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**Chairman,**  
**Malta Financial Services Authority**

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**Minister for Finance**

**L.N. of 2019**

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

**Retirement Pensions (General Provisions of Supervision) Regulations, 2019**

IN EXERCISE of the powers conferred by article 37 and 41B of the Retirement Pensions Act, the Minister responsible for the regulation of financial services, after consultation with the Malta Financial Services Authority, has made the following regulations:-

**PRELIMINARY**

Title, scope and commencement.

**1.** (1) The title of these regulations is the Retirement Pensions (General Provisions of Supervision) Regulations, 2019.

(2) The purpose of these regulations is to implement Articles 19(2), 45, 47, 49(2), 50 and 51 of the Occupational Pensions Directive.

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

Main objective of prudential supervision.

**2.** (1) The main objective of prudential supervision is to protect the rights of members and beneficiaries and to ensure the stability and soundness of retirement schemes.

(2) The competent authority shall have the necessary means, and have the relevant expertise, capacity and mandate to achieve its main objective of supervision referred to in sub-regulation (1).

Scope of prudential supervision.

**3.** The competent authority shall ensure that a retirement scheme is subject to the supervision of the following, where applicable:

(a) conditions of operation;

- (b) technical provisions;
- (c) funding of technical provisions;
- (d) regulatory own funds;
- (e) available solvency margin;
- (f) required solvency margin;
- (g) investment rules;
- (h) investment management;
- (i) systems of governance; and
- (j) information to be provided to members and beneficiaries.

General principles of prudential supervision.

**4.** (1) The competent authority shall be responsible for the prudential supervision of a retirement scheme.

(2) The competent authority shall conduct its supervision on a retirement scheme on a forward-looking and risk-based approach.

(3) Supervision by the competent authority of a retirement scheme shall be carried out in a timely and proportionate manner and shall comprise an appropriate combination of off-site and on-site supervision.

(4) The competent authority shall apply the requirements laid down in the Act, regulations and Pension Rules issued thereunder in a manner which is proportionate to the nature, scale and complexity of the activities of the retirement scheme concerned.

(5) The competent authority shall duly consider the potential impact of its decisions on the stability of the financial system in the European Union, in particular, in emergency situations.

Transparency and accountability.

**5.** (1) The competent authority shall carry on its duties in a transparent, independent and accountable manner taking into account the protection of confidential information.

(2) The competent authority shall publish the following information:

(a) the texts of laws, regulations, administrative rules and general guidance adopted in Malta in the field of occupational pension schemes and information about whether the Member State chooses to apply the Occupational Pensions Directive in accordance with Articles 4 and 5;

(b) information regarding the supervisory review process of an occupational retirement scheme;

(c) without prejudice to the confidentiality provisions contained in the Act, aggregate statistical data on key aspects of the application of the prudential framework in Malta;

(e) the objectives of its prudential supervision and information on its main functions and activities;

(f) the rules on administrative sanctions and other measures applicable to breaches of the Act, regulations and Pension Rules made thereunder adopted pursuant to the Occupational Pensions Directive.

Supervisory Review Process of an occupational retirement scheme.

**6.** When carrying out the supervisory review process of an occupational retirement scheme in terms of article 41A of the Act, the competent authority shall have in place monitoring tools, including stress-tests, that enable it to identify deteriorating financial conditions in an occupational retirement scheme, and to monitor how that deterioration is remedied.

Information to be provided by occupational retirement schemes for supervisory purposes.

**7.** (1) The competent authority shall, in respect of any occupational retirement scheme or Retirement Scheme Administrator, as applicable, have the necessary powers and means to:

(a) require the Retirement Scheme Administrator of an occupational retirement scheme, or persons who effectively run the scheme or carry out key functions to supply at any time information about all business matters or forward all business documents;

(b) supervise relationships between the occupational retirement scheme, the Retirement Scheme Administrator and other companies or between schemes, when the scheme outsources key functions or any other activities to those companies or schemes and all subsequent re-outsourcing, influencing the financial situation of the occupational retirement scheme or being in a material way relevant for effective supervision;

(c) obtain the own-risk assessment, statement of investment-policy principles, annual accounts, annual reports, and all other documents necessary for the purposes of supervision;

(d) lay down documents which are necessary for the purposes of supervision, including:

- (i) internal interim reports;
- (ii) actuarial valuations and detailed assumptions;
- (iii) asset liability studies;
- (iv) evidence of consistency with investment-policy principles;
- (v) evidence that contributions have been paid in as planned;
- (vi) reports by the approved auditor;

(e) carry out on-site inspections at the occupational retirement scheme's and the Retirement Scheme Administrator's premises and, where appropriate, on outsourced and all subsequent re-outsourced activities to check if activities are carried out in accordance with the Act, regulations and Pension Rules issued thereunder;

(f) request information from the occupational retirement scheme about outsourced and all subsequent re-outsourced activities at any time.

#### Credit Assessment Processes

**8.** The competent authority shall, taking into account the size, nature, scale and complexity of the activities of the occupational retirement scheme supervised:

(a) monitor the adequacy of the occupational retirement scheme's credit assessment processes;

(b) assess the use of references to credit ratings issued by credit rating agencies as defined in Article 3(1)(b) of Regulation (EC) No 1060/2009 of the European Parliament and of the Council, in their investment policies; and

(c) where appropriate, encourage mitigation of the impact of such references, with a view to reducing sole and mechanistic reliance on such credit ratings.