian to a retirement scheme or a retirement fund; or”, there shall be substituted the words, “Directive 2009/65/EC or Directive 2011/61/EU, as amended from time to time, and carries on such services in relation to a retirement scheme or a retirement fund, pursuant to the respective Directives, as applicable; or”; and

(b) in paragraph (c) thereof, for the words, “an entity which is subject to an equivalent level of regulatory supervision”, there shall be substituted the words, “in case of an entity established in a non-Member State or non-EEA State, which the competent authority considers to be subject to an equivalent level of regulatory supervision”.

Amends regulation 17 of the principal regulations.

**3.** For sub-regulation (1) of regulation 17 of the principal regulations, there shall be substituted the following:

“ (1) The custodian shall:

(a) take custody of all the assets of any retirement scheme or retirement fund and shall safeguard such assets and the interests of the retirement scheme or retirement fund and of the holders of units or members, beneficiaries or investors in the retirement scheme or retirement fund, and

(b) have oversight duties which shall be carried out in accordance with Pension Rules.”.